# ITEM 3

# TEST CLAIM

# PROPOSED DECISION

Penal Code Section 679.10

Statutes 2015, Chapter 721 (SB 674)

*U Visa 918 Form, Victims of Crime: Nonimmigrant Status*

17-TC-01

City of Claremont, Claimant

---

## TABLE OF CONTENTS

**Exhibit A**

Test Claim, filed March 6, 2018 ..... 1-179

**Exhibit B**

Department of Finance's (Finance's) Comments on the Test Claim, filed April 16, 2018 ..... 1-8

**Exhibit C**

Claimant's Rebuttal Comments, filed May 1, 2018 ..... 1-9

**Exhibit D**

Draft Proposed Decision, issued July 20, 2018 ..... 1-9

**Exhibit E**

Interested Party's (City of Costa Mesa's) Comments on the Draft Proposed Decision, filed August 23, 2018 ..... 1-14

**Exhibit F**

Claimant's Corrected Comments on the Draft Proposed Decision, filed August 24, 2018, corrected September 5, 2018 ..... 1-102

**Exhibit G**

Request for Additional Information, issued August 29, 2018 ..... 1-9

**Exhibit H**

Claimant's Response to the Request for Additional Information, filed September 7, 2018 ..... 1-76

**Exhibit I**

Supporting Documentation

California Department of Justice Information Bulletin No. DLE-2015-14, "New and Existing State and Federal Laws Protecting Immigrant Victims of Crime," October 28, 2015 ..... 1-5

"U and T Visa Law Enforcement Resource Guide," Department of Homeland Security, https://www.dhs.gov/sites/default/files/publications/U-and-T-Visa-Law-Enforcement-Resource%20Guide_1.4.16.pdf, accessed July 10, 2018 ..... 1-33

U.S. Citizenship and Immigration Services (USCIS), "Victims of Criminal Activity: U Nonimmigrant Status," https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status, accessed July 10, 2018 ..... 1-1

## 1. TEST CLAIM TITLE

U VISA 918 Form, Victims of Crime: Nonimmigrant status

## 2. CLAIMANT INFORMATION

City of Claremont
Name of Local Agency or School District

Adam Pirrie
Claimant Contact

Finance Director
Title

207 Harvard Ave.
Street Address

Claremont, CA 91711
City, State, Zip

(909) 399-5456
Telephone Number

(909) 399-5366
Fax Number

apirrie@ci.claremont.ca.us
E-Mail Address

## 3. CLAIMANT REPRESENTATIVE INFORMATION

Claimant designates the following person to act as its sole representative in this test claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

Annette Chinn
Claimant Representative Name

President
Title

Cost Recovery Systems, Inc.
Organization

705-2 East Bidwell Street #294
Street Address

Folsom, CA 95630
City, State, Zip

(916) 939-7901
Telephone Number

(916) 9369-7801
Fax Number

achinncrs@aol.com
E-Mail Address

*For CSM Use Only*

Filing Date:

RECEIVED
March 06, 2018
Commission on State Mandates

Test Claim #: 17-TC-01

## 4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

*Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .*

Statues of 2015, Chapter 721

Senate Bill 674 - effective 1-1-2016

Adding Section 679.10 to the Penal Code

☐ *Copies of all statutes and executive orders cited are attached.*

Sections 5, 6, and 7 are attached as follows:

**5. Written Narrative:** pages 1 to 8.
**6. Declarations:** pages 9 to 11.
**7. Documentation:** pages 12 to 158.

(Revised 6/2013)

## 8. CLAIM CERTIFICATION

*Read, sign, and date this section and insert at the end of the test claim submission.**

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

Adam Pirrie
Print or Type Name of Authorized Local Agency or School District Official

Finance Director
Print or Type Title

Signature of Authorized Local Agency or School District Official

3-5-18
Date

*** If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the test claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.*

Test Claim of:
City of Claremont

U Visa: Form I-918, Victims of Crime: Nonimmigrant Status

Penal Code 679.10
Chapter 721, Statutes of 2015

## STATEMENT OF THE CLAIM

### MANDATE SUMMARY

The California Senate passed Senate Bill 674, Victims of crime: nonimmigrant status adding Penal Code 679.10 (UVISA). It was approved by the governor October 9, 2015 and it went into effect January 1, 2016. This bill enhances existing federal law and as a result of the implementation of this Penal Code section the Claremont Police Department incurred new costs as a result of the legislation and expects future annual costs related to the mandated program will exceed $1,000.

Existing federal law provides a Form I-918, Petition for U Nonimmigrant Status to request temporary immigration benefits for a person who is a victim of certain qualifying criminal activities. Existing federal law also provides a form for certifying that a person submitting a Form I-918 is a victim of certain qualifying criminal activity and is, has been, or is likely to be helpful in the investigation or prosecution of that criminal activity (Form I-918 Supplement B)

### SPECIFIC STATUTORY SECTIONS THAT CONTAIN THE MANDATED ACTIVITIES

The new costs result from the addition Penal Code 679.10.

The bill requires (Section ( e)), upon victim or victim's family members request, that local law enforcement agencies (among others specified agencies), **shall** certify, as specified, "victim helpfulness" on Form I-918. Subsection (i) of the statute, states "A current investigation, the filing of charges, and a prosecution or conviction are not required for the victim to request and obtain the Form I-918 Supplement B certification from a certifying official".

Under prior law, Victims of Trafficking and Violence Protection Act, Federal Legislation, and its amendments allowed the "certifying entity" to have discretion in certifying the I-918 Form, meaning that it was optional for local agencies to complete. Section (j) now specifies that certification can only be withdrawn if the victim refused to provide information and assistance when reasonably requested.

Due to the passage of SB 674 adding Penal Code 679.10, Claremont PD is required to review and "certify" almost all the I-918 forms it receives. It no longer has the discretion as it had in the past to select only those cases it deemed the victim's assistance was required.

Because the victim's assistance is rarely required, completion of the UVISA forms I-918 would usually not be needed.

New statutes also add additional requirements: Section (g) states "...official shall fully complete and sign the form I-918 Supplement B certification and, in regarding victim's helpfulness, include a detailed description of the victim's helpfulness or likely helpfulness to the detection or investigation or prosecution of the criminal activity."

In addition, section (h) the new Statutes add time requirements for local agencies to respond that did not exist before. Agencies now have to respond "within 90 days of request and within 14 days of request if a noncitizen is in removal proceedings".

## A. DETAILED DESCRIPTION OF THE NEW ACTIVITIES AND COSTS THAT ARISE FROM THE MANDATE:

One-time costs:

1) Updating Department Policies and Procedures to address new statutory requirements

2) Training staff on new requirements

On-going activities:

1) Training new staff assigned to this duty on mandated program requirements

2) For all requests, research the original crime(s) the victim was involved to determine whether new law criteria are met and certification can be granted and to determine "victims' helpfulness". This includes obtaining prior criminal records, reports, and history, determining helpfulness and potential helpfulness of the victim; determining if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.

   *(Detailed research and review of crime history/reports is now required for each case to determine the victim's helpfulness and potential helpfulness.*

   *Before this law was added, the city would only have to determine the status of the case: if the case was found to be adjudicated, closed or is outside the statute of limitations, the City would find the victim's assistance was no longer needed and the UVISA application would be denied. Almost all requests could be denied just by determining whether the case was being or likely to be adjudicated which would typically take 5-10 minutes.*

   *Because of the new requirements, estimate additional time to research each per case would usually take an extra 20-30 mins per case)*

3) Fully complete, sign and certify the application (I-918 Form) including Supplement B for ALL requested I-918 applications. This must include a detailed description of the victim's helpfulness or likely helpfulness to the detection, investigation, or prosecution of the criminal activity.

   Time for completion of Supplement B is now 90 days of request or 14 days of request if noncitizen is in removal proceedings.

Full completion of application, Supplement B, and certification *is now required for ALL cases. In the past, almost all requests could be denied with a simple signature and full completion of forms was not required. Estimate additional time per case = 10-20 mins per case)*

4) Supervisor review and approval of the detailed description of victim's helpfulness narrative.
*(Estimated additional time at 5-10 minutes per case)*

5) Prepare and submit annual reports to the Legislature specifying total number of requests for UVISA certifications, the number approved and denied.
*(Estimated at 15-20 minutes per year)*

## B. DETAILED DESCRIPTION OF THE EXISTING ATIVITIES AND COSTS THAT ARE MODIFIED BY THE MANDATE:

On-going activities:

1) Review the UVISA request.
*(Estimated additional 5-10 minutes per request)*

2) Supervisor review and approval of the "complete" UVISA paperwork
*(Estimated additional 5-10 minutes per case.) In the past, denied cases did not require completion of all the forms, therefore additional time is required to review these additional requests and completed forms.*

3) Transmit results to involved parties and legal representatives.
*(Estimated additional approximately 5 minutes per case)*

4) File, log, and close case
*(Estimate additional 5-10 minutes per case)*

## C. & D. ACTUAL AND ESTIMATED INCREASED COSTS INCURRED BY THE CLAIMANT DURING THE FISCAL YEAR AND THE FOLLOWING FISCAL YEAR.

The City of Claremont did not receive any UVISA requests in 2016. The first request made after enactment of subject legislation was in November, 2017. Therefore, first incurred costs as a result of this mandate occurred in Fiscal Year 2017-18.

Attached are detailed costs estimates required to implement the mandated program.

| Program UVISAS | MANDATED COSTS<br>U VISAS<br>ACTIVITY COST ESTIMATES | Estimated Costs FY 2017-18 |
|---|---|---|

**City of Claremont**

**DIRECT COSTS**

**Description of Expenses:**

| Employee Names, Job Class., Functions Performed and Description of Expenses | Hourly Rate or Unit Cost | Benefit Rate | Hours Worked or Quantity | Salaries | Benefits | Total Salaries & Benefits |
|---|---|---|---|---|---|---|
| **ONE-TIME COSTS** | | | | | | |
| Chief - review and approve new policies and procedures | $103.88 | 61.5% | 0.50 | $52 | $32 | $84 |
| Captain - Reseach new law and draft new policy. | $86.11 | 61.5% | 4.00 | $344 | $212 | $556 |
| City Attorney review and approve new polcies | $300.00 | | 1.00 | $300 | | $300 |
| Lieutenant - review new policies / training | $82.26 | 61.5% | 1.00 | $82 | $51 | $133 |
| **Total One-Time Costs (Estimated)** | | | **6.50** | **$ 778.64** | **$ 294.37** | **$ 1,073.01** |
| **ON-GOING COSTS** | | | | | | |
| Lieutenant (60 mins per case x 5 estimated cases) | $82.26 | 61.5% | 5.00 | $411 | $253 | $664 |
| Lieutenant - report results to legislature annually | $82.26 | 61.5% | 0.33 | $27 | $17 | $44 |
| **Total On-Going Costs (Estimated)** | | | **5.33** | **$ 438.45** | **$ 269.64** | **$ 708.09** |
| **INDIRECT COSTS (ICRP Rate = 85%)** | | | | | | $974 |
| **GRAND TOTAL (ESTIMATE)** | | | | | | **$2,755** |

| Program UVISAS | MANDATED COSTS<br>U VISAS<br>ACTIVITY COST ESTIMATES | Estimated Costs FY 2018-19 |
|---|---|---|

**City of Claremont**

**Description of Expenses:**

| Employee Names, Job Class., Functions Performed and Description of Expenses | Hourly Rate or Unit Cost | Benefit Rate | Hours Worked or Quantity | Salaries | Benefits | Total Salaries & Benefits |
|---|---|---|---|---|---|---|
| **ON-GOING COSTS** | | | | | | |
| Lieutenant (60 mins per case x 6 estimated cases) | $85.13 | 61.0% | 6.00 | $511 | $312 | $822 |
| Lieutenant - report results to legislature annually | $85.13 | 61.0% | 0.33 | $28 | $17 | $45 |
| **Total On-Going Costs (Estimated)** | | | **6.33** | **$ 538.90** | **$ 328.73** | **$ 867.63** |
| **INDIRECT COSTS (ICRP Rate = 80%)** | | | | | | $431 |
| **GRAND TOTAL (ESTIMATE)** | | | | | | **$1,299** |

## E. STATEWIDE COST ESTIMATE OF INCREASED COSTS THAT ALL LOCAL AGENCIES WILL INCUR TO IMPLEMENT THE ALLEDGED MANDATE DURING THE FISCAL YEAR IMMEDIATELY FOLLOWING THE FISCAL YEAR THE CLAIM WAS FILED.

The Assembly Appropriations Committee (AAC) estimated statewide costs to be in excess of $300,000. Their estimate was based on a six-year period of time of the certifications provided by the Cities of Los Angeles (764) and Oakland (500). The Appropriation Committee estimated a cost of $25 to process each certification. That amount was then quantified by the 482 cities over the 58 counties in California.

## F. AVAILABLE FUNDING SOURCES

There are no State, Federal, or other nonlocal agency funds available for this program that we are aware. The City of Claremont must pay for these increased costs from the Police department's general fund appropriations. The City of Claremont is not aware of fee authority to offset these costs and CLAREMONT PD has not charged any fees for processing I-918 forms.

## G. PRIOR MANDATE DETERMINATIONS BY THE BOARD OF CONTROL OR COMMISSION ON STATE MANDATES.

The City is not aware of any prior determinations made by the Board of Control or the Commission on State mandates related to this matter.

## H. IDENTIFICATION OF A LEGISLATIVELY DETERMINED MANDATED PURSUANT TO GOVERNMENT CODE SECTION 17573 THAT IS ON THE SAME STATUTE OR EXECUTIVE ORDER.

To the best of our knowledge, this does not apply.

## CONCLUSION

The costs incurred by the City of Claremont as a result of the statute on which this test claim is based are all reimbursable costs as such costs are "costs mandated by the State" under Article XIII B (6) of the California Constitution, and Government Code §17500 *et seq.* of the Government Code. Section 17514 of the Government Code defines "costs mandated by the state", and specifies the following three requirements:

1. There are "increased costs which a local agency is required to incur after July 1, 1980."

2. The costs are incurred "as a result of any statute enacted on or after January 1, 1975."

3. The costs are the result of "a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIIIB of the California Constitution."

All three of the above requirements for finding costs mandated by the State are met as described previously herein.

## MANDATE MEETS BOTH SUPREME COURT TESTS

The mandate created by this statute meets both tests that the Supreme Court in the *County of Los Angeles* v. *State of California* (1987) created for determining what constitutes a reimbursable state mandated local program. Those two tests, which the Commission on State Mandates relies upon to determine if a reimbursable mandate exists, are the "unique to government" and the "carry out a state policy" tests. Their application to this test claim is discussed below.

### Mandate Is Unique to Local Government

The sections of the law claimed is unique to government. Certifying agencies are defined as state or local law enforcement agencies, a prosecutor, a judge, any other authority that has the responsibility for detection or investigation or prosecution of a qualifying crime or criminal activity, child protective services agencies, Department of Fair Employment and Housing, and the Department of Industrial Relations.

### Mandate Carries Out a State Policy

Because new State statutes imposition a higher level of service to the victims which exceeded Federal law and which take away local agency discretion in conducting these reviews and providing certifications, these changes have resulted in additional costs to local agencies.

## STATE FUNDING DISCLAIMERS ARE NOT APPLICABLE

There are seven disclaimers specified in Government Code §17556 which could serve to bar recovery of "costs mandated by the State", as defined in Government Code §17556. None of the seven disclaimers apply to this test claim:

1. The claim is submitted by a local agency or school district which requests legislative authority for that local agency or school district to implement the Program specified in the statutes, and that statute imposes costs upon the local agency or school district requesting the legislative authority.

2. The statute or executive order affirmed for the State that which had been declared existing law or regulation by action of the courts.

3. The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.

4. The local agency or school district has the authority to levy service charges, fees or assessments sufficient to pay for the mandated program or increased level of service.

5. The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the State mandate in an amount sufficient to fund the cost of the State mandate.

6. The statute or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a Statewide election.

7. The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

The enactment of Senate Bill 674, Chapter 721, Statutes of 2015 imposed a new state mandated program and cost on the City of Claremont.

The mandated program meets all of the criteria and tests for the Commission on State Mandates to find a reimbursable state mandated program. None of the disclaimers or other statutory or constitutional provisions that would relieve the State from its constitutional obligation to provide reimbursement have any application to this claim.

Exhibits: Senate Bill 674; Chapter 721, Statutes of 2015 adding Penal Code 679.10

August, 2015 Assembly Appropriations Committee Analysis

February, 2015 Senate Rules Committee Analysis

February, 2015 Senate Appropriations Committee Analysis

February, 2015 Senate Public Safety Committee Analysis

Sample Form I-918, Petition for U Nonimmigrant Status forms, Supplement A and Supplement B & Instructions

Federal Victims of Trafficking and Violence Protection Act of 2000

Declaration Statements

CLAIM CERTIFICATION

The foregoing facts are known to me personally and if so required, I could and would testify to the statements made herein. I declare under penalty of perjury under the laws of the State of California that the statements made in this document are true and complete to the best of my personal knowledge and as to all matters, I believe them to be true.

Executed this 5th day of March, in Claremont California, by:

Adam Pirrie
Finance Director
207 Harvard Ave.
Claremont, CA 91711
(909) 399-5456
APirrie@ci.claremont.ca.us

DECLARATION OF ADAM PIRRIE

I, Adam Pirrie, make the following declaration under oath:

I am the Chief Financial Officer the City of Claremont. As part of my duties, I am responsible for the complete and timely recovery of costs mandated by the State.

I declare that I have examined the UVISA test claim prepared by the City and believe the resulting costs, in implementing the subject law, and find that such costs are, in my opinion, "costs mandated by the State", as defined in Government Code, Section 17514:

> " 'Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The City of Claremont first incurred costs as a result of this Test Claim statue in Fiscal Year 2017-18.

I am personally conversant with the foregoing facts, and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are stated upon information or belief, and as to those matters, I believe them to be true.

Executed this 5th day of March in Claremont, California.

Adam Pirrie
Finance Director
207 Harvard Ave.
Claremont, CA 91711
(909) 399-5456
APirrie@ci.Claremont.ca.us

**Declaration of Actual or Estimated Costs, Offsets and New Activities**

Pursuant to 17553 (b) (2) of the Government Code and per the Commission on State Mandates, I Adam Pirrie, Finance Director and the City's Chief Fiscal Officer, under the penalty of perjury, based on my personal knowledge, information and belief, declare the following:

A. Senate Bill 674 (Chapter 721, Statutes of 2015) adding Penal Code 679.10 became effective on January 1, 2016.

B. The City of Claremont is required to perform new activities as a result of SB 674, adding Penal Code 679.10.

C. The City of Claremont's first UVISA request received after passage of subject Test Claim Statutes, did not occur until November 21, 2017 (Fiscal Year 2017-18), therefore no costs were incurred by the City to implement this new program until Fiscal Year 2017-18.

D. The City of Claremont's cost estimates presented in this Test Claim are accurate.

E. The City of Claremont estimates that future costs to implement the alleged mandate could exceed $1,000 as shown in the attached spreadsheets included in this Test Claim

F. The City of Claremont has no local, state, federal funding or fee authority that we are aware of to offset the increased costs that will be incurred by the city to implement this program.

G. This test claim is not for a Legislatively Determined Mandate and no payments have been received by the City of Claremont for the implementation of the new activities required by the statutes in question.

Executed this 5th day of March in Claremont, California.

Adam Pirrie
Finance Director

DECLARATION OF MICHAEL CISZEK

I, Michael Ciszek, make the following declaration under oath:

I am a Lieutenant for the City of Claremont. I have been employed by the City in this capacity since 2009 and have been a law enforcement officer since 1996. As part of my duties, I am responsible for the complete and timely recovery of costs mandated by the State.

I have personal knowledge of the UVISA process performed by Claremont's Police Department.

I declare that I have examined the UVISA test claim prepared by the City and believe the resulting costs, in implementing the subject law, and find that such costs are, in my opinion, "costs mandated by the State", as defined in Government Code, Section 17514:

> " 'Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

I am personally conversant with the foregoing facts and information presented in this test claim, and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own personal knowledge or belief.

Executed this first (1) day of March, 2018 in Claremont, California.

Michael C. Ciszek

Michael Ciszek
Lieutenant
Claremont Police Department

# APPENDIX A –

## APPENDIX A
## TALE OF CONTENTS


Senate Bill 674; Chapter 721, Statutes of 2015 adding Penal Code 679.10 **1**

**ASSEMBLY AND SENATE COMMITTEE ANALYSIS** **7-20**

August, 2015 Assembly Appropriations Committee Analysis
February, 2015 Senate Rules Committee Analysis
February, 2015 Senate Appropriations Committee Analysis
February, 2015 Senate Public Safety Committee Analysis

**SAMPLE UVISA FORMS** **21-69**

Sample Form I-918, Petition for U Nonimmigrant Status forms, Supplement A and Supplement B & Instructions

**PRIOR FEDERAL LAW** **70-158**

Federal Victims of Trafficking and Violence Protection Act of 2000

**SB-674 Victims of crime: nonimmigrant status.** (2015-2016)

SHARE THIS:

# Senate Bill No. 674

## CHAPTER 721

An act to add Section 679.10 to the Penal Code, relating to victims of crime.

[ Approved by Governor October 09, 2015. Filed with Secretary of State October 09, 2015. ]

## LEGISLATIVE COUNSEL'S DIGEST

SB 674, De León. Victims of crime: nonimmigrant status.

Existing federal law provides a Form I-918, Petition for U Nonimmigrant Status (Form I-918) to request temporary immigration benefits for a person who is a victim of certain qualifying criminal activity. Existing federal law also provides a form for certifying that a person submitting a Form I-918 is a victim of certain qualifying criminal activity and is, has been, or is likely to be helpful in the investigation or prosecution of that criminal activity (Form I-918 Supplement B).

Existing state law establishes certain rights of victims and witnesses of crimes, including, among others, to be notified and to appear at all sentencing proceedings, upon request, to be notified and to appear at parole eligibility hearings, and, for certain offenses, to be notified when a convicted defendant had been ordered placed on probation.

This bill would require, upon request, that a certifying official from a certifying entity certify, as specified, "victim helpfulness" on the Form I-918 Supplement B, when the requester was a victim of a qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful to the detection, investigation, or prosecution of that qualifying criminal activity. The bill would define "certifying entity," "certifying official," and the qualifying criminal activity for those purposes. A "certifying entity" would include, among others, local law enforcement agencies and child protective services agencies. The bill would establish for purposes of determining helpfulness, a rebuttable presumption that a victim is helpful, has been helpful, or is likely to be helpful to the detection, investigation, or prosecution of that qualifying criminal activity, if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement. The bill would require the certifying entity to process a Form I-918 Supplement B certification within 90 days of request, unless the noncitizen is in removal proceedings, in which case the certification is required to be processed within 14 days of request. The bill would require a certifying entity that receives a request for a Form I-918 Supplement B certification to report to the Legislature, on or before January 1, 2017, and annually thereafter, the number of victims that requested Form I-918 Supplement B certifications from the entity, the number of those certification forms that were signed, and the number that were denied.

By imposing additional duties on local government agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 679.10 is added to the Penal Code, to read:

**679.10.** (a) For purposes of this section, a "certifying entity" is any of the following:

(1) A state or local law enforcement agency.

(2) A prosecutor.

(3) A judge.

(4) Any other authority that has responsibility for the detection or investigation or prosecution of a qualifying crime or criminal activity.

(5) Agencies that have criminal detection or investigative jurisdiction in their respective areas of expertise, including, but not limited to, child protective services, the Department of Fair Employment and Housing, and the Department of Industrial Relations.

(b) For purposes of this section, a "certifying official" is any of the following:

(1) The head of the certifying entity.

(2) A person in a supervisory role who has been specifically designated by the head of the certifying entity to issue Form I-918 Supplement B certifications on behalf of that agency.

(3) A judge.

(4) Any other certifying official defined under Section 214.14 (a)(2) of Title 8 of the Code of Federal Regulations.

(c) "Qualifying criminal activity" means qualifying criminal activity pursuant to Section 101(a)(15)(U)(iii) of the Immigration and Nationality Act which includes, but is not limited to, the following crimes:

(1) Rape.

(2) Torture.

(3) Human trafficking.

(4) Incest.

(5) Domestic violence.

(6) Sexual assault.

(7) Abusive sexual conduct.

(8) Prostitution.

(9) Sexual exploitation.

(10) Female genital mutilation.

(11) Being held hostage.

(12) Peonage.

(13) Perjury.

(14) Involuntary servitude.

(15) Slavery.

(16) Kidnaping.

(17) Abduction.

(18) Unlawful criminal restraint.

(19) False imprisonment.

(20) Blackmail.

(21) Extortion.

(22) Manslaughter.

(23) Murder.

(24) Felonious assault.

(25) Witness tampering.

(26) Obstruction of justice.

(27) Fraud in foreign labor contracting.

(28) Stalking.

(d) A "qualifying crime" includes criminal offenses for which the nature and elements of the offenses are substantially similar to the criminal activity described in subdivision (c), and the attempt, conspiracy, or solicitation to commit any of those offenses.

(e) Upon the request of the victim or victim's family member, a certifying official from a certifying entity shall certify victim helpfulness on the Form I-918 Supplement B certification, when the victim was a victim of a qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity.

(f) For purposes of determining helpfulness pursuant to subdivision (e), there is a rebuttable presumption that a victim is helpful, has been helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity, if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.

(g) The certifying official shall fully complete and sign the Form I-918 Supplement B certification and, regarding victim helpfulness, include specific details about the nature of the crime investigated or prosecuted and a detailed description of the victim's helpfulness or likely helpfulness to the detection or investigation or prosecution of the criminal activity.

(h) A certifying entity shall process an I-918 Supplement B certification within 90 days of request, unless the noncitizen is in removal proceedings, in which case the certification shall be processed within 14 days of request.

(i) A current investigation, the filing of charges, and a prosecution or conviction are not required for the victim to request and obtain the Form I-918 Supplement B certification from a certifying official.

(j) A certifying official may only withdraw the certification if the victim refuses to provide information and assistance when reasonably requested.

(k) A certifying entity is prohibited from disclosing the immigration status of a victim or person requesting the Form I-918 Supplement B certification, except to comply with federal law or legal process, or if authorized by the victim or person requesting the Form I-918 Supplement B certification.

(l) A certifying entity that receives a request for a Form I-918 Supplemental B certification shall report to the Legislature, on or before January 1, 2017, and annually thereafter, the number of victims that requested Form I-918 Form B certifications from the entity, the number of those certification forms that were signed, and the number that were denied. A report pursuant to this subdivision shall comply with Section 9795 of the Government Code.

**SEC. 2.** If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7

(commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Date of Hearing: August 19, 2015

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Jimmy Gomez, Chair
SB 674 (De León) – As Introduced February 27, 2015

Policy Committee: Public Safety Vote: 7 - 0

Urgency: No State Mandated Local Program: Yes Reimbursable: Yes

**SUMMARY**:

This bill requires specified agencies, upon the request of an immigrant victim of specified crimes, to certify within 90 days of the request, the victim's helpfulness on the applicable form (Form I-918 Supplement B certification) so that the victim may apply for a U-visa to temporarily live and work in the United States. The certifying entity is required to submit a specified annual report to the Legislature before January 1, 2017, and annually thereafter.

**FISCAL EFFECT**:

Moderate local reimbursable state mandated costs in excess of $300,000 by establishing a time-frame for certifying entities to process Form I-918 Supplement B requests, and for local certifying entities to report annually to the Legislature.

During a six-year period, annual certifications provided by the cities of Los Angeles and Oakland were 764 and 500, respectively. If the cost to provide the certification were $25, the reimbursable mandate to these two cities would be $31,600. There are 58 counties and 482 cities and each of them has at least one "agency" that qualifies as a certifying agency. It is reasonable to assume that the number of certifications statewide would be at least ten times those of the cities of Los Angeles and Oakland combined. The reporting requirement reimbursable costs will be minor.

Mandating compliance with federal law is not a reimbursable mandate. However, federal law does not impose a timeframe, nor does it require an annual report.

**COMMENTS**:

1) **Purpose.** The Victim of Crime Visa, also referred to as the U-Visa, is available to immigrants who are victims of certain crimes committed in the United States – rape, incest, sexual assault, torture, or domestic violence, for example. The bearer of a U-Visa gets relief from deportation and permission to work in the United States. Federal immigration authorities make the determination of whether a victim of crime qualifies for a U-Visa. However, in order for the victim to apply to the federal government for the U-Visa, the victim must receive a certification from law enforcement, a prosecutor, or a judicial officer. The document, Form I-918 Supplement B, certifies that the individual was a victim of a qualifying crime, and the certification must state that the victim was helpful or likely helpful to the prosecution or investigation of the crime.

According to the author, there are some local law enforcement agencies that do an exemplary job granting certifications. But there are other law enforcement agencies that systematically deny certifications on the basis of political views on immigration matters. Effectively, these agencies are making the determination of whether one belongs in this county or not, irrespective of the crime that has been committed against an immigrant and irrespective of whether that victim was helpful to law enforcement.

SB 674 makes clear all entities that can certify victim helpfulness, and that they must certify within 90 days of the request the victim's helpfulness, if the victim was a victim of one of the qualifying crimes. SB 674 specifies a 14-day time frame if the victim is in deportation proceedings.

The "certifying entity includes any of the following:
a) A state or local law enforcement agency;
b) A prosecutor;
c) A judge;
d) Any other authority that has responsibility for the detection or investigation or prosecution of a qualifying crime or criminal activity; or
e) Agencies that have criminal detection or investigative jurisdiction in their respective areas of expertise, including, but not limited to, child protective services, the Department of Fair Employment and Housing, and the Department of Industrial Relations.

2) **Argument in Support**: According to the *Immigrant Legal Resource Center*, "Victims of certain crimes may be eligible for legal status through a U-Visa. However, a problem these victims are facing in California is that some entities that can certify victim helpfulness refuse to even consider signing Form I-918 Supplement B certifications. Others place their own restrictions on which victims can receive the certification. These refusals arbitrarily prevent these victims from seeking relief to stay in this country. This bill is necessary to bring consistent treatment and equity to victims of crime and require that all certifying entities certify victim helpfulness in a consistent and fair manner."

**Analysis Prepared by**: Pedro R. Reyes / APPR. / (916) 319-2081

**SENATE RULES COMMITTEE**
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478



---

THIRD READING

---

Bill No: SB 674
Author: De León (D)
Introduced: 2/27/15
Vote: 21

---

SENATE PUBLIC SAFETY COMMITTEE: 7-0, 4/21/15
AYES: Hancock, Anderson, Leno, Liu, McGuire, Monning, Stone

SENATE APPROPRIATIONS COMMITTEE: 6-1, 5/28/15
AYES: Lara, Bates, Beall, Hill, Leyva, Mendoza
NOES: Nielsen

---

**SUBJECT:** Victims of crime: nonimmigrant status

**SOURCE:** Author

---

**DIGEST:** This bill creates a rebuttable presumption that when certain factors are met a victim or victim's family member shall have their Form I-918 supplement B certified so that he or she can apply for a U Visa to stay in the United States.

**ANALYSIS:**

Existing federal law allows an immigrant who has been a victim of a crime to apply for a U Visa when he or she has been helpful to the investigation or prosecution of the criminal activity.

This bill:

1) Provides that upon the request of the victim or the victim's family member a certifying official from a certifying entity shall certify victim helpfulness on the Form I-918 supplement B when the victim was a victim of a qualifying criminal activity and has been helpful, is being helpful or is likely to be

helpful in the detection or investigation or prosecution of that qualifying criminal activity.

2) Provides that for the purposes of determining helpfulness there is rebuttable presumption that a victim is helpful, has been helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity, if the victim has not refused or failed to provide information and assistance reasonably requested by the law enforcement.

3) Provides that a certifying entity shall process a Form I-918 Supplement B certification within 90 days of the request unless the noncitizen is in removal proceedings in which case the certification shall be processed within 14 days of request.

4) Provides that a current investigation, filing of charges and a prosecution or conviction are not required for the victim to request and obtain a Form I-918 Supplement B certification from a certifying official.

5) Provides that a certifying official may only withdraw the certification if the victim refuses to provide information and assistance when reasonably requested.

6) Provides that a certifying entity is prohibited from disclosing the immigration status of a victim or person requesting the Form I-918 Supplement B certification, except to comply with federal law or legal process or if authorized by the person requesting the certification.

7) Provides for a certifying entity that receives a request for a Form I-918 Supplement B certification to report to the Legislature annually beginning on January 1, 2017, the number of victims that requested Form I-918 Supplement B certifications from the entity, the number of those that were signed and the number that were denied.

8) Defines certifying entity as:
   - A state or local law enforcement agency;
   - A prosecutor;
   - A judge;
   - Any other authority that has responsibility for the detection or investigation or prosecution of a qualifying crime or criminal activity; and,

- Agencies that have criminal detection or investigative jurisdiction in the respective areas including but not limited to, child protective services, the Department of Fair Employment and Housing, and the Department of Industrial Relations.

9) Defines certifying official as any of the following:

- The head of the certifying entity;
- A person in a supervisory role who has been designated to issue Form I-918 Supplement B certification;
- A judge; and,
- Any other certifying official as defined under federal law.

10) Defines qualifying criminal activity as including, but not limited to, specified crimes.

11) Defines qualifying crimes as criminal offenses for which the nature and elements are substantially similar to the listed crimes and the attempt, conspiracy or solicitation to commit any of those offenses.

**Background**

*U Visa.* In October 2000, Congress, as part of the reauthorization of the Violence Against Women Act, created the U Visa to provide immigrant crime victims an avenue to obtain lawful immigration status and thus encourage cooperation with law enforcement by undocumented victims of crime. In order to qualify for a U Visa: the applicant must have suffered substantial physical or mental abuse as a result of having been a victim of certain qualifying activity; the applicant must possess information concerning such criminal activity; the applicant must be helpful, have been helpful, or likely to be helpful in the investigation or prosecution of a crime; and the criminal activity must have occurred in the U.S. or violated the state or federal law of the United States.

*Certification.* In order to apply for a U Visa, the qualified immigrant victim must obtain a certification of a helpfulness from a law enforcement official, prosecutor, judge or federal or state agency authorized to detect investigate or prosecute any of the criminal activities listed in the U Visa statute. This certification form is called a Form I-918. While in some jurisdictions the appropriate agencies have been supportive of immigrant victims and have readily signed From I-918 when the

immigrant victims have been helpful, other jurisdictions have shown a reluctance to sign these certification forms.

> In some cities, police and prosecutors readily verify that an undocumented crime victim cooperated; in others, they stonewall. From 2009 through May 2014, law enforcement in New York City verified 1,151 crime victims, according to figures provided by federal immigration authorities in response to public records requests by Reuters. Meanwhile, police and prosecutors verified 4,585 crime victims in Los Angeles, a city with less than half of New York's population.
>
> Oakland, California, has less than 5 percent of New York's population, yet law enforcement there verified 2,992 immigrants during the same period - more than twice as many. Sacramento, California, has a slightly higher population than Oakland, but verified just 300 crime victims.
>
> The federal data do not include the number of immigrants whose requests for verification are ignored or denied by the police. Nor is it possible to determine how many of those would have ultimately been rejected anyway because the applicant would not qualify under the program. Victims of misdemeanor assault, for instance, do not qualify.
>
> But wide variations in the numbers of certifications among jurisdictions of similar size suggest that thousands of victims of violent crimes who have embraced the offer of a U Visa haven't got one. (Levine and Cooke, *Special Report: U.S. visa program for crime victims is hit—or-miss prospect* Reuters October 21, 2014)

This bill provides that when a victim, or victim's family member, requests a certifying official to certify the Form I-918 there is a rebuttable presumption that the victim is helpful, has been helpful or is likely to be helpful in the investigation if the victim has not refused to provide information and assistance as requested by law enforcement. The bill would also require the form be filled out completely and within 90 days of the request, unless the victim is in removal proceedings in which case the form must be filled out within 14 days.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee analysis:

- *TCVAP benefits*: Potentially significant future increase in annual state costs (General Fund) for the Trafficking and Crime Victims Assistance Program (TCVAP), which provides state-funded benefits (including cash assistance, services, child care, and food benefits), to the extent a greater number of victims are able to file formal U Visa applications. Applicants are eligible for TCVAP when a U Visa application has been filed with USCIS, and eligibility continues until and unless a recipient's application for a U Visa has been finally administratively denied. For every 100 new cases, annual costs could range from $0.7 million to $1.6 million (General Fund).
- *Form I-918B certification process*: Potential future cost pressure on certifying entities to implement the process, including but not limited to the specified timelines within which to process requests. To the extent the new requirements are determined to place a higher level of service on local agencies than required under federal law, local agency expenditures could qualify as a reimbursable state mandate (General Fund).
- *Annual report*: Likely minor costs to state and local agencies acting as certifying entities to compile and submit the annual report to the Legislature. To the extent local agency expenditures qualify as a reimbursable state mandate, agencies could only claim reimbursement of costs incurred if $1,000 or more (General Fund).
- *State agency certifying entities*: Minor impact to the Department of Fair Employment and Housing, the Department of Industrial Relations, and the Department of Justice.

**SUPPORT:** (Verified 5/29/15)

ACLU
AFSCME
California Attorneys for Criminal Justice
California Immigrant Policy Center
California Partnership to End Domestic Violence
The Central American Resource Center
The Immigrant Legal Resource Center
Los Angeles Center for Law and Justice
YWCA of Glendale;

**OPPOSITION:** (Verified 5/29/15)

None received

**ARGUMENTS IN SUPPORT:**

According to the author:

> The goal of SB 674, The Immigrant Victims of Crime Equity Act is to ensure the maximum amount of immigrant victims of crime in California have the opportunity to apply for the federal U-Visa when the immigrant was a victim of a qualifying crime and has been helpful or is likely to be helpful in the investigation or prosecution of that crime.
>
> SB 674 creates equity in the granting of the certifications of victim helpfulness that are essential to the crime victim's U-Visa application filed with the USCIS. The Immigrant Victim of Crimes Equity Act requires certifying entities to certify victim helpfulness on the Form I-918 Supplement B certification, upon the request of the victim or victim's family member, when: (1) the victim was a victim of a qualifying criminal activity and (2) has been helpful, is being helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity. Under the bill, the certifying entity must also process the certification within a time limit and include details about victim helpfulness.

Prepared by: Mary Kennedy / PUB. S. /
5/30/15 16:03:12

****** END ******

**SB 674 (De León) - Victims of crime: nonimmigrant status**

**Version:** February 27, 2015
**Urgency:** No
**Hearing Date:** May 4, 2015

**Policy Vote:** PUB. S. 7 - 0
**Mandate:** Yes
**Consultant:** Jolie Onodera

**This bill meets the criteria for referral to the Suspense File.**

**Bill Summary:** SB 674 would provide that upon the request of a victim or victim's family member, a certifying official from a certifying entity, as defined, is required to certify "victim helpfulness" on the Form I-918 Supplement B (Form I-918B), when the victim was a victim of a qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful to the detection or investigation or prosecution of that criminal activity. This bill would specify timelines within which a certifying entity must process a Form I-918B request and would require a certifying entity that receives a request for a Form I-918B certification to report to the Legislature on or before January 1, 2017, and annually thereafter, on the number of Form I-918B certifications requested, signed, and denied.

**Fiscal Impact:**

- TCVAP benefits: Potentially significant future increase in annual state costs (General Fund) for the Trafficking and Crime Victims Assistance Program (TCVAP), which provides state-funded benefits (including cash assistance, services, child care, and food benefits), to the extent a greater number of victims are able to file formal U Visa applications. Applicants are eligible for TCVAP when a U Visa application has been filed with USCIS, and eligibility continues until and unless a recipient's application for a U Visa has been finally administratively denied. For every 100 new cases, annual costs could range from $0.7 million to $1.6 million (General Fund).
- Form I-918B certification process: Potential future cost pressure on certifying entities to implement the process, including but not limited to the specified timelines within which to process requests. To the extent the new requirements are determined to place a higher level of service on local agencies than required under federal law, local agency expenditures could qualify as a reimbursable state mandate (General Fund).
- Annual report: Likely minor costs to state and local agencies acting as certifying entities to compile and submit the annual report to the Legislature. To the extent local agency expenditures qualify as a reimbursable state mandate, agencies could only claim reimbursement of costs incurred if $1,000 or more (General Fund).
- State agency certifying entities: Minor impact to the Department of Fair Employment and Housing, the Department of Industrial Relations, and the Department of Justice.

**Background:** Existing federal law provides for U nonimmigrant status, which 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. Congress created the U nonimmigrant visa (U Visa) with the passage

of the Victims of Trafficking and Violence Protection Act in October 2000. The legislation was intended to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, human trafficking, and other crimes, while also protecting victims of crimes who have suffered substantial mental or physical abuse due to the crime.

The U Visa extends critical protections to immigrant crime victims by providing temporary lawful status as a "U nonimmigrant" for up to four years, work authorization, and an opportunity to adjust to lawful permanent resident status.

To apply (petition) for a U Visa from the U.S. Citizenship and Immigration Services (USCIS), a petitioner must submit a Form I-918, *Petition for U Nonimmigrant Status* (Form I-918) to request temporary immigration benefits as a victim of certain qualifying criminal activity, as well as obtain a certification on the Form I-918 Supplement B, *U Nonimmigrant Status Certification* (Form I-918B) from a certifying agency, which must be a federal, state, or local law enforcement agency, prosecutor, or authority, or federal or state judge, authorized to a certify that the petitioner submitting the Form I-918 is a victim of certain qualifying criminal activity and is, has been, or is likely to be helpful in the investigation or prosecution of that criminal activity.

Without a completed Form I-918B, a U Visa application is not considered complete. This bill creates a rebuttable presumption that when specified factors are met, a victim or victim's family member shall have their Form I-918B certified to enable application for a U Visa.

**Proposed Law:** This bill would provide that upon the request of the victim or the victim's family member, a certifying official from a certifying entity shall certify victim helpfulness on the Form I-918B when the victim was a victim of a qualifying criminal activity and has been helpful, is being helpful or is likely to be helpful in the detection or investigation or prosecution of that qualifying criminal activity. This bill:

- Provides that for the purposes of determining helpfulness there is rebuttable presumption that a victim is helpful, has been helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity, if the victim was not refused or failed to provide information and assistance reasonably requested by the law enforcement.
- Provides that a certifying entity shall process a Form I-918B certification within 90 days of the request unless the noncitizen is in removal proceedings in which case the certification shall be processed within 14 days of request.
- Provides that a current investigation, filing of charges and a prosecution or conviction are not required for the victim to request and obtain a Form I-918B certification from a certifying official.
- Provides that a certifying official may only withdraw the certification if the victim refuses to provide information and assistance when reasonably requested.
- Specifies that a certifying entity is prohibited from disclosing the immigration status of a victim or person requesting the Form I-918B certification, except to comply with federal law or legal process or if authorized by the person requesting the certification.
- Provides for a certifying entity that receives a request for a Form I-918B certification to report to the Legislature annually beginning on January 1, 2017, the number of

victims that requested Form I-918B certifications from the entity, the number of those that were signed and the number that were denied.

- Defines "certifying entity" as:
  - A state or local law enforcement agency;
  - A prosecutor;
  - A judge;
  - Any other authority that has responsibility for the detection or investigation or prosecution of a qualifying crime or criminal activity; and,
  - Agencies that have criminal detection or investigative jurisdiction in the respective areas including but not limited to, child protective services, the Department of Fair Employment and Housing, and the Department of Industrial Relations.
- Defines "certifying official" as any of the following:
  - The head of the certifying entity;
  - A person in a supervisory role who has been designated to issue Form I-918 Supplement B certification;
  - A judge;
  - Any other certifying official as defined under federal law.

**Related Legislation:** None applicable.

**Staff Comments:** This bill will potentially result in a greater number of Form I-918B certifications completed, enabling a greater number of victims to submit formal U Visa applications to USCIS for consideration. As a result, a greater number of victims and their family members may become eligible for state-funded TCVAP benefits.

The TCVAP, which is administered by the Department of Social Services (DSS), was authorized by SB 1569 (Chapter 672/ 2006) and became effective on January 1, 2007. This program assists eligible non-citizen victims of human trafficking and domestic violence or other serious crimes by providing them with state-funded benefits and services. Under TCVAP, eligible trafficking (T Visa) and serious crime (U Visa) victims may receive benefits and services under the following state-funded programs: TCVAP Cash Assistance (for single adults or families without children), California Food Assistance Program (CFAP), Cash Assistance Program for Immigrants (CAPI), CalWORKs, and In-Home Supportive Services (IHSS). The TCVAP-eligible persons may also receive state-funded Medi-Cal that is administered by the Department of Health Care Services (DHCS). Data from the DSS indicates over 5,600 crime victims (under U Visa) served under the TCVAP cash assistance and CalWORKs programs between July-December 2014.

According to the DSS implementing instructions for the TCVAP (ACL 06-60, December 21, 2006), victims are eligible when a U Visa application has been filed with USCIS, or if a U Visa has been granted. In determining potential eligibility for these applicants, county welfare agencies are required to verify that an application for a U Visa has been filed (which would include a copy of the Form I-918B certification). Eligibility for state-funded services continue until and unless the recipient's application for a U Visa has been finally administratively denied. While the magnitude of the potential increase is unknown, for every 100 new cases, annual costs could range between $0.7 million and $1.6 million (General Fund), dependent on the services provided.

USCIS data indicates a current backlog of pending U Visa applications of over 79,000 nationwide as of 2014, likely due in part to the cap on visa issuances of 10,000 annually. As a result, the TCVAP caseload is estimated to cumulatively increase as eligibility extends until an applicant receives a final administrative denial. To the extent the federal cap on U Visa issuances remains unchanged, the backlog of pending applications could continue to increase.

According to the U.S. Department of Homeland Security (DHS) publication, *U Visa Law Enforcement Certification Resource Guide*, "Across the United States, law enforcement agencies have taken different procedural approaches to U visa certifications. DHS does not endorse or recommend any particular practice, as the certifying agency has the sole authority on the policies and procedures it will use in signing law enforcement certifications."

This bill requires certifying entities to meet specified processing timelines of within 90 days or within 14 days of a request, as specified. The potential cost pressure on workload would vary by agency dependent on the volume of requests received. To the extent this requirement is determined to place a higher level of service on local agencies than required under federal law, local agency expenditures could potentially qualify as a reimbursable state mandate (General Fund).

Staff notes, as drafted, it is unclear whether a certifying entity would be required to certify a Form I-918B for a qualified victim regardless of whether the certifying entity is responsible for the investigation or prosecution of the qualifying criminal activity. An informational notice from the Los Angeles City Attorney's Office notes that in order for the City Attorney's Office to sign the form, the case in which the person was a victim must have been handled by the City Attorney's Office. Statements from the notice:

*"The case in which you were a victim must have been handled by the Los Angeles City Attorney's Office. That means that the law enforcement agency that responded to the crime was Los Angeles Police Department. If your case was handled by the Sheriff's Department or by any other police department, then this is not the correct office for you to ask for help."*

*"If your client was helpful to the Los Angeles Police Department and not the Los Angeles City Attorney's Office, then your request should be made directly to the Los Angeles Police Department. This Office will not certify based on helpfulness to the police department alone."*

To the extent the provisions of this bill require local agencies to change current policies and practices, any workload and associated costs that are determined to place a higher level of service on local agencies could potentially qualify as a reimbursable state mandate (General Fund).

Given the scope of information required to be reported, state and local agencies acting as certifying entities are estimated to incur minor costs to compile and submit the annual report to the Legislature. To the extent local agency expenditures qualify as a reimbursable state mandate, agencies could only claim reimbursement of costs incurred of $1,000 or more (General Fund).

**-- END --**

SENATE THIRD READING
SB 674 (De León)
As Introduced February 27, 2015
Majority vote

SENATE VOTE: 38-0

| Committee | Votes | Ayes | Noes |
|---|---|---|---|
| **Public Safety** | 7-0 | Quirk, Melendez, Jones-Sawyer, Lackey, Lopez, Low, Santiago | |
| **Appropriations** | 17-0 | Gomez, Bigelow, Bloom, Bonta, Calderon, Chang, Nazarian, Eggman, Gallagher, Eduardo Garcia, Holden, Jones, Quirk, Rendon, Wagner, Weber, Wood | |

**SUMMARY**: Requires agencies, upon the request of an immigrant victim of crime, to certify victim helpfulness on the applicable form so that the victim may apply for a U-visa to temporarily live and work in the United States. Specifically, **this bill**:

1) Provides that upon the request of the victim or victim's family member, a certifying official from a certifying entity shall certify victim helpfulness on the Form I-918 Supplement B certification, when the victim was a victim of a qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity.

2) States that in determining helpfulness, there is a rebuttable presumption that a victim is helpful, has been helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity, if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.

3) Requires a certifying official to fully complete and sign the Form I-918 Supplement B certification and, regarding victim helpfulness, include specific details about the nature of the crime investigated or prosecuted and a detailed description of the victim's helpfulness or likely helpfulness to the detection or investigation or prosecution of the criminal activity.

4) States that a certifying entity shall process an I-918 Supplement B certification within 90 days of request, unless the non-citizen is in removal proceedings, in which case the certification shall be processed within 14 days of request.

5) Specifies that a current investigation, the filing of charges, and a prosecution or conviction are not required for the victim to request and obtain the Form I-918 Supplement B certification from a certifying official.

6) Provides that a certifying official may only withdraw the certification if the victim refuses to provide information and assistance when reasonably requested.

7) Prohibits a certifying entity from disclosing the immigration status of a victim or person requesting the Form I-918 Supplement B certification, except to comply with federal law or legal process, or if authorized by the victim or person requesting the Form I-918 Supplement B certification.

8) Mandates a certifying entity that receives a request for a Form I-918 Supplemental B certification to report to the Legislature, on or before January 1, 2017, and annually thereafter, the number of victims that requested Form I-918 Form B certifications from the entity, the number of those certification forms that were signed, and the number that were denied.

9) Defines a "certifying entity" to include any of the following:

   a) A state or local law enforcement agency;

   b) A prosecutor;

   c) A judge;

   d) Any other authority that has responsibility for the detection or investigation or prosecution of a qualifying crime or criminal activity; or

   e) Agencies that have criminal detection or investigative jurisdiction in their respective areas of expertise, including, but not limited to, child protective services, the Department of Fair Employment and Housing, and the Department of Industrial Relations.

10) States that for purposes of this bill, a "certifying official" is any of the following:

   a) The head of the certifying entity;

   b) A person in a supervisory role who has been specifically designated by the head of the certifying entity to issue Form I-918 Supplement B certifications on behalf of that agency;

   c) A judge; or

   d) Any other certifying official as defined in federal regulations.

11) Provides the following list of "qualifying criminal activity": rape; torture; human trafficking; incest; domestic violence; sexual assault; abusive sexual conduct; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; perjury; involuntary servitude; slavery; kidnaping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; fraud in foreign labor contracting; or stalking.

12) States that a "qualifying crime" includes criminal offenses for which the nature and elements of the offenses are substantially similar to the criminal activity described in the list of "qualifying criminal activity", and the attempt, conspiracy, or solicitation to commit any of those offenses.

**EXISTING FEDERAL LAW**: Allows an immigrant who has been a victim of a specified crime to receive a U-visa if the Secretary of Homeland Security makes a determination based on certain factors.

**FISCAL EFFECT**: According to the Assembly Appropriations Committee, moderate local reimbursable state mandated costs in excess of $300,000 by establishing a time-frame for certifying entities to process Form I-918 Supplement B requests, and for local certifying entities to report annually to the Legislature.

During a six-year period, annual certifications provided by the Cities of Los Angeles and Oakland were 764 and 500, respectively. If the cost to provide the certification were $25, the reimbursable mandate to these two cities would be $31,600. There are 58 counties and 482 cities and each of them has at least one "agency" that qualifies as a certifying agency. It is reasonable to assume that the number of certifications statewide would be at least ten times those of the Cities of Los Angeles and Oakland combined. The reporting requirement reimbursable costs will be minor

Mandating compliance with federal law is not a reimbursable mandate. However, federal law does not impose a timeframe, nor does it require an annual report.

**COMMENTS**: According to the author, "The Victim of Crime Visa, also referred to as the U-Visa, is available to immigrants who are victims of certain crimes committed in the United States – rape, incest, sexual assault, torture, or domestic violence, for example. The bearer of a U-Visa gets relief from deportation and permission to work in the United States.

"Federal immigration authorities make the determination of whether a victim of crime qualifies for a U-Visa. However, the State and local governments play an important role in this process.

"In order for the victim to apply to the federal government for the U-Visa, the victim must receive a certification from law enforcement, a prosecutor, or a judicial officer. The document certifies that the individual was a victim of a qualifying crime. And, the certification must state that the victim was helpful or likely helpful to the prosecution or investigation of the crime.

"There are some local law enforcement agencies that do an exemplary job granting certifications. For example, the Oakland Police Department and L.A. Police Department.

"There are other law enforcement agencies – the Kern County Sheriff, for example – that systematically deny certifications on the basis of political views on immigration matters. They are making the determination of whether one belongs in this county or not, irrespective of the crime that has been committed against an immigrant and irrespective of whether that victim was helpful to law enforcement.

"This bill makes clear that all entities that *can* certify victim helpfulness must certify victim helpfulness if the victim was a victim of one of the qualifying crimes and the victim was helpful or likely to be helpful to the prosecution or investigation of the crime.

"The Kern County Sheriff and other entities will no longer be permitted to subjectively make immigration decisions. That is for the federal government to do.

"Whether you are a victim of crime in Kern County or Alameda County should not matter in terms of whether you obtain a U-Visa. This bill brings equity to immigrant victims of crime."

**Analysis Prepared by**: Stella Choe / PUB. S. / (916) 319-3744 FN: 0001619

# Petition for U Nonimmigrant Status

**Department of Homeland Security**
U.S. Citizenship and Immigration Services

**USCIS**
**Form I-918**
OMB No. 1615-0104
Expires 02/28/2019

| For USCIS Use Only | Remarks | Receipt | Action Block |
|---|---|---|---|
| | U.S. Embassy Consulate | Validity Dates (mm/dd/yyyy) From: ___/___/___ To: ___/___/___ | Wait Listed Stamp Number Date (mm/dd/yyyy) |

| To be completed by an attorney or accredited representative (if any). | ☐ Select this box if Form G-28 is attached. | Attorney State Bar Number (if applicable) | Attorney or Accredited Representative USCIS Online Account Number (if any) |
|---|---|---|---|

► **START HERE - Type or print in black or blue ink.**

## Part 1. Information About You (Person filing this petition as a victim)

1.a. Family Name (Last Name)

1.b. Given Name (First Name)

1.c. Middle Name

**Other Names Used** (Include maiden name, nicknames, and aliases, if applicable)

2.a. Family Name (Last Name)

2.b. Given Name (First Name)

2.c. Middle Name

### *Home Address*

3.a. Street Number and Name

3.b. ☐ Apt. ☐ Ste. ☐ Flr.

3.c. City or Town

3.d. State 3.e. ZIP Code

3.f. Province

3.g. Postal Code

3.h. Country

### *Safe Mailing Address (if other than Home Address)*

4.a. In Care Of Name

4.b. Street Number and Name

4.c. ☐ Apt. ☐ Ste. ☐ Flr.

4.d. City or Town

4.e. State 4.f. ZIP Code

4.g. Province

4.h. Postal Code

4.i. Country

### *Other Information*

5. Alien Registration Number (A-Number) (if any)
► A-

6. U.S. Social Security Number (if any)
►

7. USCIS Online Account Number (if any)
►

8. Marital Status
☐ Single ☐ Married ☐ Divorced ☐ Widowed

## Part 1. Information About You (continued)

9. Gender ☐ Male ☐ Female

10. Date of Birth (mm/dd/yyyy)

11. Country of Birth

12. Country of Citizenship or Nationality

13. Form I-94 Arrival-Departure Record Number

14. Passport Number

15. Travel Document Number

16. Country of Issuance for Passport or Travel Document

17. Date of Issuance for Passport or Travel Document (mm/dd/yyyy)

18. Expiration Date for Passport or Travel Document (mm/dd/yyyy)

Place and Date of Last Entry into the United States and Date Authorized Stay Expired

19.a. City or Town

19.b. State

20. Date of Last Entry into the United States (mm/dd/yyyy)

21. Date Authorized Stay Expired (mm/dd/yyyy)

22. Current Immigration Status

## Part 2. Additional Information About You

Answering "Yes" to the following questions below requires explanations and supporting documentation. Attach relevant documents in support of your claims that you are a victim of criminal activity listed in the Immigration and Nationality Act (INA) section 101(a)(15)(U)(iii). You must also attach a personal narrative statement describing the criminal activity of which you are a victim. If you are only petitioning for U derivative status for qualifying family members subsequent to your (the principal petitioner) initial filing, you are not required to submit evidence supporting the original petition with the new Form I-918.

If you need extra space to complete **Part 2.**, use the space provided in **Part 8. Additional Information**.

Select "Yes" or "No," as appropriate, for each of the following questions.

1. I am a victim of criminal activity listed in the INA at section 101(a)(15)(U)(iii). ☐ Yes ☐ No

2. I have suffered substantial physical or mental abuse as a result of having been a victim of this criminal activity. ☐ Yes ☐ No

3. I possess information concerning the criminal activity of which I was a victim. ☐ Yes ☐ No

4. I am submitting Form I-918, Supplement B, U Nonimmigrant Status Certification, from a certifying official. ☐ Yes ☐ No

5. The crime of which I am a victim occurred in the United States (including Indian country and military installations) or violated the laws of the United States. ☐ Yes ☐ No

6. I am under 16 years of age. ☐ Yes ☐ No

7.a. I was or am in immigration proceedings. ☐ Yes ☐ No

If you answered "Yes," select the type of proceedings. If you were in proceedings in the past and are no longer in proceedings, provide the date of action. If you are currently in proceedings, type or print "Current" in the appropriate date field. Select **all applicable** boxes. Use the space provided in **Part 8. Additional Information** to provide an explanation.

7.b. ☐ Removal Proceedings
Removal Date (mm/dd/yyyy)

7.c. ☐ Exclusion Proceedings
Exclusion Date (mm/dd/yyyy)

7.d. ☐ Deportation Proceedings
Deportation Date (mm/dd/yyyy)

7.e. ☐ Rescission Proceedings
Rescission Date (mm/dd/yyyy)

7.f. ☐ Judicial Proceedings
Judicial Date (mm/dd/yyyy)

## Part 2. Additional Information About You (continued)

**Provide the date of entry, place of entry, and status under which you entered the United States for each entry during the five years preceding the filing of this petition.**

**8.a.** Date of Entry (mm/dd/yyyy)

Place of Entry into the United States

**8.b.** City or Town

**8.c.** State

**8.d.** Status at the Time of Entry (for example, F-1 student, B-2 tourist, entered without inspection)

**9.a.** Date of Entry (mm/dd/yyyy)

Place of Entry into the United States

**9.b.** City or Town

**9.c.** State

**9.d.** Status at the Time of Entry (for example, F-1 student, B-2 tourist, entered without inspection)

**10.a.** Date of Entry (mm/dd/yyyy)

Place of Entry into the United States

**10.b.** City or Town

**10.c.** State

**10.d.** Status at the Time of Entry (for example, F-1 student, B-2 tourist, entered without inspection)

**If you are outside of the United States, provide the U.S. Consulate or inspection facility or a safe foreign mailing address you want notified if this petition is approved.**

**11.a.** Type of Office (Select **only one** box):

☐ U.S. Consulate ☐ Pre-Flight Inspection

☐ Port-of-Entry

**11.b.** City or Town

**11.c.** State

**11.d.** Country

**Safe Foreign Address Where You Want Notification Sent** (if other than U.S. Consulate, Pre-Flight Inspection, or Port-of-Entry)

**12.a.** Street Number and Name

**12.b.** ☐ Apt. ☐ Ste. ☐ Flr.

**12.c.** City or Town

**12.d.** Province

**12.e.** Postal Code

**12.f.** Country

## Part 3. Processing Information

Answer the following questions about yourself. For the purposes of this petition, you must answer "Yes" to the following questions, if applicable, even if your records were sealed or otherwise cleared or if anyone, including a judge, law enforcement officer, or attorney, told you that you no longer have a record.

**NOTE:** If you answer "Yes" to **ANY** question in **Part 3.**, provide an explanation in the space provided in **Part 8. Additional Information**.

**NOTE:** Answering "Yes" does not necessarily mean that U.S. Citizenship and Immigration Services (USCIS) will deny your Petition for U Nonimmigrant Status.

Have you **EVER**:

**1.a.** Committed a crime or offense for which you have not been arrested? ☐ Yes ☐ No

**1.b.** Been arrested, cited, or detained by any law enforcement officer (including Department of Homeland Security (DHS), former Immigration and Naturalization Service (INS), and military officers) for any reason? ☐ Yes ☐ No

**1.c.** Been charged with committing any crime or offense? ☐ Yes ☐ No

**1.d.** Been convicted of a crime or offense (even if the violation was subsequently expunged or pardoned)? ☐ Yes ☐ No

**1.e.** Been placed in an alternative sentencing or a rehabilitative program (for example, diversion, deferred prosecution, withheld adjudication, deferred adjudication)? ☐ Yes ☐ No

## Part 3. Processing Information (continued)

**1.f.** Received a suspended sentence, been placed on probation, or been paroled? ☐ Yes ☐ No

**1.g.** Been in jail or prison? ☐ Yes ☐ No

**1.h.** Been the beneficiary of a pardon, amnesty, rehabilitation, or other act of clemency or similar action? ☐ Yes ☐ No

**1.i.** Exercised diplomatic immunity to avoid prosecution for a criminal offense in the United States? ☐ Yes ☐ No

**Information About Arrests, Citations, Detentions, or Charges**

If you answered "Yes" to any of the above questions, respond to the questions below to provide additional details. If you need extra space, use the space provided in **Part 8. Additional Information**.

**2.a** Why were you arrested, cited, detained, or charged?

**2.b.** Date of arrest, citation, detention, or charge (mm/dd/yyyy)

Where were you arrested, cited, detained, or charged?

**2.c.** City or Town

**2.d.** State

**2.e.** Country

**2.f.** Outcome or disposition (for example, no charges filed, charges dismissed, jail, probation)

---

**3.a** Why were you arrested, cited, detained, or charged?

**3.b.** Date of arrest, citation, detention, or charge (mm/dd/yyyy)

Where were you arrested, cited, detained, or charged?

**3.c.** City or Town

**3.d.** State

**3.e.** Country

**3.f.** Outcome or disposition (for example, no charges filed, charges dismissed, jail, probation)

Have you **EVER**:

**4.a.** Engaged in, or do you intend to engage in, prostitution or procurement of prostitution? ☐ Yes ☐ No

**4.b.** Engaged in any unlawful commercialized vice, including, but not limited to, illegal gambling? ☐ Yes ☐ No

**4.c.** Knowingly encouraged, induced, assisted, abetted, or aided any alien to try to enter the United States illegally? ☐ Yes ☐ No

**4.d.** Illicitly trafficked in any controlled substance or knowingly assisted, abetted, or colluded in the illicit trafficking of any controlled substance? ☐ Yes ☐ No

Have you **EVER** committed, planned or prepared, participated in, threatened to, attempted to, conspired to commit, gathered information for, or solicited funds for any of the following:

**5.a.** Hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle)? ☐ Yes ☐ No

**5.b.** Seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained? ☐ Yes ☐ No

**5.c.** Assassination? ☐ Yes ☐ No

**5.d.** The use of any firearm with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property? ☐ Yes ☐ No

**5.e.** The use of any biological agent, chemical agent, nuclear weapon or device, explosive, or other weapon or dangerous device, with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property? ☐ Yes ☐ No

Have you **EVER** been a member of, solicited money or members for, provided support for, attended military training (as defined in section 2339D(c)(1) of Title 18, United States Code) by or on behalf of, or been associated with any other group of two or more individuals, whether organized or not, which has been designated as, or has engaged in or has a subgroup which has been designated as, or has engaged in:

**6.a.** A terrorist organization under section 219 of the INA? ☐ Yes ☐ No

**6.b.** Hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle)? ☐ Yes ☐ No

## Part 3. Processing Information (continued)

**6.c.** Seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained? ☐ Yes ☐ No

**6.d.** Assassination? ☐ Yes ☐ No

**6.e.** The use of any firearm with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property? ☐ Yes ☐ No

**6.f.** The use of any biological agent, chemical agent, nuclear weapon or device, explosive, or other weapon or dangerous device, with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property? ☐ Yes ☐ No

**6.g.** Soliciting money or members or otherwise providing material support to a terrorist organization? ☐ Yes ☐ No

Do you intend to engage in the United States in:

**7.a.** Espionage? ☐ Yes ☐ No

**7.b.** Any unlawful activity, or any activity the purpose of which is in opposition to, or the control, or overthrow of the government of the United States? ☐ Yes ☐ No

**7.c.** Solely, principally, or incidentally in any activity related to espionage or sabotage or to violate any law involving the export of goods, technology, or sensitive information? ☐ Yes ☐ No

**8.** Have you **EVER** been or do you continue to be a member of the Communist or other totalitarian party, except when membership was involuntary? ☐ Yes ☐ No

**9.** Have you **EVER**, during the period of March 23, 1933 to May 8, 1945, in association with either the Nazi Government of Germany or any organization or government associated or allied with the Nazi Government of Germany, ordered, incited, assisted or otherwise participated in the persecution of any person because of race, religion, nationality, membership in a particular social group, or political opinion? ☐ Yes ☐ No

Have you **EVER** ordered, incited, called for, committed, assisted, helped with, or otherwise participated in any of the following:

**10.a.** Acts involving torture or genocide? ☐ Yes ☐ No

**10.b.** Killing any person? ☐ Yes ☐ No

**10.c.** Intentionally and severely injuring any person? ☐ Yes ☐ No

**10.d.** Engaging in any kind of sexual conduct or relations with any person who was being forced or threatened? ☐ Yes ☐ No

**10.e.** Limiting or denying any person's ability to exercise religious beliefs? ☐ Yes ☐ No

**10.f.** The persecution of any person because of race, religion, national origin, membership in a particular social group, or political opinion? ☐ Yes ☐ No

**10.g.** Displacing or moving any person from their residence by force, threat of force, compulsion, or duress? ☐ Yes ☐ No

**NOTE:** If you answered "Yes" to any question in **Item Numbers 10.a. - 10.g.**, please describe the circumstances in **Part 8. Additional Information**.

**11.** Have you **EVER** advocated that another person commit any of the acts described in the preceding question, urged, or encouraged another person, to commit such acts? ☐ Yes ☐ No

Have you **EVER** been present or nearby when any person was:

**12.a.** Intentionally killed, tortured, beaten, or injured? ☐ Yes ☐ No

**12.b.** Displaced or moved from his or her residence by force, compulsion, or duress? ☐ Yes ☐ No

**12.c.** In any way compelled or forced to engage in any kind of sexual contact or relations? ☐ Yes ☐ No

Have you **EVER**:

**13.a.** Served in, been a member of, assisted in, or participated in any military unit, paramilitary unit, police unit, self-defense unit, vigilante unit, rebel group, guerilla group, militia, or other insurgent organization? ☐ Yes ☐ No

## Part 3. Processing Information (continued)

**13.b.** Served in any prison, jail, prison camp, detention facility, labor camp, or any other situation that involved detaining persons? ☐ Yes ☐ No

**13.c.** Served in, been a member of, assisted in, or participated in any group, unit, or organization of any kind in which you or other persons transported, possessed, or used any type of weapon? ☐ Yes ☐ No

**NOTE:** If you answered "Yes" to any question in **Item Numbers 13.a. - 13.c.**, please describe the circumstances in **Part 8. Additional Information**.

Have you **EVER**:

**14.a.** Received any type of military, paramilitary, or weapons training? ☐ Yes ☐ No

**14.b.** Been a member of, assisted in, or participated in any group, unit, or organization of any kind in which you or other persons used any type of weapon against any person or threatened to do so? ☐ Yes ☐ No

**14.c.** Assisted or participated in selling or providing weapons to any person who to your knowledge used them against another person, or in transporting weapons to any person who to your knowledge used them against another person? ☐ Yes ☐ No

**NOTE:** If you answered "Yes" to any question in **Item Numbers 14.a. - 14.c.**, please describe the circumstances in **Part 8. Additional Information**.

Have you **EVER**:

**15.a.** Recruited, enlisted, conscripted, or used any person under 15 years of age to serve in or help an armed force or group? ☐ Yes ☐ No

**15.b.** Used any person under 15 years of age to take part in hostilities, or to help or provide services to people in combat? ☐ Yes ☐ No

**16.** Are you **NOW** in removal, exclusion, rescission, or deportation proceedings? ☐ Yes ☐ No

**17.** Have you **EVER** had removal, exclusion, rescission, or deportation proceedings initiated against you? ☐ Yes ☐ No

**18.** Have you **EVER** been removed, excluded, or deported from the United States? ☐ Yes ☐ No

**19.** Have you **EVER** been ordered to be removed, excluded, or deported from the United States? ☐ Yes ☐ No

**20.** Have you **EVER** been denied a visa or denied admission to the United States? ☐ Yes ☐ No

**21.** Have you **EVER** been granted voluntary departure by an immigration officer or an immigration judge and failed to depart within the allotted time? ☐ Yes ☐ No

**22.** Are you **NOW** under a final order or civil penalty for violating section 274C of the INA (producing and/or using false documentation to unlawfully satisfy a requirement of the INA)? ☐ Yes ☐ No

**23.** Have you **EVER**, by fraud or willful misrepresentation of a material fact, sought to procure or procured a visa or other documentation, for entry into the United States or any immigration benefit? ☐ Yes ☐ No

**24.** Have you **EVER** left the United States to avoid being drafted into the U.S. Armed Forces or U.S. Coast Guard? ☐ Yes ☐ No

**25.** Have you **EVER** been a J nonimmigrant exchange visitor who was subject to the 2-year foreign residence requirement and not yet complied with that requirement or obtained a waiver of such? ☐ Yes ☐ No

**26.** Have you **EVER** detained, retained, or withheld the custody of a child, having a lawful claim to United States citizenship, outside the United States from a United States citizen granted custody? ☐ Yes ☐ No

**27.** Do you plan to practice polygamy in the United States? ☐ Yes ☐ No

**28.** Have you **EVER** entered the United States as a stowaway? ☐ Yes ☐ No

**29.a.** Do you **NOW** have a communicable disease of public health significance? ☐ Yes ☐ No

**29.b.** Do you **NOW** have or have you **EVER** had a physical or mental disorder and behavior (or a history of behavior that is likely to recur) associated with the disorder which has posed or may pose a threat to the property, safety, or welfare of yourself or others? ☐ Yes ☐ No

**29.c.** Are you **NOW** or have you **EVER** been a drug abuser or drug addict? ☐ Yes ☐ No

## Part 4. Information About Your Spouse and/or Children

If you need extra space to complete **Part 4.**, use the space provided in **Part 8. Additional Information**.

**1.a.** Family Name (Last Name)

**1.b.** Given Name (First Name)

**1.c.** Middle Name

**2.** Date of Birth (mm/dd/yyyy)

**3.** Country of Birth

**4.** Relationship

**5.** Current Location

**6.a.** Family Name (Last Name)

**6.b.** Given Name (First Name)

**6.c.** Middle Name

**7.** Date of Birth (mm/dd/yyyy)

**8.** Country of Birth

**9.** Relationship

**10.** Current Location

**11.a.** Family Name (Last Name)

**11.b.** Given Name (First Name)

**11.c.** Middle Name

**12.** Date of Birth (mm/dd/yyyy)

**13.** Country of Birth

**14.** Relationship

**15.** Current Location

**16.a.** Family Name (Last Name)

**16.b.** Given Name (First Name)

**16.c.** Middle Name

**17.** Date of Birth (mm/dd/yyyy)

**18.** Country of Birth

**19.** Relationship

**20.** Current Location

**21.a.** Family Name (Last Name)

**21.b.** Given Name (First Name)

**21.c.** Middle Name

**22.** Date of Birth (mm/dd/yyyy)

**23.** Country of Birth

**24.** Relationship

**25.** Current Location

### *Filing On Behalf of Family Members*

**26.** I am petitioning for one or more qualifying family members. ☐ Yes ☐ No

**NOTE:** If you answered "Yes" to **26.**, you must complete and include Supplement A for each family member for whom you are petitioning.

## Part 5. Petitioner's Statement, Contact Information, Declaration, and Signature

**NOTE:** Read the **Penalties** section of the Form I-918 Instructions before completing this part.

### *Petitioner's Statement*

**NOTE:** Select the box for either **1.a.** or **1.b.** If applicable, select the box for **2.**

**1.a.** ☐ I can read and understand English, and I have read and understand every question and instruction on this petition and my answer to every question.

**1.b.** ☐ The interpreter named in **Part 6.** read to me every question and instruction on this petition and my answer to every question in _____, a language in which I am fluent, and I understood everything.

**2.** ☐ At my request, the preparer named in **Part 7.**, _____, prepared this petition for me based only upon information I provided or authorized.

### *Petitioner's Contact Information*

**3.** Petitioner's Daytime Telephone Number

**4.** Petitioner's Mobile Telephone Number (if any)

**5.** Petitioner's Email Address (if any)

### *Petitioner's Declaration and Certification*

Copies of any documents I have submitted are exact photocopies of unaltered, original documents, and I understand that USCIS may require that I submit original documents to USCIS at a later date. Furthermore, I authorize the release of any information from any of my records that USCIS may need to determine my eligibility for the immigration benefit I seek.

I further authorize release of information contained in this petition, in supporting documents, and in my USCIS records to other entities and persons where necessary for the administration and enforcement of U.S. immigration laws.

I understand that USCIS may require me to appear for an appointment to take my biometrics (fingerprints, photograph, and/or signature) and, at that time, if I am required to provide biometrics, I will be required to sign an oath reaffirming that:

**1)** I provided or authorized all of the information contained in, and submitted with, my petition;
**2)** I reviewed and understood all of the information in, and submitted with, my petition; and
**3)** All of this information was complete, true, and correct at the time of filing.

I certify, under penalty of perjury, that all of the information in my petition and any document submitted with it were provided or authorized by me, that I reviewed and understand all of the information contained in, and submitted with, my petition, and that all of this information is complete, true, and correct.

### *Petitioner's Signature*

**6.a.** Petitioner's Signature

**6.b.** Date of Signature (mm/dd/yyyy)

**NOTE TO ALL PETITIONERS:** If you do not completely fill out this petition or fail to submit required documents listed in the Instructions, USCIS may deny your petition.

**NOTE:** A parent or legal guardian may sign for a person who is less than 14 years of age. A legal guardian may sign for a mentally incompetent person.

## Part 6. Interpreter's Contact Information, Certification, and Signature

Provide the following information about the interpreter.

### *Interpreter's Full Name*

**1.a.** Interpreter's Family Name (Last Name)

**1.b.** Interpreter's Given Name (First Name)

**2.** Interpreter's Business or Organization Name (if any)

## Part 6. Interpreter's Contact Information, Certification, and Signature (continued)

### *Interpreter's Mailing Address*

3.a. Street Number and Name

3.b. ☐ Apt. ☐ Ste. ☐ Flr.

3.c. City or Town

3.d. State 3.e. ZIP Code

3.f. Province

3.g. Postal Code

3.h. Country

### *Interpreter's Contact Information*

4. Interpreter's Daytime Telephone Number

5. Interpreter's Mobile Telephone Number (if any)

6. Interpreter's Email Address (if any)

### *Interpreter's Certification*

I certify, under penalty of perjury, that:

I am fluent in English and _____, which is the same language specified in **Part 5., 1.b.**, and I have read to this petitioner in the identified language every question and instruction on this petition and his or her answer to every question. The petitioner informed me that he or she understands every instruction, question, and answer on the petition, including the **Petitioner's Declaration and Certification**, and has verified the accuracy of every answer.

### *Interpreter's Signature*

7.a. Interpreter's Signature (sign in ink)

7.b. Date of Signature (mm/dd/yyyy)

## Part 7. Contact Information, Declaration, and Signature of the Person Preparing this Petition, if Other Than the Petitioner

Provide the following information about the preparer.

### *Preparer's Full Name*

1.a. Preparer's Family Name (Last Name)

1.b. Preparer's Given Name (First Name)

2. Preparer's Business or Organization Name (if any)

### *Preparer's Mailing Address*

3.a. Street Number and Name

3.b. ☐ Apt. ☐ Ste. ☐ Flr.

3.c. City or Town

3.d. State 3.e. ZIP Code

3.f. Province

3.g. Postal Code

3.h. Country

### *Preparer's Contact Information*

4. Preparer's Daytime Telephone Number

5. Preparer's Mobile Telephone Number (if any)

6. Preparer's Email Address (if any)

## *Preparer's Statement*

**7.a.** ☐ I am not an attorney or accredited representative but have prepared this petition on behalf of the petitioner and with the petitioner's consent.

**7.b.** ☐ I am an attorney or accredited representative and my representation of the petitioner in this case ☐ extends ☐ does not extend beyond the preparation of this petition.

**NOTE:** If you are an attorney or accredited representative whose representation extends beyond preparation of this petition, you may be obliged to submit a completed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, with this petition.

## *Preparer's Certification*

By my signature, I certify, under penalty of perjury, that I prepared this petition at the request of the petitioner. The petitioner then reviewed this completed petition and informed me that he or she understands all of the information contained in, and submitted with, his or her petition, including the **Petitioner's Declaration and Certification**, and that all of this information is complete, true, and correct. I completed this petition based only on information that the petitioner provided to me or authorized me to obtain or use.

## *Preparer's Signature*

**8.a.** Preparer's Signature (sign in ink)

**8.b.** Date of Signature (mm/dd/yyyy)

## Part 8. Additional Information

If you need extra space to provide any additional information within this petition, use the space below. If you need more space than what is provided, you may make copies of this page to complete and file with this petition or attach a separate sheet of paper. Include your name and A-Number (if any) at the top of each sheet; indicate the **Page Number**, **Part Number**, and **Item Number** to which your answer refers; and sign and date each sheet.

**1.a.** Family Name (Last Name)

**1.b.** Given Name (First Name)

**1.c.** Middle Name

**2.** A-Number (if any) ► **A-**

**3.a.** Page Number **3.b.** Part Number **3.c.** Item Number

**3.d.**

**4.a.** Page Number **4.b.** Part Number **4.c.** Item Number

**4.d.**

**5.a.** Page Number **5.b.** Part Number **5.c.** Item Number

**5.d.**

**6.a.** Page Number **6.b.** Part Number **6.c.** Item Number

**6.d.**

**7.a.** Page Number **7.b.** Part Number **7.c.** Item Number

**7.d.**

# Supplement A, Petition for Qualifying Family Member of U-1 Recipient

**Department of Homeland Security**
U.S. Citizenship and Immigration Services

**USCIS Form I-918**
OMB No. 1615-0104
Expires 02/28/2019

| For USCIS Use Only | Remarks | Receipt | Action Block |
|---|---|---|---|
| | U.S. Embassy Consulate | Validity Dates (mm/dd/yyyy) From: ___/___/___ To: ___/___/___ | Wait Listed Stamp Number Date (mm/dd/yyyy) |

| To be completed by an attorney or accredited representative (if any). | ☐ Select this box if Form G-28 is attached. | Attorney State Bar Number (if applicable) | Attorney or Accredited Representative USCIS Online Account Number (if any) |
|---|---|---|---|

► **START HERE - Type or print in black or blue ink.**

**NOTE:** The recipient of the U-1 nonimmigrant classification is referred to as the "principal." His or her family members are referred to as "derivatives." The principal should complete Supplement A.

## Part 1. Family Member's Relationship To You (Principal)

1. The family member that I am filing for is my:
   ☐ Spouse ☐ Parent ☐ Child
   ☐ Unmarried sibling under 18 years of age

## Part 2. Information About You (Principal)

1.a. Family Name (Last Name)

1.b. Given Name (First Name)

1.c. Middle Name

### *Other Information*

2. Date of Birth (mm/dd/yyyy)

3. Alien Registration Number (A-Number) (if any)
   ► A-

4. USCIS Online Account Number (if any)
   ►

5. Status of your Form I-918
   ☐ Pending ☐ Approved

## Part 3. Information About Your Qualifying Family Member (Derivative)

1.a. Family Name (Last Name)

1.b. Given Name (First Name)

1.c. Middle Name

**Other Names Used** (Include maiden name, nicknames, and aliases, if applicable)

2.a. Family Name (Last Name)

2.b. Given Name (First Name)

2.c. Middle Name

**NOTE:** If you need extra space to complete this section, use the space provided in **Part 11. Additional Information.**

### *Residence or Intended Residence in the United States*

3.a. Street Number and Name

3.b. ☐ Apt. ☐ Ste. ☐ Flr.

3.c. City or Town

3.d. State 3.e. ZIP Code

## Part 3. Information About Your Qualifying Family Member (The Derivative) (continued)

### *Safe Mailing Address (if other than Residence)*

4.a. In Care Of Name

4.b. Street Number and Name

4.c. ☐ Apt. ☐ Ste. ☐ Flr.

4.d. City or Town

4.e. State 4.f. ZIP Code

4.g. Province

4.h. Postal Code

4.i. Country

### *Other Information About Qualifying Family Member*

5. A-Number (if any) ► A-

6. U.S. Social Security Number (if any) ►

7. USCIS Online Account Number (if any) ►

8. Date of Birth (mm/dd/yyyy)

9. Country of Birth

10. Country of Citizenship or Nationality

11. Marital Status

☐ Single ☐ Married ☐ Divorced ☐ Widowed

12. Gender ☐ Male ☐ Female

13. Form I-94 Arrival-Departure Record Number ►

14. Passport Number

15. Travel Document Number

16. Country of Issuance for Passport or Travel Document

17. Date of Issuance for Passport or Travel Document (mm/dd/yyyy)

18. Expiration Date for Passport or Travel Document (mm/dd/yyyy)

## Part 4. Additional Information About Your Qualifying Family Member

**Provide the date of last entry, place of last entry, and current immigration status for your family member if he or she is currently in the United States.**

1.a. Date of Last Entry into the United States (mm/dd/yyyy)

Place of Last Entry into the United States

1.b. City or Town

1.c. State

1.d. Current Immigration Status

**Provide the date of entry, place of entry, and status at entry for your family member's last entry if he or she has previously traveled to the United States but is not currently in the United States.**

2.a. Date of Last Entry into the United States (mm/dd/yyyy)

Place of Last Entry into the United States

2.b. City or Town

2.c. State

2.d. Date Authorized Stay Expired (mm/dd/yyyy)

2.e. Status at the Time of Entry (for example, F-1 student, B-2 tourist, entered without inspection)

## Part 4. Additional Information About Your Qualifying Family Member (continued)

**If your family member is outside the United States, provide the U.S. Consulate or inspection facility or a safe foreign mailing address you want notified if this supplement is approved.**

3.a. Type of Office (Select **only one** box):

☐ U.S. Consulate ☐ Pre-Flight Inspection

☐ Port-of-Entry

3.b. City or Town

3.c. State

3.d. Country

**Safe Foreign Address Where You Want Notification Sent** (if other than U.S. Consulate, Pre-Flight Inspection, or Port-of-Entry)

4.a. Street Number and Name

4.b. ☐ Apt. ☐ Ste. ☐ Flr.

4.c. City or Town

4.d. Province

4.e. Postal Code

4.f. Country

**If your family member was previously married, list the names of your family member's prior spouses and the dates his or her marriages were terminated. You must attach documents such as divorce decrees or death certificates.**

5.a. Family Name (Last Name)

5.b. Given Name (First Name)

5.c. Middle Name

5.d. Date Marriage Ended (mm/dd/yyyy)

5.e. Where did the marriage end?

5.f. How did the marriage end?

6.a. Family Name (Last Name)

6.b. Given Name (First Name)

6.c. Middle Name

6.d. Date Marriage Ended (mm/dd/yyyy)

6.e. Where did the marriage end?

6.f. How did the marriage end?

### *Other Information*

7.a. Your family member was or is in immigration proceedings. ☐ Yes ☐ No

If you answered "Yes," select the type of proceedings. If your family member was in proceedings in the past and is no longer in proceedings, provide the date of action. If your family member is currently in proceedings, type or print "Current" in the appropriate date field. Select **all applicable** boxes. Use the space provided in **Part 11. Additional Information** to provide an explanation.

7.b. ☐ Removal Proceedings
Removal Date (mm/dd/yyyy)

7.c. ☐ Exclusion Proceedings
Exclusion Date (mm/dd/yyyy)

7.d. ☐ Deportation Proceedings
Deportation Date (mm/dd/yyyy)

7.e. ☐ Rescission Proceedings
Rescission Date (mm/dd/yyyy)

7.f. ☐ Judicial Proceedings
Judicial Date (mm/dd/yyyy)

8. Your family member would like an Employment Authorization Document. ☐ Yes ☐ No

**NOTE:** If you answered "Yes," submit Form I-765, Application for Employment Authorization Document, separately. If your family member is living outside the United States, he or she is not eligible to receive employment authorization until he or she is lawfully admitted to the United States. Do **not** file Form I-765 for a family member living outside the United States.

## Part 5. Processing Information

Answer the following questions about the family member for whom you are filing this supplement. For the purposes of this supplement, you must answer "Yes" to the following questions, if applicable, even if your family member's records were sealed or otherwise cleared or if anyone, including a judge, law enforcement officer, or attorney, told your family member that he or she no longer has a record.

**NOTE:** If you answer "Yes" to **ANY** question in **Part 5.**, provide an explanation in the space provided in **Part 11. Additional Information.**

**NOTE:** Answering "Yes" does not necessarily mean that U.S. Citizenship and Immigration Services (USCIS) will deny your Supplement A, Petition for Qualifying Family Member of U-1 Recipient.

Has your family member **EVER**:

**1.a.** Committed a crime or offense for which he or she has not been arrested? ☐ Yes ☐ No

**1.b.** Been arrested, cited, or detained by any law enforcement officer (including Department of Homeland Security (DHS), former Immigration and Nationalization Service (INS), and military officers) for any reason? ☐ Yes ☐ No

**1.c.** Been charged with committing any crime or offense? ☐ Yes ☐ No

**1.d.** Been convicted of a crime or offense (even if the violation was subsequently expunged or pardoned)? ☐ Yes ☐ No

**1.e.** Been placed in an alternative sentencing or a rehabilitative program (for example, diversion, deferred prosecution, withheld adjudication, deferred adjudication)? ☐ Yes ☐ No

**1.f.** Received a suspended sentence, been placed on probation, or been paroled? ☐ Yes ☐ No

**1.g.** Been held in jail or prison? ☐ Yes ☐ No

**1.h.** Been the beneficiary of a pardon, amnesty, rehabilitation, or other act of clemency or similar action? ☐ Yes ☐ No

**1.i.** Exercised diplomatic immunity to avoid prosecution for a criminal offense in the United States? ☐ Yes ☐ No

**Information About Arrests, Citations, Detentions, or Charges**

**2.a** Why was your family member arrested, cited, detained, or charged?

**2.b.** Date of arrest, citation, detention, or charge (mm/dd/yyyy)

Where was your family member arrested, cited, detained, or charged?

**2.c.** City or Town

**2.d.** State

**2.e.** Country

**2.f.** Outcome or disposition (for example, no charges filed, charges dismissed, jail, probation)

---

**3.a** Why was your family member arrested, cited, detained, or charged?

**3.b.** Date of arrest, citation, detention, or charge (mm/dd/yyyy)

Where was your family member arrested, cited, detained, or charged?

**3.c.** City or Town

**3.d.** State

**3.e.** Country

**3.f.** Outcome or disposition (for example, no charges filed, charges dismissed, jail, probation)

## Part 5. Processing Information (continued)

Has your family member **EVER**:

**4.a.** Engaged in, or does he or she intend to engage in, prostitution or procurement of prostitution?

☐ Yes ☐ No

**4.b.** Engaged in any unlawful commercialized vice, including, but not limited to, illegal gambling? ☐ Yes ☐ No

**4.c.** Knowingly encouraged, induced, assisted, abetted, or aided any alien to try to enter the United States illegally?

☐ Yes ☐ No

**4.d.** Illicitly trafficked in any controlled substance or knowingly assisted, abetted, or colluded in the illicit trafficking of any controlled substance? ☐ Yes ☐ No

Has your family member **EVER** committed, planned or prepared, participated in, threatened to, attempted to, conspired to commit, gathered information for, or solicited funds for any of the following:

**5.a.** Hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle)? ☐ Yes ☐ No

**5.b.** Seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained? ☐ Yes ☐ No

**5.c.** Assassination? ☐ Yes ☐ No

**5.d.** The use of any firearm with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property? ☐ Yes ☐ No

**5.e.** The use of any biological agent, chemical agent, nuclear weapon or device, explosive, or other weapon or dangerous device, with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property? ☐ Yes ☐ No

Has your family member **EVER** been a member of, solicited money or members for, provided support for, attended military training (as defined in section 2339D(c)(1) of Title 18, United States Code) by or on behalf of, or been associated with any other group of two or more individuals, whether organized or not, which has been designated as, or has engaged in or has a subgroup which has been designated as, or has engaged in:

**6.a.** A terrorist organization under section 219 of the Immigration and Nationality Act (INA)?

☐ Yes ☐ No

**6.b.** Hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle)? ☐ Yes ☐ No

**6.c.** Seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained? ☐ Yes ☐ No

**6.d.** Assassination? ☐ Yes ☐ No

**6.e.** The use of any firearm with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property? ☐ Yes ☐ No

**6.f.** The use of any biological agent, chemical agent, nuclear weapon or device, explosive, or other weapon or dangerous device, with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property? ☐ Yes ☐ No

**6.g.** Soliciting money or members or otherwise providing material support to a terrorist organization?

☐ Yes ☐ No

Does your family member intend to engage in the United States in:

**7.a.** Espionage? ☐ Yes ☐ No

**7.b.** Any unlawful activity, or any activity the purpose of which is in opposition to, or the control, or overthrow of the Government of the United States? ☐ Yes ☐ No

**7.c.** Solely, principally, or incidentally in any activity related to espionage or sabotage or to violate any law involving the export of goods, technology, or sensitive information?

☐ Yes ☐ No

**8.** Has your family member **EVER** been or does he or she continue to be a member of the Communist or other totalitarian party, except when membership was involuntary? ☐ Yes ☐ No

## Part 5. Processing Information (continued)

9. Has your family member **EVER**, during the period of March 23, 1933 to May 8, 1945, in association with either the Nazi Government of Germany or any organization or government associated or allied with the Nazi Government of Germany, ordered, incited, assisted or otherwise participated in the persecution of any person because of race, religion, nationality, membership in a particular social group or political opinion? ☐ Yes ☐ No

Has your family member **EVER** ordered, incited, called for, committed, assisted, helped with, or otherwise participated in any of the following:

**10.a.** Acts involving torture or genocide? ☐ Yes ☐ No

**10.b.** Killing any person? ☐ Yes ☐ No

**10.c.** Intentionally and severely injuring any person? ☐ Yes ☐ No

**10.d.** Engaging in any kind of sexual conduct or relations with any person who was being forced or threatened? ☐ Yes ☐ No

**10.e.** Limiting or denying any person's ability to exercise religious beliefs? ☐ Yes ☐ No

**10.f.** The persecution of any person because of race, religion, national origin, membership in a particular social group, or political opinion? ☐ Yes ☐ No

**10.g.** Displacing or moving any person from their residence by force, threat of force, compulsion, or duress? ☐ Yes ☐ No

**NOTE:** If you answered "Yes" to any question in **Item Numbers 10.a. - 10.g.**, please describe the circumstances in the spaces provided in **Part 11. Additional Information**.

11. Has your family member **EVER** advocated that another person commit any of the acts described in **Item Numbers 10.a. - 10.g.**, urged, or encouraged another person, to commit such acts? ☐ Yes ☐ No

Has your family member **EVER** been present or nearby when any person was:

**12.a.** Intentionally killed, tortured, beaten, or injured? ☐ Yes ☐ No

**12.b.** Displaced or moved from his or her residence by force, compulsion, or duress? ☐ Yes ☐ No

**12.c.** In any way compelled or forced to engage in any kind of sexual contact or relations? ☐ Yes ☐ No

Has your family member **EVER**:

**13.a.** Served in, been a member of, assisted in, or participated in any military unit, paramilitary unit, police unit, self-defense unit, vigilante unit, rebel group, guerilla group, militia, or other insurgent organization? ☐ Yes ☐ No

**13.b.** Served in any prison, jail, prison camp, detention facility, labor camp, or any other situation that involved detaining persons? ☐ Yes ☐ No

**13.c.** Served in, been a member of, assisted in, or participated in any group, unit, or organization of any kind in which you or other persons transported, possessed, or used any type of weapon? ☐ Yes ☐ No

**NOTE:** If you answered "Yes" to any question in **Item Numbers 13.a. - 13.c.**, please describe the circumstances in **Part 11. Additional Information**.

Has your family member **EVER**:

**14.a.** Received any type of military, paramilitary, or weapons training? ☐ Yes ☐ No

**14.b.** Been a member of, assisted in, or participated in any group, unit, or organization of any kind in which you or other persons used any type of weapon against any person or threatened to do so? ☐ Yes ☐ No

**14.c.** Assisted or participated in selling or providing weapons to any person who to your knowledge used them against another person, or in transporting weapons to any person who to your knowledge used them against another person? ☐ Yes ☐ No

**NOTE:** If you answered "Yes" to any question in **Item Numbers 14.a. - 14.c.**, please describe the circumstances in **Part 11. Additional Information**.

Has your family member **EVER**:

**15.a.** Recruited, enlisted, conscripted, or used any person under 15 years of age to serve in or help an armed force or group? ☐ Yes ☐ No

**15.b.** Used any person under 15 years of age to take part in hostilities, or to help or provide services to people in combat? ☐ Yes ☐ No

16. Is your family member **NOW** in removal, exclusion, rescission, or deportation proceedings? ☐ Yes ☐ No

17. Has your family member **EVER** had removal, exclusion, rescission, or deportation proceedings initiated against him or her? ☐ Yes ☐ No

## Part 5. Processing Information (continued)

18. Has your family member **EVER** been removed, excluded, or deported from the United States? ☐ Yes ☐ No

19. Has your family member **EVER** been ordered to be removed, excluded, or deported from the United States? ☐ Yes ☐ No

20. Has your family member **EVER** been denied a visa or denied admission to the United States? ☐ Yes ☐ No

21. Has your family member **EVER** been granted voluntary departure by an immigration officer or an immigration judge and failed to depart within the allotted time? ☐ Yes ☐ No

22. Is your family member **NOW** under a final order or civil penalty for violating section 274C of the INA (producing and/or using false documentation to unlawfully satisfy a requirement of the INA)? ☐ Yes ☐ No

23. Has your family member **EVER**, by fraud or willful misrepresentation of a material fact, sought to procure or procured a visa or other documentation, for entry into the United States or any immigration benefit? ☐ Yes ☐ No

24. Has your family member **EVER** left the United States to avoid being drafted into the U.S. Armed Forces or U.S. Coast Guard? ☐ Yes ☐ No

25. Has your family member **EVER** been a J nonimmigrant exchange visitor who was subject to the 2-year foreign residence requirement and not yet complied with that requirement or obtained a waiver of such? ☐ Yes ☐ No

26. Has your family member **EVER** detained, retained, or withheld the custody of a child, having a lawful claim to United States citizenship, outside the United States from a United States citizen granted custody? ☐ Yes ☐ No

27. Does your family member plan to practice polygamy in the United States? ☐ Yes ☐ No

28. Has your family member **EVER** entered the United States as a stowaway? ☐ Yes ☐ No

29.a. Does your family member **NOW** have a communicable disease of public health significance? ☐ Yes ☐ No

29.b. Does your family member **NOW** have or has your family member **EVER** had a physical or mental disorder and behavior (or a history of behavior that is likely to recur) associated with the disorder which has posed or may pose a threat to the property, safety, or welfare of yourself or others? ☐ Yes ☐ No

29.c. Is your family member **NOW** or has your family member **EVER** been a drug abuser or drug addict? ☐ Yes ☐ No

## Part 6. Information About Your Qualifying Family Member's Spouse and/or Children

Provide the following information about your family member's spouse and/or children. If you need extra space to complete this section, use the space provided in **Part 11. Additional Information**.

1.a. Family Name (Last Name)

1.b. Given Name (First Name)

1.c. Middle Name

2. Date of Birth (mm/dd/yyyy)

3. Country of Birth

4. Relationship

5.a. Family Name (Last Name)

5.b. Given Name (First Name)

5.c. Middle Name

6. Date of Birth (mm/dd/yyyy)

7. Country of Birth

8. Relationship

9.a. Family Name (Last Name)

9.b. Given Name (First Name)

9.c. Middle Name

10. Date of Birth (mm/dd/yyyy)

11. Country of Birth

12. Relationship

## Part 7. Petitioner's Statement, Contact Information, Declaration, and Signature

**NOTE:** Read the **Penalties** section of the Form I-918 Instructions before completing this part.

### *Petitioner's Statement*

**NOTE:** Select the box for either **Item Number 1.a.** or **1.b.** If applicable, select the box for **Item Number 2.**

**1.a.** ☐ I can read and understand English, and I have read and understand every question and instruction on this supplement and my answer to every question.

**1.b.** ☐ The interpreter named in **Part 9.** read to me every question and instruction on this supplement and my answer to every question in _____, a language in which I am fluent, and I understood everything.

**2.** ☐ At my request, the preparer named in **Part 10.**, _____, prepared this supplement for me based only upon information I provided or authorized.

### *Petitioner's Contact Information*

**3.** Petitioner's Daytime Telephone Number

**4.** Petitioner's Mobile Telephone Number (if any)

**5.** Petitioner's Email Address (if any)

### *Petitioner's Declaration and Certification*

Copies of any documents I have submitted are exact photocopies of unaltered, original documents, and I understand that USCIS may require that I submit original documents to USCIS at a later date. Furthermore, I authorize the release of any information from any of my records that USCIS may need to determine my eligibility for the immigration benefit I seek.

I further authorize release of information contained in this supplement, in supporting documents, and in my USCIS records to other entities and persons where necessary for the administration and enforcement of U.S. immigration laws.

I understand that USCIS may require me to appear for an appointment to take my biometrics (fingerprints, photograph, and/or signature) and, at that time, if I am required to provide biometrics, I will be required to sign an oath reaffirming that:

**1)** I provided or authorized all of the information contained in, and submitted with, my supplement;
**2)** I reviewed and understood all of the information in, and submitted with, my supplement; and
**3)** All of this information was complete, true, and correct at the time of filing.

I certify, under penalty of perjury, that all of the information in my supplement and any document submitted with it were provided or authorized by me, that I reviewed and understand all of the information contained in, and submitted with, my supplement, and that all of this information is complete, true, and correct.

### *Petitioner's Signature*

**6.a.** Petitioner's Signature (sign in ink)

➡

**6.b.** Date of Signature (mm/dd/yyyy)

**NOTE TO ALL PETITIONERS:** If you do not completely fill out this supplement or fail to submit required documents listed in the Instructions, USCIS may deny your supplement.

## Part 8. Qualifying Family Member's Statement, Contact Information, Declaration, and Signature

**NOTE:** Read the **Penalties** section of the Form I-918 Instructions before completing this part.

### *Qualifying Family Member's Statement*

**NOTE:** Select the box for either **Item Number 1.a.** or **1.b.** If applicable, select the box for **Item Number 2.**

**1.a.** ☐ I can read and understand English, and I have read and understand every question and instruction on this supplement and my answer to every question.

**1.b.** ☐ The interpreter named in **Part 9.** read to me every question and instruction on this supplement and my answer to every question in _____, a language in which I am fluent, and I understood everything.

**2.** ☐ At my request, the preparer named in **Part 10.**, _____, prepared this supplement for me based only upon information I provided or authorized.

## Part 8. Qualifying Family Member's Statement, Contact Information, Declaration, and Signature (continued)

### *Qualifying Family Member's Contact Information*

3. Qualifying Family Member's Daytime Telephone Number

4. Qualifying Family Member's Mobile Telephone Number (if any)

5. Qualifying Family Member's Email Address (if any)

### *Qualifying Family Member's Declaration and Certification*

Copies of any documents I have submitted are exact photocopies of unaltered, original documents, and I understand that USCIS may require that I submit original documents to USCIS at a later date. Furthermore, I authorize the release of any information from any of my records that USCIS may need to determine my eligibility for the immigration benefit I seek.

I further authorize release of information contained in this supplement, in supporting documents, and in my USCIS records to other entities and persons where necessary for the administration and enforcement of U.S. immigration laws. Any disclosure shall be in accordance with 8 U.S.C. section 1367 and 8 CFR 214.14(e).

I understand that USCIS may require me to appear for an appointment to take my biometrics (fingerprints, photograph, and/or signature) and, at that time, if I am required to provide biometrics, I will be required to sign an oath reaffirming that:

1) I provided or authorized all of the information contained in, and submitted with, my supplement;
2) I reviewed and understood all of the information in, and submitted with, my supplement; and
3) All of this information was complete, true, and correct at the time of filing.

I certify, under penalty of perjury, that all of the information in my supplement and any document submitted with it were provided or authorized by me, that I reviewed and understand all of the information contained in, and submitted with, my supplement, and that all of this information is complete, true, and correct.

### *Qualifying Family Member's Signature*

6.a. Qualifying Family Member's Signature (sign in ink)

6.b. Date of Signature (mm/dd/yyyy)

**NOTE TO ALL QUALIFYING FAMILY MEMBERS:** If you do not completely fill out this supplement or fail to submit required documents listed in the Instructions, USCIS may deny your supplement.

## Part 9. Interpreter's Contact Information, Certification, and Signature

Provide the following information about the interpreter.

### *Interpreter's Full Name*

1.a. Interpreter's Family Name (Last Name)

1.b. Interpreter's Given Name (First Name)

2. Interpreter's Business or Organization Name (if any)

### *Interpreter's Mailing Address*

3.a. Street Number and Name

3.b. ☐ Apt. ☐ Ste. ☐ Flr.

3.c. City or Town

3.d. State 3.e. ZIP Code

3.f. Province

3.g. Postal Code

3.h. Country

### *Interpreter's Contact Information*

4. Interpreter's Daytime Telephone Number

5. Interpreter's Mobile Telephone Number (if any)

6. Interpreter's Email Address (if any)

## Part 9. Interpreter's Contact Information, Certification, and Signature (continued)

### *Interpreter's Certification*

I certify, under penalty of perjury, that:

I am fluent in English and _____, which is the same language specified in **Part 7., Item Number 1.b.**, and **Part 8. Item Number 1.b.**, and I have read to this petitioner and qualifying family member in the identified language(s) every question and instruction on this supplement and the petitioner's and qualifying family member's answer to every question. The petitioner and qualifying family member informed me that they understand every instruction, question, and answer on the supplement, including the **Petitioner's Declaration and Certification and the Qualifying Family Member's Declaration and Certification**, and have verified the accuracy of every answer.

### *Interpreter's Signature*

**7.a.** Interpreter's Signature (sign in ink)

**7.b.** Date of Signature (mm/dd/yyyy)

## Part 10. Contact Information, Declaration, and Signature of the Person Preparing this Petition, if Other Than the Petitioner or Qualifying Family Member

Provide the following information about the preparer.

### *Preparer's Full Name*

**1.a.** Preparer's Family Name (Last Name)

**1.b.** Preparer's Given Name (First Name)

**2.** Preparer's Business or Organization Name (if any)

### *Preparer's Mailing Address*

**3.a.** Street Number and Name

**3.b.** ☐ Apt. ☐ Ste. ☐ Flr.

**3.c.** City or Town

**3.d.** State **3.e.** ZIP Code

**3.f.** Province

**3.g.** Postal Code

**3.h.** Country

### *Preparer's Contact Information*

**4.** Preparer's Daytime Telephone Number

**5.** Preparer's Mobile Telephone Number (if any)

**6.** Preparer's Email Address (if any)

### *Preparer's Statement*

**7.a.** ☐ I am not an attorney or accredited representative but have prepared this supplement on behalf of the petitioner and qualifying family member and with the petitioner's and qualifying family member's consent.

**7.b.** ☐ I am an attorney or accredited representative and my representation of the petitioner and qualifying family member in this case ☐ extends ☐ does not extend beyond the preparation of this supplement.

**NOTE:** If you are an attorney or accredited representative whose representation extends beyond preparation of this supplement, you may be obliged to submit a completed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, with this supplement.

## Part 10. Contact Information, Declaration, and Signature of the Person Preparing this Petition, if Other Than the Petitioner or Qualifying Family Member (continued)

### *Preparer's Certification*

By my signature, I certify, under penalty of perjury, that I prepared this supplement at the request of the petitioner and qualifying family member. The petitioner and qualifying family member then reviewed this completed supplement and informed me that they understand all of the information contained in, and submitted with, this supplement, including the **Petitioner's Declaration and Certification, and the Qualifying Family Member's Declaration and Certification**, and that all of this information is complete, true, and correct. I completed this supplement based only on information that the petitioner and qualifying family member provided to me or authorized me to obtain or use.

### *Preparer's Signature*

**8.a.** Preparer's Signature (sign in ink)

**8.b.** Date of Signature (mm/dd/yyyy)

## Part 11. Additional Information

If you need extra space to provide any additional information within this supplement, use the space below. If you need more space than what is provided, you may make copies of this page to complete and file with this supplement or attach a separate sheet of paper. Include your name and A-Number (if any) at the top of each sheet; indicate the **Page Number**, **Part Number**, and **Item Number** to which your answer refers; and sign and date each sheet.

### *Your Full Name (Principal)*

**1.a.** Family Name (Last Name)

**1.b.** Given Name (First Name)

**1.c.** Middle Name

**2.** A-Number (if any) ► **A-**

**3.a.** Page Number **3.b.** Part Number **3.c.** Item Number

**3.d.**

**4.a.** Page Number **4.b.** Part Number **4.c.** Item Number

**4.d.**

**5.a.** Page Number **5.b.** Part Number **5.c.** Item Number

**5.d.**

**6.a.** Page Number **6.b.** Part Number **6.c.** Item Number

**6.d.**

**7.a.** Page Number **7.b.** Part Number **7.c.** Item Number

**7.d.**

# Instructions for Petition for U Nonimmigrant Status and Supplement A, Petition for Qualifying Family Member of U-1 Recipient

**Department of Homeland Security**
U.S. Citizenship and Immigration Services

**USCIS**
**Form I-918**
OMB No. 1615-0104
Expires 02/28/2019

## What Is the Purpose of Form I-918 and Supplement A?

You should use Form I-918, Petition for U Nonimmigrant Status, to request temporary immigration benefits if you are a victim of certain qualifying criminal activity. You should also use Form I-918 if you received interim relief prior to publication of regulations regarding these benefits.

You should use Supplement A, Petition for Qualifying Family Member of U-1 Recipient, if you want to include your qualifying family members in your request of temporary immigration benefits.

## Who May File Form I-918 and Supplement A?

You, the victim, should file Form I-918. You may include your qualifying family members by filing Supplement A with your original Form I-918. You can also file Supplement A at a later date for any qualifying family members not included with your original Form I-918.

1. **Principal Petitioner.** You must demonstrate all of the following:

   A. You are a victim of criminal activity designated in section 101(a)(15)(U)(iii) of the Immigration and Nationality Act (INA). Such activity is defined as being the victim of one or more of the following or any similar activity in violation of Federal, state, or local criminal law:

   **(1)** Abduction
   **(2)** Abusive Sexual Contact
   **(3)** Attempt to Commit Any of the Named Crimes
   **(4)** Being Held Hostage
   **(5)** Blackmail
   **(6)** Conspiracy to Commit Any of the Named Crimes
   **(7)** Domestic Violence
   **(8)** Extortion
   **(9)** False Imprisonment
   **(10)** Felonious Assault
   **(11)** Female Genital Mutilation
   **(12)** Fraud in Foreign Labor Contracting
   **(13)** Incest
   **(14)** Involuntary Servitude
   **(15)** Kidnapping
   **(16)** Manslaughter
   **(17)** Murder
   **(18)** Obstruction of Justice
   **(19)** Peonage
   **(20)** Perjury
   **(21)** Prostitution
   **(22)** Rape
   **(23)** Sexual Assault
   **(24)** Sexual Exploitation
   **(25)** Slave Trade
   **(26)** Solicitation to Commit Any of the Named Crimes
   **(27)** Stalking
   **(28)** Torture
   **(29)** Traffiking
   **(30)** Unlawful Criminal Restraint
   **(31)** Witness Tampering

**B.** You have suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity;

**C.** You possess information concerning the qualifying criminal activity of which you are a victim;

**D.** A Federal, state, or local government official investigating or prosecuting a qualifying criminal activity certifies (using Supplement B, U Nonimmigrant Status Certification) that you were, are, or are likely to be helpful to the official in the investigation or prosecution of the criminal act of which you are a victim; and

**E.** The criminal activity of which you are a victim violated the laws of the United States or occurred in the United States (including Indian country and military installations) or the territories and possessions of the United States.

**(1)** **United States** means the continental United States, Alaska, Hawaii, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

**(2)** **Indian country** refers to all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

**(3)** **Military installation** means any facility, base, camp, post, encampment, station, yard, center, port, aircraft, vehicle, or vessel under the jurisdiction of the Department of Defense, including any leased facility, or any other location under military control.

**(4)** **Territories and possessions of the United States** means American Samoa, Swains Island, Bajo Nuevo (the Petrel Islands), Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Atoll, Navassa Island, CNMI, Palmyra Atoll, Serranilla Bank, and Wake Atoll.

**2.** **Principal Petitioner** filing for a qualifying family member, or currently holding U-1 status and filing for a qualifying family member. You must also demonstrate that:

**A.** If you are under 21 years of age on the date your petition is received by USCIS, the qualifying family members for whom you are filing are your:

**(1)** Spouse;

**(2)** Unmarried children under 21 years of age;

**(3)** Parents; and/or

**(4)** Unmarried siblings under 18 years of age.

**B.** If you are over 21 years of age on the date your petition is received by USCIS, the qualifying family members for whom you are filing are your:

**(1)** Spouse; and/or

**(2)** Unmarried children under 21 years of age.

## General Instructions

U.S. Citizenship and Immigration Services (USCIS) provides forms free of charge through the USCIS Website. In order to view, print, or fill out our forms, you should use the latest version of Adobe Reader, which you can download for free at **http://get.adobe.com/reader/**. If you do not have Internet access, you may call the USCIS National Customer Service Center at **1-800-375-5283** and ask that we mail a form to you. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

**Signature.** Each petition must be properly signed in black or blue ink and filed. For all signatures on this petition, USCIS will not accept a stamped or typewritten name in place of a signature. If you are under 14 years of age, your parent or legal guardian may sign the petition on your behalf. A legal guardian may also sign for a mentally incompetent person.

**Filing Fee.** There is no filing fee for Form I-918 or Supplement A.

**Evidence.** At the time of filing, you must submit all evidence and supporting documentation listed in the **Specific Instructions** and **General Requirements** sections of these Instructions.

**Biometric Services Appointment.** USCIS may require that you appear for an interview or provide fingerprints, photograph, and/or signature at any time to verify your identity, obtain additional information, and conduct background and security checks, including a check of criminal history records maintained by the Federal Bureau of Investigation (FBI), before making a decision on your application, petition, or request. After USCIS receives your petition and ensures it is complete, we will inform you in writing if you need to attend a biometric services appointment. If an appointment is necessary, the notice will provide you the location of your local or designated USCIS Application Support Center (ASC) and the date and time of your appointment or, if you are currently overseas, instruct you to contact a U.S. Embassy, U.S. Consulate, or USCIS office outside the United States to set up an appointment.

If you are required to provide biometrics, at your appointment you must sign an oath reaffirming that:

1. You provided or authorized all information in the petition;
2. You reviewed and understood all of the information contained in, and submitted with, your petition; and
3. All of this information was complete, true, and correct at the time of filing.

**Copies.** You may submit legible photocopies of documents requested, unless the Instructions specifically state that you must submit an original document. USCIS may request an original document at the time of filing or at any time during processing of an application, petition, or request. If you submit original documents when not required, the documents may remain a part of the record, and USCIS will not automatically return them to you.

**Translations.** If you submit a document with information in a foreign language, you must also submit a full English translation. The translator must sign a certification that the English language translation is complete and accurate, and that he or she is competent to translate from the foreign language into English. The certification must include the translator's signature, should contain the translator's printed name and the date, and it may also contain the translator's contact information.

**How To Fill Out Form I-918 and Supplement A**

1. Type or print legibly in black or blue ink.
2. If you need extra space to complete any item within Form I-918, use the space provided in **Part 8. Additional Information** or attach a separate sheet of paper; type or print your name and Alien Registration Number (A-Number) (if any) at the top of each sheet; indicate the **Page Number**, **Part Number**, and **Item Number** to which your answer refers; and sign and date each sheet.
3. If you need extra space to complete any item within Supplement A, use the space provided in **Part 11. Additional Information** or attach a separate sheet of paper; type or print your name (Principal's) and A-Number (if any) or the A-Number of the Qualifying Family Member at the top of each sheet; indicate the **Page Number**, **Part Number**, and **Item Number** to which your answer refers; and sign and date each sheet.
4. Answer all questions fully and accurately. If a question does not apply to you (for example, if you have never been married and the question asks "Provide the name of your current spouse"), type or print "N/A," unless otherwise directed. If your answer to a question which requires a numeric response is zero or none (for example, "How many children do you have" or "How many times have you departed the United States"), type or print "None," unless otherwise directed.

## Specific Instructions for Form I-918

This petition is divided into **Parts 1. - 8.** The following information should help you fill out the petition.

You must also file Form I-918, Supplement B that was completed and signed by a certifying official. (See the Supplement B Instructions for more information on how to file Supplement B.) You must submit Supplement B with the original Form I-918 petition package. If it is not attached, USCIS will deny your Form I-918.

**Part 1. Information About You** (Person filing this petition as a victim)

**Item Numbers 1.a. - 1.c.** Provide your full legal name. Do not provide a nickname.

**Item Numbers 2.a. - 2.c. Other Names Used.** Provide all the names you have used, including your maiden name, nicknames, and aliases, if applicable.

**Item Numbers 3.a. - 3.h. Home Address.** Provide your physical street address. You must include a street number and name or a rural route number. Do not provide a post office box (PO Box) number here.

**Item Numbers 4.a. - 4.i. Safe Mailing Address** (if other than Home Address). Provide a "safe mailing address" if you do not feel secure in receiving correspondence regarding this petition at your home address. You may provide a PO Box or the address of a friend, attorney, a community-based organization that is helping you, or any other address where you can safely and punctually receive mail.

**Item Number 5. Alien Registration Number (A-Number)** (if any). This is your USCIS file number. If you do not have an A-Number or do not know it, leave this space blank.

**Item Number 6. U.S. Social Security Number.** Provide your U.S. Social Security Number. If you do not have a U.S. Social Security Number or do not know it, leave this space blank.

**Item Number 7. USCIS Online Account Number** (if any). If you have previously filed an application, petition, or request using the USCIS online filing system (previously called USCIS Electronic Immigration System (USCIS ELIS)), provide the USCIS Online Account Number you were issued by the system. You can find your USCIS Online Account Number by logging in to your account at **www.uscis.gov/file-online** and going to the profile page. If you previously filed certain applications, petitions, or requests on a paper form via a USCIS Lockbox facility, you may have received a USCIS Online Account Access Notice issuing you a USCIS Online Account Number. If you received such a notice, your USCIS Online Account Number can be found at the top of the notice. If you were issued a USCIS Online Account Number, enter it in the space provided. The USCIS Online Account Number is not the same as an A-Number.

**Item Number 8. Marital Status.** Select the appropriate box.

**Item Number 9. Gender.** Select the appropriate box.

**Item Number 10. Date of Birth** (mm/dd/yyyy). Provide your date of birth. (For example, type or print May 1, 1979 as 05/01/1979.)

**Item Number 11. Country of Birth.** Provide the name of the country where you were born.

**Item Number 12. Country of Citizenship or Nationality.** Provide the name of the country where you are a citizen or national. This is not necessarily the country where you were born.

**Item Numbers 13. - 18. Form I-94 Arrival-Departure Record.** If U.S. Customs and Border Protection (CBP) or USCIS issued you a Form I-94, Arrival-Departure Record, provide your Form I-94 number and date that your authorized period of stay expires or expired (as shown on Form I-94). The Form I-94 number is also known as the Departure Number on some versions of Form I-94.

**NOTE:** If you were admitted to the United States by CBP at an airport or seaport after April 30, 2013, you may have been issued an electronic Form I-94 by CBP, instead of a paper Form I-94. You may visit the CBP Website at www.cbp.gov/i94 to obtain a paper version of an electronic Form I-94. CBP **does not** charge a fee for this service. Some travelers admitted to the United States at a land border, airport, or seaport after, April 30, 2013 with a passport or travel document, who were issued a paper Form I-94 by CBP, may also be able to obtain a replacement Form I-94 from the CBP website, it may be obtained by filing Form I-102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Record, with USCIS. USCIS **does** charge a fee for this service.

**Passport and Travel Document Numbers.** If you used a passport or travel document to travel to the United States, provide either the passport or travel document information in the appropriate space on the petition, even if the passport or travel document is currently expired.

**Item Numbers 19.a. - 21. Place and Date of Last Entry into the United States and Date Authorized Stay Expired.** Provide the place and date (mm/dd/yyyy) where you last entered the United States, how you entered the United States, and the date your authorized stay expired.

**Item Number 22. Current Immigration Status.** Provide your current immigration status, regardless of how you entered the United States or if you have overstayed any legal status (as a visitor, student, etc.).

**Part 2. Additional Information About You**

**Item Numbers 1. - 7.a.** You must answer each question. If you answer "Yes" to any of the questions, you must provide an explanation in the space provided in **Part 8. Additional Information**.

**Item Numbers 7.b. - 7.f.** If you answer "Yes," to **Item Number 7.a.**, select the type of proceedings. If you were in proceedings in the past and are no longer in proceedings, provide the date of action. If you are currently in proceedings, type or print "Current" in the appropriate date field. Select all applicable boxes. Use the space provided in **Part 8. Additional Information** to provide an explanation.

**Item Numbers 8.a. - 10.d.** Provide the date of entry, place of entry, and status under which you entered the United States for each entry during the five years preceding the filing of this petition. If your last entry occurred more than five years ago, write "N/A" or "none ."

**Item Numbers 11.a. - 12.f.** If you are outside the United States, provide the U.S. Consulate or inspection facility or a safe foreign mailing address you want notified if this petition is approved.

**Part 3. Processing Information**

**Item Numbers 1.a. - 29.c.** You must answer each question. If you answer "Yes" to any of the questions, you must provide an explanation in the space provided in **Part 8. Additional Information**.

**Part 4. Information About Your Spouse and/or Children**

**Item Numbers 1.a. - 25.** Provide the requested information about your family members included in this petition.

**Item Number 26.** Answer this question to indicate whether you are petitioning for one or more qualifying family members at this time. If you answer "Yes," see information below on completing Supplement A on behalf of your qualifying family members.

**Part 5. Petitioner's Statement, Contact Information, Declaration, and Signature**

**Item Numbers 1.a. - 7.b.** Select the appropriate box to indicate whether you read this petition yourself or whether you had an interpreter assist you. If someone assisted you in completing the petition, select the box indicating that you used a preparer. Further, you must sign and date your petition and provide your daytime telephone number, mobile telephone number (if any), and email address (if any). If you do not feel secure in receiving telephone calls regarding this petition at your home telephone number, provide a "safe telephone number" in this space. This number may be for a friend, your attorney, a community-based organization that is helping you, or any other number where you can safely and punctually receive a call or a message. Every petition **MUST** contain the signature of the petitioner (or parent or legal guardian, if applicable). A stamped or typewritten name in place of a signature is not acceptable.

**Part 6. Interpreter's Contact Information, Certification, and Signature**

**Item Numbers 1.a. - 7.b.** If you used anyone as an interpreter to read the Instructions and questions on this petition to you in a language in which you are fluent, the interpreter must fill out this section, provide his or her name, the name and address of his or her business or organization (if any), his or her daytime telephone number, his or her mobile telephone number (if any), and his or her email address (if any). The interpreter must sign and date the petition.

**Part 7. Contact Information, Declaration, and Signature of the Person Preparing this Petition, if Other Than the Petitioner**

**Item Numbers 1.a. - 8.b.** This section must contain the signature of the person who completed your petition, if other than you, the petitioner. If the same individual acted as your interpreter and your preparer, that person should complete both **Part 6.** and **Part 7.** If the person who completed this petition is associated with a business or organization, that person should complete the business or organization name and address information. Anyone who helped you complete this petition **MUST** sign and date the petition. A stamped or typewritten name in place of a signature is not acceptable. If the person who helped you prepare your petition is an attorney or accredited representative whose representation extends beyond preparation of this petition, he or she may be obliged to also submit a completed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, along with your petition.

**Part 8. Additional Information**

**Item Number 1.a. - 7.d.** If you need extra space to provide any additional information within this petition, use the space provided in **Part 8. Additional Information**. If you need more space than what is provided in **Part 8.**, you may make copies of **Part 8.** to complete and file with your petition or attach a separate sheet of paper. Include your name and A-Number (if any) at the top of each sheet; indicate the **Page Number**, **Part Number**, and **Item Number** to which your answer refers; and sign and date each sheet.

**We recommend that you print or save a copy of your completed petition to review in the future and for your records. We recommend that you review your copy of your completed petition before you come to your biometric services appointment at a USCIS ASC.** At your appointment, USCIS will permit you to complete the petition process only if you are able to confirm, under penalty of perjury, that all of the information in your petition is complete, true, and correct. If you are not able to make that attestation in good faith at that time, USCIS will require you to return for another appointment.

## Specific Instructions for Supplement A, Petition for Qualifying Family Member of U-1 Recipient

If you are filing for a qualifying family member, you must complete Supplement A for each family member for whom you are filing. You may file Supplement A with your initial Form I-918 or at any time thereafter. If you are filing Supplement A after filing your initial Form I-918, you do not need to resubmit evidence that you submitted with the original petition.

**Part 1. Family Member's Relationship To You** (Principal)

**Item Number 1.** Select the appropriate box.

**Part 2. Information About You** (Principal)

**Item Numbers 1.a. - 1.c.** Provide your full legal name. Do not provide a nickname.

**Item Number 2. Date of Birth** (mm/dd/yyyy). Provide your date of birth. (For example, type or print May 1, 1979 as 05/01/1979.)

**Item Number 3. Alien Registration Number (A-Number)** (if any) This is your USCIS file number. If you do not have an A-Number or do not know it, leave this space blank.

**Item Number 4. USCIS Online Account Number** (if any). If you have previously filed an application, petition, or request using the USCIS online filing system (previously called USCIS Electronic Immigration System (USCIS ELIS)), provide the USCIS Online Account Number you were issued by the system. You can find your USCIS Online Account Number by logging in to your account and going to the profile page. If you previously filed certain applications, petitions, or requests on a paper form via a USCIS Lockbox facility, you may have received a USCIS Online Account Access Notice issuing you a USCIS Online Account Number. If you received such a notice, your USCIS Online Account Number can be found at the top of the notice. If you were issued a USCIS Online Account Number, enter it in the space provided. The USCIS Online Account Number is not the same as an A-Number.

**Item Number 5. Status of Your Form I-918.** Select the appropriate box.

**Part 3. Information About Your Qualifying Family Member** (Derivative)

**Item Numbers 1.a. - 1.c.** Provide his or her full legal name. Do not provide a nickname.

**Item Numbers 2.a. - 2.c. Other Names Used.** Provide all the names he or she has used, including his or her maiden name, nicknames, and aliases, if applicable. If you need extra space to complete this section, use the space provided in **Part 11. Additional Information.**

**Item Numbers 3.a. - 3.e. Residence or Intended Residence in the United States.** Provide his or her intended physical street address. This must include a street number and name or a rural route number. Do not provide a PO Box number here.

**Item Numbers 4.a. - 4.i. Safe Mailing Address** (if other than Residence). Provide his or her "safe mailing address" if he or she does not feel secure in receiving correspondence regarding this supplement at his or her home address. You may provide a PO Box or the address of his or her friend, attorney, a community-based organization, or any other address where he or she can safely and punctually receive mail.

**Item Number 5. A-Number** (if any). This is his or her USCIS file number. If he or she does not have an A-Number or does not know it, leave this space blank.

**Item Number 6. U.S. Social Security Number.** Provide his or her U.S. Social Security Number. If he or she does not have a U.S. Social Security number, leave this blank.

**Item Number 7. USCIS Online Account Number** (if any). If you have previously filed an application, petition, or request using the USCIS online filing system (previously called USCIS Electronic Immigration System (USCIS ELIS)), provide the USCIS Online Account Number you were issued by the system. You can find your USCIS Online Account Number by logging in to your account and going to the profile page. If you previously filed certain applications, petitions, or requests on a paper form via a USCIS Lockbox facility, you may have received a USCIS Online Account Access Notice issuing you a USCIS Online Account Number. If you received such a notice, your USCIS Online Account Number can be found at the top of the notice. If you were issued a USCIS Online Account Number, enter it in the space provided. The USCIS Online Account Number is not the same as an A-Number.

**Item Number 8. Date of Birth** (mm/dd/yyyy). Provide his or her date of birth. (For example, type or print May 1, 1979 as 05/01/1979.)

**Item Number 9. Country of Birth.** Provide the name of the country where he or she was born.

**Item Number 10. Country of Citizenship or Nationality.** Provide the name of the country where he or she is a citizen or national. This is not necessarily the country where he or she was born.

**Item Number 11. Marital Status.** Select the appropriate box.

**Item Number 12. Gender.** Select the appropriate box.

**Item Number 13. Form I-94 Arrival-Departure Record.** If your family member is physically present in the United States, provide the number on his or her Form I-94 issued at the time of entry. If CBP or USCIS issued your family member a Form I-94, Arrival-Departure Record, provide his or her Form I-94 number and date that your authorized period of stay expires or expired (as shown on Form I-94). The Form I-94 number is also known as the Departure Number on some versions of Form I-94.

**NOTE:** If your family member was admitted to the United States by CBP at an airport or seaport after April 30, 2013, they may have been issued an electronic Form I-94 by CBP, instead of a paper Form I-94. You may visit the CBP website at **www.cbp.gov/i94** to obtain a paper version of an electronic Form I-94. CBP **does not** charge a fee for this service. Some travelers admitted to the United States at a land border, airport, or seaport, after April 30, 2013 with a passport or travel document, who were issued a paper Form I-94 by CBP, may also be able to obtain a replacement Form I-94 from the CBP website without charge. If your family member's Form I-94 cannot be obtained from the CBP website, it may be obtained by filing Form I-102 with USCIS. USCIS **does** charge a fee for this service.

**Item Numbers 14. - 18. Passport and Travel Document Numbers.** If your family member used a passport or travel document to travel to the United States, enter either the passport or travel document information in the appropriate space on the supplement, even if the passport or travel document is currently expired.

**Part 4. Additional Information About Your Qualifying Family Member**

**Item Numbers 1.a. - 1.d.** Provide the date of last entry, place of last entry, and current immigration status for your family member if he or she is currently in the United States.

**Item Numbers 2.a. - 2.e.** Provide the date of entry, place of entry, and status at entry for your family member's last entry if he or she has previously traveled to the United States but is not currently in the United States.

**Item Numbers 3.a. - 4.f.** If your family member is outside the United States, provide the U.S. Consulate or inspection facility or a safe foreign mailing address you want notified if this supplement is approved.

**Item Numbers 5.a. - 6.f.** If your family member was previously married, list the names of your family member's prior spouses and the dates his or her marriages were terminated. You must attach documentation such as divorce decrees or death certificates.

**Item Numbers 7.a. - 7.f.** Indicate whether your family member was or is in immigration proceedings. If you answer "Yes," select the type of proceedings. If your family member was in proceedings in the past and is no longer in proceedings, provide the date of action. If your family member is currently in proceedings, type or print "Current" in the appropriate date field. Select all applicable boxes. Use the space provided in **Part 11. Additional Information**.

**Item Number 8.** Answer "Yes" if your family member is living in the United States and would like an Employment Authorization Document. If you answer "Yes," submit Form I-765, Application for Employment Authorization Document, separately.

**NOTE:** If your family member is living outside the United States, he or she is not eligible to receive employment authorization until he or she is lawfully admitted to the United States. Do not file Form I-765, Application for Employment Authorization, for a family member living outside the United States.

**Part 5. Processing Information**

**Item Numbers 1.a. - 29.c.** You must answer each question on behalf of your family member. If you answer "Yes" to any of the questions, you must provide an explanation in the space provided in **Part 11. Additional Information**.

**Part 6. Information About Your Qualifying Family Member's Spouse and/or Children**

**Item Numbers 1.a. - 12.** Provide the requested information about your family member's spouse and/or children. If you need extra space to complete this section, use the space provided in **Part 11. Additional Information**.

**Part 7. Petitioner's Statement, Contact Information, Declaration, and Signature**

**Item Numbers 1.a. - 7.b.** Select the appropriate box to indicate whether you read this supplement yourself or whether you had an interpreter assist you. If someone assisted you in completing the supplement, select the box indicating that you used a preparer. Further, you must sign and date your supplement and provide your daytime telephone number, mobile telephone number (if any), and email address (if any). Every supplement **MUST** contain the signature of the petitioner (or parent or legal guardian, if applicable). A stamped or typewritten name in place of a signature is not acceptable.

**Part 8. Qualifying Family Member's Statement, Contact Information, Declaration, and Signature**

**Item Numbers 1.a. - 6.b.** If your family member is in the United States, he or she must verify the accuracy of the information recorded on this supplement and must also complete this section of the supplement. He or she must select the appropriate box to indicate that he or she either read this supplement himself or herself or whether he or she had an interpreter assist him or her. If someone assisted him or her in completing the supplement, select the box indicating that he or she used a preparer. Further, he or she must sign and date the supplement and provide his or her daytime telephone number, mobile telephone number (if any), and email address (if any). Every supplement **MUST** contain the signature of the qualifying family member (or parent or legal guardian, if applicable). A stamped or typewritten name or a scanned, faxed, or emailed copy in place of an original signature is not acceptable. A legal guardian may sign for a mentally incompetent person. If the qualifying family member does not sign or date the supplement, USCIS may return Supplement A as incomplete.

**Part 9. Interpreter's Contact Information, Certification, and Signature**

**Item Numbers 1.a. - 7.b.** If you and your family member used anyone as an interpreter to read the instructions and questions on this supplement to you in a language in which you are fluent, the interpreter must fill out this section, provide his or her name, the name and address of his or her business or organization (if any), his or her daytime telephone number, his or her mobile telephone number (if any), and his or her email address (if any). The interpreter must sign and date the supplement.

**Part 10. Contact Information, Declaration, and Signature of the Person Preparing this Supplement, if Other Than the Petitioner or Qualifying Family Member**

**Item Numbers 1.a. - 8.b.** This section must contain the signature of the person who completed your supplement, if other than you, the petitioner or your family member. If the same individual acted as your interpreter and your preparer, that person should complete both **Part 9.** and **Part 10.** If the person who completed this supplement is associated with a business or organization, that person should complete the business or organization name and address information. Anyone who helped you complete this supplement **MUST** sign and date the supplement. A stamped or typewritten name in place of a signature is not acceptable. If the person who helped you prepare your supplement is an attorney or accredited representative whose representation extends beyond preparation of this supplement, he or she may be obliged to also submit a completed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, along with your supplement.

**Part 11. Additional Information**

**Item Numbers 1.a. - 7.d.** If you need extra space to provide any additional information within this supplement, use the space provided in **Part 11. Additional Information**. If you need more space than what is provided in **Part 11.**, you may make copies of **Part 11.** to complete and file with your supplement or attach a separate sheet of paper. Include your name (Principal) and A-Number (if any) at the top of each sheet; indicate the **Page Number**, **Part Number**, and **Item Number** to which your answer refers; and sign and date each sheet.

## General Requirements

### *Required Initial Evidence to Support Form I-918*

You **must** include the following initial evidence with your Form I-918.

If you, the petitioner, requested and received interim relief, USCIS will consider the evidence you submitted in conjunction with your request for interim relief as part of the petition package. In this instance, you may choose to file additional evidence with Form I-918 to add to the evidence submitted with the request for interim relief.

**NOTE: You may use one document to demonstrate more than one element of your claim.**

1. **Supplement B.** You **must** submit an original, properly and timely executed Supplement B certification with your Form I-918. However, petitioners who requested and received U interim relief are not required to file Supplement B.

   USCIS will give this certification significant weight as evidence demonstrating that you are a victim; that you possess information about the criminal activity; that the criminal activity violated the laws of the United States or occurred in the United States (including Indian country and military installations) or the territories and possessions of the United States; and that you were, are, or are likely to be helpful in the investigation or prosecution of the qualifying criminal activity of which you are a victim. You must also provide any additional relevant evidence to help meet these eligibility requirements.

2. **Evidence You Are the Victim of Qualifying Criminal Activity.** You must demonstrate you have suffered direct and proximate harm as a result of the commission of qualifying criminal activity. You must include with your Form I-918 evidence establishing you are a victim of qualifying criminal activity. You may use Supplement B to help establish this eligibility requirement and include additional evidence you want USCIS to consider. A non-exhaustive list of the types of evidence you may submit includes, but is not limited to:

   **A.** Trial transcripts;

   **B.** Court documents;

C. Police reports;

D. News articles;

E. Affidavits; and

F. Orders of protection.

3. **Evidence You Have Suffered Substantial Physical or Mental Abuse.** You must present credible evidence that demonstrates you suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity. You may use Supplement B to help establish this eligibility requirement and include additional evidence you want USCIS to consider.

   The evidence must show the nature and severity of the abuse you suffered. Factors USCIS will consider to determine whether the abuse is substantial include:

   A. The nature of the injury inflicted;

   B. The severity of the perpetrator's conduct;

   C. The severity of the harm you suffered;

   D. The duration of the infliction of the harm; and

   E. The extent to which there is permanent or serious harm to your appearance, health, or physical or mental soundness.

   No single factor is a prerequisite to establish that the abuse suffered was substantial, nor does the existence of one or more of the factors automatically create a presumption that the abuse was substantial. If the criminal activity caused the aggravation of a pre-existing physical or mental injury, USCIS will consider that aggravation in evaluating whether the harm constitutes substantial physical or mental abuse. If the criminal activity involved a series of acts or occurred repeatedly over a period of time, document the pattern of abuse. USCIS will consider the abuse in its totality. USCIS may consider a series of acts taken together to have caused substantial physical or mental abuse even where no single act alone rises to that level.

   You are encouraged to provide and document all credible evidence, particularly when documenting a pattern of abuse. A non-exhaustive list of suggested forms of evidence includes, but is not limited to:

   A. Reports and/or affidavits from judges and other court officials, medical personnel, school officials, clergy, social workers, and other social service personnel;

   B. Orders of protection and related legal documents;

   C. Photos of your visible injuries supported by affidavits; and

   D. Affidavits from witnesses, acquaintances, or family members who have personal knowledge of the facts regarding the criminal activity.

4. **Evidence You Possess Information Concerning Qualifying Criminal Activity.** You must submit evidence demonstrating you possess information concerning the qualifying criminal activity of which you were a victim. You must demonstrate that you have knowledge of details concerning the criminal activity that would assist in the investigation or prosecution of that criminal activity.

   You may use Supplement B to help establish this eligibility requirement and include additional evidence you want USCIS to consider. Additional evidence to establish you possess information about the qualifying criminal activity may include, but is not limited to, reports and affidavits from police, judges, and other court officials.

In cases where the petitioner is a child under 16 years of age or is incapacitated or incompetent, the parent, guardian, or "next friend" can satisfy this requirement by submitting the evidence on behalf of the petitioner. "Next friend" is a person who appears in a lawsuit to act for the benefit of a victim under 16 years of age or incapacitated or incompetent, who has suffered substantial physical or mental abuse as a result of being a victim of qualifying criminal activity. The next friend is not a party to the legal proceeding and is not appointed as a guardian. Evidence to meet this eligibility requirement must include documents establishing the age, incapacity, or incompetence of the victim. Examples of such evidence include, but are not limited to:

**A.** Birth certificate of the petitioner;

**B.** Court documents demonstrating recognition of an individual as the petitioner's next friend;

**C.** Medical records; or

**D.** Reports of licensed medical professionals demonstrating the incapacity or incompetence of the petitioner.

5. **Evidence of Helpfulness.** You must submit evidence demonstrating that you were, are, or are likely to be helpful to a certifying official in the investigation or prosecution of the qualifying criminal activity of which you are a victim.

   You may use Supplement B to help establish this eligibility requirement and include additional evidence you want USCIS to consider. Examples of such evidence include, but are not limited to:

   **A.** Trial transcripts;

   **B.** Court documents;

   **C.** Police reports;

   **D.** News articles;

   **E.** Copies of reimbursement forms for travel to and from court; and

   **F.** Affidavits of other witnesses or officials.

   In cases where the petitioner is a child under 16 years of age or is incapacitated or incompetent, the parent, guardian, or next friend can satisfy this requirement by submitting the evidence on behalf of the victim. Evidence to meet this eligibility requirement must include documents establishing the age, incapacity, or incompetence of the victim. Examples of such documentation include, but are not limited to:

   **A.** Birth certificate of the petitioner;

   **B.** Court documents demonstrating recognition of an individual as the petitioner's next friend;

   **C.** Medical records; or

   **D.** Reports of licensed medical professionals demonstrating the incapacity or incompetence of the petitioner.

6. **Evidence that Criminal Activity is Qualifying and Violated United States Law or Occurred in the United States.** You must submit evidence that the criminal activity of which you are a victim is included in the list of criminal activities contained in section 101(a)(15)(U)(iii) of the INA and included in these Instructions, and that the criminal activity violated a U.S. Federal law that provides for extraterritorial jurisdiction, or occurred in the United States (including in Indian country and military installations) or the territories and possessions of the United States.

   You may use Supplement B to help establish this eligibility requirement and include additional evidence you want USCIS to consider. An example of such additional evidence includes, but is not limited to:

   **A.** A copy of the statutory provisions showing the elements of the offense or factual information about the criminal activity demonstrating that it is similar to a crime contained in the list of qualifying criminal activity contained at section 101(a)(15)(U)(iii) and in these Instructions; or

   **B.** If the criminal activity occurred outside the United States, the additional evidence may include a copy of the statutory provisions providing for the extraterritorial jurisdiction and documentation showing that the criminal activity violated Federal law and is prosecutable in a Federal court.

7. **Personal Statement.** You must provide a personal narrative statement. This statement should describe the qualifying criminal activity of which you are a victim and must include the following information:

   **A.** The nature of the criminal activity;

   **B.** When the criminal activity occurred;

   **C.** Who was responsible;

   **D.** The events surrounding the criminal activity;

   **E.** How the criminal activity came to be investigated or prosecuted; and

   **F.** What substantial physical and/or mental abuse you suffered as a result of having been the victim of the criminal activity.

   When the petitioner is under 16 years of age, incapacitated, or incompetent, a parent, guardian, or next friend may submit a statement in lieu of the victim. The statement should contain as much information surrounding the criminal activity and physical and/or mental abuse as possible.

8. **Waiver of Grounds of Inadmissibility.** To be eligible for U nonimmigrant status, you must be admissible to the United States. If you or your qualifying family members answered "Yes" to any of the questions in **Part 3.** of Form I-918 or **Part 5.** of Supplement A, USCIS may deem you or your qualifying family members as inadmissible.

   If you and/or your qualifying family members are or become inadmissible for conduct that occurs while the petition for U nonimmigrant status is pending, you and/or your family members are not eligible for U nonimmigrant status unless the ground of inadmissibility is waived by USCIS.

   Petitioners seeking a waiver of inadmissibility must submit Form I-192, Application for Advance Permission to Enter as a Nonimmigrant. You may file your Form I-192 with your Form I-918. You must submit the appropriate I-192 fee or a request for a fee waiver (Form I-912, Request for Fee Waiver, or a written request). If you request a fee waiver you must also submit any required evidence of your inability to pay the fee. You can review the fee waiver guidance at **www.uscis.gov/feewaiver**. USCIS will decide eligibility for the fee waiver.

### *Supplement A and Evidence to Support Supplement A*

You **must** include the following evidence to establish derivative U nonimmigrant status on Supplement A.

1. A completed Supplement A for each qualifying family member you want included on your Form I-918.

2. Credible documentation of the claimed relationship. The documents acceptable for this purpose are below.

   If you are filing for your:

   **A. Husband or wife.** Submit a copy of your marriage certificate issued by a civil authority. If either you or your spouse were married before, you must submit documents to show all previous marriages were legally terminated (for example, provide a divorce decree or death certificate);

   **B. Child and you are the mother.** Submit a copy of the child's birth certificate showing your name and the name of the child, issued by a civil authority;

   **C. Child and you are the father.** Submit a copy of the child's birth certificate issued by a civil authority showing both parents' names. If the child was born out of wedlock, give proof that a parent/child relationship exists or existed (for example, provide the child's birth certificate showing your name and evidence that you have financially supported the child. In some cases, a blood test may be necessary);

   **D. Mother.** Submit a copy of your birth certificate issued by a civil authority showing your name and your mother's name;

E. **Father.** Submit a copy of your birth certificate showing the names of both parents. Also, provide a copy of your parents' marriage certificate establishing that your father was married to your mother before you were born and copies of documents showing that any prior marriages of either your father or mother were legally terminated. If you are filing for a stepparent or adoptive parent, or if you are filing for your father and were not legitimated before you reached 18 years of age, also see **Items C., G.,** and **H.** in this section;

F. **Stepparent/stepchild.** If your Form I-918 is based on a stepparent-stepchild relationship, you must file your petition with a copy of the marriage certificate of the stepparent to the child's natural parent, showing that the marriage occurred before the child reached 18 years of age and copies of documents showing that any prior marriages were legally terminated;

G. **Adoptive parent or adopted child.** If you and the person you are filing for are related by adoption, you must submit a copy of the adoption decrees showing that the adoption took place before the child reached 16 years of age. If you adopted the sibling of a child you already adopted, you must submit a copy of the adoption decrees showing that the adoption of the sibling occurred before that child reached 18 years of age. In either case, you must also submit copies of evidence that the child was in the legal custody of and jointly resided with the adoptive parents for at least two years before or after the adoption. Only a court or recognized government entity may grant legal custody and usually grants legal custody at the time the adoption is finalized. However, if legal custody is granted by a court or recognized government entity prior to the adoption, that time will count to fulfill the two-year legal custody requirement; or

H. **Your unmarried sibling under 18 years of age.** Submit a copy of your birth certificate and a copy of your sibling's birth certificate showing that you have at least one common parent. If you and your sibling have a common father but different mothers, submit copies of the marriage certificates of the father to each mother and copies of documents showing that any prior marriages of either your father or mothers were legally terminated. If you and your sibling are related through adoption or through a stepparent, or if you have a common father and either of you were not legitimated before you reached 18 years of age, also see **Items F.** and **G.** in this section.

3. **Unavailable Documents.** If the required documents are not available, submit a statement of why the evidence is not available and provide secondary evidence such as the following:

A. **Church records.** A certificate under the seal where the baptism, dedication, or comparable rite occurred within two months after the birth, showing the date and place of the child's birth, date of the religious ceremony, and the names of the child's parents;

B. **Census records.** State or Federal census records showing the names, places and dates of birth, or ages of the persons listed;

C. **School records.** A letter from the authority of the school attended (preferably the first school) showing dates of admission to the school, child's date and place of birth, and the names and birthplaces of both parents, if shown in the school records; and/or

D. **Affidavits.** Written statements sworn to or affirmed by two persons who were living at the time and who have personal knowledge of the event you are trying to prove. (For example, provide the date and place of birth, marriage, divorce, or death.) The person making the affidavit need not be a citizen of the United States. Each affidavit should contain the following:

**(1)** The relationship, if any, between you and the person making the affidavit;

**(2)** Full information concerning the event; and

**(3)** Complete details concerning how the person acquired knowledge of the event.

**NOTE:** In a case where you or your family member's name has changed from what is shown on the supporting document, submit the legal document authorizing such name change. (For example, provide a marriage certificate, adoption decree, or court order.)

**NOTE:** USCIS may require a statement from the appropriate civil authority certifying that the necessary document is unavailable.

## What Is the Filing Fee?

There is no filing fee for Form I-918 or Supplement A. You are required to provide biometrics information, but are not required to pay the biometrics services fee. After you submit Form I-918 and Supplement A (if applicable), USCIS will notify you and your family member (if applicable) of when and where to go for biometrics services.

## Where To File?

Please see our website at **www.uscis.gov/I-918** or call our National Customer Service Center at **1-800-375-5283** for the most current information about where to file Form I-918 and Supplement A. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

## Address Change

An applicant, petitioner, or requester who is not a U.S. citizen must notify USCIS of his or her new address within 10 days of moving from his or her previous residence. For information on filing a change of address, go to the USCIS Website at **www.uscis.gov/addresschange** or contact the USCIS National Customer Service Center at **1-800-375-5283**. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

**NOTE:** Do not submit a change of address request to the USCIS Lockbox facilities because the Lockbox does not process change of address requests.

## Processing Information

**USCIS will reject any Form I-918 or Supplement A that is not signed with a notice that Form I-918 or Supplement A is deficient.** You may correct the deficiency and resubmit Form I-918 and/or Supplement A. A petition or supplement is not considered properly filed until accepted by USCIS.

**Initial Processing.** Once USCIS accepts your Form I-918 or Supplement A, we will check it for completeness. If you do not completely fill out this petition or supplement, you will not establish a basis for your eligibility and USCIS may reject or deny your Form I-918 or Supplement A.

**Requests for More Information.** We may request that you provide more information or evidence to support your Form I-918 or Supplement A. We also may request that you provide the originals of any copies you submit. USCIS will return any requested originals when they are no longer needed.

**Requests for Interview.** We may request that you and/or your family member appear at a USCIS office for an interview based on your petition or supplement. At the time of any interview or other appearance at a USCIS office, we may require that you and/or your family member provide your fingerprints, photographs, and/or signatures to verify your identity and/or update background and security checks.

**Employment Authorization. If you are currently residing in the United States and your Form I-918 is approved, you will receive employment authorization incident to status and USCIS will send you an Employment Authorization Document as evidence of that authorization.**

Derivative family members are also employment authorized incident to status, however an employment authorization document is not automatically issued. If he or she wishes to obtain an Employment Authorization Document, as evidence of authorization, he or she may file Form I-765, Application for Employment Authorization, with appropriate fees or requests for fee waivers.

**NOTE:** Derivative family members living outside the United States are not eligible to receive employment authorization until they lawfully enter the United States. Do **not** file Form I-765 for a derivative family member who is outside the United States.

Employment authorization can only be issued after the underlying U nonimmigrant status petition is approved, regardless of when the Form I-765, Application for Employment Authorization, document is filed.

If the statutory cap is reached in a fiscal year and USCIS uses the waiting list process described at 8 CFR 214.14(d)(2), petitioners for U nonimmigrant status and derivatives in the United States can apply for employment authorization using Form I-765, Application for Employment Authorization, based on deferred action. An application for employment authorization based on deferred action can only be approved after DHS has deferred action in your case, regardless of when the Form I-765 is filed.

**Decision.** The decision on Form I-918 and Supplement A involves a determination of whether you have established eligibility for the immigration benefit you are seeking. USCIS will notify you of the decision in writing.

**Prohibition on Disclosure of Information.** Information concerning U nonimmigrant status petitioners and derivatives is protected under 8 U.S.C. Section 1367. The disclosure of information relating to a pending or approved Form I-918 or Supplement A is prohibited except in certain limited circumstances.

## USCIS Forms and Information

To ensure you are using the latest version of Form I-918 and Supplement A, visit the USCIS Website at **www.uscis.gov/forms** where you can obtain the latest USCIS forms and immigration-related information. If you do not have Internet access, you may order USCIS forms by calling our toll-free number at **1-800-870-3676**. You may also obtain forms and information by calling the USCIS National Customer Service Center at **1-800-375-5283**. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

Instead of waiting in line for assistance at your local USCIS office, you can schedule an appointment online at **www.uscis.gov**. Select "Schedule an appointment online" and follow the screen prompts to set up your appointment. Once you finish scheduling an appointment, the system will generate an appointment notice for you.

## Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with your Form I-918 and/or Supplement A, we will deny your Form I-918 and/or Supplement A and may deny any other immigration benefit. In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

## USCIS Privacy Act Statement

**AUTHORITIES:** The information requested on Form I-918 and Supplement A, and the associated evidence, is collected under the Immigration and Nationality Act, 8 U.S.C. sections 1101(a)(15)(U), 1184(p), 1182(d)(14), and 8 CFR 214.14.

**PURPOSE:** The primary purpose for providing the requested information on Form I-918 and Supplement A is to determine if you and your qualifying family member have established eligibility for the immigration benefit for which you are filing. DHS will use the information you provide to grant or deny the immigration benefit you are seeking.

**DISCLOSURE:** The information you provide is voluntary. However, failure to provide the requested information, and any requested evidence, may delay a final decision in your case or result in denial of your Form I-918 and/or Supplement A.

**ROUTINE USES:** DHS may share the information you provide on Form I-918 and Supplement A with other Federal, state, local, and foreign government agencies and authorized organizations. DHS follows approved routine uses described in the associated published system of records notices [DHS/USCIS-007 - Benefits Information System and DHS/USCIS-001 - Alien File, Index, and National File Tracking System of Records] which you can find at **www.dhs.gov/privacy**. DHS may also share the information, as appropriate, for law enforcement purposes or in the interest of national security.

## Paperwork Reduction Act

An agency may not conduct or sponsor an information collection, and a person is not required to respond to a collection of information, unless it displays a currently valid OMB control number. The public reporting burden for Form I-918 is estimated at 5 hours per response, and the public reporting burden for Supplement A is estimated at 1 hour and 30 minutes per response, including the time for reviewing instructions, gathering the required documentation and information, completing the petition, preparing statements, attaching necessary documentation, and submitting the petition. The collection of biometrics is estimated to require 1 hour and 10 minutes. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Coordination Division, Office of Policy and Strategy, 20 Massachusetts Ave NW, Washington, DC 20529-2140; OMB No. 1615-0104. **Do not mail your completed Form I-918 or Supplement A to this address.**

# Supplement B, U Nonimmigrant Status Certification

**Department of Homeland Security**
U.S. Citizenship and Immigration Services

**USCIS**
**Form I-918**
OMB No. 1615-0104
Expires 02/28/2019

| For USCIS Use Only | Remarks |
|---|---|
| | |

▶ **START HERE - Type or print in black or blue ink.**

## Part 1. Victim Information

1. Alien Registration Number (A-Number) (if any)
   ▶ A-

2.a. Family Name (Last Name)

2.b. Given Name (First Name)

2.c. Middle Name

**Other Names Used** (Include maiden names, nicknames, and aliases, if applicable.)

If you need extra space to provide additional names, use the space provided in **Part 7. Additional Information**.

3.a. Family Name (Last Name)

3.b. Given Name (First Name)

3.c. Middle Name

4. Date of Birth (mm/dd/yyyy)

5. Gender ☐ Male ☐ Female

## Part 2. Agency Information

1. Name of Certifying Agency

Name of Certifying Official

2.a.

2.b. Family Name (Last Name) verett

2.c. Middle Name Given Name (First Name) E

3. Title and Division/Office of Certifying Official

Name of Head of Certifying Agency

4.a. Family Name (Last Name)

4.b. Given Name (First Name)

4.c. Middle Name

### *Agency Address*

5.a. Street Number and Name 99

5.b. ☐ Apt. ☐ Ste. ☐ Flr.

5.c. City or Town

5.d. State CA 5.f. ZIP Code

5.g. Province

5.h. Postal Code

5.i. Country
USA

### *Other Agency Information*

6. Agency Type
   ☐ Federal ☐ State ☒ Local

7. Case Status
   ☐ On-going ☒ Completed
   ☐ Other

8. Certifying Agency Category
   ☐ Judge ☒ Law Enforcement ☐ Prosecutor
   ☐ Other

9. Case Number

10. FBI Number or SID Number (if applicable)

## Part 3. Criminal Acts

If you need extra space to complete this section, use the space provided in **Part 7. Additional Information**.

1. The petitioner is a victim of criminal activity involving a violation of one of the following Federal, state, or local criminal offenses (or any similar activity). (Select **all applicable** boxes)

- ☐ Abduction
- ☐ Abusive Sexual Contact
- ☐ Attempt to Commit Any of the Named Crimes
- ☐ Being Held Hostage
- ☐ Blackmail
- ☐ Conspiracy to Commit Any of the Named Crimes
- ☐ Domestic Violence
- ☐ Extortion
- ☐ False Imprisonment
- ☐ Felonious Assault
- ☐ Female Genital Mutilation
- ☐ Fraud in Foreign Labor Contracting
- ☐ Incest
- ☐ Involuntary Servitude
- ☐ Kidnapping
- ☐ Manslaughter
- ☐ Murder
- ☐ Obstruction of Justice
- ☐ Peonage
- ☐ Perjury
- ☐ Prostitution
- ☐ Rape
- ☐ Sexual Assault
- ☐ Sexual Exploitation
- ☐ Slave Trade
- ☐ Solicitation to Commit Any of the Named Crimes
- ☐ Stalking
- ☐ Torture
- ☐ Trafficking
- ☐ Unlawful Criminal Restraint
- ☐ Witness Tampering

Provide the dates on which the criminal activity occurred.

**2.a.** Date (mm/dd/yyyy) _____

**2.b.** Date (mm/dd/yyyy) _____

**2.c.** Date (mm/dd/yyyy) _____

**2.d.** Date (mm/dd/yyyy) _____

3. List the statutory citations for the criminal activity being investigated or prosecuted, or that was investigated or prosecuted.

PC 245

**4.a.** Did the criminal activity occur in the United States (including Indian country and military installations) or the territories or possessions of the United States?

☐ Yes ☐ No

**4.b.** If you answered "Yes," where did the criminal activity occur?

**5.a.** Did the criminal activity violate a Federal extraterritorial jurisdiction statute? ☐ Yes ☐ No

**5.b.** If you answered "Yes," provide the statutory citation providing the authority for extraterritorial jurisdiction.

6. Briefly describe the criminal activity being investigated and/or prosecuted and the involvement of the petitioner named in **Part 1.** Attach copies of all relevant reports and findings.

7. Provide a description of any known or documented injury to the victim. Attach copies of all relevant reports and findings.

## Part 4. Helpfulness Of The Victim

For the following questions, if the victim is under 16 years of age, incompetent or incapacitated, then a parent, guardian, or next friend may act on behalf of the victim.

1. Does the victim possess information concerning the criminal activity listed in **Part 3.**? ☐ Yes ☐ No

2. Has the victim been helpful, is the victim being helpful, or is the victim likely to be helpful in the investigation or prosecution of the criminal activity detailed above?
☐ Yes ☐ No

3. Since the initiation of cooperation, has the victim refused or failed to provide assistance reasonably requested in the investigation or prosecution of the criminal activity detailed above? ☐ Yes ☐ No

If you answer "Yes" to **Item Numbers 1. - 3.**, provide an explanation in the space below. If you need extra space to complete this section, use the space provided in **Part 7. Additional Information**.

4. Other. Include any additional information you would like to provide.

## Part 5. Family Members Culpable In Criminal Activity

1. Are any of the victim's family members culpable or believed to be culpable in the criminal activity of which the petitioner is a victim? ☐ Yes ☒ No

If you answered "Yes," list the family members and their criminal involvement. (If you need extra space to complete this section, use the space provided in **Part 7. Additional Information.**)

2.a. Family Name (Last Name)

2.b. Given Name (First Name)

2.c. Middle Name

2.d. Relationship

2.e. Involvement

3.a. Family Name (Last Name)

3.b. Given Name (First Name)

3.c. Middle Name

3.d. Relationship

3.e. Involvement

4.a. Family Name (Last Name)

4.b. Given Name (First Name)

4.c. Middle Name

4.d. Relationship

4.e. Involvement

## Part 6. Certification

I am the head of the agency listed in **Part 2.** or I am the person in the agency who was specifically designated by the head of the agency to issue a U Nonimmigrant Status Certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual identified in **Part 1.** is or was a victim of one or more of the crimes listed in **Part 3.** I certify that the above information is complete, true, and correct to the best of my knowledge, and that I have made and will make no promises regarding the above victim's ability to obtain a visa from U.S. Citizenship and Immigration Services (USCIS), based upon this certification. I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim, I will notify USCIS.

1. Signature of Certifying Official (sign in ink)

2. Date of Signature (mm/dd/yyyy)

3. Daytime Telephone Number

4. Fax Number

## Part 7. Additional Information

If you need extra space to complete any item within this supplement, use the space below or attach a separate sheet of paper; type or print the agency's name, petitioner's name, and the Alien Registration Number (A-Number) (if any) at the top of each sheet; indicate the **Page Number, Part Number**, and **Item Number** to which your answer refers; and sign and date each sheet. If you need more space than what is provided, you may also make copies of this page to complete and file with this supplement.

1. Agency Name

### *Petitioner's Name*

2.a. Family Name (Last Name)

2.b. Given Name (First Name)

2.c. Middle Name

3. A-Number (if any)

▶ A-

4.a. Page Number 4.b. Part Number 4.c. Item Number

4.d.

5.a. Page Number 5.b. Part Number 5.c. Item Number

5.d.

6.a. Page Number 6.b. Part Number 6.c. Item Number

6.d.

# Instructions for Supplement B, U Nonimmigrant Status Certification

**Department of Homeland Security**
U.S. Citizenship and Immigration Services

**USCIS**
**Form I-918**
OMB No. 1615-0104
Expires 02/28/2019

## What Is the Purpose of Supplement B?

You should use this supplement to certify that an individual submitting Form I-918, Petition for U Nonimmigrant Status, is a victim of certain qualifying criminal activity and was, is, or is likely to be helpful in the investigation or prosecution of that activity.

## Who May File Supplement B?

If you, the certifying official, determine that this individual (also known as the petitioner and principal) was, is, or is likely to be helpful in the investigation or prosecution of the qualifying criminal activity, you may complete Supplement B, U Nonimmigrant Status Certification. The petitioner must submit Supplement B to U.S. Citizenship and Immigration Services (USCIS) with his or her Form I-918.

"Investigation or prosecution" refers to the detection or investigation of a qualifying crime or criminal activity, as well as to the prosecution, conviction, or sentencing of the perpetrator of the qualifying crime or criminal activity.

**NOTE:** The decision whether to complete Supplement B is at the discretion of the certifying agency. However, without a completed Supplement B, the petitioner will be ineligible for U nonimmigrant status.

To be eligible for U nonimmigrant status, the petitioner must be a victim of qualifying criminal activity. The term "victim" generally means an individual who has suffered direct and proximate harm as a result of the commission of qualifying criminal activity.

USCIS will consider the petitioner's spouse and unmarried children under 21 years of age, and the parents and unmarried siblings under 18 years of age if the victim is under 21 years of age, as victims of qualifying criminal activity where:

1. The direct victim is deceased due to murder or manslaughter; or
2. The direct victim is incompetent or incapacitated and, therefore, unable to provide information concerning the criminal activity or unable to be helpful in the investigation or prosecution of the criminal activity.

USCIS will consider a petitioner a victim of witness tampering, obstruction of justice, or perjury, including any attempt, conspiracy, or solicitation to commit one or more of those offenses if:

1. The victim was directly and proximately harmed by the perpetrator of the witness tampering, obstruction of justice, or perjury; and
2. There are reasonable grounds to conclude that the perpetrator committed the witness tampering, obstruction of justice, or perjury offense, at least in principal part, as a means:
   - **A.** To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring to justice the perpetrator for other criminal activity; or
   - **B.** To further the perpetrator's abuse or exploitation of or undue control over the petitioner through manipulation of the legal system.

**NOTE:** A person who is culpable for the qualifying criminal activity being investigated or prosecuted is excluded from being recognized as a victim.

A victim of qualifying criminal activity must provide evidence that he or she has been, is being, or is likely to be helpful to a certifying official in the investigation or prosecution of the qualifying criminal activity as listed in **Part 3.** of this supplement. In the case of a petitioner under 16 years of age or a petitioner who is incapacitated or incompetent, the parent, guardian, or "next friend" of the petitioner may provide evidence on behalf of the petitioner to be helpful to a certifying official's investigation. "Next friend" is a person who appears in a lawsuit to act for the benefit of a victim under 16 years of age or incapacitated or incompetent, who has suffered substantial physical or mental abuse as a result of being a victim of qualifying criminal activity. The next friend is not a party to the legal proceeding and is not appointed as a guardian. Being "helpful" means assisting law enforcement authorities in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim.

**NOTE:** Once you, the certifying official, have completed Supplement B, it will be valid for six months from the date of signature. If the victim does not file Form I-918, Petition for U Nonimmigrant Status, within six months, the victim will need to obtain a new Supplement B from the certifying agency.

## General Instructions

### How to Fill Out Supplement B

1. Type or print legibly in black or blue ink.
2. If you need extra space to complete any item within this supplement, use the space provided in **Part 7. Additional Information** or attach a separate sheet of paper; type or print the agency's name, petitioner's name, and the Alien Registration Number (A-Number) (if any) at the top of each sheet; indicate the **Page Number, Part Number, and Item Number** to which your answer refers; and sign and date each sheet.
3. Answer all questions fully and accurately. If a question does not apply to you type or print "N/A," unless otherwise directed. If your answer to a question which requires a numeric response is zero or none, type or print "None."
4. Each Supplement B must be properly signed and filed. USCIS will not accept a photocopy of the signature page of the Supplement B or a typewritten name in place of a signature.

## Specific Instructions

This supplement is divided into **Parts 1. - 7.** The following information should help you fill out the supplement.

### Part 1. Victim Information

**Item Number 1. Alien Registration Number (A-Number)** (if any). This is the victim's USCIS file number. If the victim does not have an A-Number or you do not know it, leave this space blank.

**Item Numbers 2.a. - 2.c. Full Name.** Provide the victim's full legal name. Do not provide a nickname.

**Item Numbers 3.a. - 3.c. Other Names Used.** Provide other names used by the victim, including his or her maiden name, nicknames, and aliases, if applicable.

**Item Number 4. Date of Birth** (mm/dd/yyyy). Provide his or her date of birth (Example, May 1, 1979, should be written 05/01/1979).

**Item Number 5. Gender.** Select the appropriate box.

## Part 2. Agency Information

**Item Number 1. Name of Certifying Agency.** The certifying agency must be a Federal, state, local, or tribal law enforcement agency; prosecutor; authority; or Federal, state, or local judge that has responsibility for the detection, investigation, prosecution, conviction, or sentencing of the qualifying criminal activity of which the petitioner was a victim.

This includes traditional law enforcement branches with the criminal justice system and other agencies that have criminal investigative jurisdiction in their respective areas of expertise, including, but not limited to, Child Protective Services, the Equal Employment Opportunity Commission, and the Department of Labor.

**Item Number 2.a. - 2.c. Name of Certifying Official.**

A certifying official is:

1. The head of the certifying agency or any person in a supervisory role, who was specifically designated by the head of the certifying agency to issue a U Nonimmigrant Status Certification on behalf of that agency; or
2. A Federal, state, or local judge.

If the certification is not signed by the head of the certifying agency, attach evidence of the agency head's written designation of the certifying official for this specific purpose.

**Item Numbers 3. - 10.** Provide the requested information regarding agency officials, the agency's address, agency type, case status, certifying agency category, case number, and FBI Number or SID Number.

## Part 3. Criminal Acts

**Item Numbers 1. – 3.** Select all of the crimes of which the petitioner is a victim that your agency is investigating, prosecuting, or sentencing and provide the dates of the criminal activity. If the criminal activity occurred over a period of time, provide a date on which at least one act constituting an element of qualifying criminal activity occurred. If multiple incidents occurred, provide the date of each incident investigated or prosecuted. List the statutory citations for the crimes in the space provided. If the crimes of which the petitioner is a victim are not listed, select the crimes that are similar to those crimes. You may provide a written explanation regarding how the crime of which the petitioner is a victim is similar to the listed crimes. Similar activity refers to criminal offenses in which the nature and elements of the offenses are substantially similar to the list of criminal activity at section 101(a)(15)(U)(iii) of the Immigration and Nationality Act (INA) and found on the certification form itself.

**Item Numbers 4.a. - 7.** Indicate whether the qualifying criminal activity violated the laws of the United States or occurred within the United States (including in Indian country and military installations) or the territories and possessions of the United States. Qualifying criminal activity of which the petitioner is a victim had to violate United States law or occur within the United States.

1. **United States** means the continental United States, Alaska, Hawaii, Puerto Rico, Guam, the Commonwealth of Northern Mariana Islands (CNMI), and the U.S. Virgin Islands.
2. **Indian country** refers to all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.
3. **Military installation** means any facility, base, camp, post, encampment, station, yard, center, port, aircraft, vehicle, or vessel under the jurisdiction of the Department of Defense, including any leased facility, or any other location under military control.

4. **Territories and possessions of the United States** means American Samoa, Swains Island, Bajo Nuevo (the Petrel Islands), Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Atoll, Navassa Island, Palmyra Atoll, Serranilla Bank, and Wake Atoll.

If the qualifying criminal activity did not occur within the United States as discussed above, but was in violation of U.S. law, it must violate a Federal extraterritorial jurisdiction statute. There is no requirement that a prosecution actually occur. Provide the statutory citation for the extraterritorial jurisdiction.

**Part 4. Helpfulness of the Victim**

**Item Number 1.** Indicate whether the victim possesses information about the crimes. A petitioner must possess information about the qualifying criminal activity of which he or she is a victim. A petitioner is considered to possess information concerning qualifying criminal activity of which he or she is a victim if he or she has knowledge of details concerning criminal activity that would assist in the investigation or prosecution of the criminal activity. Victims with information about a crime of which they are not a victim will not be considered to possess information concerning qualifying criminal activities.

When the victim is under 16 years of age, incapacitated, or incompetent, he or she is not required to personally possess information regarding the qualifying criminal activity. The parent, guardian, or next friend of the petitioner may provide that information.

**Item Number 2.** Provide an explanation of the victim's helpfulness to the investigation or prosecution of the criminal activity. A victim must provide evidence to USCIS that he or she was, is, or is likely to be helpful to a certifying official in the investigation or prosecution of the qualifying criminal activity. In the case of a victim under 16 years of age or a victim who is incapacitated or incompetent, the parent, guardian, or next friend of the victim may provide evidence on behalf of the victim to be helpful to a certifying official's investigation.

Being "helpful" means assisting law enforcement authorities in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim. Petitioner victims who, after initiating cooperation, refuse to provide continuing assistance when reasonably requested, will not meet the helpfulness requirement. The victim has an ongoing responsibility to be helpful, assuming there is an ongoing need for the victim's assistance.

You, the certifying official, will make the initial determination as to the helpfulness of the petitioner. USCIS will give a properly executed Supplement B significant weight, but USCIS will not consider it conclusory evidence that the victim has met the eligibility requirements. USCIS will look at the totality of the circumstances surrounding the petitioner's involvement with your agency and all other information known to USCIS in determining whether the petitioner meets the elements of eligibility.

**Item Number 3.** Indicate if the victim has refused or failed to provide assistance reasonably requested since the initiation of cooperation. Explain in the space provided. If you need extra space, use the space provided in **Part 7. Additional Information**; type or print the agency's name, petitioner's name, and the A-Number (if any) at the top of each sheet; indicate the **Page Number**, **Part Number**, and **Item Number** to which your answer refers; and sign and date each sheet.

**Item Number 4.** Include any additional information you would like to provide.

**Part 5. Family Members Culpable In Criminal Activity**

**Item Numbers 1. - 4.e.** List whether any of the victim's family members are culpable or are believed to be culpable in the criminal activity of which the petitioner is a victim, their relationship to the victim, and their culpability in the criminal activity. USCIS will not grant U nonimmigrant status to a qualifying family member who committed the qualifying criminal activities that established the victim's eligibility for U nonimmigrant status, in a family violence or trafficking context.

**Part 6. Certification**

**Item Numbers 1. - 4.** Read the certification block carefully, and sign and date the supplement. Provide your daytime telephone number and a fax number (if any).

**NOTE:** At your discretion, you may withdraw or disavow a Form I-918, Supplement B at any time, even after this supplement is submitted to USCIS, if a victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity. To do so, you must notify USCIS by sending a written statement to:

**USCIS - Vermont Service Center**
**75 Lower Welden Street**
**St. Albans, VT 05479-0001**

Include the victim's name, date of birth, and A-Number (if any) on all correspondence.

**Part 7. Additional Information**

**Item Numbers 1. - 6.d.** If you need extra space to provide any additional information within this supplement, use the space provided in **Part 7. Additional Information**. If you need more space than what is provided in **Part 7.**, you may make copies of **Part 7.** to complete and file with your supplement, or attach a separate sheet of paper. Include your agency's name, the petitioner's name, and A-Number (if any) at the top of each sheet; indicate the **Page Number**, **Part Number**, and **Item Number** to which your answer refers; and sign and date each sheet.

## USCIS Privacy Act Statement

**AUTHORITIES:** The information requested on this supplement, and the associated evidence, is collected under the Immigration and Nationality Act, 8 U.S.C. sections 1101(a)(15)(U), 1184(p), 1182(d)(14), and 8 CFR 214.14.

**PURPOSE:** The primary purpose for providing the requested information on this supplement is to determine if the petitioner has established eligibility for the immigration benefit for which he or she is filing. The Department of Homeland Security (DHS) will use the information you provide to grant or deny the benefit the petitioner is seeking.

**DISCLOSURE:** The information you provide is voluntary. However, failure to provide the requested information, and any requested evidence, may delay a final decision in the case or result in denial of the petition.

**ROUTINE USES:** DHS may share the information you provide on this supplement with other Federal, state, local, and foreign government agencies and authorized organizations. DHS follows approved routine uses described in the associated published system of records notices [DHS/USCIS-007 - Benefits Information System and DHS/USCIS-001 - Alien File, Index, and National File Tracking System of Records] which you can find at **www.dhs.gov/privacy**. DHS may also share the information, as appropriate, for law enforcement purposes or in the interest of national security.

## Paperwork Reduction Act

An agency may not conduct or sponsor an information collection, and a person is not required to respond to a collection of information, unless it displays a current valid OMB control number. The public reporting burden for Supplement B is estimated at 1 hour per response, including the time for reviewing instructions, gathering the required documentation and information, completing the supplement, attaching necessary documentation, and submitting the supplement. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Coordination Division, Office of Policy and Strategy, 20 Massachusetts Ave NW, Washington, DC 20529-2140; OMB No. 1615-0104. **Do not mail your completed Supplement B to this address.**

# U.S. Department of State
## Diplomacy in Action

# Victims of Trafficking and Violence Protection Act of 2000

October 28, 2000

(/documents/organization/10492.pdf)

H.R.3244

**One Hundred Sixth Congress of the United States of America**

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday,

the twenty-fourth day of January, two thousand

An Act

To combat trafficking in persons, especially into the sex trade, slavery, and involuntary servitude, to reauthorize certain Federal programs to prevent violence against women, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

**SECTION 1. SHORT TITLE.**

This Act may be cited as the `Victims of Trafficking and Violence Protection Act of 2000'.

**SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.**

(a) DIVISIONS- This Act is organized into three divisions, as follows:

(1) DIVISION A- Trafficking Victims Protection Act of 2000.

(2) DIVISION B- Violence Against Women Act of 2000.

(3) DIVISION C- Miscellaneous Provisions.

(b) TABLE OF CONTENTS- The table of contents for this Act is as follows:

Sec.1.Short title.

Sec.2.Organization of Act into divisions; table of contents.

**DIVISION A--TRAFFICKING VICTIMS PROTECTION ACT OF 2000**

Sec.101.Short title.

Sec.102.Purposes and findings.

Sec.103.Definitions.

Sec.104.Annual Country Reports on Human Rights Practices.

Sec.105.Interagency Task Force To Monitor and Combat Trafficking.

Sec.106.Prevention of trafficking.

Sec.107.Protection and assistance for victims of trafficking.

Sec.108.Minimum standards for the elimination of trafficking.

Sec.109.Assistance to foreign countries to meet minimum standards.

Sec.110.Actions against governments failing to meet minimum standards.

Sec.111.Actions against significant traffickers in persons.

Sec.112.Strengthening prosecution and punishment of traffickers.

Sec.113.Authorizations of appropriations.

**DIVISION B--VIOLENCE AGAINST WOMEN ACT OF 2000**

Sec.1001.Short title.

Sec.1002.Definitions.

Sec.1003.Accountability and oversight.

**TITLE I--STRENGTHENING LAW ENFORCEMENT TO REDUCE VIOLENCE AGAINST WOMEN**

Sec.1101.Full faith and credit enforcement of protection orders.

Sec.1102.Role of courts.

Sec.1103.Reauthorization of STOP grants.

Sec.1104.Reauthorization of grants to encourage arrest policies.

Sec.1105.Reauthorization of rural domestic violence and child abuse enforcement grants.

Sec.1106.National stalker and domestic violence reduction.

Sec.1107.Amendments to domestic violence and stalking offenses.

Sec.1108.School and campus security.

Sec.1109.Dating violence.

**TITLE II--STRENGTHENING SERVICES TO VICTIMS OF VIOLENCE**

Sec.1201.Legal assistance for victims.

Sec.1202.Shelter services for battered women and children.

Sec.1203.Transitional housing assistance for victims of domestic violence.

Sec.1204.National domestic violence hotline.

Sec.1205.Federal victims counselors.

Sec.1206.Study of State laws regarding insurance discrimination against victims of violence against women.

Sec.1207.Study of workplace effects from violence against women.

Sec.1208.Study of unemployment compensation for victims of violence against women.

Sec.1209.Enhancing protections for older and disabled women from domestic violence and sexual assault.

**TITLE III--LIMITING THE EFFECTS OF VIOLENCE ON CHILDREN**

Sec.1301.Safe havens for children pilot program.

Sec.1302.Reauthorization of victims of child abuse programs.

Sec.1303.Report on effects of parental kidnapping laws in domestic violence cases.

**TITLE IV--STRENGTHENING EDUCATION AND TRAINING TO COMBAT VIOLENCE AGAINST WOMEN**

Sec.1401.Rape prevention and education.

Sec.1402.Education and training to end violence against and abuse of women with disabilities.

Sec.1403.Community initiatives.

Sec.1404.Development of research agenda identified by the Violence Against Women Act of 1994.

Sec.1405.Standards, practice, and training for sexual assault forensic examinations.

Sec.1406.Education and training for judges and court personnel.

Sec.1407.Domestic Violence Task Force.

**TITLE V--BATTERED IMMIGRANT WOMEN**

Sec.1501.Short title.

Sec.1502.Findings and purposes.

Sec.1503.Improved access to immigration protections of the Violence Against Women Act of 1994 for battered immigrant women.

Sec.1504.Improved access to cancellation of removal and suspension of deportation under the Violence Against Women Act of 1994.

Sec.1505.Offering equal access to immigration protections of the Violence Against Women Act of 1994 for all qualified battered immigrant self-petitioners.

Sec.1506.Restoring immigration protections under the Violence Against Women Act of 1994.

Sec.1507.Remedying problems with implementation of the immigration provisions of the Violence Against Women Act of 1994.

Sec.1508.Technical correction to qualified alien definition for battered immigrants.

Sec.1509.Access to Cuban Adjustment Act for battered immigrant spouses and children.

Sec.1510.Access to the Nicaraguan Adjustment and Central American Relief Act for battered spouses and children.

Sec.1511.Access to the Haitian Refugee Fairness Act of 1998 for battered spouses and children.

Sec.1512.Access to services and legal representation for battered immigrants.

Sec.1513.Protection for certain crime victims including victims of crimes against women.

**TITLE VI--MISCELLANEOUS**

Sec.1601.Notice requirements for sexually violent offenders.

Sec.1602.Teen suicide prevention study.

Sec.1603.Decade of pain control and research.

**DIVISION C--MISCELLANEOUS PROVISIONS**

Sec.2001.Aimee's law.

Sec.2002.Payment of anti-terrorism judgments.

Sec.2003.Aid to victims of terrorism.

Sec.2004.Twenty-first amendment enforcement.

# DIVISION A--TRAFFICKING VICTIMS PROTECTION ACT OF 2000

## SEC. 101. SHORT TITLE.

This division may be cited as the `Trafficking Victims Protection Act of 2000'.

## SEC. 102. PURPOSES AND FINDINGS.

(a) PURPOSES- The purposes of this division are to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims.

(b) FINDINGS- Congress finds that:

(1) As the 21st century begins, the degrading institution of slavery continues throughout the world. Trafficking in persons is a modern form of slavery, and it is the largest manifestation of slavery today. At least 700,000 persons annually, primarily women and children, are trafficked within or across international borders. Approximately 50,000 women and children are trafficked into the United States each year.

(2) Many of these persons are trafficked into the international sex trade, often by force, fraud, or coercion. The sex industry has rapidly expanded over the past several decades. It involves sexual exploitation of persons, predominantly women and girls, involving activities related to prostitution, pornography, sex tourism, and other commercial sexual services. The low status of women in many parts of the world has contributed to a burgeoning of the trafficking industry.

(3) Trafficking in persons is not limited to the sex industry. This growing transnational crime also includes forced labor and involves significant violations of labor, public health, and human rights standards worldwide.

(4) Traffickers primarily target women and girls, who are disproportionately affected by poverty, the lack of access to education, chronic unemployment, discrimination, and the lack of economic opportunities in countries of origin. Traffickers lure women and girls into their networks through false promises of decent working conditions at relatively good pay as nannies, maids, dancers, factory workers, restaurant workers, sales clerks, or models. Traffickers also buy children from poor families and sell them into prostitution or into various types of forced or bonded labor.

(5) Traffickers often transport victims from their home communities to unfamiliar destinations, including foreign countries away from family and friends, religious institutions, and other sources of protection and support, leaving the victims defenseless and vulnerable.

(6) Victims are often forced through physical violence to engage in sex acts or perform slavery-like labor. Such force includes rape and other forms of sexual abuse, torture, starvation, imprisonment, threats, psychological abuse, and coercion.

(7) Traffickers often make representations to their victims that physical harm may occur to them or others should the victim escape or attempt to escape. Such representations can have the same coercive effects on victims as direct threats to inflict such harm.

(8) Trafficking in persons is increasingly perpetrated by organized, sophisticated criminal enterprises. Such trafficking is the fastest growing source of profits for organized criminal enterprises worldwide. Profits from the trafficking industry

contribute to the expansion of organized crime in the United States and worldwide. Trafficking in persons is often aided by official corruption in countries of origin, transit, and destination, thereby threatening the rule of law.

(9) Trafficking includes all the elements of the crime of forcible rape when it involves the involuntary participation of another person in sex acts by means of fraud, force, or coercion.

(10) Trafficking also involves violations of other laws, including labor and immigration codes and laws against kidnapping, slavery, false imprisonment, assault, battery, pandering, fraud, and extortion.

(11) Trafficking exposes victims to serious health risks. Women and children trafficked in the sex industry are exposed to deadly diseases, including HIV and AIDS. Trafficking victims are sometimes worked or physically brutalized to death.

(12) Trafficking in persons substantially affects interstate and foreign commerce. Trafficking for such purposes as involuntary servitude, peonage, and other forms of forced labor has an impact on the nationwide employment network and labor market. Within the context of slavery, servitude, and labor or services which are obtained or maintained through coercive conduct that amounts to a condition of servitude, victims are subjected to a range of violations.

(13) Involuntary servitude statutes are intended to reach cases in which persons are held in a condition of servitude through nonviolent coercion. In United States v. Kozminski, 487 U.S. 931 (1988), the Supreme Court found that section 1584 of title 18, United States Code, should be narrowly interpreted, absent a definition of involuntary servitude by Congress. As a result, that section was interpreted to criminalize only servitude that is brought about through use or threatened use of physical or legal coercion, and to exclude other conduct that can have the same purpose and effect.

(14) Existing legislation and law enforcement in the United States and other countries are inadequate to deter trafficking and bring traffickers to justice, failing to reflect the gravity of the offenses involved. No comprehensive law exists in the United States that penalizes the range of offenses involved in the trafficking scheme. Instead, even the most brutal instances of trafficking in the sex industry are often punished under laws that also apply to lesser offenses, so that traffickers typically escape deserved punishment.

(15) In the United States, the seriousness of this crime and its components is not reflected in current sentencing guidelines, resulting in weak penalties for convicted traffickers.

(16) In some countries, enforcement against traffickers is also hindered by official indifference, by corruption, and sometimes even by official participation in trafficking.

(17) Existing laws often fail to protect victims of trafficking, and because victims are often illegal immigrants in the destination country, they are repeatedly punished more harshly than the traffickers themselves.

(18) Additionally, adequate services and facilities do not exist to meet victims' needs regarding health care, housing, education, and legal assistance, which safely reintegrate trafficking victims into their home countries.

(19) Victims of severe forms of trafficking should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts committed as a direct result of being trafficked, such as using false documents, entering the country without documentation, or working without documentation.

(20) Because victims of trafficking are frequently unfamiliar with the laws, cultures, and languages of the countries into which they have been trafficked, because they are often subjected to coercion and intimidation including physical detention and debt bondage, and because they often fear retribution and forcible removal to countries in which they will face retribution or other hardship, these victims often find it difficult or impossible to report the crimes committed against them or to assist in the investigation and prosecution of such crimes.

(21) Trafficking of persons is an evil requiring concerted and vigorous action by countries of origin, transit or destination, and by international organizations.

(22) One of the founding documents of the United States, the Declaration of Independence, recognizes the inherent dignity and worth of all people. It states that all men are created equal and that they are endowed by their Creator with certain unalienable rights. The right to be free from slavery and involuntary servitude is among those unalienable rights. Acknowledging this fact, the United States outlawed slavery and involuntary servitude in 1865, recognizing them as evil institutions that must be abolished. Current practices of sexual slavery and trafficking of women and children are similarly abhorrent to the principles upon which the United States was founded.

(23) The United States and the international community agree that trafficking in persons involves grave violations of human rights and is a matter of pressing international concern. The international community has repeatedly condemned slavery and involuntary servitude, violence against women, and other elements of trafficking, through declarations, treaties, and United Nations resolutions and reports, including the Universal Declaration of Human Rights; the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the 1948 American Declaration on the Rights and Duties of Man; the 1957 Abolition of Forced Labor Convention; the International Covenant on Civil and Political Rights; the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; United Nations General Assembly Resolutions 50/167, 51/66, and 52/98; the Final Report of the World Congress against Sexual Exploitation of Children (Stockholm, 1996); the Fourth World Conference on Women (Beijing, 1995); and the 1991 Moscow Document of the Organization for Security and Cooperation in Europe.

(24) Trafficking in persons is a transnational crime with national implications. To deter international trafficking and bring its perpetrators to justice, nations including the United States must recognize that trafficking is a serious offense. This is done by prescribing appropriate punishment, giving priority to the prosecution of trafficking offenses, and protecting rather than punishing the victims of such offenses. The United States must work bilaterally and multilaterally to abolish the trafficking industry by taking steps to promote cooperation among countries linked together by international trafficking routes. The United States must also urge the international community to take strong action in multilateral fora to engage recalcitrant countries in serious and sustained efforts to eliminate trafficking and protect trafficking victims.

**SEC. 103. DEFINITIONS.**

In this division:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES- The term `appropriate congressional committees' means the Committee on Foreign Relations and the Committee on the Judiciary of the Senate and the Committee on International Relations and the Committee on the Judiciary of the House of Representatives.

(2) COERCION- The term `coercion' means--

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of the legal process.

(3) COMMERCIAL SEX ACT- The term `commercial sex act' means any sex act on account of which anything of value is given to or received by any person.

(4) DEBT BONDAGE- The term `debt bondage' means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

(5) INVOLUNTARY SERVITUDE- The term `involuntary servitude' includes a condition of servitude induced by means of--

(A) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or

(B) the abuse or threatened abuse of the legal process.

(6) MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING- The term `minimum standards for the elimination of trafficking' means the standards set forth in section 108.

(7) NONHUMANITARIAN, NONTRADE-RELATED FOREIGN ASSISTANCE- The term `nonhumanitarian, nontrade-related foreign assistance' means--

(A) any assistance under the Foreign Assistance Act of 1961, other than--

(i) assistance under chapter 4 of part II of that Act that is made available for any program, project, or activity eligible for assistance under chapter 1 of part I of that Act;

(ii) assistance under chapter 8 of part I of that Act;

(iii) any other narcotics-related assistance under part I of that Act or under chapter 4 or 5 part II of that Act, but any such assistance provided under this clause shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of that Act;

(iv) disaster relief assistance, including any assistance under chapter 9 of part I of that Act;

(v) antiterrorism assistance under chapter 8 of part II of that Act;

(vi) assistance for refugees;

(vii) humanitarian and other development assistance in support of programs of nongovernmental organizations under chapters 1 and 10 of that Act;

(viii) programs under title IV of chapter 2 of part I of that Act, relating to the Overseas Private Investment Corporation; and

(ix) other programs involving trade-related or humanitarian assistance; and

(B) sales, or financing on any terms, under the Arms Export Control Act, other than sales or financing provided for narcotics-related purposes following notification in accordance with the prior notification procedures applicable to reprogrammings pursuant to section 634A of the Foreign Assistance Act of 1961.

(8) SEVERE FORMS OF TRAFFICKING IN PERSONS- The term `severe forms of trafficking in persons' means--

(A) 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 has not attained 18 years of age; or

(B) 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.

(9) SEX TRAFFICKING- The term `sex trafficking' means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

(10) STATE- The term `State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and territories and possessions of the United States.

(11) TASK FORCE- The term `Task Force' means the Interagency Task Force to Monitor and Combat Trafficking established under section 105.

(12) UNITED STATES- The term `United States' means the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

(13) VICTIM OF A SEVERE FORM OF TRAFFICKING- The term `victim of a severe form of trafficking' means a person subject to an act or practice described in paragraph (8).

(14) VICTIM OF TRAFFICKING- The term `victim of trafficking' means a person subjected to an act or practice described in paragraph (8) or (9).

**SEC. 104. ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.**

(a) COUNTRIES RECEIVING ECONOMIC ASSISTANCE- Section 116(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151(f)) is amended to read as follows:

`(f)(1) The report required by subsection (d) shall include the following:

`(A) A description of the nature and extent of severe forms of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, in each foreign country.

`(B) With respect to each country that is a country of origin, transit, or destination for victims of severe forms of trafficking in persons, an assessment of the efforts by the government of that country to combat such trafficking. The assessment shall address the following:

`(i) Whether government authorities in that country participate in, facilitate, or condone such trafficking.

`(ii) Which government authorities in that country are involved in activities to combat such trafficking.

`(iii) What steps the government of that country has taken to prohibit government officials from participating in, facilitating, or condoning such trafficking, including the investigation, prosecution, and conviction of such officials.

`(iv) What steps the government of that country has taken to prohibit other individuals from participating in such trafficking, including the investigation, prosecution, and conviction of individuals involved in severe forms of trafficking in persons, the criminal and civil penalties for such trafficking, and the efficacy of those penalties in eliminating or reducing such trafficking.

`(v) What steps the government of that country has taken to assist victims of such trafficking, including efforts to prevent victims from being further victimized by traffickers, government officials, or others, grants of relief from deportation, and provision of humanitarian relief, including provision of mental and physical health care and shelter.

`(vi) Whether the government of that country is cooperating with governments of other countries to extradite traffickers when requested, or, to the extent that such cooperation would be inconsistent with the laws of such country or with extradition treaties to which such country is a party, whether the government of that country is taking all appropriate measures to modify or replace such laws and treaties so as to permit such cooperation.

`(vii) Whether the government of that country is assisting in international investigations of transnational trafficking networks and in other cooperative efforts to combat severe forms of trafficking in persons.

`(viii) Whether the government of that country refrains from prosecuting victims of severe forms of trafficking in persons due to such victims having been trafficked, and refrains from other discriminatory treatment of such victims.

`(ix) Whether the government of that country recognizes the rights of victims of severe forms of trafficking in persons and ensures their access to justice.

`(C) Such other information relating to trafficking in persons as the Secretary of State considers appropriate.

`(2) In compiling data and making assessments for the purposes of paragraph (1), United States diplomatic mission personnel shall consult with human rights organizations and other appropriate nongovernmental organizations.'.

(b) COUNTRIES RECEIVING SECURITY ASSISTANCE- Section 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2304) is amended by adding at the end the following new subsection:

`(h)(1) The report required by subsection (b) shall include the following:

`(A) A description of the nature and extent of severe forms of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, in each foreign country.

`(B) With respect to each country that is a country of origin, transit, or destination for victims of severe forms of trafficking in persons, an assessment of the efforts by the government of that country to combat such trafficking. The assessment shall address the following:

`(i) Whether government authorities in that country participate in, facilitate, or condone such trafficking.

`(ii) Which government authorities in that country are involved in activities to combat such trafficking.

`(iii) What steps the government of that country has taken to prohibit government officials from participating in, facilitating, or condoning such trafficking, including the investigation, prosecution, and conviction of such officials.

`(iv) What steps the government of that country has taken to prohibit other individuals from participating in such trafficking, including the investigation, prosecution, and conviction of individuals involved in severe forms of trafficking in persons, the criminal and civil penalties for such trafficking, and the efficacy of those penalties in eliminating or reducing such trafficking.

`(v) What steps the government of that country has taken to assist victims of such trafficking, including efforts to prevent victims from being further victimized by traffickers, government officials, or others, grants of relief from deportation, and provision of humanitarian relief, including provision of mental and physical health care and shelter.

`(vi) Whether the government of that country is cooperating with governments of other countries to extradite traffickers when requested, or, to the extent that such cooperation would be inconsistent with the laws of such country or with extradition treaties to which such country is a party, whether the government of that country is taking all appropriate measures to modify or replace such laws and treaties so as to permit such cooperation.

`(vii) Whether the government of that country is assisting in international investigations of transnational trafficking networks and in other cooperative efforts to combat severe forms of trafficking in persons.

`(viii) Whether the government of that country refrains from prosecuting victims of severe forms of trafficking in persons due to such victims having been trafficked, and refrains from other discriminatory treatment of such victims.

`(ix) Whether the government of that country recognizes the rights of victims of severe forms of trafficking in persons and ensures their access to justice.

`(C) Such other information relating to trafficking in persons as the Secretary of State considers appropriate.

`(2) In compiling data and making assessments for the purposes of paragraph (1), United States diplomatic mission personnel shall consult with human rights organizations and other appropriate nongovernmental organizations.'.

**SEC. 105. INTERAGENCY TASK FORCE TO MONITOR AND COMBAT TRAFFICKING.**

(a) ESTABLISHMENT- The President shall establish an Interagency Task Force to Monitor and Combat Trafficking.

(b) APPOINTMENT- The President shall appoint the members of the Task Force, which shall include the Secretary of State, the Administrator of the United States Agency for International Development, the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, the Director of Central Intelligence, and such other officials as may be designated by the President.

(c) CHAIRMAN- The Task Force shall be chaired by the Secretary of State.

(d) ACTIVITIES OF THE TASK FORCE- The Task Force shall carry out the following activities:

(1) Coordinate the implementation of this division.

(2) Measure and evaluate progress of the United States and other countries in the areas of trafficking prevention, protection, and assistance to victims of trafficking, and prosecution and enforcement against traffickers, including the role of public corruption in facilitating trafficking. The Task Force shall have primary responsibility for assisting the Secretary of State in the preparation of the reports described in section 110.

(3) Expand interagency procedures to collect and organize data, including significant research and resource information on domestic and international trafficking. Any data collection procedures established under this subsection shall respect the confidentiality of victims of trafficking.

(4) Engage in efforts to facilitate cooperation among countries of origin, transit, and destination. Such efforts shall aim to strengthen local and regional capacities to prevent trafficking, prosecute traffickers and assist trafficking victims, and shall include initiatives to enhance cooperative efforts between destination countries and countries of origin and assist in the appropriate reintegration of stateless victims of trafficking.

(5) Examine the role of the international `sex tourism' industry in the trafficking of persons and in the sexual exploitation of women and children around the world.

(6) Engage in consultation and advocacy with governmental and nongovernmental organizations, among other entities, to advance the purposes of this division.

(e) SUPPORT FOR THE TASK FORCE- The Secretary of State is authorized to establish within the Department of State an Office to Monitor and Combat Trafficking, which shall provide assistance to the Task Force. Any such Office shall be headed by a Director. The Director shall have the primary responsibility for assisting the Secretary of State in carrying out the purposes of this division and may have additional responsibilities as determined by the Secretary. The Director shall consult with nongovernmental organizations and multilateral organizations, and with trafficking victims or other affected persons. The Director shall have the authority to take evidence in public hearings or by other means. The agencies represented on the Task Force are authorized to provide staff to the Office on a nonreimbursable basis.

**SEC. 106. PREVENTION OF TRAFFICKING.**

(a) ECONOMIC ALTERNATIVES TO PREVENT AND DETER TRAFFICKING- The President shall establish and carry out international initiatives to enhance economic opportunity for potential victims of trafficking as a method to deter trafficking. Such initiatives may include--

(1) microcredit lending programs, training in business development, skills training, and job counseling;

(2) programs to promote women's participation in economic decisionmaking;

(3) programs to keep children, especially girls, in elementary and secondary schools, and to educate persons who have been victims of trafficking;

(4) development of educational curricula regarding the dangers of trafficking; and

(5) grants to nongovernmental organizations to accelerate and advance the political, economic, social, and educational roles and capacities of women in their countries.

(b) PUBLIC AWARENESS AND INFORMATION- The President, acting through the Secretary of Labor, the Secretary of Health and Human Services, the Attorney General, and the Secretary of State, shall establish and carry out programs to increase public awareness, particularly among potential victims of trafficking, of the dangers of trafficking and the protections that are available for victims of trafficking.

(c) CONSULTATION REQUIREMENT- The President shall consult with appropriate nongovernmental organizations with respect to the establishment and conduct of initiatives described in subsections (a) and (b).

**SEC. 107. PROTECTION AND ASSISTANCE FOR VICTIMS OF TRAFFICKING.**

(a) Assistance for Victims in Other Countries-

(1) IN GENERAL- The Secretary of State and the Administrator of the United States Agency for International Development, in consultation with appropriate nongovernmental organizations, shall establish and carry out programs and initiatives in foreign countries to assist in the safe integration, reintegration, or resettlement, as appropriate, of victims of trafficking. Such programs and initiatives shall be designed to meet the appropriate assistance needs of such persons and their children, as identified by the Task Force.

(2) ADDITIONAL REQUIREMENT- In establishing and conducting programs and initiatives described in paragraph (1), the Secretary of State and the Administrator of the United States Agency for International Development shall take all appropriate steps to enhance cooperative efforts among foreign countries, including countries of origin of victims of trafficking, to assist in the integration, reintegration, or resettlement, as appropriate, of victims of trafficking, including stateless victims.

(b) Victims in the United States-

(1) ASSISTANCE-

(A) ELIGIBILITY FOR BENEFITS AND SERVICES- Notwithstanding title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, an alien who is a victim of a severe form of trafficking in persons shall be eligible for benefits and services under any Federal or State program or activity funded or administered by any official or agency described in subparagraph (B) to the same extent as an alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act.

(B) REQUIREMENT TO EXPAND BENEFITS AND SERVICES- Subject to subparagraph (C) and, in the case of nonentitlement programs, to the availability of appropriations, the Secretary of Health and Human Services, the Secretary of Labor, the Board of Directors of the Legal Services Corporation, and the heads of other Federal agencies shall expand benefits and services to victims of severe forms of trafficking in persons in the United States, without regard to the immigration status of such victims.

(C) DEFINITION OF VICTIM OF A SEVERE FORM OF TRAFFICKING IN PERSONS- For the purposes of this paragraph, the term `victim of a severe form of trafficking in persons' means only a person--

(i) who has been subjected to an act or practice described in section 103(8) as in effect on the date of the enactment of this Act; and

(ii)(I) who has not attained 18 years of age; or

(II) who is the subject of a certification under subparagraph (E).

(D) ANNUAL REPORT- Not later than December 31 of each year, the Secretary of Health and Human Services, in consultation with the Secretary of Labor, the Board of Directors of the Legal Services Corporation, and the heads of other appropriate Federal agencies shall submit a report, which includes information on the number of persons who received benefits or other services under this paragraph in connection with programs or activities funded or administered by such agencies or officials during the preceding fiscal year, to the Committee on Ways and Means, the Committee on International Relations, and the Committee on the Judiciary of the House of Representatives and the Committee on Finance, the Committee on Foreign Relations, and the Committee on the Judiciary of the Senate.

(E) CERTIFICATION-

(i) IN GENERAL- Subject to clause (ii), the certification referred to in subparagraph (C) is a certification by the Secretary of Health and Human Services, after consultation with the Attorney General, that the person referred to in subparagraph (C)(ii)(II)--

(I) is willing to assist in every reasonable way in the investigation and prosecution of severe forms of trafficking in persons; and

(II)(aa) has made a bona fide application for a visa under section 101(a)(15)(T) of the Immigration and Nationality Act, as added by subsection (e), that has not been denied; or

(bb) is a person whose continued presence in the United States the Attorney General is ensuring in order to effectuate prosecution of traffickers in persons.

(ii) PERIOD OF EFFECTIVENESS- A certification referred to in subparagraph (C), with respect to a person described in clause (i)(II)(bb), shall be effective only for so long as the Attorney General determines that the continued presence of such person is necessary to effectuate prosecution of traffickers in persons.

(iii) INVESTIGATION AND PROSECUTION DEFINED- For the purpose of a certification under this subparagraph, the term `investigation and prosecution' includes--

(I) identification of a person or persons who have committed severe forms of trafficking in persons;

(II) location and apprehension of such persons; and

(III) testimony at proceedings against such persons.

(2) GRANTS-

(A) IN GENERAL- Subject to the availability of appropriations, the Attorney General may make grants to States, Indian tribes, units of local government, and nonprofit, nongovernmental victims' service organizations to develop, expand, or strengthen victim service programs for victims of trafficking.

(B) ALLOCATION OF GRANT FUNDS- Of amounts made available for grants under this paragraph, there shall be set aside--

(i) three percent for research, evaluation, and statistics;

(ii) two percent for training and technical assistance; and

(iii) one percent for management and administration.

(C) LIMITATION ON FEDERAL SHARE- The Federal share of a grant made under this paragraph may not exceed 75 percent of the total costs of the projects described in the application submitted.

(c) TRAFFICKING VICTIM REGULATIONS- Not later than 180 days after the date of the enactment of this Act, the Attorney General and the Secretary of State shall promulgate regulations for law enforcement personnel, immigration officials, and Department of State officials to implement the following:

(1) PROTECTIONS WHILE IN CUSTODY- Victims of severe forms of trafficking, while in the custody of the Federal Government and to the extent practicable, shall--

(A) not be detained in facilities inappropriate to their status as crime victims;

(B) receive necessary medical care and other assistance; and

(C) be provided protection if a victim's safety is at risk or if there is danger of additional harm by recapture of the victim by a trafficker, including--

(i) taking measures to protect trafficked persons and their family members from intimidation and threats of reprisals and reprisals from traffickers and their associates; and

(ii) ensuring that the names and identifying information of trafficked persons and their family members are not disclosed to the public.

(2) ACCESS TO INFORMATION- Victims of severe forms of trafficking shall have access to information about their rights and translation services.

(3) AUTHORITY TO PERMIT CONTINUED PRESENCE IN THE UNITED STATES- Federal law enforcement officials may permit an alien individual's continued presence in the United States, if after an assessment, it is determined that such individual is a victim of a severe form of trafficking and a potential witness to such trafficking, in order to effectuate prosecution of those responsible, and such officials in investigating and prosecuting traffickers shall protect the safety of trafficking victims, including taking measures to protect trafficked persons and their family members from intimidation, threats of reprisals, and reprisals from traffickers and their associates.

(4) TRAINING OF GOVERNMENT PERSONNEL- Appropriate personnel of the Department of State and the Department of Justice shall be trained in identifying victims of severe forms of trafficking and providing for the protection of such victims.

(d) CONSTRUCTION- Nothing in subsection (c) shall be construed as creating any private cause of action against the United States or its officers or employees.

(e) PROTECTION FROM REMOVAL FOR CERTAIN CRIME VICTIMS-

(1) IN GENERAL- Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended--

(A) by striking `or' at the end of subparagraph (R);

(B) by striking the period at the end of subparagraph (S) and inserting `; or'; and

(C) by adding at the end the following new subparagraph:

`(T)(i) subject to section 214(n), an alien who the Attorney General determines--

`(I) is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000,

`(II) is physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port of entry thereto, on account of such trafficking,

`(III)(aa) has complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking, or

`(bb) has not attained 15 years of age, and

`(IV) the alien would suffer extreme hardship involving unusual and severe harm upon removal; and

`(ii) if the Attorney General considers it necessary to avoid extreme hardship--

`(I) in the case of an alien described in clause (i) who is under 21 years of age, the spouse, children, and parents of such alien; and

`(II) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien,

if accompanying, or following to join, the alien described in clause (i).'.

(2) CONDITIONS OF NONIMMIGRANT STATUS- Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended--

(A) by redesignating the subsection (l) added by section 625(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-1820) as subsection (m); and

(B) by adding at the end the following:

`(n)(1) No alien shall be eligible for admission to the United States under section 101(a)(15)(T) if there is substantial reason to believe that the alien has committed an act of a severe form of trafficking in persons (as defined in section 103 of the Trafficking Victims Protection Act of 2000).

`(2) The total number of aliens who may be issued visas or otherwise provided nonimmigrant status during any fiscal year under section 101(a)(15)(T) may not exceed 5,000.

`(3) The numerical limitation of paragraph (2) shall only apply to principal aliens and not to the spouses, sons, daughters, or parents of such aliens.'.

(3) WAIVER OF GROUNDS FOR INELIGIBILITY FOR ADMISSION- Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) is amended by adding at the end the following:

`(13)(A) The Attorney General shall determine whether a ground for inadmissibility exists with respect to a nonimmigrant described in section 101(a)(15)(T).

`(B) In addition to any other waiver that may be available under this section, in the case of a nonimmigrant described in section 101(a)(15)(T), if the Attorney General considers it to be in the national interest to do so, the Attorney General, in the Attorney General's discretion, may waive the application of--

`(i) paragraphs (1) and (4) of subsection (a); and

`(ii) any other provision of such subsection (excluding paragraphs (3), (10)(C), and (10(E)) if the activities rendering the alien inadmissible under the provision were caused by, or were incident to, the victimization described in section 101(a)(15)(T)(i)(I).'.

(4) DUTIES OF THE ATTORNEY GENERAL WITH RESPECT TO `T' VISA NONIMMIGRANTS- Section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) is amended by adding at the end the following new subsection:

`(i) With respect to each nonimmigrant alien described in subsection (a)(15)(T)(i)--

`(1) the Attorney General and other Government officials, where appropriate, shall provide the alien with a referral to a nongovernmental organization that would advise the alien regarding the alien's options while in the United States and the resources available to the alien; and

`(2) the Attorney General shall, during the period the alien is in lawful temporary resident status under that subsection, grant the alien authorization to engage in employment in the United States and provide the alien with an `employment authorized' endorsement or other appropriate work permit.'.

(5) STATUTORY CONSTRUCTION- Nothing in this section, or in the amendments made by this section, shall be construed as prohibiting the Attorney General from instituting removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) against an alien admitted as a nonimmigrant under section 101(a)(15)(T)(i) of that Act, as added by subsection (e), for conduct committed after the alien's admission into the United States, or for conduct

or a condition that was not disclosed to the Attorney General prior to the alien's admission as a nonimmigrant under such section 101(a)(15)(T)(i).

(f) ADJUSTMENT TO PERMANENT RESIDENT STATUS- Section 245 of such Act (8 U.S.C 1255) is amended by adding at the end the following new subsection:

`(l)(1) If, in the opinion of the Attorney General, a nonimmigrant admitted into the United States under section 101(a)(15)(T)(i)--

`(A) has been physically present in the United States for a continuous period of at least 3 years since the date of admission as a nonimmigrant under section 101(a)(15)(T)(i),

`(B) has, throughout such period, been a person of good moral character, and

`(C)(i) has, during such period, complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking, or

`(ii) the alien would suffer extreme hardship involving unusual and severe harm upon removal from the United States,

the Attorney General may adjust the status of the alien (and any person admitted under that section as the spouse, parent, or child of the alien) to that of an alien lawfully admitted for permanent residence.

`(2) Paragraph (1) shall not apply to an alien admitted under section 101(a)(15)(T) who is inadmissible to the United States by reason of a ground that has not been waived under section 212, except that, if the Attorney General considers it to be in the national interest to do so, the Attorney General, in the Attorney General's discretion, may waive the application of--

`(A) paragraphs (1) and (4) of section 212(a); and

`(B) any other provision of such section (excluding paragraphs (3), (10)(C), and (10(E)), if the activities rendering the alien inadmissible under the provision were caused by, or were incident to, the victimization described in section 101(a)(15)(T)(i)(I).

`(2) An alien shall be considered to have failed to maintain continuous physical presence in the United States under paragraph (1)(A) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days.

`(3)(A) The total number of aliens whose status may be adjusted under paragraph (1) during any fiscal year may not exceed 5,000.

`(B) The numerical limitation of subparagraph (A) shall only apply to principal aliens and not to the spouses, sons, daughters, or parents of such aliens.

`(4) Upon the approval of adjustment of status under paragraph (1), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval.'.

(g) ANNUAL REPORTS- On or before October 31 of each year, the Attorney General shall submit a report to the appropriate congressional committees setting forth, with respect to the preceding fiscal year, the number, if any, of otherwise eligible applicants who did not receive visas under section 101(a)(15)(T) of the Immigration and Nationality Act, as added by subsection (e), or who were unable to adjust their status under section 245(l) of such Act, solely on account of the unavailability of visas due to a limitation imposed by section 214(n)(1) or 245(l)(4)(A) of such Act.

**SEC. 108. MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.**

(a) MINIMUM STANDARDS- For purposes of this division, the minimum standards for the elimination of trafficking applicable to the government of a country of origin, transit, or destination for a significant number of victims of severe forms of trafficking are the following:

(1) The government of the country should prohibit severe forms of trafficking in persons and punish acts of such trafficking.

(2) For the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault.

(3) For the knowing commission of any act of a severe form of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense.

(4) The government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons.

(b) CRITERIA- In determinations under subsection (a)(4), the following factors should be considered as indicia of serious and sustained efforts to eliminate severe forms of trafficking in persons:

(1) Whether the government of the country vigorously investigates and prosecutes acts of severe forms of trafficking in persons that take place wholly or partly within the territory of the country.

(2) Whether the government of the country protects victims of severe forms of trafficking in persons and encourages their assistance in the investigation and prosecution of such trafficking, including provisions for legal alternatives to their removal to countries in which they would face retribution or hardship, and ensures that victims are not inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts as a direct result of being trafficked.

(3) Whether the government of the country has adopted measures to prevent severe forms of trafficking in persons, such as measures to inform and educate the public, including potential victims, about the causes and consequences of severe forms of trafficking in persons.

(4) Whether the government of the country cooperates with other governments in the investigation and prosecution of severe forms of trafficking in persons.

(5) Whether the government of the country extradites persons charged with acts of severe forms of trafficking in persons on substantially the same terms and to substantially the same extent as persons charged with other serious crimes (or, to

the extent such extradition would be inconsistent with the laws of such country or with international agreements to which the country is a party, whether the government is taking all appropriate measures to modify or replace such laws and treaties so as to permit such extradition).

(6) Whether the government of the country monitors immigration and emigration patterns for evidence of severe forms of trafficking in persons and whether law enforcement agencies of the country respond to any such evidence in a manner that is consistent with the vigorous investigation and prosecution of acts of such trafficking, as well as with the protection of human rights of victims and the internationally recognized human right to leave any country, including one's own, and to return to one's own country.

(7) Whether the government of the country vigorously investigates and prosecutes public officials who participate in or facilitate severe forms of trafficking in persons, and takes all appropriate measures against officials who condone such trafficking.

**SEC. 109. ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS.**

Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following new section:

**`SEC. 134. ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.**

`(a) AUTHORIZATION- The President is authorized to provide assistance to foreign countries directly, or through nongovernmental and multilateral organizations, for programs, projects, and activities designed to meet the minimum standards for the elimination of trafficking (as defined in section 103 of the Trafficking Victims Protection Act of 2000), including--

`(1) the drafting of laws to prohibit and punish acts of trafficking;

`(2) the investigation and prosecution of traffickers;

`(3) the creation and maintenance of facilities, programs, projects, and activities for the protection of victims; and

`(4) the expansion of exchange programs and international visitor programs for governmental and nongovernmental personnel to combat trafficking.

`(b) FUNDING- Amounts made available to carry out the other provisions of this part (including chapter 4 of part II of this Act) and the Support for East European Democracy (SEED) Act of 1989 shall be made available to carry out this section.'.

**SEC. 110. ACTIONS AGAINST GOVERNMENTS FAILING TO MEET MINIMUM STANDARDS.**

(a) STATEMENT OF POLICY- It is the policy of the United States not to provide nonhumanitarian, nontrade-related foreign assistance to any government that--

(1) does not comply with minimum standards for the elimination of trafficking; and

(2) is not making significant efforts to bring itself into compliance with such standards.

(b) REPORTS TO CONGRESS-

(1) ANNUAL REPORT- Not later than June 1 of each year, the Secretary of State shall submit to the appropriate congressional committees a report with respect to the status of severe forms of trafficking in persons that shall include--

(A) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments fully comply with such standards;

(B) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not yet fully comply with such standards but are making significant efforts to bring themselves into compliance; and

(C) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not fully comply with such standards and are not making significant efforts to bring themselves into compliance.

(2) INTERIM REPORTS- In addition to the annual report under paragraph (1), the Secretary of State may submit to the appropriate congressional committees at any time one or more interim reports with respect to the status of severe forms of trafficking in persons, including information about countries whose governments--

(A) have come into or out of compliance with the minimum standards for the elimination of trafficking; or

(B) have begun or ceased to make significant efforts to bring themselves into compliance,

since the transmission of the last annual report.

(3) SIGNIFICANT EFFORTS- In determinations under paragraph (1) or (2) as to whether the government of a country is making significant efforts to bring itself into compliance with the minimum standards for the elimination of trafficking, the Secretary of State shall consider--

(A) the extent to which the country is a country of origin, transit, or destination for severe forms of trafficking;

(B) the extent of noncompliance with the minimum standards by the government and, particularly, the extent to which officials or employees of the government have participated in, facilitated, condoned, or are otherwise complicit in severe forms of trafficking; and

(C) what measures are reasonable to bring the government into compliance with the minimum standards in light of the resources and capabilities of the government.

(c) NOTIFICATION- Not less than 45 days or more than 90 days after the submission, on or after January 1, 2003, of an annual report under subsection (b)(1), or an interim report under subsection (b)(2), the President shall submit to the appropriate congressional committees a notification of one of the determinations listed in subsection (d) with respect to each foreign country whose government, according to such report--

(A) does not comply with the minimum standards for the elimination of trafficking; and

(B) is not making significant efforts to bring itself into compliance, as described in subsection (b)(1)(C).

(d) PRESIDENTIAL DETERMINATIONS- The determinations referred to in subsection (c) are the following:

(1) WITHHOLDING OF NONHUMANITARIAN, NONTRADE-RELATED ASSISTANCE- The President has determined that--

(A)(i) the United States will not provide nonhumanitarian, nontrade-related foreign assistance to the government of the country for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance; or

(ii) in the case of a country whose government received no nonhumanitarian, nontrade-related foreign assistance from the United States during the previous fiscal year, the United States will not provide funding for participation by officials or employees of such governments in educational and cultural exchange programs for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance; and

(B) the President will instruct the United States Executive Director of each multilateral development bank and of the International Monetary Fund to vote against, and to use the Executive Director's best efforts to deny, any loan or other utilization of the funds of the respective institution to that country (other than for humanitarian assistance, for trade-related assistance, or for development assistance which directly addresses basic human needs, is not administered by the government of the sanctioned country, and confers no benefit to that government) for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance.

(2) ONGOING, MULTIPLE, BROAD-BASED RESTRICTIONS ON ASSISTANCE IN RESPONSE TO HUMAN RIGHTS VIOLATIONS- The President has determined that such country is already subject to multiple, broad-based restrictions on assistance imposed in significant part in response to human rights abuses and such restrictions are ongoing and are comparable to the restrictions provided in paragraph (1). Such determination shall be accompanied by a description of the specific restriction or restrictions that were the basis for making such determination.

(3) SUBSEQUENT COMPLIANCE- The Secretary of State has determined that the government of the country has come into compliance with the minimum standards or is making significant efforts to bring itself into compliance.

(4) CONTINUATION OF ASSISTANCE IN THE NATIONAL INTEREST- Notwithstanding the failure of the government of the country to comply with minimum standards for the elimination of trafficking and to make significant efforts to bring itself into compliance, the President has determined that the provision to the country of nonhumanitarian, nontrade-related foreign assistance, or the multilateral assistance described in paragraph (1)(B), or both, would promote the purposes of this division or is otherwise in the national interest of the United States.

(5) EXERCISE OF WAIVER AUTHORITY-

(A) IN GENERAL- The President may exercise the authority under paragraph (4) with respect to--

(i) all nonhumanitarian, nontrade-related foreign assistance to a country;

(ii) all multilateral assistance described in paragraph (1)(B) to a country; or

(iii) one or more programs, projects, or activities of such assistance.

(B) AVOIDANCE OF SIGNIFICANT ADVERSE EFFECTS- The President shall exercise the authority under paragraph (4) when necessary to avoid significant adverse effects on vulnerable populations, including women and children.

(6) DEFINITION OF MULTILATERAL DEVELOPMENT BANK- In this subsection, the term `multilateral development bank' refers to any of the following institutions: the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, the African Development Fund, the European Bank for Reconstruction and Development, and the Multilateral Investment Guaranty Agency.

(e) CERTIFICATION- Together with any notification under subsection (c), the President shall provide a certification by the Secretary of State that, with respect to any assistance described in clause (ii), (iii), or (v) of section 103(7)(A), or with respect to any assistance described in section 103(7)(B), no assistance is intended to be received or used by any agency or official who has participated in, facilitated, or condoned a severe form of trafficking in persons.

**SEC. 111. ACTIONS AGAINST SIGNIFICANT TRAFFICKERS IN PERSONS.**

(a) AUTHORITY TO SANCTION SIGNIFICANT TRAFFICKERS IN PERSONS-

(1) IN GENERAL- The President may exercise the authorities set forth in section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701) without regard to section 202 of that Act (50 U.S.C. 1701) in the case of any of the following persons:

(A) Any foreign person that plays a significant role in a severe form of trafficking in persons, directly or indirectly in the United States.

(B) Foreign persons that materially assist in, or provide financial or technological support for or to, or provide goods or services in support of, activities of a significant foreign trafficker in persons identified pursuant to subparagraph (A).

(C) Foreign persons that are owned, controlled, or directed by, or acting for or on behalf of, a significant foreign trafficker identified pursuant to subparagraph (A).

(2) PENALTIES- The penalties set forth in section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) apply to violations of any license, order, or regulation issued under this section.

(b) REPORT TO CONGRESS ON IDENTIFICATION AND SANCTIONING OF SIGNIFICANT TRAFFICKERS IN PERSONS-

(1) IN GENERAL- Upon exercising the authority of subsection (a), the President shall report to the appropriate congressional committees--

(A) identifying publicly the foreign persons that the President determines are appropriate for sanctions pursuant to this section and the basis for such determination; and

(B) detailing publicly the sanctions imposed pursuant to this section.

(2) REMOVAL OF SANCTIONS- Upon suspending or terminating any action imposed under the authority of subsection (a), the President shall report to the committees described in paragraph (1) on such suspension or termination.

(3) SUBMISSION OF CLASSIFIED INFORMATION- Reports submitted under this subsection may include an annex with classified information regarding the basis for the determination made by the President under paragraph (1)(A).

(c) LAW ENFORCEMENT AND INTELLIGENCE ACTIVITIES NOT AFFECTED- Nothing in this section prohibits or otherwise limits the authorized law enforcement or intelligence activities of the United States, or the law enforcement activities of any State or subdivision thereof.

(d) EXCLUSION OF PERSONS WHO HAVE BENEFITED FROM ILLICIT ACTIVITIES OF TRAFFICKERS IN PERSONS- Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by inserting at the end the following new subparagraph:

`(H) SIGNIFICANT TRAFFICKERS IN PERSONS-

`(i) IN GENERAL- Any alien who is listed in a report submitted pursuant to section 111(b) of the Trafficking Victims Protection Act of 2000, or who the consular officer or the Attorney General knows or has reason to believe is or has been a knowing aider, abettor, assister, conspirator, or colluder with such a trafficker in severe forms of trafficking in persons, as defined in the section 103 of such Act, is inadmissible.

`(ii) BENEFICIARIES OF TRAFFICKING- Except as provided in clause (iii), any alien who the consular officer or the Attorney General knows or has reason to believe is the spouse, son, or daughter of an alien inadmissible under clause (i), has, within the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien, and knew or reasonably should have known that the financial or other benefit was the product of such illicit activity, is inadmissible.

`(iii) EXCEPTION FOR CERTAIN SONS AND DAUGHTERS- Clause (ii) shall not apply to a son or daughter who was a child at the time he or she received the benefit described in such clause.'.

(e) IMPLEMENTATION-

(1) DELEGATION OF AUTHORITY- The President may delegate any authority granted by this section, including the authority to designate foreign persons under paragraphs (1)(B) and (1)(C) of subsection (a).

(2) PROMULGATION OF RULES AND REGULATIONS- The head of any agency, including the Secretary of Treasury, is authorized to take such actions as may be necessary to carry out any authority delegated by the President pursuant to paragraph (1), including promulgating rules and regulations.

(3) OPPORTUNITY FOR REVIEW- Such rules and regulations shall include procedures affording an opportunity for a person to be heard in an expeditious manner, either in person or through a representative, for the purpose of seeking changes to or termination of any determination, order, designation or other action associated with the exercise of the authority in subsection (a).

(f) DEFINITION OF FOREIGN PERSONS- In this section, the term `foreign person' means any citizen or national of a foreign state or any entity not organized under the laws of the United States, including a foreign government official, but does not include a foreign state.

(g) CONSTRUCTION- Nothing in this section shall be construed as precluding judicial review of the exercise of the authority described in subsection (a).

**SEC. 112. STRENGTHENING PROSECUTION AND PUNISHMENT OF TRAFFICKERS.**

(a) TITLE 18 AMENDMENTS- Chapter 77 of title 18, United States Code, is amended--

(1) in each of sections 1581(a), 1583, and 1584--

(A) by striking `10 years' and inserting `20 years'; and

(B) by adding at the end the following: `If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.';

(2) by inserting at the end the following:

**`Sec. 1589. Forced labor**

`Whoever knowingly provides or obtains the labor or services of a person--

`(1) by threats of serious harm to, or physical restraint against, that person or another person;

`(2) by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or

`(3) by means of the abuse or threatened abuse of law or the legal process,

shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

**`Sec. 1590. Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor**

`Whoever knowingly recruits, harbors, transports, provides, or obtains by any means, any person for labor or services in violation of this chapter shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

**`Sec. 1591. Sex trafficking of children or by force, fraud or coercion**

`(a) Whoever knowingly--

`(1) in or affecting interstate commerce, recruits, entices, harbors, transports, provides, or obtains by any means a person; or

`(2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1),

knowing that force, fraud, or coercion described in subsection (c)(2) will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

`(b) The punishment for an offense under subsection (a) is--

`(1) if the offense was effected by force, fraud, or coercion or if the person transported had not attained the age of 14 years at the time of such offense, by a fine under this title or imprisonment for any term of years or for life, or both; or

`(2) if the offense was not so effected, and the person transported had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under this title or imprisonment for not more than 20 years, or both.

`(c) In this section:

`(1) The term `commercial sex act' means any sex act, on account of which anything of value is given to or received by any person.

`(2) The term `coercion' means--

`(A) threats of serious harm to or physical restraint against any person;

`(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

`(C) the abuse or threatened abuse of law or the legal process.

`(3) The term `venture' means any group of two or more individuals associated in fact, whether or not a legal entity.

**`Sec. 1592. Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor**

`(a) Whoever knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person--

`(1) in the course of a violation of section 1581, 1583, 1584, 1589, 1590, 1591, or 1594(a);

`(2) with intent to violate section 1581, 1583, 1584, 1589, 1590, or 1591; or

`(3) to prevent or restrict or to attempt to prevent or restrict, without lawful authority, the person's liberty to move or travel, in order to maintain the labor or services of that person, when the person is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000,

shall be fined under this title or imprisoned for not more than 5 years, or both.

`(b) Subsection (a) does not apply to the conduct of a person who is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, if that conduct is caused by, or

incident to, that trafficking.

**`Sec. 1593. Mandatory restitution**

`(a) Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalties authorized by law, the court shall order restitution for any offense under this chapter.

`(b)(1) The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses, as determined by the court under paragraph (3) of this subsection.

`(2) An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.

`(3) As used in this subsection, the term `full amount of the victim's losses' has the same meaning as provided in section 2259(b)(3) and shall in addition include the greater of the gross income or value to the defendant of the victim's services or labor or the value of the victim's labor as guaranteed under the minimum wage and overtime guarantees of the Fair Labor Standards Act (29 U.S.C. 201 et seq.).

`(c) As used in this section, the term `victim' means the individual harmed as a result of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or a representative of the victim's estate, or another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named such representative or guardian.

**`Sec. 1594. General provisions**

`(a) Whoever attempts to violate section 1581, 1583, 1584, 1589, 1590, or 1591 shall be punishable in the same manner as a completed violation of that section.

`(b) The court, in imposing sentence on any person convicted of a violation of this chapter, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person shall forfeit to the United States--

`(1) such person's interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of such violation; and

`(2) any property, real or personal, constituting or derived from, any proceeds that such person obtained, directly or indirectly, as a result of such violation.

`(c)(1) The following shall be subject to forfeiture to the United States and no property right shall exist in them:

`(A) Any property, real or personal, used or intended to be used to commit or to facilitate the commission of any violation of this chapter.

`(B) Any property, real or personal, which constitutes or is derived from proceeds traceable to any violation of this chapter.

`(2) The provisions of chapter 46 of this title relating to civil forfeitures shall extend to any seizure or civil forfeiture under this subsection.

`(d) WITNESS PROTECTION- Any violation of this chapter shall be considered an organized criminal activity or other serious offense for the purposes of application of chapter 224 (relating to witness protection).'; and

(3) by amending the table of sections at the beginning of chapter 77 by adding at the end the following new items:

`1589. Forced labor.

`1590. Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor.

`1591. Sex trafficking of children or by force, fraud, or coercion.

`1592. Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor.

`1593. Mandatory restitution.

`1594. General provisions.'.

(b) AMENDMENT TO THE SENTENCING GUIDELINES-

(1) Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend the sentencing guidelines and policy statements applicable to persons convicted of offenses involving the trafficking of persons including component or related crimes of peonage, involuntary servitude, slave trade offenses, and possession, transfer or sale of false immigration documents in furtherance of trafficking, and the Fair Labor Standards Act and the Migrant and Seasonal Agricultural Worker Protection Act.

(2) In carrying out this subsection, the Sentencing Commission shall--

(A) take all appropriate measures to ensure that these sentencing guidelines and policy statements applicable to the offenses described in paragraph (1) of this subsection are sufficiently stringent to deter and adequately reflect the heinous nature of such offenses;

(B) consider conforming the sentencing guidelines applicable to offenses involving trafficking in persons to the guidelines applicable to peonage, involuntary servitude, and slave trade offenses; and

(C) consider providing sentencing enhancements for those convicted of the offenses described in paragraph (1) of this subsection that--

(i) involve a large number of victims;

(ii) involve a pattern of continued and flagrant violations;

(iii) involve the use or threatened use of a dangerous weapon; or

(iv) result in the death or bodily injury of any person.

(3) The Commission may promulgate the guidelines or amendments under this subsection in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

**SEC. 113. AUTHORIZATIONS OF APPROPRIATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS IN SUPPORT OF THE TASK FORCE- To carry out the purposes of sections 104, 105, and 110, there are authorized to be appropriated to the Secretary of State $1,500,000 for fiscal year 2001 and $3,000,000 for fiscal year 2002.

(b) AUTHORIZATION OF APPROPRIATIONS TO THE SECRETARY OF HEALTH AND HUMAN SERVICES- To carry out the purposes of section 107(b), there are authorized to be appropriated to the Secretary of Health and Human Services $5,000,000 for fiscal year 2001 and $10,000,000 for fiscal year 2002.

(c) AUTHORIZATION OF APPROPRIATIONS TO THE SECRETARY OF STATE-

(1) ASSISTANCE FOR VICTIMS IN OTHER COUNTRIES- To carry out the purposes of section 107(a), there are authorized to be appropriated to the Secretary of State $5,000,000 for fiscal year 2001 and $10,000,000 for fiscal year 2002.

(2) VOLUNTARY CONTRIBUTIONS TO OSCE- To carry out the purposes of section 109, there are authorized to be appropriated to the Secretary of State $300,000 for voluntary contributions to advance projects aimed at preventing trafficking, promoting respect for human rights of trafficking victims, and assisting the Organization for Security and Cooperation in Europe participating states in related legal reform for fiscal year 2001.

(3) PREPARATION OF ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS- To carry out the purposes of section 104, there are authorized to be appropriated to the Secretary of State such sums as may be necessary to include the additional information required by that section in the annual Country Reports on Human Rights Practices, including the preparation and publication of the list described in subsection (a)(1) of that section.

(d) AUTHORIZATION OF APPROPRIATIONS TO ATTORNEY GENERAL- To carry out the purposes of section 107(b), there are authorized to be appropriated to the Attorney General $5,000,000 for fiscal year 2001 and $10,000,000 for fiscal year 2002.

(e) Authorization of Appropriations to President-

(1) FOREIGN VICTIM ASSISTANCE- To carry out the purposes of section 106, there are authorized to be appropriated to the President $5,000,000 for fiscal year 2001 and $10,000,000 for fiscal year 2002.

(2) ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS- To carry out the purposes of section 109, there are authorized to be appropriated to the President $5,000,000 for fiscal year 2001 and $10,000,000 for fiscal year 2002.

(f) AUTHORIZATION OF APPROPRIATIONS TO THE SECRETARY OF LABOR- To carry out the purposes of section 107(b), there are authorized to be appropriated to the Secretary of Labor $5,000,000 for fiscal year 2001 and $10,000,000 for fiscal year 2002.

## DIVISION B--VIOLENCE AGAINST WOMEN ACT OF 2000

**SEC. 1001. SHORT TITLE.**

This division may be cited as the `Violence Against Women Act of 2000'.

**SEC. 1002. DEFINITIONS.**

In this division--

(1) the term `domestic violence' has the meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2); and

(2) the term `sexual assault' has the meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2).

**SEC. 1003. ACCOUNTABILITY AND OVERSIGHT.**

(a) REPORT BY GRANT RECIPIENTS- The Attorney General or Secretary of Health and Human Services, as applicable, shall require grantees under any program authorized or reauthorized by this division or an amendment made by this division to report on the effectiveness of the activities carried out with amounts made available to carry out that program, including number of persons served, if applicable, numbers of persons seeking services who could not be served and such other information as the Attorney General or Secretary may prescribe.

(b) REPORT TO CONGRESS- The Attorney General or Secretary of Health and Human Services, as applicable, shall report biennially to the Committees on the Judiciary of the House of Representatives and the Senate on the grant programs described in subsection (a), including the information contained in any report under that subsection.

## TITLE I--STRENGTHENING LAW ENFORCEMENT TO REDUCE VIOLENCE AGAINST WOMEN

**SEC. 1101. FULL FAITH AND CREDIT ENFORCEMENT OF PROTECTION ORDERS.**

(a) IN GENERAL- Part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh et seq.) is amended--

(1) in the heading, by adding `**AND ENFORCEMENT OF PROTECTION ORDERS**' at the end;

(2) in section 2101(b)--

(A) in paragraph (6), by inserting `(including juvenile courts)' after `courts'; and

(B) by adding at the end the following:

`(7) To provide technical assistance and computer and other equipment to police departments, prosecutors, courts, and tribal jurisdictions to facilitate the widespread enforcement of protection orders, including interstate enforcement, enforcement between States and tribal jurisdictions, and enforcement between tribal jurisdictions.'; and

(3) in section 2102--

(A) in subsection (b)--

(i) in paragraph (1), by striking `and' at the end;

(ii) in paragraph (2), by striking the period at the end and inserting `, including the enforcement of protection orders from other States and jurisdictions (including tribal jurisdictions);'; and

(iii) by adding at the end the following:

`(3) have established cooperative agreements or can demonstrate effective ongoing collaborative arrangements with neighboring jurisdictions to facilitate the enforcement of protection orders from other States and jurisdictions (including tribal jurisdictions); and

`(4) in applications describing plans to further the purposes stated in paragraph (4) or (7) of section 2101(b), will give priority to using the grant to develop and install data collection and communication systems, including computerized systems, and training on how to use these systems effectively to link police, prosecutors, courts, and tribal jurisdictions for the purpose of identifying and tracking protection orders and violations of protection orders, in those jurisdictions where such systems do not exist or are not fully effective.'; and

(B) by adding at the end the following:

`(c) DISSEMINATION OF INFORMATION- The Attorney General shall annually compile and broadly disseminate (including through electronic publication) information about successful data collection and communication systems that meet the purposes described in this section. Such dissemination shall target States, State and local courts, Indian tribal governments, and units of local government.'.

(b) PROTECTION ORDERS-

(1) FILING COSTS- Section 2006 of part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-5) is amended--

(A) in the heading, by striking `filing' and inserting `and protection orders' after `charges';

(B) in subsection (a)--

(i) by striking paragraph (1) and inserting the following:

`(1) certifies that its laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, or in connection with the filing, issuance, registration, or service of a protection order, or a petition for a protection order, to protect a victim of domestic violence, stalking, or sexual assault, that the victim bear the costs associated with the filing of criminal charges against the offender, or the costs associated with the filing, issuance, registration, or service of a warrant, protection order, petition for a protection order, or witness subpoena, whether issued inside or outside the State, tribal, or local jurisdiction; or'; and

(ii) in paragraph (2)(B), by striking `2 years' and inserting `2 years after the date of the enactment of the Violence Against Women Act of 2000'; and

(C) by adding at the end the following:

`(c) DEFINITION- In this section, the term `protection order' has the meaning given the term in section 2266 of title 18, United States Code.'.

(2) ELIGIBILITY FOR GRANTS TO ENCOURAGE ARREST POLICIES- Section 2101 of part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh) is amended--

(A) in subsection (c), by striking paragraph (4) and inserting the following:

`(4) certify that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, or in connection with the filing, issuance, registration, or service of a protection order, or a petition for a protection order, to protect a victim of domestic violence, stalking, or sexual assault, that the victim bear the costs associated with the filing of criminal charges against the offender, or the costs associated with the filing, issuance, registration, or service of a warrant, protection order, petition for a protection order, or witness subpoena, whether issued inside or outside the State, tribal, or local jurisdiction.'; and

(B) by adding at the end the following:

`(d) DEFINITION- In this section, the term `protection order' has the meaning given the term in section 2266 of title 18, United States Code.'.

(3) APPLICATION FOR GRANTS TO ENCOURAGE ARREST POLICIES- Section 2102(a)(1)(B) of part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh-1(a)(1)(B)) is amended by inserting before the semicolon the following: `or, in the case of the condition set forth in subsection 2101(c)(4), the expiration of the 2-year period beginning on the date the of the enactment of the Violence Against Women Act of 2000'.

(4) REGISTRATION FOR PROTECTION ORDERS- Section 2265 of title 18, United States Code, is amended by adding at the end the following:

`(d) NOTIFICATION AND REGISTRATION-

`(1) NOTIFICATION- A State or Indian tribe according full faith and credit to an order by a court of another State or Indian tribe shall not notify or require notification of the party against whom a protection order has been issued that the protection order has been registered or filed in that enforcing State or tribal jurisdiction unless requested to do so by the party protected under such order.

`(2) NO PRIOR REGISTRATION OR FILING AS PREREQUISITE FOR ENFORCEMENT- Any protection order that is otherwise consistent with this section shall be accorded full faith and credit, notwithstanding failure to comply with any requirement that the order be registered or filed in the enforcing State or tribal jurisdiction.

`(e) TRIBAL COURT JURISDICTION- For purposes of this section, a tribal court shall have full civil jurisdiction to enforce protection orders, including authority to enforce any orders through civil contempt proceedings, exclusion of violators from Indian lands, and other appropriate mechanisms, in matters arising within the authority of the tribe.'.

(c) TECHNICAL AMENDMENT- The table of contents for title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended in the item relating to part U, by adding `AND ENFORCEMENT OF PROTECTION ORDERS' at the end.

**SEC. 1102. ROLE OF COURTS.**

(a) COURTS AS ELIGIBLE STOP SUBGRANTEES- Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended--

(1) in section 2001--

(A) in subsection (a), by striking `Indian tribal governments,' and inserting `State and local courts (including juvenile courts), Indian tribal governments, tribal courts,'; and

(B) in subsection (b)--

(i) in paragraph (1), by inserting `, judges, other court personnel,' after `law enforcement officers';

(ii) in paragraph (2), by inserting `, judges, other court personnel,' after `law enforcement officers'; and

(iii) in paragraph (3), by inserting `, court,' after `police'; and

(2) in section 2002--

(A) in subsection (a), by inserting `State and local courts (including juvenile courts),' after `States,' the second place it appears;

(B) in subsection (c), by striking paragraph (3) and inserting the following:

`(3) of the amount granted--

`(A) not less than 25 percent shall be allocated to police and not less than 25 percent shall be allocated to prosecutors;

`(B) not less than 30 percent shall be allocated to victim services; and

`(C) not less than 5 percent shall be allocated for State and local courts (including juvenile courts); and'; and

(C) in subsection (d)(1), by inserting `court,' after `law enforcement,'.

(b) ELIGIBLE GRANTEES; USE OF GRANTS FOR EDUCATION- Section 2101 of part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh) is amended--

(1) in subsection (a), by inserting `State and local courts (including juvenile courts), tribal courts,' after `Indian tribal governments,';

(2) in subsection (b)--

(A) by inserting `State and local courts (including juvenile courts),' after `Indian tribal governments';

(B) in paragraph (2), by striking `policies and' and inserting `policies, educational programs, and';

(C) in paragraph (3), by inserting `parole and probation officers,' after `prosecutors,'; and

(D) in paragraph (4), by inserting `parole and probation officers,' after `prosecutors,';

(3) in subsection (c), by inserting `State and local courts (including juvenile courts),' after `Indian tribal governments'; and

(4) by adding at the end the following:

`(e) ALLOTMENT FOR INDIAN TRIBES- Not less than 5 percent of the total amount made available for grants under this section for each fiscal year shall be available for grants to Indian tribal governments.'.

**SEC. 1103. REAUTHORIZATION OF STOP GRANTS.**

(a) REAUTHORIZATION- Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by striking paragraph (18) and inserting the following:

`(18) There is authorized to be appropriated to carry out part T $185,000,000 for each of fiscal years 2001 through 2005.'.

(b) GRANT PURPOSES- Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended--

(1) in section 2001--

(A) in subsection (b)--

(i) in paragraph (5), by striking `racial, cultural, ethnic, and language minorities' and inserting `underserved populations';

(ii) in paragraph (6), by striking `and' at the end;

(iii) in paragraph (7), by striking the period at the end and inserting a semicolon; and

(iv) by adding at the end the following:

`(8) supporting formal and informal statewide, multidisciplinary efforts, to the extent not supported by State funds, to coordinate the response of State law enforcement agencies, prosecutors, courts, victim services agencies, and other State agencies and departments, to violent crimes against women, including the crimes of sexual assault, domestic violence, and dating violence;

`(9) training of sexual assault forensic medical personnel examiners in the collection and preservation of evidence, analysis, prevention, and providing expert testimony and treatment of trauma related to sexual assault;'; and

(B) by adding at the end the following:

`(c) STATE COALITION GRANTS-

`(1) PURPOSE- The Attorney General shall award grants to each State domestic violence coalition and sexual assault coalition for the purposes of coordinating State victim services activities, and collaborating and coordinating with Federal,

State, and local entities engaged in violence against women activities.

`(2) GRANTS TO STATE COALITIONS- The Attorney General shall award grants to--

`(A) each State domestic violence coalition, as determined by the Secretary of Health and Human Services through the Family Violence Prevention and Services Act (42 U.S.C. 10410 et seq.); and

`(B) each State sexual assault coalition, as determined by the Center for Injury Prevention and Control of the Centers for Disease Control and Prevention under the Public Health Service Act (42 U.S.C. 280b et seq.).

`(3) ELIGIBILITY FOR OTHER GRANTS- Receipt of an award under this subsection by each State domestic violence and sexual assault coalition shall not preclude the coalition from receiving additional grants under this part to carry out the purposes described in subsection (b).';

(2) in section 2002(b)--

(A) by redesignating paragraphs (2) and (3) as paragraphs (5) and (6), respectively;

(B) in paragraph (1), by striking `4 percent' and inserting `5 percent';

(C) in paragraph (5), as redesignated, by striking `$500,000' and inserting `$600,000'; and

(D) by inserting after paragraph (1) the following:

`(2) 2.5 percent shall be available for grants for State domestic violence coalitions under section 2001(c), with the coalition for each State, the coalition for the District of Columbia, the coalition for the Commonwealth of Puerto Rico, and the coalition for the combined Territories of the United States, each receiving an amount equal to 1/54 of the total amount made available under this paragraph for each fiscal year;

`(3) 2.5 percent shall be available for grants for State sexual assault coalitions under section 2001(c), with the coalition for each State, the coalition for the District of Columbia, the coalition for the Commonwealth of Puerto Rico, and the coalition for the combined Territories of the United States, each receiving an amount equal to 1/54 of the total amount made available under this paragraph for each fiscal year;

`(4) 1/54 shall be available for the development and operation of nonprofit tribal domestic violence and sexual assault coalitions in Indian country;';

(3) in section 2003, by striking paragraph (7) and inserting the following:

`(7) the term `underserved populations' includes populations underserved because of geographic location (such as rural isolation), underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the State planning process in consultation with the Attorney General;'; and

(4) in section 2004(b)(3), by inserting `, and the membership of persons served in any underserved population' before the semicolon.

**SEC. 1104. REAUTHORIZATION OF GRANTS TO ENCOURAGE ARREST POLICIES.**

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by striking paragraph (19) and inserting the following:

`(19) There is authorized to be appropriated to carry out part U $65,000,000 for each of fiscal years 2001 through 2005.'.

**SEC. 1105. REAUTHORIZATION OF RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT GRANTS.**

Section 40295(c) of the Violence Against Women Act of 1994 (42 U.S.C. 13971(c)) is amended--

(1) by striking paragraph (1) and inserting the following:

`(1) IN GENERAL- There is authorized to be appropriated to carry out this section $40,000,000 for each of fiscal years 2001 through 2005.'; and

(2) by adding at the end the following:

`(3) ALLOTMENT FOR INDIAN TRIBES- Not less than 5 percent of the total amount made available to carry out this section for each fiscal year shall be available for grants to Indian tribal governments.'.

**SEC. 1106. NATIONAL STALKER AND DOMESTIC VIOLENCE REDUCTION.**

(a) REAUTHORIZATION- Section 40603 of the Violence Against Women Act of 1994 (42 U.S.C. 14032) is amended to read as follows:

**`SEC. 40603. AUTHORIZATION OF APPROPRIATIONS.**

`There is authorized to be appropriated to carry out this subtitle $3,000,000 for each of fiscal years 2001 through 2005.'.

(b) TECHNICAL AMENDMENT- Section 40602(a) of the Violence Against Women Act of 1994 (42 U.S.C. 14031 note) is amended by inserting `and implement' after `improve'.

**SEC. 1107. AMENDMENTS TO DOMESTIC VIOLENCE AND STALKING OFFENSES.**

(a) INTERSTATE DOMESTIC VIOLENCE- Section 2261 of title 18, United States Code, is amended by striking subsection (a) and inserting the following:

`(a) OFFENSES-

`(1) TRAVEL OR CONDUCT OF OFFENDER- A person who travels in interstate or foreign commerce or enters or leaves Indian country with the intent to kill, injure, harass, or intimidate a spouse or intimate partner, and who, in the course of or as a result of such travel, commits or attempts to commit a crime of violence against that spouse or intimate partner, shall be punished as provided in subsection (b).

`(2) CAUSING TRAVEL OF VICTIM- A person who causes a spouse or intimate partner to travel in interstate or foreign commerce or to enter or leave Indian country by force, coercion, duress, or fraud, and who, in the course of, as a result of, or to facilitate such conduct or travel, commits or attempts to commit a crime of violence against that spouse or intimate partner, shall be punished as provided in subsection (b).'.

(b) INTERSTATE STALKING-

(1) IN GENERAL- Section 2261A of title 18, United States Code, is amended to read as follows:

**`Sec. 2261A. Interstate stalking**

`Whoever--

`(1) travels in interstate or foreign commerce or within the special maritime and territorial jurisdiction of the United States, or enters or leaves Indian country, with the intent to kill, injure, harass, or intimidate another person, and in the course of, or as a result of, such travel places that person in reasonable fear of the death of, or serious bodily injury to, that person, a member of the immediate family (as defined in section 115) of that person, or the spouse or intimate partner of that person; or

`(2) with the intent--

`(A) to kill or injure a person in another State or tribal jurisdiction or within the special maritime and territorial jurisdiction of the United States; or

`(B) to place a person in another State or tribal jurisdiction, or within the special maritime and territorial jurisdiction of the United States, in reasonable fear of the death of, or serious bodily injury to--

`(i) that person;

`(ii) a member of the immediate family (as defined in section 115) of that person; or

`(iii) a spouse or intimate partner of that person,

uses the mail or any facility of interstate or foreign commerce to engage in a course of conduct that places that person in reasonable fear of the death of, or serious bodily injury to, any of the persons described in clauses (i) through (iii),

shall be punished as provided in section 2261(b).'.

(2) AMENDMENT OF FEDERAL SENTENCING GUIDELINES-

(A) IN GENERAL- Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines to reflect the amendment made by this subsection.

(B) FACTORS FOR CONSIDERATION- In carrying out subparagraph (A), the Commission shall consider--

(i) whether the Federal Sentencing Guidelines relating to stalking offenses should be modified in light of the amendment made by this subsection; and

(ii) whether any changes the Commission may make to the Federal Sentencing Guidelines pursuant to clause (i) should also be made with respect to offenses under chapter 110A of title 18, United States Code.

(c) INTERSTATE VIOLATION OF PROTECTION ORDER- Section 2262 of title 18, United States Code, is amended by striking subsection (a) and inserting the following:

`(a) OFFENSES-

`(1) TRAVEL OR CONDUCT OF OFFENDER- A person who travels in interstate or foreign commerce, or enters or leaves Indian country, with the intent to engage in conduct that violates the portion of a protection order that prohibits or provides protection against violence, threats, or harassment against, contact or communication with, or physical proximity to, another person, or that would violate such a portion of a protection order in the jurisdiction in which the order was issued, and subsequently engages in such conduct, shall be punished as provided in subsection (b).

`(2) CAUSING TRAVEL OF VICTIM- A person who causes another person to travel in interstate or foreign commerce or to enter or leave Indian country by force, coercion, duress, or fraud, and in the course of, as a result of, or to facilitate such conduct or travel engages in conduct that violates the portion of a protection order that prohibits or provides protection against violence, threats, or harassment against, contact or communication with, or physical proximity to, another person, or that would violate such a portion of a protection order in the jurisdiction in which the order was issued, shall be punished as provided in subsection (b).'.

(d) DEFINITIONS- Section 2266 of title 18, United States Code, is amended to read as follows:

**`Sec. 2266. Definitions**

`In this chapter:

`(1) BODILY INJURY- The term `bodily injury' means any act, except one done in self-defense, that results in physical injury or sexual abuse.

`(2) COURSE OF CONDUCT- The term `course of conduct' means a pattern of conduct composed of 2 or more acts, evidencing a continuity of purpose.

`(3) ENTER OR LEAVE INDIAN COUNTRY- The term `enter or leave Indian country' includes leaving the jurisdiction of 1 tribal government and entering the jurisdiction of another tribal government.

`(4) INDIAN COUNTRY- The term `Indian country' has the meaning stated in section 1151 of this title.

`(5) PROTECTION ORDER- The term `protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil and criminal court (other than a support or child custody order issued pursuant to State divorce and child custody laws, except to the extent that such an order is entitled to full faith and credit under other Federal law) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.

`(6) SERIOUS BODILY INJURY- The term `serious bodily injury' has the meaning stated in section 2119(2).

`(7) SPOUSE OR INTIMATE PARTNER- The term `spouse or intimate partner' includes--

`(A) for purposes of--

`(i) sections other than 2261A, a spouse or former spouse of the abuser, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited as a spouse with the abuser; and

`(ii) section 2261A, a spouse or former spouse of the target of the stalking, a person who shares a child in common with the target of the stalking, and a person who cohabits or has cohabited as a spouse with the target of the stalking; and

`(B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State or tribal jurisdiction in which the injury occurred or where the victim resides.

`(8) STATE- The term `State' includes a State of the United States, the District of Columbia, and a commonwealth, territory, or possession of the United States.

`(9) TRAVEL IN INTERSTATE OR FOREIGN COMMERCE- The term `travel in interstate or foreign commerce' does not include travel from 1 State to another by an individual who is a member of an Indian tribe and who remains at all times in the territory of the Indian tribe of which the individual is a member.'.

**SEC. 1108. SCHOOL AND CAMPUS SECURITY.**

(a) GRANTS TO REDUCE VIOLENT CRIMES AGAINST WOMEN ON CAMPUS- Section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152) is amended--

(1) in paragraphs (2), (6), (7), and (9) of subsection (b), by striking `and domestic violence' and inserting `domestic violence, and dating violence';

(2) in subsection (c)(2)(B), by striking `and domestic violence' and inserting `, domestic violence and dating violence';

(3) in subsection (f)--

(A) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively;

(B) by inserting before paragraph (2) (as redesignated by subparagraph (A)) the following:

`(1) the term `dating violence' means violence committed by a person--

`(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

`(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

`(i) the length of the relationship;

`(ii) the type of relationship; and

`(iii) the frequency of interaction between the persons involved in the relationship.';

(C) in paragraph (2) (as redesignated by subparagraph (A)), by inserting `, dating' after `domestic' each place the term appears; and

(D) in paragraph (4) (as redesignated by subparagraph (A))--

(i) by inserting `or a public, nonprofit organization acting in a nongovernmental capacity' after `organization';

(ii) by inserting `, dating violence' after `assists domestic violence';

(iii) by striking `or domestic violence' and inserting `, domestic violence or dating violence'; and

(iv) by inserting `dating violence,' before `stalking,'; and

(4) in subsection (g), by striking `fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years' and inserting `each of fiscal years 2001 through 2005'.

(b) MATCHING GRANT PROGRAM FOR SCHOOL SECURITY- Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting after part Z the following new part:

***`PART AA--MATCHING GRANT PROGRAM FOR SCHOOL SECURITY***

**`SEC. 2701. PROGRAM AUTHORIZED.**

`(a) IN GENERAL- The Attorney General is authorized to make grants to States, units of local government, and Indian tribes to provide improved security, including the placement and use of metal detectors and other deterrent measures, at schools and on school grounds.

`(b) USES OF FUNDS- Grants awarded under this section shall be distributed directly to the State, unit of local government, or Indian tribe, and shall be used to improve security at schools and on school grounds in the jurisdiction of the grantee through one or more of the following:

`(1) Placement and use of metal detectors, locks, lighting, and other deterrent measures.

`(2) Security assessments.

`(3) Security training of personnel and students.

`(4) Coordination with local law enforcement.

`(5) Any other measure that, in the determination of the Attorney General, may provide a significant improvement in security.

`(c) PREFERENTIAL CONSIDERATION- In awarding grants under this part, the Attorney General shall give preferential consideration, if feasible, to an application from a jurisdiction that has a demonstrated need for improved security, has a demonstrated need for financial assistance, and has evidenced the ability to make the improvements for which the grant amounts are sought.

`(d) MATCHING FUNDS-

`(1) The portion of the costs of a program provided by a grant under subsection (a) may not exceed 50 percent.

`(2) Any funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of a matching requirement funded under this subsection.

`(3) The Attorney General may provide, in the guidelines implementing this section, for the requirement of paragraph (1) to be waived or altered in the case of a recipient with a financial need for such a waiver or alteration.

`(e) EQUITABLE DISTRIBUTION- In awarding grants under this part, the Attorney General shall ensure, to the extent practicable, an equitable geographic distribution among the regions of the United States and among urban, suburban, and rural areas.

`(f) ADMINISTRATIVE COSTS- The Attorney General may reserve not more than 2 percent from amounts appropriated to carry out this part for administrative costs.

**`SEC. 2702. APPLICATIONS.**

`(a) IN GENERAL- To request a grant under this part, the chief executive of a State, unit of local government, or Indian tribe shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may require. Each application shall--

`(1) include a detailed explanation of--

`(A) the intended uses of funds provided under the grant; and

`(B) how the activities funded under the grant will meet the purpose of this part; and

`(2) be accompanied by an assurance that the application was prepared after consultation with individuals not limited to law enforcement officers (such as school violence researchers, child psychologists, social workers, teachers, principals, and other school personnel) to ensure that the improvements to be funded under the grant are--

`(A) consistent with a comprehensive approach to preventing school violence; and

`(B) individualized to the needs of each school at which those improvements are to be made.

`(b) GUIDELINES- Not later than 90 days after the date of the enactment of this part, the Attorney General shall promulgate guidelines to implement this section (including the information that must be included and the requirements that the States, units of local government, and Indian tribes must meet) in submitting the applications required under this section.

**`SEC. 2703. ANNUAL REPORT TO CONGRESS.**

`Not later than November 30th of each year, the Attorney General shall submit a report to the Congress regarding the activities carried out under this part. Each such report shall include, for the preceding fiscal year, the number of grants

funded under this part, the amount of funds provided under those grants, and the activities for which those funds were used.

**`SEC. 2704. DEFINITIONS.**

`For purposes of this part--

`(1) the term `school' means a public elementary or secondary school;

`(2) the term `unit of local government' means a county, municipality, town, township, village, parish, borough, or other unit of general government below the State level; and

`(3) the term `Indian tribe' has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

**`SEC. 2705. AUTHORIZATION OF APPROPRIATIONS.**

`There are authorized to be appropriated to carry out this part $30,000,000 for each of fiscal years 2001 through 2003.'.

**SEC. 1109. DATING VIOLENCE.**

(a) DEFINITIONS-

(1) SECTION 2003- Section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3996gg-2) is amended--

(A) in paragraph (8), by striking the period at the end and inserting `; and'; and

(B) by adding at the end the following:

`(9) the term `dating violence' means violence committed by a person--

`(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

`(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

`(i) the length of the relationship;

`(ii) the type of relationship; and

`(iii) the frequency of interaction between the persons involved in the relationship.'.

(2) SECTION 2105- Section 2105 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh-4) is amended--

(A) in paragraph (1), by striking `and' at the end;

(B) in paragraph (2), by striking the period at the end and inserting `; and'; and

(C) by adding at the end the following:

`(3) the term `dating violence' means violence committed by a person--

`(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

`(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

`(i) the length of the relationship;

`(ii) the type of relationship; and

`(iii) the frequency of interaction between the persons involved in the relationship.'.

(b) STOP GRANTS- Section 2001(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg(b)) is amended--

(1) in paragraph (1), by striking `sexual assault and domestic violence' and inserting `sexual assault, domestic violence, and dating violence'; and

(2) in paragraph (5), by striking `sexual assault and domestic violence' and inserting `sexual assault, domestic violence, and dating violence'.

(c) GRANTS TO ENCOURAGE ARREST POLICIES- Section 2101(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh(b)) is amended--

(1) in paragraph (2), by inserting `and dating violence' after `domestic violence'; and

(2) in paragraph (5), by inserting `and dating violence' after `domestic violence'.

(d) RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT- Section 40295(a) of the Safe Homes for Women Act of 1994 (42 U.S.C. 13971(a)) is amended--

(1) in paragraph (1), by inserting `and dating violence (as defined in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3996gg-2))' after `domestic violence'; and

(2) in paragraph (2), by inserting `and dating violence (as defined in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3996gg-2))' after `domestic violence'.

## TITLE II--STRENGTHENING SERVICES TO VICTIMS OF VIOLENCE

### SEC. 1201. LEGAL ASSISTANCE FOR VICTIMS.

(a) IN GENERAL- The purpose of this section is to enable the Attorney General to award grants to increase the availability of legal assistance necessary to provide effective aid to victims of domestic violence, stalking, or sexual assault who are seeking relief in legal matters arising as a consequence of that abuse or violence, at minimal or no cost to the victims.

(b) DEFINITIONS- In this section:

(1) DOMESTIC VIOLENCE- The term `domestic violence' has the meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2).

(2) LEGAL ASSISTANCE FOR VICTIMS- The term `legal assistance' includes assistance to victims of domestic violence, stalking, and sexual assault in family, immigration, administrative agency, or housing matters, protection or stay away order proceedings, and other similar matters. No funds made available under this section may be used to provide financial assistance in support of any litigation described in paragraph (14) of section 504 of Public Law 104-134.

(3) SEXUAL ASSAULT- The term `sexual assault' has the meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2).

(c) LEGAL ASSISTANCE FOR VICTIMS GRANTS- The Attorney General may award grants under this subsection to private nonprofit entities, Indian tribal governments, and publicly funded organizations not acting in a governmental capacity such as law schools, and which shall be used--

(1) to implement, expand, and establish cooperative efforts and projects between domestic violence and sexual assault victim services organizations and legal assistance providers to provide legal assistance for victims of domestic violence, stalking, and sexual assault;

(2) to implement, expand, and establish efforts and projects to provide legal assistance for victims of domestic violence, stalking, and sexual assault by organizations with a demonstrated history of providing direct legal or advocacy services on behalf of these victims; and

(3) to provide training, technical assistance, and data collection to improve the capacity of grantees and other entities to offer legal assistance to victims of domestic violence, stalking, and sexual assault.

(d) ELIGIBILITY- To be eligible for a grant under subsection (c), applicants shall certify in writing that--

(1) any person providing legal assistance through a program funded under subsection (c) has completed or will complete training in connection with domestic violence or sexual assault and related legal issues;

(2) any training program conducted in satisfaction of the requirement of paragraph (1) has been or will be developed with input from and in collaboration with a State, local, or tribal domestic violence or sexual assault program or coalition, as well as appropriate State and local law enforcement officials;

(3) any person or organization providing legal assistance through a program funded under subsection (c) has informed and will continue to inform State, local, or tribal domestic violence or sexual assault programs and coalitions, as well as appropriate State and local law enforcement officials of their work; and

(4) the grantee's organizational policies do not require mediation or counseling involving offenders and victims physically together, in cases where sexual assault, domestic violence, or child sexual abuse is an issue.

(e) EVALUATION- The Attorney General may evaluate the grants funded under this section through contracts or other arrangements with entities expert on domestic violence, stalking, and sexual assault, and on evaluation research.

(f) AUTHORIZATION OF APPROPRIATIONS-

(1) IN GENERAL- There is authorized to be appropriated to carry out this section $40,000,000 for each of fiscal years 2001 through 2005.

(2) ALLOCATION OF FUNDS-

(A) TRIBAL PROGRAMS- Of the amount made available under this subsection in each fiscal year, not less than 5 percent shall be used for grants for programs that assist victims of domestic violence, stalking, and sexual assault on lands within the jurisdiction of an Indian tribe.

(B) VICTIMS OF SEXUAL ASSAULT- Of the amount made available under this subsection in each fiscal year, not less than 25 percent shall be used for direct services, training, and technical assistance to support projects focused solely or primarily on providing legal assistance to victims of sexual assault.

(3) NONSUPPLANTATION- Amounts made available under this section shall be used to supplement and not supplant other Federal, State, and local funds expended to further the purpose of this section.

**SEC. 1202. SHELTER SERVICES FOR BATTERED WOMEN AND CHILDREN.**

(a) REAUTHORIZATION- Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended to read as follows:

`(a) IN GENERAL- There are authorized to be appropriated to carry out this title $175,000,000 for each of fiscal years 2001 through 2005.'.

(b) STATE MINIMUM; REALLOTMENT- Section 304 of the Family Violence Prevention and Services Act (42 U.S.C. 10403) is amended--

(1) in subsection (a), by striking `for grants to States for any fiscal year' and all that follows and inserting the following: `and available for grants to States under this subsection for any fiscal year--

`(1) Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than 1/8 of 1 percent of the amounts available for grants under section 303(a) for the fiscal year for which the allotment is made; and

`(2) each State shall be allotted for payment in a grant authorized under section 303(a), $600,000, with the remaining funds to be allotted to each State in an amount that bears the same ratio to such remaining funds as the population of such State bears to the population of all States.';

(2) in subsection (c), in the first sentence, by inserting `and available' before `for grants'; and

(3) by adding at the end the following:

`(e) In subsection (a)(2), the term `State' does not include any jurisdiction specified in subsection (a)(1).'.

**SEC. 1203. TRANSITIONAL HOUSING ASSISTANCE FOR VICTIMS OF DOMESTIC VIOLENCE.**

Title III of the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following:

**`SEC. 319. TRANSITIONAL HOUSING ASSISTANCE.**

`(a) IN GENERAL- The Secretary shall award grants under this section to carry out programs to provide assistance to individuals, and their dependents--

`(1) who are homeless or in need of transitional housing or other housing assistance, as a result of fleeing a situation of domestic violence; and

`(2) for whom emergency shelter services are unavailable or insufficient.

`(b) ASSISTANCE DESCRIBED- Assistance provided under this section may include--

`(1) short-term housing assistance, including rental or utilities payments assistance and assistance with related expenses, such as payment of security deposits and other costs incidental to relocation to transitional housing, in cases in which assistance described in this paragraph is necessary to prevent homelessness because an individual or dependent is fleeing a situation of domestic violence; and

`(2) support services designed to enable an individual or dependent who is fleeing a situation of domestic violence to locate and secure permanent housing, and to integrate the individual or dependent into a community, such as transportation, counseling, child care services, case management, employment counseling, and other assistance.

`(c) TERM OF ASSISTANCE-

`(1) IN GENERAL- Subject to paragraph (2), an individual or dependent assisted under this section may not receive assistance under this section for a total of more than 12 months.

`(2) WAIVER- The recipient of a grant under this section may waive the restrictions of paragraph (1) for up to an additional 6-month period with respect to any individual (and dependents of the individual) who has made a good-faith effort to acquire permanent housing and has been unable to acquire the housing.

`(d) REPORTS-

`(1) REPORT TO SECRETARY-

`(A) IN GENERAL- An entity that receives a grant under this section shall annually prepare and submit to the Secretary a report describing the number of individuals and dependents assisted, and the types of housing assistance and support services provided, under this section.

`(B) CONTENTS- Each report shall include information on--

`(i) the purpose and amount of housing assistance provided to each individual or dependent assisted under this section;

`(ii) the number of months each individual or dependent received the assistance;

`(iii) the number of individuals and dependents who were eligible to receive the assistance, and to whom the entity could not provide the assistance solely due to a lack of available housing; and

`(iv) the type of support services provided to each individual or dependent assisted under this section.

`(2) REPORT TO CONGRESS- The Secretary shall annually prepare and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that contains a compilation of the information contained in reports submitted under paragraph (1).

`(e) EVALUATION, MONITORING, AND ADMINISTRATION- Of the amount appropriated under subsection (f) for each fiscal year, not more than 1 percent shall be used by the Secretary for evaluation, monitoring, and administrative costs under this section.

`(f) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to carry out this section $25,000,000 for fiscal year 2001.'.

**SEC. 1204. NATIONAL DOMESTIC VIOLENCE HOTLINE.**

Section 316(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10416(f)) is amended by striking paragraph (1) and inserting the following:

`(1) IN GENERAL- There are authorized to be appropriated to carry out this section $2,000,000 for each of fiscal years 2001 through 2005.'.

**SEC. 1205. FEDERAL VICTIMS COUNSELORS.**

Section 40114 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 1910) is amended by striking `(such as District of Columbia)--' and all that follows and inserting `(such as District of Columbia), $1,000,000 for each of fiscal years 2001 through 2005.'.

**SEC. 1206. STUDY OF STATE LAWS REGARDING INSURANCE DISCRIMINATION AGAINST VICTIMS OF VIOLENCE AGAINST WOMEN.**

(a) IN GENERAL- The Attorney General shall conduct a national study to identify State laws that address discrimination against victims of domestic violence and sexual assault related to issuance or administration of insurance policies.

(b) REPORT- Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit to Congress a report on the findings and recommendations of the study required by subsection (a).

**SEC. 1207. STUDY OF WORKPLACE EFFECTS FROM VIOLENCE AGAINST WOMEN.**

The Attorney General shall--

(1) conduct a national survey of plans, programs, and practices developed to assist employers and employees on appropriate responses in the workplace related to victims of domestic violence, stalking, or sexual assault; and

(2) not later than 18 months after the date of the enactment of this Act, submit to Congress a report describing the results of that survey, which report shall include the recommendations of the Attorney General to assist employers and employees affected in the workplace by incidents of domestic violence, stalking, and sexual assault.

**SEC. 1208. STUDY OF UNEMPLOYMENT COMPENSATION FOR VICTIMS OF VIOLENCE AGAINST WOMEN.**

The Secretary of Labor, in consultation with the Attorney General, shall--

(1) conduct a national study to identify State laws that address the separation from employment of an employee due to circumstances directly resulting from the experience of domestic violence by the employee and circumstances governing that receipt (or nonreceipt) by the employee of unemployment compensation based on such separation; and

(2) not later than 1 year after the date of the enactment of this Act, submit to Congress a report describing the results of that study, together with any recommendations based on that study.

**SEC. 1209. ENHANCING PROTECTIONS FOR OLDER AND DISABLED WOMEN FROM DOMESTIC VIOLENCE AND SEXUAL ASSAULT.**

(a) ELDER ABUSE, NEGLECT, AND EXPLOITATION- The Violence Against Women Act of 1994 (108 Stat. 1902 et seq.) is amended by adding at the end the following:

**`Subtitle H--Elder Abuse, Neglect, and Exploitation, Including Domestic Violence and Sexual Assault Against Older or Disabled Individuals**

**`SEC. 40801. DEFINITIONS.**

`In this subtitle:

`(1) IN GENERAL- The terms `elder abuse, neglect, and exploitation', and `older individual' have the meanings given the terms in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002).

`(2) DOMESTIC VIOLENCE- The term `domestic violence' has the meaning given such term by section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2).

`(3) SEXUAL ASSAULT- The term `sexual assault' has the meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2).

**`SEC. 40802. TRAINING PROGRAMS FOR LAW ENFORCEMENT OFFICERS.**

`The Attorney General may make grants for training programs to assist law enforcement officers, prosecutors, and relevant officers of Federal, State, tribal, and local courts in recognizing, addressing, investigating, and prosecuting instances of elder abuse, neglect, and exploitation and violence against individuals with disabilities, including domestic violence and sexual assault, against older or disabled individuals.

**`SEC. 40803. AUTHORIZATION OF APPROPRIATIONS.**

`There are authorized to be appropriated to carry out this subtitle $5,000,000 for each of fiscal years 2001 through 2005.'.

(b) PROTECTIONS FOR OLDER AND DISABLED INDIVIDUALS FROM DOMESTIC VIOLENCE AND SEXUAL ASSAULT IN PRO-ARREST GRANTS- Section 2101(b) of part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh et seq.) is amended by adding at the end the following:

`(8) To develop or strengthen policies and training for police, prosecutors, and the judiciary in recognizing, investigating, and prosecuting instances of domestic violence and sexual assault against older individuals (as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002)) and individuals with disabilities (as defined in section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2))).'.

(c) PROTECTIONS FOR OLDER AND DISABLED INDIVIDUALS FROM DOMESTIC VIOLENCE AND SEXUAL ASSAULT IN STOP GRANTS- Section 2001(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg(b)) (as amended by section 1103(b) of this division) is amended by adding at the end the following:

`(10) developing, enlarging, or strengthening programs to assist law enforcement, prosecutors, courts, and others to address the needs and circumstances of older and disabled women who are victims of domestic violence or sexual assault, including recognizing, investigating, and prosecuting instances of such violence or assault and targeting outreach and support, counseling, and other victim services to such older and disabled individuals; and'.

## TITLE III--LIMITING THE EFFECTS OF VIOLENCE ON CHILDREN

### SEC. 1301. SAFE HAVENS FOR CHILDREN PILOT PROGRAM.

(a) IN GENERAL- The Attorney General may award grants to States, units of local government, and Indian tribal governments that propose to enter into or expand the scope of existing contracts and cooperative agreements with public or private nonprofit entities to provide supervised visitation and safe visitation exchange of children by and between parents in situations involving domestic violence, child abuse, sexual assault, or stalking.

(b) CONSIDERATIONS- In awarding grants under subsection (a), the Attorney General shall take into account--

(1) the number of families to be served by the proposed visitation programs and services;

(2) the extent to which the proposed supervised visitation programs and services serve underserved populations (as defined in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2));

(3) with respect to an applicant for a contract or cooperative agreement, the extent to which the applicant demonstrates cooperation and collaboration with nonprofit, nongovernmental entities in the local community served, including the State or tribal domestic violence coalition, State or tribal sexual assault coalition, local shelters, and programs for domestic violence and sexual assault victims; and

(4) the extent to which the applicant demonstrates coordination and collaboration with State and local court systems, including mechanisms for communication and referral.

(c) APPLICANT REQUIREMENTS- The Attorney General shall award grants for contracts and cooperative agreements to applicants that--

(1) demonstrate expertise in the area of family violence, including the areas of domestic violence or sexual assault, as appropriate;

(2) ensure that any fees charged to individuals for use of programs and services are based on the income of those individuals, unless otherwise provided by court order;

(3) demonstrate that adequate security measures, including adequate facilities, procedures, and personnel capable of preventing violence, are in place for the operation of supervised visitation programs and services or safe visitation exchange; and

(4) prescribe standards by which the supervised visitation or safe visitation exchange will occur.

(d) REPORTING-

(1) IN GENERAL- Not later than 1 year after the last day of the first fiscal year commencing on or after the date of the enactment of this Act, and not later than 180 days after the last day of each fiscal year thereafter, the Attorney General shall submit to Congress a report that includes information concerning--

(A) the number of--

(i) individuals served and the number of individuals turned away from visitation programs and services and safe visitation exchange (categorized by State);

(ii) the number of individuals from underserved populations served and turned away from services; and

(iii) the type of problems that underlie the need for supervised visitation or safe visitation exchange, such as domestic violence, child abuse, sexual assault, other physical abuse, or a combination of such factors;

(B) the numbers of supervised visitations or safe visitation exchanges ordered under this section during custody determinations under a separation or divorce decree or protection order, through child protection services or other social services agencies, or by any other order of a civil, criminal, juvenile, or family court;

(C) the process by which children or abused partners are protected during visitations, temporary custody transfers, and other activities for which supervised visitation is established under this section;

(D) safety and security problems occurring during the reporting period during supervised visitation under this section, including the number of parental abduction cases; and

(E) the number of parental abduction cases in a judicial district using supervised visitation programs and services under this section, both as identified in criminal prosecution and custody violations.

(2) GUIDELINES- The Attorney General shall establish guidelines for the collection and reporting of data under this subsection.

(e) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2001 and 2002.

(f) ALLOTMENT FOR INDIAN TRIBES- Not less than 5 percent of the total amount made available for each fiscal year to carry out this section shall be available for grants to Indian tribal governments.

**SEC. 1302. REAUTHORIZATION OF VICTIMS OF CHILD ABUSE PROGRAMS.**

(a) COURT-APPOINTED SPECIAL ADVOCATE PROGRAM- Section 218 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13014) is amended by striking subsection (a) and inserting the following:

`(a) AUTHORIZATION- There is authorized to be appropriated to carry out this subtitle $12,000,000 for each of fiscal years 2001 through 2005.'.

(b) CHILD ABUSE TRAINING PROGRAMS FOR JUDICIAL PERSONNEL AND PRACTITIONERS- Section 224 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13024) is amended by striking subsection (a) and inserting the following:

`(a) AUTHORIZATION- There is authorized to be appropriated to carry out this subtitle $2,300,000 for each of fiscal years 2001 through 2005.'.

(c) GRANTS FOR TELEVISED TESTIMONY- Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by striking paragraph (7) and inserting the following:

`(7) There is authorized to be appropriated to carry out part N $1,000,000 for each of fiscal years 2001 through 2005.'.

(d) DISSEMINATION OF INFORMATION- The Attorney General shall--

(1) annually compile and disseminate information (including through electronic publication) about the use of amounts expended and the projects funded under section 218(a) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13014(a)), section 224(a) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13024(a)), and section 1007(a)(7) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(7)), including any evaluations of the projects and information to enable replication and adoption of the strategies identified in the projects; and

(2) focus dissemination of the information described in paragraph (1) toward community-based programs, including domestic violence and sexual assault programs.

**SEC. 1303. REPORT ON EFFECTS OF PARENTAL KIDNAPPING LAWS IN DOMESTIC VIOLENCE CASES.**

(a) IN GENERAL- The Attorney General shall--

(1) conduct a study of Federal and State laws relating to child custody, including custody provisions in protection orders, the Uniform Child Custody Jurisdiction and Enforcement Act adopted by the National Conference of Commissioners on Uniform State Laws in July 1997, the Parental Kidnaping Prevention Act of 1980 and the amendments made by that Act, and the effect of those laws on child custody cases in which domestic violence is a factor; and

(2) submit to Congress a report describing the results of that study, including the effects of implementing or applying model State laws, and the recommendations of the Attorney General to reduce the incidence or pattern of violence against women or of sexual assault of the child.

(b) SUFFICIENCY OF DEFENSES- In carrying out subsection (a) with respect to the Parental Kidnaping Prevention Act of 1980 and the amendments made by that Act, the Attorney General shall examine the sufficiency of defenses to parental abduction charges available in cases involving domestic violence, and the burdens and risks encountered by victims of domestic violence arising from jurisdictional requirements of that Act and the amendments made by that Act.

(c) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated to carry out this section $200,000 for fiscal year 2001.

(d) CONDITION FOR CUSTODY DETERMINATION- Section 1738A(c)(2)(C)(ii) of title 28, United States Code, is amended by striking `he' and inserting `the child, a sibling, or parent of the child'.

**TITLE IV--STRENGTHENING EDUCATION AND TRAINING TO COMBAT VIOLENCE AGAINST WOMEN**

**SEC. 1401. RAPE PREVENTION AND EDUCATION.**

(a) IN GENERAL- Part J of title III of the Public Health Service Act (42 U.S.C. 280b et seq.) is amended by inserting after section 393A the following:

**`SEC. 393B. USE OF ALLOTMENTS FOR RAPE PREVENTION EDUCATION.**

`(a) PERMITTED USE- The Secretary, acting through the National Center for Injury Prevention and Control at the Centers for Disease Control and Prevention, shall award targeted grants to States to be used for rape prevention and education programs conducted by rape crisis centers, State sexual assault coalitions, and other public and private nonprofit entities for--

`(1) educational seminars;

`(2) the operation of hotlines;

`(3) training programs for professionals;

`(4) the preparation of informational material;

`(5) education and training programs for students and campus personnel designed to reduce the incidence of sexual assault at colleges and universities;

`(6) education to increase awareness about drugs used to facilitate rapes or sexual assaults; and

`(7) other efforts to increase awareness of the facts about, or to help prevent, sexual assault, including efforts to increase awareness in underserved communities and awareness among individuals with disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

`(b) COLLECTION AND DISSEMINATION OF INFORMATION ON SEXUAL ASSAULT- The Secretary shall, through the National Resource Center on Sexual Assault established under the National Center for Injury Prevention and Control at the Centers for Disease Control and Prevention, provide resource information, policy, training, and technical assistance to Federal, State, local, and Indian tribal agencies, as well as to State sexual assault coalitions and local sexual assault programs and to other professionals and interested parties on issues relating to sexual assault, including maintenance of a central resource library in order to collect, prepare, analyze, and disseminate information and statistics and analyses thereof relating to the incidence and prevention of sexual assault.

`(c) AUTHORIZATION OF APPROPRIATIONS-

`(1) IN GENERAL- There is authorized to be appropriated to carry out this section $80,000,000 for each of fiscal years 2001 through 2005.

`(2) NATIONAL RESOURCE CENTER ALLOTMENT- Of the total amount made available under this subsection in each fiscal year, not more than the greater of $1,000,000 or 2 percent of such amount shall be available for allotment under subsection (b).

`(d) LIMITATIONS-

`(1) SUPPLEMENT NOT SUPPLANT- Amounts provided to States under this section shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide services of the type described in subsection (a).

`(2) STUDIES- A State may not use more than 2 percent of the amount received by the State under this section for each fiscal year for surveillance studies or prevalence studies.

`(3) ADMINISTRATION- A State may not use more than 5 percent of the amount received by the State under this section for each fiscal year for administrative expenses.'.

(b) REPEAL- Section 40151 of the Violence Against Women Act of 1994 (108 Stat. 1920), and the amendment made by such section, is repealed.

**SEC. 1402. EDUCATION AND TRAINING TO END VIOLENCE AGAINST AND ABUSE OF WOMEN WITH DISABILITIES.**

(a) IN GENERAL- The Attorney General, in consultation with the Secretary of Health and Human Services, may award grants to States, units of local government, Indian tribal governments, and nongovernmental private entities to provide education and technical assistance for the purpose of providing training, consultation, and information on domestic violence, stalking, and sexual assault against women who are individuals with disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

(b) PRIORITIES- In awarding grants under this section, the Attorney General shall give priority to applications designed to provide education and technical assistance on--

(1) the nature, definition, and characteristics of domestic violence, stalking, and sexual assault experienced by women who are individuals with disabilities;

(2) outreach activities to ensure that women who are individuals with disabilities who are victims of domestic violence, stalking, and sexual assault receive appropriate assistance;

(3) the requirements of shelters and victim services organizations under Federal anti-discrimination laws, including the Americans with Disabilities Act of 1990 and section 504 of the Rehabilitation Act of 1973; and

(4) cost-effective ways that shelters and victim services may accommodate the needs of individuals with disabilities in accordance with the Americans with Disabilities Act of 1990.

(c) USES OF GRANTS- Each recipient of a grant under this section shall provide information and training to organizations and programs that provide services to individuals with disabilities, including independent living centers, disability-related service organizations, and domestic violence programs providing shelter or related assistance.

(d) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated to carry out this section $7,500,000 for each of fiscal years 2001 through 2005.

**SEC. 1403. COMMUNITY INITIATIVES.**

Section 318 of the Family Violence Prevention and Services Act (42 U.S.C. 10418) is amended by striking subsection (h) and inserting the following:

`(h) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to carry out this section $6,000,000 for each of fiscal years 2001 through 2005.'.

**SEC. 1404. DEVELOPMENT OF RESEARCH AGENDA IDENTIFIED BY THE VIOLENCE AGAINST WOMEN ACT OF 1994.**

(a) IN GENERAL- The Attorney General shall--

(1) direct the National Institute of Justice, in consultation and coordination with the Bureau of Justice Statistics and the National Academy of Sciences, through its National Research Council, to develop a research agenda based on the recommendations contained in the report entitled `Understanding Violence Against Women' of the National Academy of Sciences; and

(2) not later than 1 year after the date of the enactment of this Act, in consultation with the Secretary of the Department of Health and Human Services, submit to Congress a report which shall include--

(A) a description of the research agenda developed under paragraph (1) and a plan to implement that agenda; and

(B) recommendations for priorities in carrying out that agenda to most effectively advance knowledge about and means by which to prevent or reduce violence against women.

(b) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated such sums as may be necessary to carry out this section.

**SEC. 1405. STANDARDS, PRACTICE, AND TRAINING FOR SEXUAL ASSAULT FORENSIC EXAMINATIONS.**

(a) IN GENERAL- The Attorney General shall--

(1) evaluate existing standards of training and practice for licensed health care professionals performing sexual assault forensic examinations and develop a national recommended standard for training;

(2) recommend sexual assault forensic examination training for all health care students to improve the recognition of injuries suggestive of rape and sexual assault and baseline knowledge of appropriate referrals in victim treatment and evidence collection; and

(3) review existing national, State, tribal, and local protocols on sexual assault forensic examinations, and based on this review, develop a recommended national protocol and establish a mechanism for its nationwide dissemination.

(b) CONSULTATION- The Attorney General shall consult with national, State, tribal, and local experts in the area of rape and sexual assault, including rape crisis centers, State and tribal sexual assault and domestic violence coalitions and programs, and programs for criminal justice, forensic nursing, forensic science, emergency room medicine, law, social services, and sex crimes in underserved communities (as defined in section 2003(7) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2(7)), as amended by this division).

(c) REPORT- The Attorney General shall ensure that not later than 1 year after the date of the enactment of this Act, a report of the actions taken pursuant to subsection (a) is submitted to Congress.

(d) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated to carry out this section $200,000 for fiscal year 2001.

**SEC. 1406. EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL.**

(a) GRANTS FOR EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN STATE COURTS-

(1) SECTION 40412- Section 40412 of the Equal Justice for Women in the Courts Act of 1994 (42 U.S.C. 13992) is amended--

(A) by striking `and' at the end of paragraph (18);

(B) by striking the period at the end of paragraph (19) and inserting a semicolon; and

(C) by inserting after paragraph (19) the following:

`(20) the issues raised by domestic violence in determining custody and visitation, including how to protect the safety of the child and of a parent who is not a predominant aggressor of domestic violence, the legitimate reasons parents may report domestic violence, the ways domestic violence may relate to an abuser's desire to seek custody, and evaluating expert testimony in custody and visitation determinations involving domestic violence;

`(21) the issues raised by child sexual assault in determining custody and visitation, including how to protect the safety of the child, the legitimate reasons parents may report child sexual assault, and evaluating expert testimony in custody and visitation determinations involving child sexual assault, including the current scientifically-accepted and empirically valid research on child sexual assault;

`(22) the extent to which addressing domestic violence and victim safety contributes to the efficient administration of justice;'.

(2) SECTION 40414- Section 40414(a) of the Equal Justice for Women in the Courts Act of 1994 (42 U.S.C. 13994(a)) is amended by inserting `and $1,500,000 for each of the fiscal years 2001 through 2005' after `1996'.

(b) GRANTS FOR EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN FEDERAL COURTS-

(1) SECTION 40421- Section 40421(d) of the Equal Justice for Women in the Courts Act of 1994 (42 U.S.C. 14001(d)) is amended to read as follows:

`(d) CONTINUING EDUCATION AND TRAINING PROGRAMS- The Federal Judicial Center, in carrying out section 620(b)(3) of title 28, United States Code, shall include in the educational programs it prepares, including the training programs for newly appointed judges, information on the aspects of the topics listed in section 40412 that pertain to issues within the jurisdiction of the Federal courts, and shall prepare materials necessary to implement this subsection.'.

(2) SECTION 40422- Section 40422(2) of the Equal Justice for Women in the Courts Act of 1994 (42 U.S.C. 14002(2)) is amended by inserting `and $500,000 for each of the fiscal years 2001 through 2005' after `1996'.

(c) TECHNICAL AMENDMENTS TO THE EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1994-

(1) ENSURING COLLABORATION WITH DOMESTIC VIOLENCE AND SEXUAL ASSAULT PROGRAMS- Section 40413 of the Equal Justice for Women in the Courts Act of 1994 (42 U.S.C. 13993) is amended by adding `, including

national, State, tribal, and local domestic violence and sexual assault programs and coalitions' after `victim advocates'.

(2) PARTICIPATION OF TRIBAL COURTS IN STATE TRAINING AND EDUCATION PROGRAMS- Section 40411 of the Equal Justice for Women in the Courts Act of 1994 (42 U.S.C. 13991) is amended by adding at the end the following: `Nothing shall preclude the attendance of tribal judges and court personnel at programs funded under this section for States to train judges and court personnel on the laws of the States.'.

(3) USE OF FUNDS FOR DISSEMINATION OF MODEL PROGRAMS- Section 40414 of the Equal Justice for Women in the Courts Act of 1994 (42 U.S.C. 13994) is amended by adding at the end the following:

`(c) STATE JUSTICE INSTITUTE- The State Justice Institute may use up to 5 percent of the funds appropriated under this section for annually compiling and broadly disseminating (including through electronic publication) information about the use of funds and about the projects funded under this section, including any evaluations of the projects and information to enable the replication and adoption of the projects.'.

(d) DATING VIOLENCE-

(1) SECTION 40411- Section 40411 of the Equal Justice for Women in Courts Act of 1994 (42 U.S.C 13991) is amended by inserting `dating violence,' after `domestic violence,'.

(2) SECTION 40412- Section 40412 of such Act (42 U.S.C 13992) is amended--

(A) in paragraph (10), by inserting `and dating violence (as defined in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3996gg-2))' before the semicolon;

(B) in paragraph (11), by inserting `and dating violence' after `domestic violence';

(C) in paragraph (13), by inserting `and dating violence' after `domestic violence' in both places that it appears;

(D) in paragraph (17), by inserting `or dating violence' after `domestic violence' in both places that it appears; and

(E) in paragraph (18), by inserting `and dating violence' after `domestic violence'.

**SEC. 1407. DOMESTIC VIOLENCE TASK FORCE**

The Violence Against Women Act of 1994 (108 Stat. 1902 et seq.) (as amended by section 1209(a) of this division) is amended by adding at the end the following:

**`Subtitle I--Domestic Violence Task Force**

**`SEC. 40901. TASK FORCE.**

`(a) ESTABLISH- The Attorney General, in consultation with national nonprofit, nongovernmental organizations whose primary expertise is in domestic violence, shall establish a task force to coordinate research on domestic violence and to report to Congress on any overlapping or duplication of efforts on domestic violence issues. The task force shall be comprised of representatives from all Federal agencies that fund such research.

`(b) USES OF FUNDS- Funds appropriated under this section shall be used to--

`(1) develop a coordinated strategy to strengthen research focused on domestic violence education, prevention, and intervention strategies;

`(2) track and report all Federal research and expenditures on domestic violence; and

`(3) identify gaps and duplication of efforts in domestic violence research and governmental expenditures on domestic violence issues.

`(c) REPORT- The Task Force shall report to Congress annually on its work under subsection (b).

`(d) DEFINITION- For purposes of this section, the term `domestic violence' has the meaning given such term by section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2(1)).

`(e) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated to carry out this section $500,000 for each of fiscal years 2001 through 2004.'.

## TITLE V--BATTERED IMMIGRANT WOMEN

**SEC. 1501. SHORT TITLE.**

This title may be cited as the `Battered Immigrant Women Protection Act of 2000'.

**SEC. 1502. FINDINGS AND PURPOSES.**

(a) FINDINGS- Congress finds that--

(1) the goal of the immigration protections for battered immigrants included in the Violence Against Women Act of 1994 was to remove immigration laws as a barrier that kept battered immigrant women and children locked in abusive relationships;

(2) providing battered immigrant women and children who were experiencing domestic violence at home with protection against deportation allows them to obtain protection orders against their abusers and frees them to cooperate with law enforcement and prosecutors in criminal cases brought against their abusers and the abusers of their children without fearing that the abuser will retaliate by withdrawing or threatening withdrawal of access to an immigration benefit under the abuser's control; and

(3) there are several groups of battered immigrant women and children who do not have access to the immigration protections of the Violence Against Women Act of 1994 which means that their abusers are virtually immune from prosecution because their victims can be deported as a result of action by their abusers and the Immigration and Naturalization Service cannot offer them protection no matter how compelling their case under existing law.

(b) PURPOSES- The purposes of this title are--

(1) to remove barriers to criminal prosecutions of persons who commit acts of battery or extreme cruelty against immigrant women and children; and

(2) to offer protection against domestic violence occurring in family and intimate relationships that are covered in State and tribal protection orders, domestic violence, and family law statutes.

**SEC. 1503. IMPROVED ACCESS TO IMMIGRATION PROTECTIONS OF THE VIOLENCE AGAINST WOMEN ACT OF 1994 FOR BATTERED IMMIGRANT WOMEN.**

(a) INTENDED SPOUSE DEFINED- Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

`(50) The term `intended spouse' means any alien who meets the criteria set forth in section 204(a)(1)(A)(iii)(II)(aa)(BB), 204(a)(1)(B)(ii)(II)(aa)(BB), or 240A(b)(2)(A)(i)(III).'.

(b) IMMEDIATE RELATIVE STATUS FOR SELF-PETITIONERS MARRIED TO U.S. CITIZENS-

(1) SELF-PETITIONING SPOUSES-

(A) BATTERY OR CRUELTY TO ALIEN OR ALIEN'S CHILD- Section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)(iii)) is amended to read as follows:

`(iii)(I) An alien who is described in subclause (II) may file a petition with the Attorney General under this clause for classification of the alien (and any child of the alien) if the alien demonstrates to the Attorney General that--

`(aa) the marriage or the intent to marry the United States citizen was entered into in good faith by the alien; and

`(bb) during the marriage or relationship intended by the alien to be legally a marriage, the alien or a child of the alien has been battered or has been the subject of extreme cruelty perpetrated by the alien's spouse or intended spouse.

`(II) For purposes of subclause (I), an alien described in this subclause is an alien--

`(aa)(AA) who is the spouse of a citizen of the United States;

`(BB) who believed that he or she had married a citizen of the United States and with whom a marriage ceremony was actually performed and who otherwise meets any applicable requirements under this Act to establish the existence of and bona fides of a marriage, but whose marriage is not legitimate solely because of the bigamy of such citizen of the United States; or

`(CC) who was a bona fide spouse of a United States citizen within the past 2 years and--

`(aaa) whose spouse died within the past 2 years;

`(bbb) whose spouse lost or renounced citizenship status within the past 2 years related to an incident of domestic violence; or

`(ccc) who demonstrates a connection between the legal termination of the marriage within the past 2 years and battering or extreme cruelty by the United States citizen spouse;

`(bb) who is a person of good moral character;

`(cc) who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) or who would have been so classified but for the bigamy of the citizen of the United States that the alien intended to marry; and

`(dd) who has resided with the alien's spouse or intended spouse.'.

(2) SELF-PETITIONING CHILDREN- Section 204(a)(1)(A)(iv) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)(iv)) is amended to read as follows:

`(iv) An alien who is the child of a citizen of the United States, or who was a child of a United States citizen parent who within the past 2 years lost or renounced citizenship status related to an incident of domestic violence, and who is a person of good moral character, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i), and who resides, or has resided in the past, with the citizen parent may file a petition with the Attorney General under this subparagraph for classification of the alien (and any child of the alien) under such section if the alien demonstrates to the Attorney General that the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's citizen parent. For purposes of this clause, residence includes any period of visitation.'.

(3) FILING OF PETITIONS- Section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)) is amended by adding at the end the following:

`(v) An alien who--

`(I) is the spouse, intended spouse, or child living abroad of a citizen who--

`(aa) is an employee of the United States Government;

`(bb) is a member of the uniformed services (as defined in section 101(a) of title 10, United States Code); or

`(cc) has subjected the alien or the alien's child to battery or extreme cruelty in the United States; and

`(II) is eligible to file a petition under clause (iii) or (iv),

shall file such petition with the Attorney General under the procedures that apply to self-petitioners under clause (iii) or (iv), as applicable.'.

(c) SECOND PREFERENCE IMMIGRATION STATUS FOR SELF-PETITIONERS MARRIED TO LAWFUL PERMANENT RESIDENTS-

(1) SELF-PETITIONING SPOUSES- Section 204(a)(1)(B)(ii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(B)(ii)) is amended to read as follows:

`(ii)(I) An alien who is described in subclause (II) may file a petition with the Attorney General under this clause for classification of the alien (and any child of the alien) if such a child has not been classified under clause (iii) of section 203(a)(2)(A) and if the alien demonstrates to the Attorney General that--

`(aa) the marriage or the intent to marry the lawful permanent resident was entered into in good faith by the alien; and

`(bb) during the marriage or relationship intended by the alien to be legally a marriage, the alien or a child of the alien has been battered or has been the subject of extreme cruelty perpetrated by the alien's spouse or intended spouse.

`(II) For purposes of subclause (I), an alien described in this paragraph is an alien--

`(aa)(AA) who is the spouse of a lawful permanent resident of the United States; or

`(BB) who believed that he or she had married a lawful permanent resident of the United States and with whom a marriage ceremony was actually performed and who otherwise meets any applicable requirements under this Act to establish the existence of and bona fides of a marriage, but whose marriage is not legitimate solely because of the bigamy of such lawful permanent resident of the United States; or

`(CC) who was a bona fide spouse of a lawful permanent resident within the past 2 years and--

`(aaa) whose spouse lost status within the past 2 years due to an incident of domestic violence; or

`(bbb) who demonstrates a connection between the legal termination of the marriage within the past 2 years and battering or extreme cruelty by the lawful permanent resident spouse;

`(bb) who is a person of good moral character;

`(cc) who is eligible to be classified as a spouse of an alien lawfully admitted for permanent residence under section 203(a)(2)(A) or who would have been so classified but for the bigamy of the lawful permanent resident of the United States that the alien intended to marry; and

`(dd) who has resided with the alien's spouse or intended spouse.'.

(2) SELF-PETITIONING CHILDREN- Section 204(a)(1)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(B)(iii)) is amended to read as follows:

`(iii) An alien who is the child of an alien lawfully admitted for permanent residence, or who was the child of a lawful permanent resident who within the past 2 years lost lawful permanent resident status due to an incident of domestic violence, and who is a person of good moral character, who is eligible for classification under section 203(a)(2)(A), and who resides, or has resided in the past, with the alien's permanent resident alien parent may file a petition with the Attorney General under this subparagraph for classification of the alien (and any child of the alien) under such section if the alien demonstrates to the Attorney General that the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's permanent resident parent.'.

(3) FILING OF PETITIONS- Section 204(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(B)) is amended by adding at the end the following:

`(iv) An alien who--

`(I) is the spouse, intended spouse, or child living abroad of a lawful permanent resident who--

`(aa) is an employee of the United States Government;

`(bb) is a member of the uniformed services (as defined in section 101(a) of title 10, United States Code); or

`(cc) has subjected the alien or the alien's child to battery or extreme cruelty in the United States; and

`(II) is eligible to file a petition under clause (ii) or (iii),

shall file such petition with the Attorney General under the procedures that apply to self-petitioners under clause (ii) or (iii), as applicable.'.

(d) GOOD MORAL CHARACTER DETERMINATIONS FOR SELF-PETITIONERS AND TREATMENT OF CHILD SELF-PETITIONERS AND PETITIONS INCLUDING DERIVATIVE CHILDREN ATTAINING 21 YEARS OF AGE- Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended--

(1) by redesignating subparagraphs (C) through (H) as subparagraphs (E) through (J), respectively;

(2) by inserting after subparagraph (B) the following:

`(C) Notwithstanding section 101(f), an act or conviction that is waivable with respect to the petitioner for purposes of a determination of the petitioner's admissibility under section 212(a) or deportability under section 237(a) shall not bar the Attorney General from finding the petitioner to be of good moral character under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) if the Attorney General finds that the act or conviction was connected to the alien's having been battered or subjected to extreme cruelty.

`(D)(i)(I) Any child who attains 21 years of age who has filed a petition under clause (iv) of section 204(a)(1)(A) that was filed or approved before the date on which the child attained 21 years of age shall be considered (if the child has not been admitted or approved for lawful permanent residence by the date the child attained 21 years of age) a petitioner for preference status under paragraph (1), (2), or (3) of section 203(a), whichever paragraph is applicable, with the same priority date assigned to the self-petition filed under clause (iv) of section 204(a)(1)(A). No new petition shall be required to be filed.

`(II) Any individual described in subclause (I) is eligible for deferred action and work authorization.

`(III) Any derivative child who attains 21 years of age who is included in a petition described in clause (ii) that was filed or approved before the date on which the child attained 21 years of age shall be considered (if the child has not been admitted or approved for lawful permanent residence by the date the child attained 21 years of age) a petitioner for preference status under paragraph (1), (2), or (3) of section 203(a), whichever paragraph is applicable, with the same priority date as that assigned to the petitioner in any petition described in clause (ii). No new petition shall be required to be filed.

`(IV) Any individual described in subclause (III) and any derivative child of a petition described in clause (ii) is eligible for deferred action and work authorization.

`(ii) The petition referred to in clause (i)(III) is a petition filed by an alien under subparagraph (A)(iii), (A)(iv), (B)(ii) or (B)(iii) in which the child is included as a derivative beneficiary.'; and

(3) in subparagraph (J) (as so redesignated), by inserting `or in making determinations under subparagraphs (C) and (D),' after `subparagraph (B),'.

(e) ACCESS TO NATURALIZATION FOR DIVORCED VICTIMS OF ABUSE- Section 319(a) of the Immigration and Nationality Act (8 U.S.C. 1430(a)) is amended--

(1) by inserting `, or any person who obtained status as a lawful permanent resident by reason of his or her status as a spouse or child of a United States citizen who battered him or her or subjected him or her to extreme cruelty,' after `United States' the first place such term appears; and

(2) by inserting `(except in the case of a person who has been battered or subjected to extreme cruelty by a United States citizen spouse or parent)' after `has been living in marital union with the citizen spouse'.

**SEC. 1504. IMPROVED ACCESS TO CANCELLATION OF REMOVAL AND SUSPENSION OF DEPORTATION UNDER THE VIOLENCE AGAINST WOMEN ACT OF 1994.**

(a) CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS FOR CERTAIN NONPERMANENT RESIDENTS- Section 240A(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(2)) is amended to read as follows:

`(2) SPECIAL RULE FOR BATTERED SPOUSE OR CHILD-

`(A) AUTHORITY- The Attorney General may cancel removal of, and adjust to the status of an alien lawfully admitted for permanent residence, an alien who is inadmissible or deportable from the United States if the alien demonstrates that--

`(i)(I) the alien has been battered or subjected to extreme cruelty by a spouse or parent who is or was a United States citizen (or is the parent of a child of a United States citizen and the child has been battered or subjected to extreme cruelty by such citizen parent);

`(II) the alien has been battered or subjected to extreme cruelty by a spouse or parent who is or was a lawful permanent resident (or is the parent of a child of an alien who is or was a lawful permanent resident and the child has been battered or subjected to extreme cruelty by such permanent resident parent); or

`(III) the alien has been battered or subjected to extreme cruelty by a United States citizen or lawful permanent resident whom the alien intended to marry, but whose marriage is not legitimate because of that United States citizen's or lawful permanent resident's bigamy;

`(ii) the alien has been physically present in the United States for a continuous period of not less than 3 years immediately preceding the date of such application, and the issuance of a charging document for removal proceedings shall not toll the 3-year period of continuous physical presence in the United States;

`(iii) the alien has been a person of good moral character during such period, subject to the provisions of subparagraph (C);

`(iv) the alien is not inadmissible under paragraph (2) or (3) of section 212(a), is not deportable under paragraphs (1)(G) or (2) through (4) of section 237(a) (except in a case described in section 237(a)(7) where the Attorney General exercises discretion to grant a waiver), and has not been convicted of an aggravated felony; and

`(v) the removal would result in extreme hardship to the alien, the alien's child, or the alien's parent.

`(B) PHYSICAL PRESENCE- Notwithstanding subsection (d)(2), for purposes of subparagraph (A)(i)(II) or for purposes of section 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence if the alien demonstrates a connection between the absence and the battering or extreme cruelty perpetrated against the alien. No absence or portion of an absence connected to the battering or extreme cruelty shall count toward the 90-day or 180-day limits established in subsection (d)(2). If any absence or aggregate absences exceed 180 days, the absences or portions of the absences will not be considered to break the period of continuous presence. Any such period of time excluded from the 180-day limit shall be excluded in computing the time during which the alien has been physically present for purposes of the 3-year requirement set forth in section 240A(b)(2)(B) and section 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996).

`(C) GOOD MORAL CHARACTER- Notwithstanding section 101(f), an act or conviction that does not bar the Attorney General from granting relief under this paragraph by reason of subparagraph (A)(iv) shall not bar the Attorney General from finding the alien to be of good moral character under subparagraph (A)(i)(III) or section 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), if the Attorney General finds that the act or conviction was connected to the alien's having been battered or subjected to extreme cruelty and determines that a waiver is otherwise warranted.

`(D) CREDIBLE EVIDENCE CONSIDERED- In acting on applications under this paragraph, the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.'.

(b) CHILDREN OF BATTERED ALIENS AND PARENTS OF BATTERED ALIEN CHILDREN- Section 240A(b) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)) is amended by adding at the end the following:

`(4) CHILDREN OF BATTERED ALIENS AND PARENTS OF BATTERED ALIEN CHILDREN-

`(A) IN GENERAL- The Attorney General shall grant parole under section 212(d)(5) to any alien who is a--

`(i) child of an alien granted relief under section 240A(b)(2) or 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996); or

`(ii) parent of a child alien granted relief under section 240A(b)(2) or 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996).

`(B) DURATION OF PAROLE- The grant of parole shall extend from the time of the grant of relief under section 240A(b)(2) or section 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) to the time the application for adjustment of status filed by aliens covered under this paragraph has been finally adjudicated. Applications for adjustment of status filed by aliens covered under this paragraph shall be treated as if they were applications filed under section 204(a)(1) (A)(iii), (A)(iv), (B)(ii), or (B)(iii) for purposes of section 245 (a) and (c). Failure by the alien granted relief under section 240A(b)(2) or section 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act

of 1996) to exercise due diligence in filing a visa petition on behalf of an alien described in clause (i) or (ii) may result in revocation of parole.'.

(c) EFFECTIVE DATE- Any individual who becomes eligible for relief by reason of the enactment of the amendments made by subsections (a) and (b), shall be eligible to file a motion to reopen pursuant to section 240(c)(6)(C)(iv). The amendments made by subsections (a) and (b) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 587). Such portions of the amendments made by subsection (b) that relate to section 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) shall take effect as if included in subtitle G of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 1953 et seq.).

**SEC. 1505. OFFERING EQUAL ACCESS TO IMMIGRATION PROTECTIONS OF THE VIOLENCE AGAINST WOMEN ACT OF 1994 FOR ALL QUALIFIED BATTERED IMMIGRANT SELF-PETITIONERS.**

(a) BATTERED IMMIGRANT WAIVER- Section 212(a)(9)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(C)(ii)) is amended by adding at the end the following: `The Attorney General in the Attorney General's discretion may waive the provisions of section 212(a)(9)(C)(i) in the case of an alien to whom the Attorney General has granted classification under clause (iii), (iv), or (v) of section 204(a)(1)(A), or classification under clause (ii), (iii), or (iv) of section 204(a)(1)(B), in any case in which there is a connection between--

`(1) the alien's having been battered or subjected to extreme cruelty; and

`(2) the alien's--

`(A) removal;

`(B) departure from the United States;

`(C) reentry or reentries into the United States; or

`(D) attempted reentry into the United States.'.

(b) DOMESTIC VIOLENCE VICTIM WAIVER-

(1) WAIVER FOR VICTIMS OF DOMESTIC VIOLENCE- Section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)) is amended by inserting at the end the following:

`(7) WAIVER FOR VICTIMS OF DOMESTIC VIOLENCE-

`(A) IN GENERAL- The Attorney General is not limited by the criminal court record and may waive the application of paragraph (2)(E)(i) (with respect to crimes of domestic violence and crimes of stalking) and (ii) in the case of an alien who has been battered or subjected to extreme cruelty and who is not and was not the primary perpetrator of violence in the relationship--

`(i) upon a determination that--

`(I) the alien was acting is self-defense;

`(II) the alien was found to have violated a protection order intended to protect the alien; or

`(III) the alien committed, was arrested for, was convicted of, or pled guilty to committing a crime--
`(aa) that did not result in serious bodily injury; and

`(bb) where there was a connection between the crime and the alien's having been battered or subjected to extreme cruelty.

`(B) CREDIBLE EVIDENCE CONSIDERED- In acting on applications under this paragraph, the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.'.

(2) CONFORMING AMENDMENT- Section 240A(b)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(1)(C)) is amended by inserting `(except in a case described in section 237(a)(7) where the Attorney General exercises discretion to grant a waiver)' after `237(a)(3)'.

(c) MISREPRESENTATION WAIVERS FOR BATTERED SPOUSES OF UNITED STATES CITIZENS AND LAWFUL PERMANENT RESIDENTS-

(1) WAIVER OF INADMISSIBILITY- Section 212(i)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(i)(1)) is amended by inserting before the period at the end the following: `or, in the case of an alien granted classification under clause (iii) or (iv) of section 204(a)(1)(A) or clause (ii) or (iii) of section 204(a)(1)(B), the alien demonstrates extreme hardship to the alien or the alien's United States citizen, lawful permanent resident, or qualified alien parent or child'.

(2) WAIVER OF DEPORTABILITY- Section 237(a)(1)(H) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(1)(H)) is amended--

(A) in clause (i), by inserting `(I)' after `(i)';

(B) by redesignating clause (ii) as subclause (II); and

(C) by adding after clause (i) the following:

`(ii) is an alien who qualifies for classification under clause (iii) or (iv) of section 204(a)(1)(A) or clause (ii) or (iii) of section 204(a)(1)(B).'.

(d) BATTERED IMMIGRANT WAIVER- Section 212(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(g)(1)) is amended--

(1) in subparagraph (A), by striking `or' at the end;

(2) in subparagraph (B), by adding `or' at the end; and

(3) by inserting after subparagraph (B) the following:

`(C) qualifies for classification under clause (iii) or (iv) of section 204(a)(1)(A) or classification under clause (ii) or (iii) of section 204(a)(1)(B);'.

(e) WAIVERS FOR VAWA ELIGIBLE BATTERED IMMIGRANTS- Section 212(h)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(h)(1)) is amended--

(1) in subparagraph (B), by striking `and' and inserting `or'; and

(2) by adding at the end the following:

`(C) the alien qualifies for classification under clause (iii) or (iv) of section 204(a)(1)(A) or classification under clause (ii) or (iii) of section 204(a)(1)(B); and'.

(f) PUBLIC CHARGE- Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by adding at the end the following:

`(p) In determining whether an alien described in subsection (a)(4)(C)(i) is inadmissible under subsection (a)(4) or ineligible to receive an immigrant visa or otherwise to adjust to the status of permanent resident by reason of subsection (a)(4), the consular officer or the Attorney General shall not consider any benefits the alien may have received that were authorized under section 501 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1641(c)).'.

(g) REPORT- Not later than 6 months after the date of the enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives covering, with respect to fiscal year 1997 and each fiscal year thereafter--

(1) the policy and procedures of the Immigration and Naturalization Service under which an alien who has been battered or subjected to extreme cruelty who is eligible for suspension of deportation or cancellation of removal can request to be placed, and be placed, in deportation or removal proceedings so that such alien may apply for suspension of deportation or cancellation of removal;

(2) the number of requests filed at each district office under this policy;

(3) the number of these requests granted reported separately for each district; and

(4) the average length of time at each Immigration and Naturalization office between the date that an alien who has been subject to battering or extreme cruelty eligible for suspension of deportation or cancellation of removal requests to be placed in deportation or removal proceedings and the date that the immigrant appears before an immigration judge to file an application for suspension of deportation or cancellation of removal.

**SEC. 1506. RESTORING IMMIGRATION PROTECTIONS UNDER THE VIOLENCE AGAINST WOMEN ACT OF 1994.**

(a) REMOVING BARRIERS TO ADJUSTMENT OF STATUS FOR VICTIMS OF DOMESTIC VIOLENCE-

(1) IMMIGRATION AMENDMENTS- Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended--

(A) in subsection (a), by inserting `or the status of any other alien having an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) or' after `into the United States.'; and

(B) in subsection (c), by striking `Subsection (a) shall not be applicable to' and inserting the following: `Other than an alien having an approved petition for classification under subparagraph (A)(iii), (A)(iv), (A)(v), (A)(vi), (B)(ii), (B)(iii), or (B)(iv) of section 204(a)(1), subsection (a) shall not be applicable to'.

(2) EFFECTIVE DATE- The amendments made by paragraph (1) shall apply to applications for adjustment of status pending on or made on or after January 14, 1998.

(b) REMOVING BARRIERS TO CANCELLATION OF REMOVAL AND SUSPENSION OF DEPORTATION FOR VICTIMS OF DOMESTIC VIOLENCE-

(1) NOT TREATING SERVICE OF NOTICE AS TERMINATING CONTINUOUS PERIOD- Section 240A(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1229b(d)(1)) is amended by striking `when the alien is served a notice to appear under section 239(a) or' and inserting `(A) except in the case of an alien who applies for cancellation of removal under subsection (b)(2), when the alien is served a notice to appear under section 239(a), or (B)'.

(2) EFFECTIVE DATE- The amendment made by paragraph (1) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 587).

(3) MODIFICATION OF CERTAIN TRANSITION RULES FOR BATTERED SPOUSE OR CHILD- Section 309(c)(5)(C) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) is amended--

(A) by striking the subparagraph heading and inserting the following:

`(C) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR BATTERED SPOUSES AND CHILDREN- '; and

(B) in clause (i)--

(i) in subclause (IV), by striking `or' at the end;

(ii) in subclause (V), by striking the period at the end and inserting `; or'; and

(iii) by adding at the end the following:

`(VI) is an alien who was issued an order to show cause or was in deportation proceedings before April 1, 1997, and who applied for suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act (as in effect before the date of the enactment of this Act).'.

(4) EFFECTIVE DATE- The amendments made by paragraph (3) shall take effect as if included in the enactment of section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note).

(c) ELIMINATING TIME LIMITATIONS ON MOTIONS TO REOPEN REMOVAL AND DEPORTATION PROCEEDINGS FOR VICTIMS OF DOMESTIC VIOLENCE-

(1) REMOVAL PROCEEDINGS-

(A) IN GENERAL- Section 240(c)(6)(C) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(6)(C)) is amended by adding at the end the following:

`(iv) SPECIAL RULE FOR BATTERED SPOUSES AND CHILDREN- The deadline specified in subsection (b)(5)(C) for filing a motion to reopen does not apply--

`(I) if the basis for the motion is to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), or section 240A(b)(2);

`(II) if the motion is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that has been or will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen; and

`(III) if the motion to reopen is filed within 1 year of the entry of the final order of removal, except that the Attorney General may, in the Attorney General's discretion, waive this time limitation in the case of an alien who demonstrates extraordinary circumstances or extreme hardship to the alien's child.'.

(B) EFFECTIVE DATE- The amendment made by subparagraph (A) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1229-1229c).

(2) DEPORTATION PROCEEDINGS-

(A) IN GENERAL- Notwithstanding any limitation imposed by law on motions to reopen or rescind deportation proceedings under the Immigration and Nationality Act (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)), there is no time limit on the filing of a motion to reopen such proceedings, and the deadline specified in section 242B(c)(3) of the Immigration and Nationality Act (as so in effect) (8 U.S.C. 1252b(c)(3)) does not apply--

(i) if the basis of the motion is to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)), clause (ii) or (iii) of section 204(a)(1)(B) of such Act (8 U.S.C. 1154(a)(1)(B)), or section 244(a)(3) of such Act (as so in effect) (8 U.S.C. 1254(a)(3)); and

(ii) if the motion is accompanied by a suspension of deportation application to be filed with the Attorney General or by a copy of the self-petition that will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.

(B) APPLICABILITY- Subparagraph (A) shall apply to motions filed by aliens who--

(i) are, or were, in deportation proceedings under the Immigration and Nationality Act (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)); and

(ii) have become eligible to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)), clause (ii) or (iii) of section 204(a)(1)(B) of such Act (8 U.S.C. 1154(a)(1)(B)), or section 244(a)(3) of such Act (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)) as a result of the amendments made by--

(I) subtitle G of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 1953 et seq.); or

(II) this title.

**SEC. 1507. REMEDYING PROBLEMS WITH IMPLEMENTATION OF THE IMMIGRATION PROVISIONS OF THE VIOLENCE AGAINST WOMEN ACT OF 1994.**

(a) EFFECT OF CHANGES IN ABUSERS' CITIZENSHIP STATUS ON SELF-PETITION-

(1) RECLASSIFICATION- Section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)) (as amended by section 1503(b)(3) of this title) is amended by adding at the end the following:

`(vi) For the purposes of any petition filed under clause (iii) or (iv), the denaturalization, loss or renunciation of citizenship, death of the abuser, divorce, or changes to the abuser's citizenship status after filing of the petition shall not adversely affect the approval of the petition, and for approved petitions shall not preclude the classification of the eligible self-petitioning spouse or child as an immediate relative or affect the alien's ability to adjust status under subsections (a) and (c) of section 245 or obtain status as a lawful permanent resident based on the approved self-petition under such clauses.'.

(2) LOSS OF STATUS- Section 204(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(B)) (as amended by section 1503(c)(3) of this title) is amended by adding at the end the following:

`(v)(I) For the purposes of any petition filed or approved under clause (ii) or (iii), divorce, or the loss of lawful permanent resident status by a spouse or parent after the filing of a petition under that clause shall not adversely affect approval of the petition, and, for an approved petition, shall not affect the alien's ability to adjust status under subsections (a) and (c) of section 245 or obtain status as a lawful permanent resident based on an approved self-petition under clause (ii) or (iii).

`(II) Upon the lawful permanent resident spouse or parent becoming or establishing the existence of United States citizenship through naturalization, acquisition of citizenship, or other means, any petition filed with the Immigration and Naturalization Service and pending or approved under clause (ii) or (iii) on behalf of an alien who has been battered or subjected to extreme cruelty shall be deemed reclassified as a petition filed under subparagraph (A) even if the acquisition of citizenship occurs after divorce or termination of parental rights.'.

(3) DEFINITION OF IMMEDIATE RELATIVES- Section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1154(b)(2)(A)(i)) is amended by adding at the end the following: `For purposes of this clause, an alien who has filed a petition under clause (iii) or (iv) of section 204(a)(1)(A) of this Act remains an immediate relative in the event that the United States citizen spouse or parent loses United States citizenship on account of the abuse.'.

(b) ALLOWING REMARRIAGE OF BATTERED IMMIGRANTS- Section 204(h) of the Immigration and Nationality Act (8 U.S.C. 1154(h)) is amended by adding at the end the following: `Remarriage of an alien whose petition was approved

under section 204(a)(1)(B)(ii) or 204(a)(1)(A)(iii) or marriage of an alien described in clause (iv) or (vi) of section 204(a)(1)(A) or in section 204(a)(1)(B)(iii) shall not be the basis for revocation of a petition approval under section 205.'.

**SEC. 1508. TECHNICAL CORRECTION TO QUALIFIED ALIEN DEFINITION FOR BATTERED IMMIGRANTS.**

Section 431(c)(1)(B)(iii) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)(1)(B)(iii)) is amended to read as follows:

`(iii) suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996).'.

**SEC. 1509. ACCESS TO CUBAN ADJUSTMENT ACT FOR BATTERED IMMIGRANT SPOUSES AND CHILDREN.**

(a) IN GENERAL- The last sentence of the first section of Public Law 89-732 (November 2, 1966; 8 U.S.C. 1255 note) is amended by striking the period at the end and inserting the following: `, except that such spouse or child who has been battered or subjected to extreme cruelty may adjust to permanent resident status under this Act without demonstrating that he or she is residing with the Cuban spouse or parent in the United States. In acting on applications under this section with respect to spouses or children who have been battered or subjected to extreme cruelty, the Attorney General shall apply the provisions of section 204(a)(1)(H).'.

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall be effective as if included in subtitle G of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 1953 et seq.).

**SEC. 1510. ACCESS TO THE NICARAGUAN ADJUSTMENT AND CENTRAL AMERICAN RELIEF ACT FOR BATTERED SPOUSES AND CHILDREN.**

(a) ADJUSTMENT OF STATUS OF CERTAIN NICARAGUAN AND CUBAN BATTERED SPOUSES- Section 202(d) of the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1255 note; Public Law 105-100, as amended) is amended--

(1) in paragraph (1), by striking subparagraph (B) and inserting the following:

`(B) the alien--

`(i) is the spouse, child, or unmarried son or daughter of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that the son or daughter has been physically present in the United States for a continuous period beginning not later than December 1, 1995, and ending not earlier than the date on which the application for adjustment under this subsection is filed; or

`(ii) was, at the time at which an alien filed for adjustment under subsection (a), the spouse or child of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), and the spouse, child, or child of the spouse has been battered or subjected to extreme cruelty by the alien that filed for adjustment under subsection (a);'; and

(2) by adding at the end the following:

`(3) PROCEDURE- In acting on an application under this section with respect to a spouse or child who has been battered or subjected to extreme cruelty, the Attorney General shall apply section 204(a)(1)(H).'.

(b) CANCELLATION OF REMOVAL AND SUSPENSION OF DEPORTATION TRANSITION RULES FOR CERTAIN BATTERED SPOUSES- Section 309(c)(5)(C) of the Illegal Immigration and Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 8 U.S.C. 1101 note) (as amended by section 1506(b)(3) of this title) is amended--

(1) in clause (i)--

(A) by striking the period at the end of subclause (VI) (as added by section 1506(b)(3) of this title) and inserting `; or'; and

(B) by adding at the end the following:

`(VII)(aa) was the spouse or child of an alien described in subclause (I), (II), or (V)--
`(AA) at the time at which a decision is rendered to suspend the deportation or cancel the removal of the alien;

`(BB) at the time at which the alien filed an application for suspension of deportation or cancellation of removal; or

`(CC) at the time at which the alien registered for benefits under the settlement agreement in American Baptist Churches, et. al. v. Thornburgh (ABC), applied for temporary protected status, or applied for asylum; and

`(bb) the spouse, child, or child of the spouse has been battered or subjected to extreme cruelty by the alien described in subclause (I), (II), or (V).'; and

(2) by adding at the end the following:

`(iii) CONSIDERATION OF PETITIONS- In acting on a petition filed under subclause (VII) of clause (i) the provisions set forth in section 204(a)(1)(H) shall apply.

`(iv) RESIDENCE WITH SPOUSE OR PARENT NOT REQUIRED- For purposes of the application of clause (i)(VII), a spouse or child shall not be required to demonstrate that he or she is residing with the spouse or parent in the United States.'.

(c) EFFECTIVE DATE- The amendments made by subsections (a) and (b) shall be effective as if included in the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1255 note; Public Law 105-100, as amended).

**SEC. 1511. ACCESS TO THE HAITIAN REFUGEE FAIRNESS ACT OF 1998 FOR BATTERED SPOUSES AND CHILDREN.**

(a) IN GENERAL- Section 902(d)(1)(B) of the Haitian Refugee Immigration Fairness Act of 1998 (division A of section 101(h) of Public Law 105-277; 112 Stat. 2681-538) is amended to read as follows:

`(B)(i) the alien is the spouse, child, or unmarried son or daughter of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that, in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that the son or daughter has been physically present in the United States for a continuous period beginning not later than December 1, 1995, and ending not earlier than the date on which the application for such adjustment is filed;

`(ii) at the time of filing of the application for adjustment under subsection (a), the alien is the spouse or child of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a) and the

spouse, child, or child of the spouse has been battered or subjected to extreme cruelty by the individual described in subsection (a); and

`(iii) in acting on applications under this section with respect to spouses or children who have been battered or subjected to extreme cruelty, the Attorney General shall apply the provisions of section 204(a)(1)(H).'.

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall be effective as if included in the Haitian Refugee Immigration Fairness Act of 1998 (division A of section 101(h) of Public Law 105-277; 112 Stat. 2681-538).

**SEC. 1512. ACCESS TO SERVICES AND LEGAL REPRESENTATION FOR BATTERED IMMIGRANTS.**

(a) LAW ENFORCEMENT AND PROSECUTION GRANTS- Section 2001(b) of part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg(b)) (as amended by section 1209(c) of this division) is amended by adding at the end the following:

`(11) providing assistance to victims of domestic violence and sexual assault in immigration matters.'.

(b) GRANTS TO ENCOURAGE ARRESTS- Section 2101(b)(5) of part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh(b)(5)) is amended by inserting before the period the following: `, including strengthening assistance to such victims in immigration matters'.

(c) RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT GRANTS- Section 40295(a)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 1953; 42 U.S.C. 13971(a)(2)) is amended to read as follows:

`(2) to provide treatment, counseling, and assistance to victims of domestic violence and child abuse, including in immigration matters; and'.

(d) CAMPUS DOMESTIC VIOLENCE GRANTS- Section 826(b)(5) of the Higher Education Amendments of 1998 (Public Law 105-244; 20 U.S.C. 1152) is amended by inserting before the period at the end the following: `, including assistance to victims in immigration matters'.

**SEC. 1513. PROTECTION FOR CERTAIN CRIME VICTIMS INCLUDING VICTIMS OF CRIMES AGAINST WOMEN.**

(a) FINDINGS AND PURPOSE-

(1) FINDINGS- Congress makes the following findings:

(A) Immigrant women and children are often targeted to be victims of crimes committed against them in the United States, including rape, torture, kidnaping, trafficking, incest, domestic violence, sexual assault, female genital mutilation, forced prostitution, involuntary servitude, being held hostage or being criminally restrained.

(B) All women and children who are victims of these crimes committed against them in the United States must be able to report these crimes to law enforcement and fully participate in the investigation of the crimes committed against them and the prosecution of the perpetrators of such crimes.

(2) PURPOSE-

(A) The purpose of this section is to create a new nonimmigrant visa classification that will strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault, trafficking of aliens, and other crimes described in section 101(a)(15)(U)(iii) of the Immigration and Nationality Act committed against aliens, while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States. This visa will encourage law enforcement officials to better serve immigrant crime victims and to prosecute crimes committed against aliens.

(B) Creating a new nonimmigrant visa classification will facilitate the reporting of crimes to law enforcement officials by trafficked, exploited, victimized, and abused aliens who are not in lawful immigration status. It also gives law enforcement officials a means to regularize the status of cooperating individuals during investigations or prosecutions. Providing temporary legal status to aliens who have been severely victimized by criminal activity also comports with the humanitarian interests of the United States.

(C) Finally, this section gives the Attorney General discretion to convert the status of such nonimmigrants to that of permanent residents when doing so is justified on humanitarian grounds, for family unity, or is otherwise in the public interest.

(b) ESTABLISHMENT OF HUMANITARIAN/MATERIAL WITNESS NONIMMIGRANT CLASSIFICATION- Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) (as amended by section 107 of this Act) is amended--

(1) by striking `or' at the end of subparagraph (S);

(2) by striking the period at the end of subparagraph (T) and inserting `; or'; and

(3) by adding at the end the following new subparagraph:

`(U)(i) subject to section 214(o), an alien who files a petition for status under this subparagraph, if the Attorney General determines that--

`(I) the alien has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described in clause (iii);

`(II) the alien (or in the case of an alien child under the age of 16, the parent, guardian, or next friend of the alien) possesses information concerning criminal activity described in clause (iii);

`(III) the alien (or in the case of an alien child under the age of 16, the parent, guardian, or next friend of the alien) has been helpful, is being helpful, or is likely to be helpful to a Federal, State, or local law enforcement official, to a Federal, State, or local prosecutor, to a Federal or State judge, to the Service, or to other Federal, State, or local authorities investigating or prosecuting criminal activity described in clause (iii); and

`(IV) the criminal activity described in clause (iii) violated the laws of the United States or occurred in the United States (including in Indian country and military installations) or the territories and possessions of the United States;

`(ii) if the Attorney General considers it necessary to avoid extreme hardship to the spouse, the child, or, in the case of an alien child, the parent of the alien described in clause (i), the Attorney General may also grant status under this paragraph based upon certification of a government official listed in clause (i)(III) that an investigation or prosecution

would be harmed without the assistance of the spouse, the child, or, in the case of an alien child, the parent of the alien; and

`(iii) the criminal activity referred to in this clause is that involving one or more of the following or any similar activity in violation of Federal, State, or local criminal law: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes.'.

(c) CONDITIONS FOR ADMISSION AND DUTIES OF THE ATTORNEY GENERAL- Section 214 of such Act (8 U.S.C. 1184) (as amended by section 107 of this Act) is amended by adding at the end the following new subsection:

`(o) REQUIREMENTS APPLICABLE TO SECTION 101(a)(15)(U) VISAS-

`(1) PETITIONING PROCEDURES FOR SECTION 101(a)(15)(U) VISAS- The petition filed by an alien under section 101(a)(15)(U)(i) shall contain a certification from a Federal, State, or local law enforcement official, prosecutor, judge, or other Federal, State, or local authority investigating criminal activity described in section 101(a)(15)(U)(iii). This certification may also be provided by an official of the Service whose ability to provide such certification is not limited to information concerning immigration violations. This certification shall state that the alien `has been helpful, is being helpful, or is likely to be helpful' in the investigation or prosecution of criminal activity described in section 101(a)(15)(U)(iii).

`(2) NUMERICAL LIMITATIONS-

`(A) The number of aliens who may be issued visas or otherwise provided status as nonimmigrants under section 101(a)(15)(U) in any fiscal year shall not exceed 10,000.

`(B) The numerical limitations in subparagraph (A) shall only apply to principal aliens described in section 101(a)(15)(U)(i), and not to spouses, children, or, in the case of alien children, the alien parents of such children.

`(3) DUTIES OF THE ATTORNEY GENERAL WITH RESPECT TO `U' VISA NONIMMIGRANTS- With respect to nonimmigrant aliens described in subsection (a)(15)(U)--

`(A) the Attorney General and other government officials, where appropriate, shall provide those aliens with referrals to nongovernmental organizations to advise the aliens regarding their options while in the United States and the resources available to them; and

`(B) the Attorney General shall, during the period those aliens are in lawful temporary resident status under that subsection, provide the aliens with employment authorization.

`(4) CREDIBLE EVIDENCE CONSIDERED- In acting on any petition filed under this subsection, the consular officer or the Attorney General, as appropriate, shall consider any credible evidence relevant to the petition.

`(5) NONEXCLUSIVE RELIEF- Nothing in this subsection limits the ability of aliens who qualify for status under section 101(a)(15)(U) to seek any other immigration benefit or status for which the alien may be eligible.'.

(d) PROHIBITION ON ADVERSE DETERMINATIONS OF ADMISSIBILITY OR DEPORTABILITY- Section 384(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is amended--

(1) by striking `or' at the end of paragraph (1)(C);

(2) by striking the comma at the end of paragraph (1)(D) and inserting `, or'; and

(3) by inserting after paragraph (1)(D) the following new subparagraph:

`(E) in the case of an alien applying for status under section 101(a)(15)(U) of the Immigration and Nationality Act, the perpetrator of the substantial physical or mental abuse and the criminal activity,'; and

(4) in paragraph (2), by inserting `section 101(a)(15)(U),' after `section 216(c)(4)(C),'.

(e) WAIVER OF GROUNDS OF INELIGIBILITY FOR ADMISSION- Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) is amended by adding at the end the following new paragraph:

`(13) The Attorney General shall determine whether a ground of inadmissibility exists with respect to a nonimmigrant described in section 101(a)(15)(U). The Attorney General, in the Attorney General's discretion, may waive the application of subsection (a) (other than paragraph (3)(E)) in the case of a nonimmigrant described in section 101(a)(15)(U), if the Attorney General considers it to be in the public or national interest to do so.'.

(f) ADJUSTMENT TO PERMANENT RESIDENT STATUS- Section 245 of such Act (8 U.S.C. 1255) is amended by adding at the end the following new subsection:

`(l)(1) The Attorney General may adjust the status of an alien admitted into the United States (or otherwise provided nonimmigrant status) under section 101(a)(15)(U) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E), unless the Attorney General determines based on affirmative evidence that the alien unreasonably refused to provide assistance in a criminal investigation or prosecution, if--

`(A) the alien has been physically present in the United States for a continuous period of at least 3 years since the date of admission as a nonimmigrant under clause (i) or (ii) of section 101(a)(15)(U); and

`(B) in the opinion of the Attorney General, the alien's continued presence in the United States is justified on humanitarian grounds, to ensure family unity, or is otherwise in the public interest.

`(2) An alien shall be considered to have failed to maintain continuous physical presence in the United States under paragraph (1)(A) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days unless the absence is in order to assist in the investigation or prosecution or unless an official involved in the investigation or prosecution certifies that the absence was otherwise justified.

`(3) Upon approval of adjustment of status under paragraph (1) of an alien described in section 101(a)(15)(U)(i) the Attorney General may adjust the status of or issue an immigrant visa to a spouse, a child, or, in the case of an alien child, a parent who did not receive a nonimmigrant visa under section 101(a)(15)(U)(ii) if the Attorney General considers the grant of such status or visa necessary to avoid extreme hardship.

`(4) Upon the approval of adjustment of status under paragraph (1) or (3), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval.'.

## TITLE VI--MISCELLANEOUS

### SEC. 1601. NOTICE REQUIREMENTS FOR SEXUALLY VIOLENT OFFENDERS.

(a) SHORT TITLE- This section may be cited as the `Campus Sex Crimes Prevention Act'.

(b) NOTICE WITH RESPECT TO INSTITUTIONS OF HIGHER EDUCATION-

(1) IN GENERAL- Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071) is amended by adding at the end the following:

`(j) NOTICE OF ENROLLMENT AT OR EMPLOYMENT BY INSTITUTIONS OF HIGHER EDUCATION-

`(1) NOTICE BY OFFENDERS-

`(A) IN GENERAL- In addition to any other requirements of this section, any person who is required to register in a State shall provide notice as required under State law--

`(i) of each institution of higher education in that State at which the person is employed, carries on a vocation, or is a student; and

`(ii) of each change in enrollment or employment status of such person at an institution of higher education in that State.

`(B) CHANGE IN STATUS- A change in status under subparagraph (A)(ii) shall be reported by the person in the manner provided by State law. State procedures shall ensure that the updated information is promptly made available to a law enforcement agency having jurisdiction where such institution is located and entered into the appropriate State records or data system.

`(2) STATE REPORTING- State procedures shall ensure that the registration information collected under paragraph (1)--

`(A) is promptly made available to a law enforcement agency having jurisdiction where such institution is located; and

`(B) entered into the appropriate State records or data system.

`(3) REQUEST- Nothing in this subsection shall require an educational institution to request such information from any State.'.

(2) EFFECTIVE DATE- The amendment made by this subsection shall take effect 2 years after the date of the enactment of this Act.

(c) DISCLOSURES BY INSTITUTIONS OF HIGHER EDUCATION-

(1) IN GENERAL- Section 485(f)(1) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)(1)) is amended by adding at the end the following:

`(I) A statement advising the campus community where law enforcement agency information provided by a State under section 170101(j) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(j)), concerning registered sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address.'.

(2) EFFECTIVE DATE- The amendment made by this subsection shall take effect 2 years after the date of the enactment of this Act.

(d) AMENDMENT TO FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974- Section 444(b) of the General Education Provisions Act (20 U.S.C. 1232g(b)), also known as the Family Educational Rights and Privacy Act of 1974, is amended by adding at the end the following:

`(7)(A) Nothing in this section may be construed to prohibit an educational institution from disclosing information provided to the institution under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071) concerning registered sex offenders who are required to register under such section.

`(B) The Secretary shall take appropriate steps to notify educational institutions that disclosure of information described in subparagraph (A) is permitted.'.

**SEC. 1602. TEEN SUICIDE PREVENTION STUDY.**

(a) SHORT TITLE- This section may be cited as the `Teen Suicide Prevention Act of 2000'.

(b) FINDINGS- Congress finds that--

(1) measures that increase public awareness of suicide as a preventable public health problem, and target parents and youth so that suicide risks and warning signs can be recognized, will help to eliminate the ignorance and stigma of suicide as barriers to youth and families seeking preventive care;

(2) suicide prevention efforts in the year 2000 should--

(A) target at-risk youth, particularly youth with mental health problems, substance abuse problems, or contact with the juvenile justice system;

(B) involve--

(i) the identification of the characteristics of the at-risk youth and other youth who are contemplating suicide, and barriers to treatment of the youth; and

(ii) the development of model treatment programs for the youth;

(C) include a pilot study of the outcomes of treatment for juvenile delinquents with mental health or substance abuse problems;

(D) include a public education approach to combat the negative effects of the stigma of, and discrimination against individuals with, mental health and substance abuse problems; and

(E) include a nationwide effort to develop, implement, and evaluate a mental health awareness program for schools, communities, and families;

(3) although numerous symptoms, diagnoses, traits, characteristics, and psychosocial stressors of suicide have been investigated, no single factor or set of factors has ever come close to predicting suicide with accuracy;

(4) research of United States youth, such as a 1994 study by Lewinsohn, Rohde, and Seeley, has shown predictors of suicide, such as a history of suicide attempts, current suicidal ideation and depression, a recent attempt or completed suicide by a friend, and low self-esteem; and

(5) epidemiological data illustrate--

(A) the trend of suicide at younger ages as well as increases in suicidal ideation among youth in the United States; and

(B) distinct differences in approaches to suicide by gender, with--

(i) 3 to 5 times as many females as males attempting suicide; and

(ii) 3 to 5 times as many males as females completing suicide.

(c) PURPOSE- The purpose of this section is to provide for a study of predictors of suicide among at-risk and other youth, and barriers that prevent the youth from receiving treatment, to facilitate the development of model treatment programs and public education and awareness efforts.

(d) STUDY- Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall carry out, directly or by grant or contract, a study that is designed to identify--

(1) the characteristics of at-risk and other youth age 13 through 21 who are contemplating suicide;

(2) the characteristics of at-risk and other youth who are younger than age 13 and are contemplating suicide; and

(3) the barriers that prevent youth described in paragraphs (1) and (2) from receiving treatment.

(e) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to carry out this section such sums as may be necessary.

**SEC. 1603. DECADE OF PAIN CONTROL AND RESEARCH.**

The calendar decade beginning January 1, 2001, is designated as the `Decade of Pain Control and Research'.

## DIVISION C--MISCELLANEOUS PROVISIONS

**SEC. 2001. AIMEE'S LAW.**

(a) SHORT TITLE- This section may be cited as `Aimee's Law'.

(b) DEFINITIONS- In this section:

(1) DANGEROUS SEXUAL OFFENSE- The term `dangerous sexual offense' means any offense under State law for conduct that would constitute an offense under chapter 109A of title 18, United States Code, had the conduct occurred in the special maritime and territorial jurisdiction of the United States or in a Federal prison.

(2) MURDER- The term `murder' has the meaning given the term in part I of the Uniform Crime Reports of the Federal Bureau of Investigation.

(3) RAPE- The term `rape' has the meaning given the term in part I of the Uniform Crime Reports of the Federal Bureau of Investigation.

(c) PENALTY-

(1) SINGLE STATE- In any case in which a State convicts an individual of murder, rape, or a dangerous sexual offense, who has a prior conviction for any one of those offenses in a State described in paragraph (3), the Attorney General shall transfer an amount equal to the costs of incarceration, prosecution, and apprehension of that individual, from Federal law enforcement assistance funds that have been allocated to but not distributed to the State that convicted the individual of the prior offense, to the State account that collects Federal law enforcement assistance funds of the State that convicted that individual of the subsequent offense.

(2) MULTIPLE STATES- In any case in which a State convicts an individual of murder, rape, or a dangerous sexual offense, who has a prior conviction for any one or more of those offenses in more than one other State described in paragraph (3), the Attorney General shall transfer an amount equal to the costs of incarceration, prosecution, and apprehension of that individual, from Federal law enforcement assistance funds that have been allocated to but not distributed to each State that convicted such individual of the prior offense, to the State account that collects Federal law enforcement assistance funds of the State that convicted that individual of the subsequent offense.

(3) STATE DESCRIBED- A State is described in this paragraph if--

(A) the average term of imprisonment imposed by the State on individuals convicted of the offense for which the individual described in paragraph (1) or (2), as applicable, was convicted by the State is less than the average term of imprisonment imposed for that offense in all States; or

(B) with respect to the individual described in paragraph (1) or (2), as applicable, the individual had served less than 85 percent of the term of imprisonment to which that individual was sentenced for the prior offense.

For purposes of subparagraph (B), in a State that has indeterminate sentencing, the term of imprisonment to which that individual was sentenced for the prior offense shall be based on the lower of the range of sentences.

(d) STATE APPLICATIONS- In order to receive an amount transferred under subsection (c), the chief executive of a State shall submit to the Attorney General an application, in such form and containing such information as the Attorney General may reasonably require, which shall include a certification that the State has convicted an individual of murder, rape, or a dangerous sexual offense, who has a prior conviction for one of those offenses in another State.

(e) SOURCE OF FUNDS-

(1) IN GENERAL- Any amount transferred under subsection (c) shall be derived by reducing the amount of Federal law enforcement assistance funds received by the State that convicted such individual of the prior offense before the distribution of the funds to the State. The Attorney General shall provide the State with an opportunity to select the specific Federal law enforcement assistance funds to be so reduced (other than Federal crime victim assistance funds).

(2) PAYMENT SCHEDULE- The Attorney General, in consultation with the chief executive of the State that convicted such individual of the prior offense, shall establish a payment schedule.

(f) CONSTRUCTION- Nothing in this section may be construed to diminish or otherwise affect any court ordered restitution.

(g) EXCEPTION- This section does not apply if the individual convicted of murder, rape, or a dangerous sexual offense has been released from prison upon the reversal of a conviction for an offense described in subsection (c) and subsequently been convicted for an offense described in subsection (c).

(h) REPORT- The Attorney General shall--

(1) conduct a study evaluating the implementation of this section; and

(2) not later than October 1, 2006, submit to Congress a report on the results of that study.

(i) COLLECTION OF RECIDIVISM DATA-

(1) IN GENERAL- Beginning with calendar year 2002, and each calendar year thereafter, the Attorney General shall collect and maintain information relating to, with respect to each State--

(A) the number of convictions during that calendar year for--

(i) any dangerous sexual offense;

(ii) rape; and

(iii) murder; and

(B) the number of convictions described in subparagraph (A) that constitute second or subsequent convictions of the defendant of an offense described in that subparagraph.

(2) REPORT- Not later than March 1, 2003, and on March 1 of each year thereafter, the Attorney General shall submit to Congress a report, which shall include--

(A) the information collected under paragraph (1) with respect to each State during the preceding calendar year; and

(B) the percentage of cases in each State in which an individual convicted of an offense described in paragraph (1)(A) was previously convicted of another such offense in another State during the preceding calendar year.

(j) EFFECTIVE DATE- This section shall take effect on January 1, 2002.

**SEC. 2002. PAYMENT OF CERTAIN ANTI-TERRORISM JUDGMENTS.**

(a) PAYMENTS-

(1) IN GENERAL- Subject to subsections (b) and (c), the Secretary of the Treasury shall pay each person described in paragraph (2), at the person's election--

(A) 110 percent of compensatory damages awarded by judgment of a court on a claim or claims brought by the person under section 1605(a)(7) of title 28, United States Code, plus amounts necessary to pay post-judgment interest under section 1961 of such title, and, in the case of a claim or claims against Cuba, amounts awarded as sanctions by judicial order on April 18, 2000 (as corrected on June 2, 2000), subject to final appellate review of that order; or

(B) 100 percent of the compensatory damages awarded by judgment of a court on a claim or claims brought by the person under section 1605(a)(7) of title 28, United States Code, plus amounts necessary to pay post-judgment interest, as provided in section 1961 of such title, and, in the case of a claim or claims against Cuba, amounts awarded as sanctions by judicial order on April 18, 2000 (as corrected June 2, 2000), subject to final appellate review of that order.

Payments under this subsection shall be made promptly upon request.

(2) PERSONS COVERED- A person described in this paragraph is a person who--

(A)(i) as of July 20, 2000, held a final judgment for a claim or claims brought under section 1605(a)(7) of title 28, United States Code, against Iran or Cuba, or the right to payment of an amount awarded as a judicial sanction with respect to such claim or claims; or

(ii) filed a suit under such section 1605(a)(7) on February 17, 1999, December 13, 1999, January 28, 2000, March 15, 2000, or July 27, 2000;

(B) relinquishes all claims and rights to compensatory damages and amounts awarded as judicial sanctions under such judgments;

(C) in the case of payment under paragraph (1)(A), relinquishes all rights and claims to punitive damages awarded in connection with such claim or claims; and

(D) in the case of payment under paragraph (1)(B), relinquishes all rights to execute against or attach property that is at issue in claims against the United States before an international tribunal, that is the subject of awards rendered by such tribunal, or that is subject to section 1610(f)(1)(A) of title 28, United States Code.

(b) FUNDING OF AMOUNTS-

(1) JUDGMENTS AGAINST CUBA- For purposes of funding the payments under subsection (a) in the case of judgments and sanctions entered against the Government of Cuba or Cuban entities, the President shall vest and liquidate up to and not exceeding the amount of property of the Government of Cuba and sanctioned entities in the United States or any commonwealth, territory, or possession thereof that has been blocked pursuant to section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701-1702), or any other proclamation, order, or regulation issued thereunder. For the purposes of paying amounts for

judicial sanctions, payment shall be made from funds or accounts subject to sanctions as of April 18, 2000, or from blocked assets of the Government of Cuba.

(2) JUDGMENTS AGAINST IRAN- For purposes of funding payments under subsection (a) in the case of judgments against Iran, the Secretary of the Treasury shall make such payments from amounts paid and liquidated from--

(A) rental proceeds accrued on the date of the enactment of this Act from Iranian diplomatic and consular property located in the United States; and

(B) funds not otherwise made available in an amount not to exceed the total of the amount in the Iran Foreign Military Sales Program account within the Foreign Military Sales Fund on the date of the enactment of this Act.

(c) SUBROGATION- Upon payment under subsection (a) with respect to payments in connection with a Foreign Military Sales Program account, the United States shall be fully subrogated, to the extent of the payments, to all rights of the person paid under that subsection against the debtor foreign state. The President shall pursue these subrogated rights as claims or offsets of the United States in appropriate ways, including any negotiation process which precedes the normalization of relations between the foreign state designated as a state sponsor of terrorism and the United States, except that no funds shall be paid to Iran, or released to Iran, from property blocked under the International Emergency Economic Powers Act or from the Foreign Military Sales Fund, until such subrogated claims have been dealt with to the satisfaction of the United States.

(d) SENSE OF THE CONGRESS- It is the sense of the Congress that the President should not normalize relations between the United States and Iran until the claims subrogated have been dealt with to the satisfaction of the United States.

(e) REAFFIRMATION OF AUTHORITY- Congress reaffirms the President's statutory authority to manage and, where appropriate and consistent with the national interest, vest foreign assets located in the United States for the purposes, among other things, of assisting and, where appropriate, making payments to victims of terrorism.

(f) AMENDMENTS- (1) Section 1610(f) of title 28, United States Code, is amended--

(A) in paragraphs (2)(A) and (2)(B)(ii), by striking `shall' each place it appears and inserting `should make every effort to'; and

(B) by adding at the end the following new paragraph:

`(3) WAIVER- The President may waive any provision of paragraph (1) in the interest of national security.'.

(2) Subsections (b) and (d) of section 117 of the Treasury Department Appropriations Act, 1999 (as contained in section 101(h) of Public Law 105-277) are repealed.

**SEC. 2003. AID FOR VICTIMS OF TERRORISM.**

(a) MEETING THE NEEDS OF VICTIMS OF TERRORISM OUTSIDE THE UNITED STATES-

(1) IN GENERAL- Section 1404B(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10603b(a)) is amended as follows:

`(a) VICTIMS OF ACTS OF TERRORISM OUTSIDE UNITED STATES-

`(1) IN GENERAL- The Director may make supplemental grants as provided in 1402(d)(5) to States, victim service organizations, and public agencies (including Federal, State, or local governments) and nongovernmental organizations that provide assistance to victims of crime, which shall be used to provide emergency relief, including crisis response efforts, assistance, training, and technical assistance, and ongoing assistance, including during any investigation or prosecution, to victims of terrorist acts or mass violence occurring outside the United States who are not persons eligible for compensation under title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

`(2) VICTIM DEFINED- In this subsection, the term `victim'--

`(A) means a person who is a national of the United States or an officer or employee of the United States Government who is injured or killed as a result of a terrorist act or mass violence occurring outside the United States; and

`(B) in the case of a person described in subparagraph (A) who is less than 18 years of age, incompetent, incapacitated, or deceased, includes a family member or legal guardian of that person.

`(3) RULE OF CONSTRUCTION- Nothing in this subsection shall be construed to allow the Director to make grants to any foreign power (as defined by section 101(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(a)) or to any domestic or foreign organization operated for the purpose of engaging in any significant political or lobbying activities.'.

(2) APPLICABILITY- The amendment made by this subsection shall apply to any terrorist act or mass violence occurring on or after December 21, 1988, with respect to which an investigation or prosecution was ongoing after April 24, 1996.

(3) ADMINISTRATIVE PROVISION- Not later than 90 days after the date of the enactment of this Act, the Director shall establish guidelines under section 1407(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10604(a)) to specify the categories of organizations and agencies to which the Director may make grants under this subsection.

(4) TECHNICAL AMENDMENT- Section 1404B(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10603b(b)) is amended by striking `1404(d)(4)(B)' and inserting `1402(d)(5)'.

(b) AMENDMENTS TO EMERGENCY RESERVE FUND-

(1) CAP INCREASE- Section 1402(d)(5)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(5)(A)) is amended by striking `$50,000,000' and inserting `$100,000,000'.

(2) TRANSFER- Section 1402(e) of the Victims of Crime Act of 1984 (42 U.S.C 10601(e)) is amended by striking `in excess of $500,000' and all that follows through `than $500,000' and inserting `shall be available for deposit into the emergency reserve fund referred to in subsection (d)(5) at the discretion of the Director. Any remaining unobligated sums'.

(c) COMPENSATION TO VICTIMS OF INTERNATIONAL TERRORISM-

(1) IN GENERAL- The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404B the following:

**`SEC. 1404C. COMPENSATION TO VICTIMS OF INTERNATIONAL TERRORISM.**

`(a) DEFINITIONS- In this section:

`(1) INTERNATIONAL TERRORISM- The term `international terrorism' has the meaning given the term in section 2331 of title 18, United States Code.

`(2) NATIONAL OF THE UNITED STATES- The term `national of the United States' has the meaning given the term in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)).

`(3) VICTIM-

`(A) IN GENERAL- The term `victim' means a person who--

`(i) suffered direct physical or emotional injury or death as a result of international terrorism occurring on or after December 21, 1988 with respect to which an investigation or prosecution was ongoing after April 24, 1996; and

`(ii) as of the date on which the international terrorism occurred, was a national of the United States or an officer or employee of the United States Government.

`(B) INCOMPETENT, INCAPACITATED, OR DECEASED VICTIMS- In the case of a victim who is less than 18 years of age, incompetent, incapacitated, or deceased, a family member or legal guardian of the victim may receive the compensation under this section on behalf of the victim.

`(C) EXCEPTION- Notwithstanding any other provision of this section, in no event shall an individual who is criminally culpable for the terrorist act or mass violence receive any compensation under this section, either directly or on behalf of a victim.

`(b) AWARD OF COMPENSATION- The Director may use the emergency reserve referred to in section 1402(d)(5)(A) to carry out a program to compensate victims of acts of international terrorism that occur outside the United States for expenses associated with that victimization.

`(c) ANNUAL REPORT- The Director shall annually submit to Congress a report on the status and activities of the program under this section, which report shall include--

`(1) an explanation of the procedures for filing and processing of applications for compensation;

`(2) a description of the procedures and policies instituted to promote public awareness about the program;

`(3) a complete statistical analysis of the victims assisted under the program, including--

`(A) the number of applications for compensation submitted;

`(B) the number of applications approved and the amount of each award;

`(C) the number of applications denied and the reasons for the denial;

`(D) the average length of time to process an application for compensation; and

`(E) the number of applications for compensation pending and the estimated future liability of the program; and

`(4) an analysis of future program needs and suggested program improvements.'.

(2) CONFORMING AMENDMENT- Section 1402(d)(5)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(5)(B)) is amended by inserting `, to provide compensation to victims of international terrorism under the program under section 1404C,' after `section 1404B'.

(d) AMENDMENTS TO VICTIMS OF CRIME FUND- Section 1402(c) of the Victims of Crime Act 1984 (42 U.S.C. 10601(c)) is amended by adding at the end the following: `Notwithstanding section 1402(d)(5), all sums deposited in the Fund in any fiscal year that are not made available for obligation by Congress in the subsequent fiscal year shall remain in the Fund for obligation in future fiscal years, without fiscal year limitation.'.

**SEC. 2004. TWENTY-FIRST AMENDMENT ENFORCEMENT.**

(a) SHIPMENT OF INTOXICATING LIQUOR IN VIOLATION OF STATE LAW- The Act entitled `An Act divesting intoxicating liquors of their interstate character in certain cases', approved March 1, 1913 (commonly known as the `Webb-Kenyon Act') (27 U.S.C. 122) is amended by adding at the end the following:

**`SEC. 2. INJUNCTIVE RELIEF IN FEDERAL DISTRICT COURT.**

`(a) DEFINITIONS- In this section--

`(1) the term `attorney general' means the attorney general or other chief law enforcement officer of a State or the designee thereof;

`(2) the term `intoxicating liquor' means any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind;

`(3) the term `person' means any individual and any partnership, corporation, company, firm, society, association, joint stock company, trust, or other entity capable of holding a legal or beneficial interest in property, but does not include a State or agency thereof; and

`(4) the term `State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

`(b) ACTION BY STATE ATTORNEY GENERAL- If the attorney general has reasonable cause to believe that a person is engaged in, or has engaged in, any act that would constitute a violation of a State law regulating the importation or transportation of any intoxicating liquor, the attorney general may bring a civil action in accordance with this section for injunctive relief (including a preliminary or permanent injunction) against the person, as the attorney general determines to be necessary to--

`(1) restrain the person from engaging, or continuing to engage, in the violation; and

`(2) enforce compliance with the State law.

`(c) FEDERAL JURISDICTION-

`(1) IN GENERAL- The district courts of the United States shall have jurisdiction over any action brought under this section by an attorney general against any person, except one licensed or otherwise authorized to produce, sell, or store intoxicating liquor in such State.

`(2) VENUE- An action under this section may be brought only in accordance with section 1391 of title 28, United States Code, or in the district in which the recipient of the intoxicating liquor resides or is found.

`(3) FORM OF RELIEF- An action under this section is limited to actions seeking injunctive relief (a preliminary and/or permanent injunction).

`(4) NO RIGHT TO JURY TRIAL- An action under this section shall be tried before the court.

`(d) REQUIREMENTS FOR INJUNCTIONS AND ORDERS-

`(1) IN GENERAL- In any action brought under this section, upon a proper showing by the attorney general of the State, the court may issue a preliminary or permanent injunction to restrain a violation of this section. A proper showing under this paragraph shall require that a State prove by a preponderance of the evidence that a violation of State law as described in subsection (b) has taken place or is taking place.

`(2) ADDITIONAL SHOWING FOR PRELIMINARY INJUNCTION- No preliminary injunction may be granted except upon--

`(A) evidence demonstrating the probability of irreparable injury if injunctive relief is not granted; and

`(B) evidence supporting the probability of success on the merits.

`(3) NOTICE- No preliminary or permanent injunction may be issued under paragraph (1) without notice to the adverse party and an opportunity for a hearing.

`(4) FORM AND SCOPE OF ORDER- Any preliminary or permanent injunction entered in an action brought under this section shall--

`(A) set forth the reasons for the issuance of the order;

`(B) be specific in terms;

`(C) describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained; and

`(D) be binding upon--

`(i) the parties to the action and the officers, agents, employees, and attorneys of those parties; and

`(ii) persons in active concert or participation with the parties to the action who receive actual notice of the order by personal service or otherwise.

`(5) ADMISSIBILITY OF EVIDENCE- In a hearing on an application for a permanent injunction, any evidence previously received on an application for a preliminary injunction in connection with the same civil action and that would otherwise be admissible, may be made a part of the record of the hearing on the permanent injunction.

`(e) RULES OF CONSTRUCTION- This section shall be construed only to extend the jurisdiction of Federal courts in connection with State law that is a valid exercise of power vested in the States--

`(1) under the twenty-first article of amendment to the Constitution of the United States as such article of amendment is interpreted by the Supreme Court of the United States including interpretations in conjunction with other provisions of the Constitution of the United States; and

`(2) under the first section herein as such section is interpreted by the Supreme Court of the United States; but shall not be construed to grant to States any additional power.

`(f) ADDITIONAL REMEDIES-

`(1) IN GENERAL- A remedy under this section is in addition to any other remedies provided by law.

`(2) STATE COURT PROCEEDINGS- Nothing in this section may be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any State law.

**`SEC. 3. GENERAL PROVISIONS.**

`(a) EFFECT ON INTERNET TAX FREEDOM ACT- Nothing in this section may be construed to modify or supersede the operation of the Internet Tax Freedom Act (47 U.S.C. 151 note).

`(b) INAPPLICABILITY TO SERVICE PROVIDERS- Nothing in this section may be construed to--

`(1) authorize any injunction against an interactive computer service (as defined in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f)) used by another person to engage in any activity that is subject to this Act;

`(2) authorize any injunction against an electronic communication service (as defined in section 2510(15) of title 18, United States Code) used by another person to engage in any activity that is subject to this Act; or

`(3) authorize an injunction prohibiting the advertising or marketing of any intoxicating liquor by any person in any case in which such advertising or marketing is lawful in the jurisdiction from which the importation, transportation or other conduct to which this Act applies originates.'.

(b) EFFECTIVE DATE- This section and the amendments made by this section shall become effective 90 days after the date of the enactment of this Act.

(c) STUDY- The Attorney General shall carry out the study to determine the impact of this section and shall submit the results of such study not later than 180 days after the enactment of this Act.

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.

---

---

The Office of Website Management, Bureau of Public Affairs, manages this site as a portal for information from the U.S. State Department.

External links to other Internet sites should not be construed as an endorsement of the views or privacy policies contained therein.

Note: documents in Portable Document Format (PDF) require Adobe Acrobat Reader 5.0 or higher to view, download Adobe Acrobat Reader (http://get.adobe.com/reader/).

## DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On March 16, 2018, I served the:

- **Notice of Complete Test Claim, Schedule for Comments, and Notice of Tentative Hearing Date issued March 16, 2018**
- **Test Claim filed by the City of Claremont on March 6, 2018**

  *U Visa 918 Form, Victims of Crime: Nonimmigrant Status*, 17-TC-01
  City of Claremont, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on March 16, 2018 at Sacramento, California.

Jill Magee

Jill L. Magee
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 3/16/18

**Claim Number:** 17-TC-01

**Matter:** U Visa 918 Form, Victims of Crime: Nonimmigrant status

**Claimant:** City of Claremont

**TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:**

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

**Socorro Aquino**, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-7522
SAquino@sco.ca.gov

**Harmeet Barkschat**, *Mandate Resource Services,LLC*
5325 Elkhorn Blvd. #307, Sacramento, CA 95842
Phone: (916) 727-1350
harmeet@calsdrc.com

**Lacey Baysinger**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
lbaysinger@sco.ca.gov

**Cindy Black**, City Clerk, *City of St. Helena*
1480 Main Street, St. Helena, CA 94574
Phone: (707) 968-2742
cityclerk@cityofsthelena.org

**Allan Burdick**,
7525 Myrtle Vista Avenue, Sacramento, CA 95831
Phone: (916) 203-3608
allanburdick@gmail.com

**J. Bradley Burgess**, *MGT of America*
895 La Sierra Drive, Sacramento, CA 95864
Phone: (916)595-2646
Bburgess@mgtamer.com

**Gwendolyn Carlos**, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-0706
gcarlos@sco.ca.gov

**Daniel Carrigg**, Deputy Executive Director/Legislative Director, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8222
Dcarrigg@cacities.org

**Annette Chinn**, *Cost Recovery Systems,Inc.*
**Claimant Representative**
705-2 East Bidwell Street, #294, Folsom, CA 95630
Phone: (916) 939-7901
achinncrs@aol.com

**Carolyn Chu**, Senior Fiscal and Policy Analyst, *Legal Analyst's Office*
925 L Street, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

**Michael Coleman**, *Coleman Advisory Services*
2217 Isle Royale Lane, Davis, CA 95616
Phone: (530) 758-3952
coleman@muni1.com

**Anita Dagan**, Manager, Local Reimbursement Section, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-4112
Adagan@sco.ca.gov

**Marieta Delfin**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-4320
mdelfin@sco.ca.gov

**Donna Ferebee**, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
donna.ferebee@dof.ca.gov

**Susan Geanacou**, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
susan.geanacou@dof.ca.gov

**Dillon Gibbons**, Legislative Representative, *California Special Districts Association*
1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
dillong@csda.net

**Heather Halsey**, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
heather.halsey@csm.ca.gov

**Sunny Han**, Project Manager, *City of Huntington Beach*
2000 Main Street, Huntington Beach, CA 92648

Phone: (714) 536-5907
Sunny.han@surfcity-hb.org

**Chris Hill**, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Hill@dof.ca.gov

**Justyn Howard**, Program Budget Manager, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-1546
justyn.howard@dof.ca.gov

**Kevin Hunt**, General Manager, *Central Basin Municipal Water District*
6252 Telegraph Road, Commerce, CA 90040
Phone: (323) 201-5500
kevinh@centralbasin.org

**Edward Jewik**, *County of Los Angeles*
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-8564
ejewik@auditor.lacounty.gov

**Jill Kanemasu**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-9891
jkanemasu@sco.ca.gov

**Anita Kerezsi**, *AK & Company*
3531 Kersey Lane, Sacramento, CA 95864
Phone: (916) 972-1666
akcompanysb90@gmail.com

**Jill Magee**, Program Analyst, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
Jill.Magee@csm.ca.gov

**Hortensia Mato**, *City of Newport Beach*
100 Civic Center Drive, Newport Beach, CA 92660
Phone: (949) 644-3000
hmato@newportbeachca.gov

**Michelle Mendoza**, *MAXIMUS*
17310 Red Hill Avenue, Suite 340, Irvine, CA 95403
Phone: (949) 440-0845
michellemendoza@maximus.com

**Meredith Miller**, Director of SB90 Services, *MAXIMUS*
3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670
Phone: (972) 490-9990
meredithcmiller@maximus.com

**Andy Nichols**, *Nichols Consulting*
1857 44th Street, Sacramento, CA 95819
Phone: (916) 455-3939
andy@nichols-consulting.com

**Arthur Palkowitz**, *Artiano Shinoff*

2488 Historic Decatur Road, Suite 200, San Diego, CA 92106
Phone: (619) 232-3122
apalkowitz@as7law.com

**Steven Pavlov**, Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Steven.Pavlov@dof.ca.gov

**Adam Pirrie**, *City of Claremont*
207 Harvard Ave, Claremont, CA 91711
Phone: (909) 399-5356
apirrie@ci.claremont.ca.us

**Jai Prasad**, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415-0018
Phone: (909) 386-8854
jai.prasad@atc.sbcounty.gov

**Mark Rewolinski**, *MAXIMUS*
808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (949) 440-0845
markrewolinski@maximus.com

**Camille Shelton**, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

**Carla Shelton**, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
carla.shelton@csm.ca.gov

**Jim Spano**, Chief, Mandated Cost Audits Bureau, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-5849
jspano@sco.ca.gov

**Dennis Speciale**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
DSpeciale@sco.ca.gov

**Joe Stephenshaw**, Director, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
Joe.Stephenshaw@sen.ca.gov

**Derk Symons**, Staff Finance Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Derk.Symons@dof.ca.gov

**Jolene Tollenaar**, *MGT of America*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 243-8913
jolenetollenaar@gmail.com

**Evelyn Tseng**, *City of Newport Beach*
100 Civic Center Drive, Newport Beach, CA 92660
Phone: (949) 644-3127
etseng@newportbeachca.gov

**Brian Uhler**, Principal Fiscal & Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8328
Brian.Uhler@LAO.CA.GOV

**Renee Wellhouse**, *David Wellhouse & Associates, Inc.*
3609 Bradshaw Road, H-382, Sacramento, CA 95927
Phone: (916) 797-4883
dwa-renee@surewest.net

**Jennifer Whiting**, Assistant Legislative Director, *League of California Cities*
1400 K Street, Suite 400, Sacramento , CA 95814
Phone: (916) 658-8249
jwhiting@cacities.org

**Patrick Whitnell**, General Counsel, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8281
pwhitnell@cacities.org

**Hasmik Yaghobyan**, *County of Los Angeles*
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-9653
hyaghobyan@auditor.lacounty.gov

RECEIVED
April 16, 2018
Commission on
State Mandates

DEPARTMENT OF FINANCE
EDMUND G. BROWN JR. • GOVERNOR
915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

**Exhibit B**

April 16, 2018

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

**Response to Test Claim 17-TC-01, U-VISA Form I-918, Victims of Crime: Nonimmigrant Status**

Dear Ms. Halsey:

The Department of Finance has reviewed the test claim submitted to the Commission on State Mandates (Commission) by the City of Claremont (City) that alleges reimbursable, state-mandated costs associated with Chapter 721, Statues of 2015 (SB 674).

The claimant asserts that SB 674 requires local law enforcement agencies, upon the request of an immigrant crime victim or their family, to certify victim helpfulness on a Form I-918, thus enabling the victim to apply for a U-Visa to reside in the United States. Prior to the enactment of SB 674, and consistent with federal law, local law enforcement agencies had discretion in certifying Forms I-918.

The City alleges the Claremont Police Department (Police Department) has incurred the following state-reimbursable costs associated with SB 674:

<u>One-Time Costs</u>:

- Updating Police Department policies and procedures.
- Training existing staff on the new requirements.

<u>Ongoing Costs</u>:

- Training new staff on the new requirements.
- Researching the crime the victim was involved in to determine if it qualifies for certification under SB 674, and to determine victim helpfulness.
- Completing, signing, and certifying the Form I-918 and accompanying Supplement B.
- Supervisor review and approval of the narrative description of victim helpfulness.
- Preparation and submittal of annual reports to the Legislature specifying the total requests for U-Visa certification, and the number approved and denied.
- Reviewing the U-Visa request.
- Supervisor review and approval of the completed U-Visa paperwork.
- Transmittal of results to involved parties and legal representatives.
- Filing, logging, and closing each case.

Finance asserts the City's test claim does not meet the cost threshold for filing a test claim because many of the asserted [or claimed] costs are not required under a plain reading of SB 674.

Pursuant to Government Code section 17564 (a), a claimant must incur at least $1,000 in costs before filing a claim for reimbursement. Government Code section 17553 (b) (1) (C), meanwhile, requires the claimant to provide the actual increased costs incurred during the fiscal year for which the claim was submitted.

The City states the Police Department received its first U-Visa request in November 2017. Based on the Activity Cost Estimates table on page 4 of the test claim, it is unclear the Police Department incurred at least $1,000 in actual 2017-18 costs. The Activity Cost Estimates table states the one-time and ongoing costs, totaling $2,755, are estimated. Because the City states the Police Department has not incurred actual 2017-18 costs, the Commission should reject the test claim for not meeting the cost threshold.

Furthermore, most of the estimated 2017-18 costs included in the Activity Cost Estimates table do not qualify for reimbursement under a plain reading of SB 674 because they are not required. These include the one-time costs for the Police Chief to review and approve new policies and procedures, for the Police Captain to research the new law and draft new policy, for the City Attorney to review and approve the new policies, and for the Police Lieutenant to review the new policies and training. These costs comprise $1,073 of the $2,755 test claim amount for 2017-18. Also not qualifying for reimbursement according to a plain reading of SB 674 is the $974 in claimed indirect costs. Removal of these costs from the $2,755 amount claimed for 2017-18 leaves only $708, which falls below the $1,000 threshold set by Government Code section 17564 (a).

Sincerely,

ERIKA LI
Program Budget Manager

## DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On April 17, 2018, I served the:

- **Finance's Comments on the Test Claim filed April 16, 2018**

  *U Visa 918 Form, Victims of Crime: Nonimmigrant Status*, 17-TC-01
  City of Claremont, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on April 17, 2018 at Sacramento, California.

Lorenzo Duran
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 4/13/18

**Claim Number:** 17-TC-01

**Matter:** U Visa 918 Form, Victims of Crime: Nonimmigrant status

**Claimant:** City of Claremont

**TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:**

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

**Socorro Aquino**, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-7522
SAquino@sco.ca.gov

**Harmeet Barkschat**, *Mandate Resource Services,LLC*
5325 Elkhorn Blvd. #307, Sacramento, CA 95842
Phone: (916) 727-1350
harmeet@calsdrc.com

**Lacey Baysinger**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
lbaysinger@sco.ca.gov

**Cindy Black**, City Clerk, *City of St. Helena*
1480 Main Street, St. Helena, CA 94574
Phone: (707) 968-2742
ctzafopoulos@cityofsthelena.org

**Allan Burdick**,
7525 Myrtle Vista Avenue, Sacramento, CA 95831
Phone: (916) 203-3608
allanburdick@gmail.com

**J. Bradley Burgess**, *MGT of America*
895 La Sierra Drive, Sacramento, CA 95864
Phone: (916)595-2646
Bburgess@mgtamer.com

**Evelyn Calderon-Yee**, Bureau Chief, *State Controller's Office*

Local Government Programs and Services, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-5919
ECalderonYee@sco.ca.gov

**Gwendolyn Carlos**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-0706
gcarlos@sco.ca.gov

**Daniel Carrigg**, Deputy Executive Director/Legislative Director, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8222
Dcarrigg@cacities.org

**Annette Chinn**, *Cost Recovery Systems,Inc.*
**Claimant Representative**
705-2 East Bidwell Street, #294, Folsom, CA 95630
Phone: (916) 939-7901
achinncrs@aol.com

**Carolyn Chu**, Senior Fiscal and Policy Analyst, *Legal Analyst's Office*
925 L Street, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

**Michael Coleman**, *Coleman Advisory Services*
2217 Isle Royale Lane, Davis, CA 95616
Phone: (530) 758-3952
coleman@muni1.com

**Anita Dagan**, Manager, Local Reimbursement Section, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-4112
Adagan@sco.ca.gov

**Marieta Delfin**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-4320
mdelfin@sco.ca.gov

**Donna Ferebee**, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
donna.ferebee@dof.ca.gov

**Susan Geanacou**, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
susan.geanacou@dof.ca.gov

**Dillon Gibbons**, Legislative Representative, *California Special Districts Association*
1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
dillong@csda.net

**Heather Halsey**, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 323-3562
heather.halsey@csm.ca.gov

**Sunny Han**, Project Manager, *City of Huntington Beach*
2000 Main Street, Huntington Beach, CA 92648
Phone: (714) 536-5907
Sunny.han@surfcity-hb.org

**Chris Hill**, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Hill@dof.ca.gov

**Justyn Howard**, Program Budget Manager, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-1546
justyn.howard@dof.ca.gov

**Kevin Hunt**, General Manager, *Central Basin Municipal Water District*
6252 Telegraph Road, Commerce, CA 90040
Phone: (323) 201-5500
kevinh@centralbasin.org

**Edward Jewik**, *County of Los Angeles*
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-8564
ejewik@auditor.lacounty.gov

**Jill Kanemasu**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-9891
jkanemasu@sco.ca.gov

**Anita Kerezsi**, *AK & Company*
3531 Kersey Lane, Sacramento, CA 95864
Phone: (916) 972-1666
akcompanysb90@gmail.com

**Lisa Kurokawa**, Bureau Chief for Audits, *State Controller's Office*
Compliance Audits Bureau, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 327-3138
lkurokawa@sco.ca.gov

**Jill Magee**, Program Analyst, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
Jill.Magee@csm.ca.gov

**Hortensia Mato**, *City of Newport Beach*
100 Civic Center Drive, Newport Beach, CA 92660
Phone: (949) 644-3000
hmato@newportbeachca.gov

**Michelle Mendoza**, *MAXIMUS*
17310 Red Hill Avenue, Suite 340, Irvine, CA 95403
Phone: (949) 440-0845
michellemendoza@maximus.com

**Meredith Miller**, Director of SB90 Services, *MAXIMUS*

3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670
Phone: (972) 490-9990
meredithcmiller@maximus.com

**Lourdes Morales**, Senior Fiscal and Policy Analyst, *Legal Analyst's Office*
925 L Street, Sacramento, CA 95814
Phone: (916) 319-8320
Lourdes.Morales@LAO.CA.GOV

**Andy Nichols**, *Nichols Consulting*
1857 44th Street, Sacramento, CA 95819
Phone: (916) 455-3939
andy@nichols-consulting.com

**Arthur Palkowitz**, *Artiano Shinoff*
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106
Phone: (619) 232-3122
apalkowitz@as7law.com

**Steven Pavlov**, Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Steven.Pavlov@dof.ca.gov

**Adam Pirrie**, *City of Claremont*
207 Harvard Ave, Claremont, CA 91711
Phone: (909) 399-5356
apirrie@ci.claremont.ca.us

**Jai Prasad**, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415-0018
Phone: (909) 386-8854
jai.prasad@atc.sbcounty.gov

**Mark Rewolinski**, *MAXIMUS*
808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (949) 440-0845
markrewolinski@maximus.com

**Carla Shelton**, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
carla.shelton@csm.ca.gov

**Camille Shelton**, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

**Jim Spano**, Chief, Mandated Cost Audits Bureau, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-5849
jspano@sco.ca.gov

**Dennis Speciale**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
DSpeciale@sco.ca.gov

**Joe Stephenshaw**, Director, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
Joe.Stephenshaw@sen.ca.gov

**Derk Symons**, Staff Finance Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Derk.Symons@dof.ca.gov

**Jolene Tollenaar**, *MGT of America*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 243-8913
jolenetollenaar@gmail.com

**Evelyn Tseng**, *City of Newport Beach*
100 Civic Center Drive, Newport Beach, CA 92660
Phone: (949) 644-3127
etseng@newportbeachca.gov

**Brian Uhler**, Principal Fiscal & Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8328
Brian.Uhler@LAO.CA.GOV

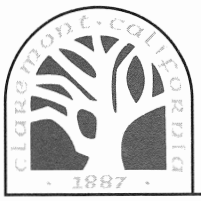
**Renee Wellhouse**, *David Wellhouse & Associates, Inc.*
3609 Bradshaw Road, H-382, Sacramento, CA 95927
Phone: (916) 797-4883
dwa-renee@surewest.net

**Jennifer Whiting**, Assistant Legislative Director, *League of California Cities*
1400 K Street, Suite 400, Sacramento , CA 95814
Phone: (916) 658-8249
jwhiting@cacities.org

**Patrick Whitnell**, General Counsel, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8281
pwhitnell@cacities.org

**Hasmik Yaghobyan**, *County of Los Angeles*
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-9653
hyaghobyan@auditor.lacounty.gov

**Exhibit C**



**CITY OF CLAREMONT** Financial Services Department

City Hall
207 Harvard Avenue
P.O. Box 880
Claremont, CA 91711-0880
Phone (909) 399-5346
Fax (909) 399-5366
www.ci.claremont.ca.us

*RECEIVED*
May 01, 2018
*Commission on State Mandates*

May 1, 2018

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Response to Department of Finance April 16, 2018 Comments on Test Claim 17-TC-01. U-VISA Form I -918, Victims of Crime: Nonimmigrant Status

Dear Ms. Halsey,

Please accept our response to the State Department of Finance's (DOF) April 16, 2018 comments to the City's Test Claim referenced above.

The DOF argues that the Commission on State Mandates (COSM) should reject the City of Claremont's UVISA Test Claim because ***"the City's test claim does not meet the cost threshold for filing a test claim (the City did not demonstrate that actual costs will exceed $1,000)" and because "many of the asserted costs are not required under a plain reading of the law"***

The DOF states that they did not believe one-time costs alleged by the city: updating policies and procedures, and training staff on the new requirements; are eligible for reimbursement, and therefore those costs should be omitted from the city's computation of actual costs incurred. This, they argue, left only $708 in actual FY 2017-18 costs, which was below the $1,000 claiming threshold.

First, the City believes that the DOF is inappropriately and prematurely assuming which activities the COSM will or will not find to be eligible for State reimbursement. We are aware that in many other test claims such as: Child Abuse and Neglect (ICAN) Investigation Reports, Crime Statistics Report for the Department of Justice, and Crime Victims Domestic Violence Incident Reports; similar one-time activities were approved by the COSM.

The City believes that reviewing the new Penal Code sections and their requirements, disseminating that information to relevant staff, and updating Departmental Policies and Procedures is standard practice for law enforcement agencies and a reasonable method of implementing newly mandated statutes.

Second, even if the Commission were to determine that one-time costs were not eligible, the City's on-going Fiscal Year 2017-18 costs presented in the test claim would have exceed the $1,000 threshold. It appears that the DOF forgot to include eligible overhead or indirect costs to the $708 they cited. An additional $372 of indirect costs (85% ICRP) should have been added to the $708 of direct costs, resulting in a total of $1,080 in on-going costs for FY 2017-18.

Third, Test Claim instructions require the claimant to include a statement that "actual ***or estimated*** increased costs that ***will be*** incurred by the claimant to implement the alleged mandate" and that "actual and/**or** ***estimated*** costs resulting from the alleged mandate exceeds $1,000." The City only has to show that they expect that their costs will exceed $1,000 in order to file a test claim.

The City feels that DOF's reference to Government Code Section 17564 (a) is not appropriate as it does not relate to the Test Claiming process, but the Reimbursement Claiming process when actual cost claims are submitted to the State Controller's Office after Parameters and Guidelines and Claiming Instructions are released.

Government Code Sections 17551(c) addresses the requirements of submitting a test claim and states: "Local agency and school district ***test claims*** shall be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later." Further, Commission regulations 1183.1(c) state, "{f}or purposes of claiming based on the date of first incurring costs, 'within 12 months' means by June 30 of the fiscal year following the fiscal year in which increased costs were ***first*** *incurred* by the test claimant."

Therefore, the City has correctly satisfied the requirements for submitting a Test Claim and we request Commission consideration of this matter.

Sincerely,

Adam Pirrie
Finance Director

## DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On May 1, 2018, I served the:

- **Claimant's Rebuttal Comments filed May 1, 2018**

  *U Visa 918 Form, Victims of Crime: Nonimmigrant Status*, 17-TC-01
  City of Claremont, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on May 1, 2018 at Sacramento, California.

Lorenzo Duran
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 4/25/18

**Claim Number:** 17-TC-01

**Matter:** U Visa 918 Form, Victims of Crime: Nonimmigrant status

**Claimant:** City of Claremont

**TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:**

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

**Socorro Aquino**, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-7522
SAquino@sco.ca.gov

**Harmeet Barkschat**, *Mandate Resource Services,LLC*
5325 Elkhorn Blvd. #307, Sacramento, CA 95842
Phone: (916) 727-1350
harmeet@calsdrc.com

**Lacey Baysinger**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
lbaysinger@sco.ca.gov

**Cindy Black**, City Clerk, *City of St. Helena*
1480 Main Street, St. Helena, CA 94574
Phone: (707) 968-2742
ctzafopoulos@cityofsthelena.org

**Allan Burdick**,
7525 Myrtle Vista Avenue, Sacramento, CA 95831
Phone: (916) 203-3608
allanburdick@gmail.com

**J. Bradley Burgess**, *MGT of America*
895 La Sierra Drive, Sacramento, CA 95864
Phone: (916)595-2646
Bburgess@mgtamer.com

**Evelyn Calderon-Yee**, Bureau Chief, *State Controller's Office*

Local Government Programs and Services, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-5919
ECalderonYee@sco.ca.gov

**Gwendolyn Carlos**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-0706
gcarlos@sco.ca.gov

**Daniel Carrigg**, Deputy Executive Director/Legislative Director, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8222
Dcarrigg@cacities.org

**Annette Chinn**, *Cost Recovery Systems,Inc.*
**Claimant Representative**
705-2 East Bidwell Street, #294, Folsom, CA 95630
Phone: (916) 939-7901
achinncrs@aol.com

**Carolyn Chu**, Senior Fiscal and Policy Analyst, *Legal Analyst's Office*
925 L Street, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

**Mike Ciszek**, Lieutenant, *City of Claremont*
Police Department, 570 West Bonita Avenue, Claremont, CA 91711
Phone: (909) 399-5403
mciszek@ci.claremont.ca.us

**Michael Coleman**, *Coleman Advisory Services*
2217 Isle Royale Lane, Davis, CA 95616
Phone: (530) 758-3952
coleman@muni1.com

**Anita Dagan**, Manager, Local Reimbursement Section, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-4112
Adagan@sco.ca.gov

**Stacy Daugherty**, Finance Director, *City of Costa Mesa*
PO Box 1200, Costa Mesa, CA 92626-1200
Phone: (714) 754-5243
stacy.daugherty@costamesaca.gov

**Marieta Delfin**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-4320
mdelfin@sco.ca.gov

**Ed Everett**, Lieutenant, *City of Costa Mesa*
Police Department, PO Box 1200, Costa Mesa, CA 92626-1200
Phone: (714) 754-5395
eeverett@costamesaca.gov

**Donna Ferebee**, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814

Phone: (916) 445-3274
donna.ferebee@dof.ca.gov

**Susan Geanacou**, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
susan.geanacou@dof.ca.gov

**Dillon Gibbons**, Legislative Representative, *California Special Districts Association*
1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
dillong@csda.net

**Heather Halsey**, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
heather.halsey@csm.ca.gov

**Sunny Han**, Project Manager, *City of Huntington Beach*
2000 Main Street, Huntington Beach, CA 92648
Phone: (714) 536-5907
Sunny.han@surfcity-hb.org

**Chris Hill**, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Hill@dof.ca.gov

**Justyn Howard**, Program Budget Manager, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-1546
justyn.howard@dof.ca.gov

**Ray Hull**, Management Analyst, *City of Costa Mesa*
Finance Department, PO Box 1200, Costa Mesa, CA 92626-1200
Phone: (714) 754-5227
RAY.HULL@costamesaca.gov

**Kevin Hunt**, General Manager, *Central Basin Municipal Water District*
6252 Telegraph Road, Commerce, CA 90040
Phone: (323) 201-5500
kevinh@centralbasin.org

**Edward Jewik**, *County of Los Angeles*
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-8564
ejewik@auditor.lacounty.gov

**Jill Kanemasu**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-9891
jkanemasu@sco.ca.gov

**Anita Kerezsi**, *AK & Company*
3531 Kersey Lane, Sacramento, CA 95864
Phone: (916) 972-1666
akcompanysb90@gmail.com

**Lisa Kurokawa**, Bureau Chief for Audits, *State Controller's Office*

Compliance Audits Bureau, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 327-3138
lkurokawa@sco.ca.gov

**Jill Magee**, Program Analyst, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
Jill.Magee@csm.ca.gov

**Hortensia Mato**, *City of Newport Beach*
100 Civic Center Drive, Newport Beach, CA 92660
Phone: (949) 644-3000
hmato@newportbeachca.gov

**Michelle Mendoza**, *MAXIMUS*
17310 Red Hill Avenue, Suite 340, Irvine, CA 95403
Phone: (949) 440-0845
michellemendoza@maximus.com

**Meredith Miller**, Director of SB90 Services, *MAXIMUS*
3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670
Phone: (972) 490-9990
meredithcmiller@maximus.com

**Lourdes Morales**, Senior Fiscal and Policy Analyst, *Legal Analyst's Office*
925 L Street, Sacramento, CA 95814
Phone: (916) 319-8320
Lourdes.Morales@LAO.CA.GOV

**Andy Nichols**, *Nichols Consulting*
1857 44th Street, Sacramento, CA 95819
Phone: (916) 455-3939
andy@nichols-consulting.com

**Arthur Palkowitz**, *Artiano Shinoff*
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106
Phone: (619) 232-3122
apalkowitz@as7law.com

**Steven Pavlov**, Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Steven.Pavlov@dof.ca.gov

**Adam Pirrie**, *City of Claremont*
207 Harvard Ave, Claremont, CA 91711
Phone: (909) 399-5356
apirrie@ci.claremont.ca.us

**Jai Prasad**, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415-0018
Phone: (909) 386-8854
jai.prasad@atc.sbcounty.gov

**Mark Rewolinski**, *MAXIMUS*
808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (949) 440-0845
markrewolinski@maximus.com

**Camille Shelton**, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

**Carla Shelton**, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
carla.shelton@csm.ca.gov

**Jim Spano**, Chief, Mandated Cost Audits Bureau, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-5849
jspano@sco.ca.gov

**Dennis Speciale**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
DSpeciale@sco.ca.gov

**Joe Stephenshaw**, Director, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
Joe.Stephenshaw@sen.ca.gov

**Derk Symons**, Staff Finance Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Derk.Symons@dof.ca.gov

**Jolene Tollenaar**, *MGT of America*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 243-8913
jolenetollenaar@gmail.com

**Evelyn Tseng**, *City of Newport Beach*
100 Civic Center Drive, Newport Beach, CA 92660
Phone: (949) 644-3127
etseng@newportbeachca.gov

**Brian Uhler**, Principal Fiscal & Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8328
Brian.Uhler@LAO.CA.GOV

**Renee Wellhouse**, *David Wellhouse & Associates, Inc.*
3609 Bradshaw Road, H-382, Sacramento, CA 95927
Phone: (916) 797-4883
dwa-renee@surewest.net

**Jennifer Whiting**, Assistant Legislative Director, *League of California Cities*
1400 K Street, Suite 400, Sacramento , CA 95814
Phone: (916) 658-8249
jwhiting@cacities.org

**Patrick Whitnell**, General Counsel, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814

Phone: (916) 658-8281
pwhitnell@cacities.org

**Elena Wilson**, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: 916-323-3562
elena.wilson@csm.ca.gov

**Hasmik Yaghobyan**, *County of Los Angeles*
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-9653
hyaghobyan@auditor.lacounty.gov

STATE of CALIFORNIA
**COMMISSION ON STATE MANDATES**

**Exhibit D**

July 20, 2018

Ms. Annette Chinn
Cost Recovery Systems, Inc.
705-2 East Bidwell Street, #294
Folsom, CA 95630

Mr. Justyn Howard
Department of Finance
915 L Street
Sacramento, CA 95814

*And Parties, Interested Parties, and Interested Persons (See Mailing List)*

**Re: Draft Proposed Decision, Schedule for Comments, and Notice of Hearing**
*U Visa 918 Form, Victims of Crime: Nonimmigrant Status*, 17-TC-01
Penal Code Section 679.10; Statutes 2015, Chapter 721 (SB 674)
City of Claremont, Claimant

Dear Ms. Chinn and Mr. Howard:

The Draft Proposed Decision for the above-captioned matter is enclosed for your review and comment.

**Written Comments**

Written comments may be filed on the Draft Proposed Decision by **August 10, 2018**. Please note that all representations of fact submitted to the Commission must be signed under penalty of perjury by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge, information, or belief. (Cal. Code Regs., tit. 2, § 1187.5.) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over an objection in civil actions. (Cal. Code Regs., tit. 2, § 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.[1]

You are advised that comments filed with the Commission on State Mandates (Commission) are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents. Refer to http://www.csm.ca.gov/dropbox_procedures.php on the Commission's website for electronic filing instructions. (Cal. Code Regs., tit. 2, § 1181.3.)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

[1] Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

J:\MANDATES\2017\TC\17-TC-01 U Visa 918 Form Victims of Crime Nonimmigrant Status\Correspondence\draftPDtrans.docx

**Hearing**

This matter is set for hearing on **Friday, September 28, 2018** at 10:00 a.m., State Capitol, Room 447, Sacramento, California. The Proposed Decision will be issued on or about September 14, 2018. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

Sincerely,

Heather Halsey
Executive Director

# ITEM _
# TEST CLAIM
# DRAFT PROPOSED DECISION

Penal Code Section 679.10

Statutes 2015, Chapter 721 (SB 674)

*U Visa 918 Form, Victims of Crime: Nonimmigrant Status*

17-TC-01

City of Claremont, Claimant

## EXECUTIVE SUMMARY

### Overview

This Test Claim alleges reimbursable state-mandated activities arising from Statutes 2015, chapter 721 (SB 674), which added section 679.10 to the Penal Code. The test claim statute requires local agencies, upon request of a victim of qualifying criminal activity seeking temporary immigration benefits under the federal U Visa program and willing to assist law enforcement with investigation or prosecution of the criminal activity, to complete and certify the federal Form I-918 Supplement B (U Nonimmigrant Status Certification) and to submit annual reports about the certifications to the Legislature.

Staff finds that Penal Code section 679, added by the test claim statute, imposes a state-mandated new program or higher level of service on local agencies. However, because there is no evidence in the record to support a finding of costs mandated by the state within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, staff recommends that the Commission on State Mandates (Commission) deny this Test Claim.

### Procedural History

SB 674, Statutes 2015, chapter 721, was enacted on October 9, 2015. The City of Claremont (claimant) filed the Test Claim on March 6, 2018, alleging that it first incurred costs under the test claim statute in fiscal Year 2017-2018, after receiving the first request for U Visa certification under the new law on November 21, 2017.[1] The Department of Finance (Finance) filed comments on the Test Claim on April 16, 2018.[2] The claimant filed rebuttal comments on May 1, 2018.[3] Commission staff issued the Draft Proposed Decision on July 20, 2018[4].

[1] Exhibit A, Test Claim, pages 1, 3, 5-6; Exhibit A, Test Claim, pages 11-12.

[2] Exhibit B, Finance's Comments on the Test Claim.

[3] Exhibit C, Claimant's Rebuttal Comments.

[4] Exhibit D, Draft Proposed Decision.

**Commission Responsibilities**

Under article XIII B, section 6 of the California Constitution, local agencies and school districts are entitled to reimbursement for the costs of state-mandated new programs or higher levels of service. In order for local government to be eligible for reimbursement, one or more similarly situated local agencies or school districts must file a test claim with the Commission. "Test claim" means the first claim filed with the Commission alleging that a particular statue or executive order imposes costs mandated by the state. Test claims function similarly to class actions and all members of the class have the opportunity to participate in the test claim process and all are bound by the final decision of the Commission for purposes of that test claim.

The Commission is the quasi-judicial body vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution. In making its decisions, the Commission must strictly construe XIII B, section 6 and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."[5]

**Claims**

The following chart provides a brief summary of the claims and issues raised and staff's recommendation:

| Issue | Description | Staff Recommendation |
|---|---|---|
| Was the Test Claim timely filed pursuant to Government Code section 17551 and California Code of Regulations, title 2, section 1183.1? | Government Code section 17551(c) states: "test claims shall be filed not later than 12 months following the effective date of a statue or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later."<br>At the time of filing, Section 1183.1(c) of the Commission's regulations stated: "[f]or purposes of claiming based on the date of first incurring costs, 'within 12 months' means by June 30 of the fiscal year following the fiscal year in which increased costs were first incurred by the test claimant." | *The Test Claim was timely filed* – This Test Claim alleges costs were first incurred after the city received its first U Visa request after enactment of the test claim statute on November 21, 2017, in fiscal year 2017-2018. The Test Claim was filed on March 6, 2018. Accordingly, the Test Claim was filed within 12 months of first incurring costs, which is timely pursuant to the second prong of the Government Code section 17551(c). |

[5] *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1281, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

| Issue | Description | Staff Recommendation |
|---|---|---|
| Did the Test Claim meet the filing requirements of the Government Code by alleging that reimbursable state-mandated costs will exceed $1,000? | Finance argues that the claimant did not meet the test claim filing requirements since there is no evidence that the claimant incurred at least $1,000 in actual costs *before* filing the Test Claim pursuant to Government Code sections 17553(b)(1)(C) and 17564(a).[6] The Test Claim only provides an estimate of increased costs.[7]<br><br>The claimant argues that the instructions for the test claim form require the claimant to include a statement of the "actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate" and that "actual and/or estimated costs resulting from the alleged mandate exceeds $1,000."[8] Thus, the claimant argues that it only has to show that it expects costs will exceed $1,000 in order to file a test claim. | *The Test Claim meets the test claim filing requirements of the Government Code –*<br><br>In order for the Commission to take jurisdiction over a test claim, the claim must *allege* that reimbursable state-mandated costs will exceed $1,000. The allegations can be based on an estimate that costs to comply with the alleged mandated program will exceed $1,000.<br><br>Government Code section 17564(a) states that no test claim or reimbursement claim shall be filed unless these claims exceed $1,000.<br><br>Government Code section 17551, requires the Commission to hear and decide a test claim *alleging* that local agencies or school districts are entitled to reimbursement for costs mandated by the state, as required by article XIII B, section 6 of the California Constitution.<br><br>Government Code section 17521 defines a "test claim" to mean "the first claim filed with the commission *alleging* that a particular statute or executive order imposes costs mandated by the state."<br><br>Government Code section 17553(b)(1)(C) includes as a |

[6] Exhibit B, Finance's Comments on the Test Claim, page 2.

[7] Exhibit B, Finance's Comments on the Test Claim, page 2.

[8] Exhibit C, Claimant's Rebuttal Comments, page 2.

| Issue | Description | Staff Recommendation |
|---|---|---|
| | | required element of a written narrative for a test claim filing, the actual increased costs incurred by the claimant during the fiscal year for which the claim was filed. Evidence of actual increased costs in the record is required for the Commission to make a finding that the test claim statute imposes costs mandated by the state pursuant to Government Code section 17514.<br><br>However, section 17553, when read with the filing requirements of section 17551(c), does not require a showing of actual increased costs in excess of $1,000 prior to filing. Government Code section 17551(c) requires the filing of a test claim "not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later." Under the first prong of section 17551(c), a test claim can be filed the day after the effective date of the statute, before costs are actually incurred, and be considered timely and complete.<br><br>Here, the claimant has alleged that it first incurred increased costs under the test claim statute in fiscal year 2017-2018 and estimated that these costs will amount to $2,755 for that fiscal year, and $1,299 for the following 2018-2019 fiscal |

| Issue | Description | Staff Recommendation |
|---|---|---|
| | | year. This exceeds the $1,000 minimum requirement for filing a test claim. |
| Does Penal Code section 679.10, as added by Statutes 2015, chapter 721 impose a reimbursable state-mandated program? | The test claim statute requires local agencies, upon request of a victim of qualifying criminal activity seeking temporary immigration benefits under the federal U Visa program and willing to assist law enforcement with the criminal investigation or prosecution, to complete and certify the federal Form I-918 Supplement B (U Nonimmigrant Status Certification) and to submit annual reports about the certifications to the Legislature. | *Deny – There is no evidence in the record of increased actual costs mandated by the state within the meaning of article XIII B, section 6 and Government Code section 17514* -<br><br>Though the test claim statute mandates a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution, there is no evidence in the record to support a finding of increased actual costs mandated by the state within the meaning of article XIII B, section 6 and Government Code section 17514. The Test Claim contains detailed cost *estimates* to implement the mandated program, but there is no evidence of *actual* costs mandated by the state in the record. |

**Staff Analysis**

**A. The Commission Has Jurisdiction to Decide This Test Claim.**

1. This Test Claim Was Timely Filed Pursuant to Government Code section 17551.

This Test Claim was filed on March 6, 2018, and alleges costs were first incurred after the city received its first U Visa request after the test claim statute was enacted on November 21, 2017, in fiscal year 2017-2018.[9] Accordingly, the fiscal year in which costs were first incurred, for purposes of the Commission's regulations, is fiscal year 2017-2018, and the claimant had until June 30 of fiscal year 2018-2019 to file its claim, based on the regulations in effect at that time.[10]

[9] Exhibit A, Test Claim, pages 11-12.

[10] California Code of Regulations, title 2, section 1183.1(c) (Register 2016, No. 38).

Therefore, the Test Claim was filed within 12 months of first incurring costs, which is timely pursuant to the second prong of the Government Code section 17551(c).

2. This Test Claim Meets the Filing Requirements of the Government Code by Alleging that Reimbursable State-Mandated Costs Will Exceed $1,000.

In order for the Commission to take jurisdiction over a test claim, the claim must *allege* that reimbursable state-mandated costs will exceed $1,000 in accordance with the Government Code sections 17564, 17551, 17521, and 17553(b)(1)(C). The allegations can be based on an estimate that costs to comply with the alleged mandated program will exceed $1,000. The claimant has alleged that it first incurred increased costs under the test claim statute in fiscal year 2017-2018 and estimated that these costs will amount to $2,755 for that fiscal year, and $1,299 for the following fiscal year (2018-2019). This exceeds the $1,000 minimum requirement for filing a test claim.

Government Code section 17551, requires the Commission to hear and decide a test claim *alleging* that local agencies or school districts are entitled to reimbursement for costs mandated by the state, as required by article XIII B, section 6 of the California Constitution.

Government Code section 17564(a) states that no test claim or reimbursement claim shall be filed unless these claims exceed $1,000.

Government Code section 17553(b)(1)(C) includes as a required element of a written narrative for a test claim filing, the actual increased costs incurred by the claimant during the fiscal year for which the claim was filed. Evidence of actual increased costs in the record is required for the Commission to make a finding that the test claim statute imposes costs mandated by the state pursuant to Government Code section 17514.

However, section 17553, when read with the filing requirements of section 17551(c), does not require a showing of actual increased costs in excess of $1,000 prior to filing. Government Code section 17551(c) requires the filing of a test claim "not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later." Under the first prong of section 17551(c), a test claim can be filed the day after the effective date of the statute, before costs are actually incurred, and be considered timely and complete.

Here, the claimant has alleged that it first incurred increased costs under the test claim statute in fiscal year 2017-2018 and estimated that these costs will amount to $2,755 for that fiscal year, and $1,299 for the following 2018-2019 fiscal year. This exceeds the $1,000 minimum requirement for filing a test claim.

Therefore, this Test Claim meets the filing requirements of the Government Code.

**B. Penal Code Section 679.10 Does Not Impose a Reimbursable State-Mandated Program Within the Meaning of Article XIII B, Section 6 of the California Constitution Because There Is No Evidence of Actual Increased Costs Mandated by the State in the Record.**

Penal Code section 679.10, added by the test claim statute (Stats. 2015, ch. 721), mandates a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution for "certifying officials" from the "certifying entities" of local agencies

within the meaning of the section 679.10(a), with the *exception* of the police/security departments of school districts and special districts, and judges, to perform the following new activities:

- The certifying official shall fully complete and sign the Form I-918 Supplement B certification upon the request of the victim or the victim's family member, and "include specific details about the nature of the crime investigated or prosecuted and a detailed description of the victim's helpfulness or likely helpfulness to the detection or investigation or prosecution of the criminal activity" within 90 days of the request or 14 days of the request if the victim is in removal proceedings, when the victim was a victim of a qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity. (Pen. Code, § 679.10(a)-(j).)
- A certifying entity that receives a request for a Form I-918 Supplement B certification shall report to the Legislature on or before January 1, 2017, and annually thereafter, the number of victims that requested certifications from the particular agency, the number of certifications signed, and the number of certifications denied. (Pen. Code, § 679.10(l).)

These activities are new, with respect to prior law, because prior to enactment of the test claim statute, local agencies had the authority, but were not required to certify the Form I-918 Supplement B, and the reporting requirement did not exist. In addition, the statute is uniquely imposed on government and provides a service to the public. The goal of the test claim statute "is to ensure the maximum amount of immigrant victims of crime in California have the opportunity to apply for the federal U-Visa when the immigrant was a victim of a qualifying crime and has been helpful or is likely to be helpful in the investigation or prosecution of that crime" and to create "equity in the granting of the certifications of victim helpfulness that are essential to the crime victim's U-Visa application filed with the USCIS."[11] Thus, the statute imposes a new program or higher level of service.

Reimbursement is not required under article XIII B, section 6, however, because there is no evidence in the record that the test claim statute results in increased actual costs mandated by the state within the meaning of article XIII B, section 6 and Government Code section 17514. In *County of Sonoma*, the court concluded that article XIII B, section 6 requires a showing of "increased actual expenditures," and that "when the Constitution uses 'costs' in the context of subvention of funds to reimburse for the 'costs of such program,' that some *actual cost* must be demonstrated...."[12] The Commission's finding of costs mandated by the state must be supported by substantial evidence in the record pursuant Government Code section 17559 and section 1187.5 of the Commission's regulations. In this case, the Test Claim states that costs were first incurred under this program after the city received the first U Visa request on November 21, 2017, after the effective date of the test claim statute, but no evidence of actual costs is provided in the record. Instead, the Test Claim contains detailed cost *estimates* to implement the mandated program, and assertions that costs will exceed $1,000 each fiscal year.

---

[11] Exhibit A, Test Claim, page 27 (Senate Rules Committee, Office of Senate Floor Analyses, Third Reading Analysis of SB 674, as introduced February 27, 2015, page 6).

[12] *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1284, 1285.

Therefore, though the allegation of costs in excess of $1000 is sufficient for jurisdictional purposes, there is no substantial evidence in the record to support a finding of actual costs mandated by the state within the meaning of article XIII B, section 6 and Government Code section 17514.

**Conclusion**

Based on the forgoing analysis, staff finds that the test claim statute, Statutes 2015, chapter 721 does not impose a reimbursable state-mandated program on local agencies.

**Staff Recommendation**

Staff recommends that the Commission adopt the Proposed Decision to deny the Test Claim and authorize staff to make any technical, non-substantive changes to the Proposed Decision following the hearing.

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

| | |
|---|---|
| IN RE TEST CLAIM<br>Penal Code Section 679.10<br>Statutes 2015, chapter 721 (SB 674)<br>Filed on March 6, 2018<br>City of Claremont, Claimant | Case No.: 17-TC-01<br>*U Visa 918 Form, Victims of Crime: Nonimmigrant Status*<br>DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7.<br>(*Adopted September 28, 2018*) |

**DECISION**

The Commission on State Mandates (Commission) heard and decided this Test Claim during a regularly scheduled hearing on September 28, 2018. [Witness list will be included in the adopted Decision.]

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

The Commission [adopted/modified] the Proposed Decision to [approve/partially approve/deny] the Test Claim by a vote of [vote will be included in the adopted Decision], as follows:

| **Member** | **Vote** |
|---|---|
| Lee Adams, County Supervisor | |
| Ken Alex, Director of the Office of Planning and Research | |
| Richard Chivaro, Representative of the State Controller | |
| Mark Hariri, Representative of the State Treasurer, Vice Chairperson | |
| Sarah Olsen, Public Member | |
| Carmen Ramirez, City Council Member | |
| Jacqueline Wong-Hernandez, Representative of the Director of the Department of Finance, Chairperson | |

**Summary of the Findings**

This Test Claim alleges reimbursable state-mandated activities arising from Statutes 2015, chapter 721 (SB 674), which added section 679.10 to the Penal Code, effective January 1, 2016. The test claim statute requires local agencies, upon request made of a victim of qualifying criminal activity seeking temporary immigration benefits under the federal U Visa program and willing to assist law enforcement with investigation or prosecution of the criminal activity, to complete and certify the federal Form I-918 Supplement B (U Nonimmigrant Status Certification) and to submit annual reports about the certifications to the Legislature.

The Test Claim is timely filed pursuant to Government Code section 17551 and section 1183.1 of the Commission's regulations. A test claim must be filed not later than 12 months after the effective date of the statute or executive order, or within 12 months of the date when the costs are first incurred. At the time of filing, Commission regulations defined "within 12 months" for purposes of filing based on the date costs are first incurred to mean by the end of the fiscal year (June 30) following the fiscal year in which costs were first incurred. This Test Claim was filed March 6, 2018, based on alleged costs first incurred after first receiving a U Visa request on November 21, 2017, and is therefore timely.

The Test Claim also meets the filing requirements of the Government Code. In order for the Commission to take jurisdiction over a test claim, the claim must *allege* that reimbursable state-mandated costs will exceed $1,000 in accordance with the Government Code sections 17564, 17551, 17521, and 17553(b)(1)(C). The claimant has alleged that it first incurred increased costs under the test claim statute in fiscal year 2017-2018 and estimated that these costs will amount to $2,755 for that fiscal year, and $1,299 for the next, 2018-2019 fiscal year. This exceeds the $1,000 minimum requirement for filing a test claim.

The Commission further finds that that Penal Code section 679.10 added by the test claim statute (Stats. 2015, ch. 721) mandates a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution for "certifying officials" from the "certifying entities" of local agencies within the meaning of the section 679.10(a), with the *exception* of the police/security departments of school districts and special districts, and judges, to perform the following new activities:

- The certifying official shall fully complete and sign the Form I-918 Supplement B certification upon the request of the victim or the victim's family member, and "include specific details about the nature of the crime investigated or prosecuted and a detailed description of the victim's helpfulness or likely helpfulness to the detection or investigation or prosecution of the criminal activity" within 90 days of the request or 14 days of the request if the victim is in removal proceedings, when the victim was a victim of a qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity. (Pen. Code, § 679.10(a)-(j).)
- A certifying entity that receives a request for a Form I-918 Supplement B certification shall report to the Legislature on or before January 1, 2017, and annually thereafter, the number of victims that requested certifications from the particular agency, the number of certifications signed, and the number of certifications denied. (Pen. Code, § 679.10(l).)

These activities are new, with respect to prior law, because prior to enactment of the test claim statute, local agencies had the authority, but were not required to certify the Form I-918 Supplement B, and the reporting requirement did not exist. In addition, the statute is uniquely imposed on government and provides a service to the public. The goal of the test claim statute "is to ensure the maximum amount of immigrant victims of crime in California have the opportunity to apply for the federal U Visa when the immigrant was a victim of a qualifying crime and has been helpful or is likely to be helpful in the investigation or prosecution of that crime" and to create "equity in the granting of the certifications of victim helpfulness that are essential to the crime victim's U Visa application filed with the USCIS."[13] Thus, the activities impose a new program or higher level of service.

The Commission, however, finds that reimbursement is not required under article XIII B, section 6 because there is no evidence in the record that the test claim statute results in increased actual costs mandated by the state within the meaning of article XIII B, section 6 and Government Code section 17514. In *County of Sonoma*, the court concluded that article XIII B, section 6 requires a showing of "increased actual expenditures," and that "when the Constitution uses 'costs' in the context of subvention of funds to reimburse for the 'costs of such program,' that some *actual cost* must be demonstrated...."[14] The Commission's finding of costs mandated by the state must be supported by substantial evidence in the record pursuant Government Code section 17559 and section 1187.5 of the Commission's regulations. In this case, the Test Claim states that costs were first incurred under this program in fiscal year 2017-2018, after first receiving a U Visa request on November 21, 2017, but no evidence of actual costs is included in the record. Instead, the Test Claim contains detailed cost *estimates* to implement the mandated program, and unsupported assertions that costs will exceed $1,000 each fiscal year.

Therefore, there is no substantial evidence in the record to support a finding of the costs mandated by the state within the meaning of article XIII B, section 6 and Government Code section 17514.

Accordingly, based on this record, the Commission denies this Test Claim.

## COMMISSION FINDINGS

### I. Chronology

| | |
|---|---|
| 01/01/2016 | Penal Code Section 679.10 as added by Statutes 2015, chapter 721 (SB 674) becomes effective. |
| 11/21/2017 | The City of Claremont (claimant) alleges that it first incurred costs after the first U Visa request after the effective date of the test claim statute was submitted. |
| 03/06/2018 | The claimant filed the Test Claim.[15] |

[13] Exhibit A, Test Claim, page 27 (Senate Rules Committee, Office of Senate Floor Analyses, Third Reading Analysis of SB 674, as introduced February 27, 2015, page 6).

[14] *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1284, 1285.

[15] Exhibit A, Test Claim.

| | |
|---|---|
| 04/16/2018 | The Department of Finance (Finance) filed comments on the Test Claim.[16] |
| 05/01/2018 | The claimant filed rebuttal comments.[17] |
| 07/20/2018 | Commission staff issued the Draft Proposed Decision.[18] |

## II. Background

This Test Claim addresses Statutes 2015, chapter 721 (SB 674), which added section 679.10 to the Penal Code, effective January 1, 2016. The test claim statute requires local agencies, upon requests made by victims of certain qualifying criminal activity, who are seeking temporary immigration benefits under the federal U Visa program, and are willing to assist law enforcement with the investigation or prosecution of the criminal activity, to complete and certify the federal Form I-918 Supplement B (U Nonimmigrant Status Certification) and to submit annual reports about the certifications to the Legislature.

### A. Prior Federal Law Created the U Visa Program, and Gave Law Enforcement Agencies Authority to Complete Form I-918, Supplement B ("U Nonimmigrant Status Certification") at Their Discretion.

In October 2000, Congress created the U nonimmigrant status program, or U Visa, with the passage of the Victims of Trafficking and Violence Protection Act (VTVPA or the Act).[19] The federal U Visa regulations were adopted September 17, 2007, and became effective October 17, 2017.[20] The Act offers temporary legal status to alien victims of certain criminal activity if the victim has suffered substantial physical or mental abuse as a result of a qualifying criminal activity and is willing to assist law enforcement with the investigation or prosecution of the criminal activity.[21] The Act was created out of recognition that victims without legal status may otherwise be reluctant to help in the investigation or prosecution of criminal activity. The U Visa program encourages these victims to report crimes and assist in their prosecution by offering temporary legal status and work authorization in appropriate cases. The purpose of the Act is stated in section 1513(a) of the Act as follows:

> (A) The purpose of this section is to create a new nonimmigrant visa classification that will strengthen the ability of law enforcement agencies to detect, investigate,

---

[16] Exhibit B, Finance's Comments on the Test Claim.

[17] Exhibit C, Claimant's Rebuttal Comments.

[18] Exhibit D, Draft Proposed Decision.

[19] Public Law No. 106-386, Title V, section 1513(b) has been codified in 8 United State Code, sections 1101(a)(15)(T), 1101(a)(15)(U), 1184(o), 1184(p), 1255(l), 1255(m).

[20] 8 Code of Federal Regulations, parts 103, 212, 214, 248, 274a and 299.

[21] 8 United State Code, section 1101(a)(15)(U); *see also*, Exhibit X, U.S. Citizenship and Immigration Services (USCIS), "Victims of Criminal Activity: U Nonimmigrant Status," https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status, accessed July 10, 2018.

> and prosecute cases of domestic violence, sexual assault, trafficking of aliens, and other crimes described in section 101(a)(15)(U)(iii) of the Immigration and Nationality Act committed against aliens, while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States. This visa will encourage law enforcement officials to better serve immigrant crime victims and to prosecute crimes committed against aliens.
>
> (B) Creating a new nonimmigrant visa classification will facilitate the reporting of crimes to law enforcement officials by trafficked, exploited, victimized, and abused aliens who are not in lawful immigration status. It also gives law enforcement officials a means to regularize the status of cooperating individuals during investigations or prosecutions. Providing temporary legal status to aliens who have been severely victimized by criminal activity also comports with the humanitarian interests of the United States.
>
> (C) Finally, this section gives the Attorney General discretion to convert the status of such nonimmigrants to that of permanent residents when doing so is justified on humanitarian grounds, for family unity, or is otherwise in the public interest.[22]

In order to qualify for the U Visa, the victim must prove to the U.S. Citizenship and Immigration Services (USCIS), a component of the Department of Homeland Security (DHS), that he or she is (1) a victim of a qualifying criminal activity that occurred in the United States or its territories; (2) has suffered "substantial physical or mental abuse" as a result of the qualifying criminal activity; (3) possesses information about the criminal activity, and (4) has been deemed helpful in the investigation or prosecution of that criminal activity.[23] These eligibility factors are defined in federal regulations as follows:

> *Eligibility*. An alien is eligible for U-1 nonimmigrant status if he or she demonstrates all of the following in accordance with paragraph (c) of this section:
>
> (1) The alien suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity. Whether abuse is substantial is based on a number of factors, including but not limited to: The nature of the injury inflicted or suffered; the severity of the perpetrator's conduct; the severity of the harm suffered; the duration of the infliction of the harm; and the extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim, including aggravation of pre-existing conditions. No single factor is a prerequisite to establish that the abuse suffered was substantial. Also, the existence of one or more of the factors automatically does not create a presumption that the abuse suffered was substantial. A series of acts taken together may be considered to constitute substantial physical or mental abuse even where no single act alone rises to that level;

---

[22] Public Law No. 106-386, Title V, section 1513(a).

[23] 8 United State Code section 1101(a)(15)(U); 8 Code of Federal Regulations, section 214.14(b)(c); Exhibit X, "U and T Visa Law Enforcement Resource Guide," Department of Homeland Security, page 4.

(2) The alien possesses credible and reliable information establishing that he or she has knowledge of the details concerning the qualifying criminal activity upon which his or petition is based. The alien must possess specific facts regarding the criminal activity leading a certifying official to determine that the petitioner has, is, or is likely to provide assistance to the investigation or prosecution of the qualifying criminal activity. In the event that the alien has not yet reached 16 years of age on the date on which an act constituting an element of the qualifying criminal activity first occurred, a parent, guardian, or next friend of the alien may possess the information regarding a qualifying crime. In addition, if the alien is incapacitated or incompetent, a parent, guardian, or next friend may possess the information regarding the qualifying crime;

(3) The alien has been helpful, is being helpful, or is likely to be helpful to a certifying agency in the investigation or prosecution of the qualifying criminal activity upon which his or her petition is based, and since the initiation of cooperation, has not refused or failed to provide information and assistance reasonably requested. In the event that the alien has not yet reached 16 years of age on the date on which an act constituting an element of the qualifying criminal activity first occurred, a parent, guardian or next friend of the alien may provide the required assistance. In addition, if petitioner is incapacitated or incompetent and, therefore, unable to be helpful in the investigation or prosecution of the qualifying criminal activity, a parent, guardian, or next friend may provide the required assistance; and

(4) The qualifying criminal activity occurred in the United States (including Indian country and U.S. military installations) or in the territories or possessions of the United States, or violated a U.S. federal law that provides for extraterritorial jurisdiction to prosecute the offense in a U.S. federal court.[24]

"Qualifying crime or qualifying criminal activity" includes

> . . . one or more of the following or any similar activities in violation of Federal, State or local criminal law of the United States: Rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes. The term "any similar activity" refers to criminal offenses in which the nature and elements of the

[24] 8 Code of Federal Regulations section 212.14(b). "Next friend" is defined in 8 Code of Federal Regulations section 214.14(a)(7) as follows: "Next friend means a person who appears in a lawsuit to act for the benefit of an alien under the age of 16 or incapacitated or incompetent, who has suffered substantial physical or mental abuse as a result of being a victim of qualifying criminal activity. The next friend is not a party to the legal proceeding and is not appointed as a guardian."

> offenses are substantially similar to the statutorily enumerated list of criminal activities.[25]

A "victim of qualifying criminal activity" is defined as "an alien who has suffered direct and proximate harm as a result of the commission of qualifying criminal activity."[26]

In addition, federal law extends the definition of "victim" to include indirect victims when the direct victim is deceased due to murder or manslaughter, or is incompetent or incapacitated, as follows:

> The alien spouse, children under 21 years of age and, if the direct victim is under 21 years of age, parents and unmarried siblings under 18 years of age, will be considered victims of qualifying criminal activity where the direct victim is deceased due to murder or manslaughter, or is incompetent or incapacitated, and therefore unable to provide information concerning the criminal activity or be helpful in the investigation or prosecution of the criminal activity. For purposes of determining eligibility under this definition, USCIS will consider the age of the victim at the time the qualifying criminal activity occurred.[27]

Section 214.14(a)(14)(ii) of the federal regulations further clarifies how one will be considered a victim of witness tampering, obstruction of justice, and perjury (crimes which are not directly against a person) for purposes of U Visa qualification:

> A petitioner may be considered a victim of witness tampering, obstruction of justice, or perjury, including any attempt, solicitation, or conspiracy to commit one or more of those offenses, if:
>
> (A) The petitioner has been directly and proximately harmed by the perpetrator of the witness tampering, obstruction of justice, or perjury; and
>
> (B) There are reasonable grounds to conclude that the perpetrator committed the witness tampering, obstruction of justice, or perjury offense, at least in principal part, as a means:
>
> > (1) To avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring to justice the perpetrator for other criminal activity; or
> >
> > (2) To further the perpetrator's abuse or exploitation of or undue control over the petitioner through manipulation of the legal system.

The U Visa may also be available to certain members of the victim's family if their assistance in the investigation or prosecution of qualified criminal activity is deemed necessary:

> [I]f the Attorney General considers it necessary to avoid extreme hardship to the spouse, the child, or, in the case of an alien child, the parent of the alien described in clause (i), the Attorney General may also grant status under this

---

[25] 8 Code of Federal Regulations, section 212.14(a)(9).

[26] 8 Code of Federal Regulations, 214.14(a)(14).

[27] 8 Code of Federal Regulations, 214.14(a)(14)(i).

> paragraph based upon certification of a government official listed in clause (i)(III) that an investigation or prosecution would be harmed without the assistance of the spouse, the child, or, in the case of an alien child, the parent of the alien[.][28]

The victim must file a petition and initial evidence with the USCIS in accordance with Form I-918 and the form's instructions. Federal regulations state that initial evidence must include the following:

- Form I-918, Supplement B, "U Nonimmigrant Status Certification," signed by a certifying official within the six months immediately preceding the filing of Form I-918. The certification must state that: the person signing the certificate is the head of the certifying agency, or any person(s) in a supervisory role who has been specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications on behalf of that agency, or is a Federal, State, or local judge: the agency is a Federal, State, or local law enforcement agency, or prosecutor, judge or other authority, that has responsibility for the detection, investigation, prosecution, conviction, or sentencing of qualifying criminal activity; and that the applicant meets the eligibility factors, including that the victim has been helpful, is being helpful, or is likely to be helpful to a certifying agency in the investigation or prosecution of the qualifying criminal activity.
- Any additional evidence that the petitioner wants USCIS to consider.
- A signed statement by the petitioner describing the facts of the victimization.[29]

Although the Supplement B is required for the victim to obtain a U Visa, DHS/USCIS Instructions make it clear that local certifying agencies have discretion whether to participate in the U Visa certification process. In pertinent part, the Instructions state:

> NOTE: The decision whether to complete Supplement B is at the discretion of the certifying agency. However, without a completed Supplement B, the petitioner will be ineligible for U nonimmigrant status.[30]

The courts have also held that the decision to certify the Supplement B is within the discretion of the agency.[31]

---

[28] 8 United State Code, section 1101(a)(15)(U)(ii).

[29] 8 Code of Federal Regulations, 214.14(c)(2).

[30] Exhibit A, Test Claim, page 81 (Form I-918, Supplement B Instructions, page 1). *See also* Exhibit X, "U and T Visa Law Enforcement Resource Guide," Department of Homeland Security," page 4, stating that "[n]either DHS nor any other federal agency has the authority to require or demand that any agency or official sign the certification" and that "[t]here is also no legal obligation to complete and sign Form I-918B."

[31] *Orosco v. Napolitano* (5th Cir. 2010) 598 F.3d 222, 226, concluding that "the decision to issue a law enforcement [U Visa] certification is a discretionary one."

If the agency decides to provide certification to a victim who is requesting U Visa certification, the agency must first determine whether the victim was, is or is likely to be helpful in the investigation or prosecution of the qualifying criminal activity. Only upon such a determination is the certifying official authorized to fill out Form I-918 Supplement B. According to DHS/USCIS Form I-918, Supplement B Instructions:

> If you, the certifying official, determine that this individual (also known as the petitioner and principal) was, is, or is likely to be helpful in the investigation or prosecution of the qualified criminal activity, you may complete Supplement B, U Nonimmigrant Status Certification. The petitioner must submit Supplement B to U.S. Citizenship and Immigration Cervices (USCIS) with his or her Form I-918.[32]

The Supplement B instructions further define being "helpful" as follows:

> Being "helpful" means assisting law enforcement in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim. Petitioner victims who, after initiating cooperation, refuse to provide continuing assistance when reasonably requested, will not meet the helpfulness requirement. The victim has an ongoing responsibility to be helpful, assuming there is an ongoing need for the victim's assistance.[33]

Supplement B includes six parts, with Parts 1 through 5 consisting of multiple subparts requesting information, as follows:

> Part 1. Victim Information
>
> Part 2. Agency Information
>
> Part 3. Criminal Acts
>
> Part 4. Helpfulness of the Victim
>
> Part 5. Family Members Culpable In Criminal Activity

Upon completion of five parts of Form I-918, the certifying official must complete the certification in Part 6, which states the following:

> I am the head of the agency listed in Part 2. or I am the person in the agency who was specifically designated by the head of the agency to issue a U Nonimmigrant Status Certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual identified in Part 1. is or was a victim of one or more of the crimes listed in Part 3. I certify that the above information is complete, true, and correct to the best of my knowledge, and that I have made and will make no promises regarding the above victim's ability to obtain a visa from U.S. Citizenship and Immigration Services (USCIS), based upon this certification. I further certify that if the victim unreasonably refuses to assist in the

[32] Exhibit A, Test Claim, page 81 (Form I-918, Supplement B Instructions, page 1).

[33] Exhibit A, Test Claim, page 84 (Form I-918, Supplement B Instructions, page 4).

> investigation or prosecution of the qualifying criminal activity of which he or she is a victim, I will notify USCIS.[34]

The Instructions also state that "if the certification is not signed by the head of the certifying agency, please attach evidence of the agency head's written designation of the certifying official for this specific purpose."[35]

The petitioner has the burden to demonstrate eligibility for a U Visa. USCIS is required to conduct a de novo review of all evidence submitted in connection with Form I-918 and may investigate any aspect of the petition.[36] After review, USCIS is required to issue a written decision approving or denying the petition and to notify the petitioner of the decision.[37] If found inadmissible, an individual may appeal the decision to the Administrative Appeals Office.[38] Individuals who receive U Visas can remain in the United States for up to four years, will receive employment authorization, and eventually may be able to adjust their status to permanent resident.[39]

### B. Prior California State Law Extended Eligibility for State-Funded Social Services and Benefits to Noncitizen Victims of Serious Crimes Who Filed a Request for U Visa Relief with USCIS.

In 2006, the Legislature created Trafficking and Crime Victims Assistance Program (TCVAP), a state-supported program to provide assistance to U Visa applicants.[40] Under the program, qualifying noncitizen victims of serious crimes, defined to include "[i]ndividuals who have filed a formal application with the appropriate federal agency for status under Section 1101(a)(15)(U)(i) or (ii) of Title 8 of the United States Code," are eligible for benefits and social services equivalent to those available to refugees, including refugee cash assistance, Medi-Cal benefits, employment social service benefits, and benefits under the Healthy Families Program.[41] Eligibility for state-funded services is discontinued if the recipient's request for a U Visa has been finally administratively denied.[42]

---

[34] Exhibit A, Test Claim, page 79 (Form I-918, Supplement B, page 4).

[35] Exhibit A, Test Claim, page 83 (Form I-918, Supplement B Instructions, page 3).

[36] 8 Code of Federal Regulations, 214.14(c)(4).

[37] 8 Code of Federal Regulations, 214.14(c)(5).

[38] 8 Code of Federal Regulations, 214.14(5)(ii).

[39] Exhibit X, "U and T Visa Law Enforcement Resource Guide," Department of Homeland Security, page 5.

[40] Statutes of 2006, chapter 672; Welfare and Institutions Code sections 14005.2, 13282, and 18945.

[41] Welfare and Institutions Code section 18945.

[42] Welfare and Institutions Code section 18945(a).

### C. The Test Claim Statute Requires Local Agencies to Complete Form I-918, Supplement B ("U Nonimmigrant Status Certification") When the Victim of a Qualifying Criminal Activity Is Helpful, Has Been Helpful, or Is Likely To Be Helpful to the Detection, Investigation, or Prosecution of a Qualifying Criminal Activity.

The test claim statute, Statutes 2015, Chapter 721—the Immigrant Victims of Crime Equity Act, became effective on January 1, 2016, and adds to the California Penal Code a new section 679.10, for the first time requiring local agencies to complete U Visa certifications.

Section 679.10 requires certifying entities and officials of local agencies, as defined, to certify victim helpfulness on the Form I-918 Supplement B certification upon request of the victim or the victim's family when the victim was a victim of a qualifying criminal activity (defined consistent with federal law) and has been helpful, is being helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity. The statute creates a rebuttable presumption that a victim is helpful, has been helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity, if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement. The statute also states that a current investigation, the filing of charges, and a prosecution or conviction are not required for the victim to request and obtain the Form I-918 Supplement B certification from a certifying official. The certification must be processed within 90 days of request, unless the noncitizen is in removal proceedings, in which case the certification shall be processed within 14 days of request. In addition, the statute requires a certifying entity that receives a request for a Form I-918 Supplemental B certification to report to the Legislature, on or before January 1, 2017, and annually thereafter, the number of victims that requested Form I-918 Form B certifications from the entity, the number of those certification forms that were signed, and the number that were denied. Section 679.10 reads:

> (a) For purposes of this section, a "certifying entity" is any of the following:
>
> (1) A state or local law enforcement agency.
>
> (2) A prosecutor.
>
> (3) A judge.
>
> (4) Any other authority that has responsibility for the detection or investigation or prosecution of a qualifying crime or criminal activity.
>
> (5) Agencies that have criminal detection or investigative jurisdiction in their respective areas of expertise, including, but not limited to, child protective services, the Department of Fair Employment and Housing, and the Department of Industrial Relations.
>
> (b) For purposes of this section, a "certifying official" is any of the following:
>
> (1) The head of the certifying entity.
>
> (2) A person in a supervisory role who has been specifically designated by the head of the certifying entity to issue Form I-918 Supplement B certifications on behalf of that agency.

(3) A judge.

(4) Any other certifying official defined under Section 214.14 (a)(2) of Title 8 of the Code of Federal Regulations.

(c) "Qualifying criminal activity" means qualifying criminal activity pursuant to Section 101(a)(15)(U)(iii) of the Immigration and Nationality Act which includes, but is not limited to, the following crimes:

(1) Rape.

(2) Torture.

(3) Human trafficking.

(4) Incest.

(5) Domestic violence.

(6) Sexual assault.

(7) Abusive sexual conduct.

(8) Prostitution.

(9) Sexual exploitation.

(10) Female genital mutilation.

(11) Being held hostage.

(12) Peonage.

(13) Perjury.

(14) Involuntary servitude.

(15) Slavery.

(16) Kidnaping.

(17) Abduction.

(18) Unlawful criminal restraint.

(19) False imprisonment.

(20) Blackmail.

(21) Extortion.

(22) Manslaughter.

(23) Murder.

(24) Felonious assault.

(25) Witness tampering.

(26) Obstruction of justice.

(27) Fraud in foreign labor contracting.

(28) Stalking.

(d) A "qualifying crime" includes criminal offenses for which the nature and elements of the offenses are substantially similar to the criminal activity described in subdivision (c), and the attempt, conspiracy, or solicitation to commit any of those offenses.

(e) Upon the request of the victim or victim's family member, a certifying official from a certifying entity shall certify victim helpfulness on the Form I-918 Supplement B certification, when the victim was a victim of a qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity.

(f) For purposes of determining helpfulness pursuant to subdivision (e), there is a rebuttable presumption that a victim is helpful, has been helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity, if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.

(g) The certifying official shall fully complete and sign the Form I-918 Supplement B certification and, regarding victim helpfulness, include specific details about the nature of the crime investigated or prosecuted and a detailed description of the victim's helpfulness or likely helpfulness to the detection or investigation or prosecution of the criminal activity.

(h) A certifying entity shall process an I-918 Supplement B certification within 90 days of request, unless the noncitizen is in removal proceedings, in which case the certification shall be processed within 14 days of request.

(i) A current investigation, the filing of charges, and a prosecution or conviction are not required for the victim to request and obtain the Form I-918 Supplement B certification from a certifying official.

(j) A certifying official may only withdraw the certification if the victim refuses to provide information and assistance when reasonably requested.

(k) A certifying entity is prohibited from disclosing the immigration status of a victim or person requesting the Form I-918 Supplement B certification, except to comply with federal law or legal process, or if authorized by the victim or person requesting the Form I-918 Supplement B certification.

(l) A certifying entity that receives a request for a Form I-918 Supplemental B certification shall report to the Legislature, on or before January 1, 2017, and annually thereafter, the number of victims that requested Form I-918 Form B certifications from the entity, the number of those certification forms that were signed, and the number that were denied. A report pursuant to this subdivision shall comply with Section 9795 of the Government Code.

The legislative history explains that before the test claim statute, local agencies were taking different procedural approaches to U Visa certifications, and that some agencies systematically denied certifications on the basis of political views on immigration matters.[43]

According to the bill author:

> The goal of SB 674 . . . is to ensure the maximum amount of immigrant victims of crime in California have the opportunity to apply for the federal U-Visa when the immigrant was a victim of a qualifying crime and has been helpful or is likely to be helpful in the investigation or prosecution of that crime. SB 674 creates equity in the granting of the certifications of victim helpfulness that are essential to the crime victim's U-Visa application filed with the USCIS.[44]

The legislative history also suggests that the test claim statute may result in the completion of more U Visa certifications as follows:

> This bill will potentially result in a greater number of Form I-918B certifications completed, enabling a greater number of victims to submit formal U Visa applications to USCIS for consideration. As a result, a greater number of victims and their family members may become eligible for state-funded TCVAP benefits.[45]

The analysis from the Assembly Committee on Appropriations also finds that the bill will create a reimbursable state-mandated program:

> Moderate local reimbursable state mandated costs in excess of $300,000 by establishing a time-frame for certifying entities to process Form I-918 Supplement B requests, and for local certifying entities to report annually to the Legislature.
>
> During a six-year period, annual certifications provided by the cities of Los Angeles and Oakland were 764 and 500, respectively. If the cost to provide the certification were $25, the reimbursable mandate to these two cities would be $31,600. There are 58 counties and 482 cities and each of them has at least one "agency" that qualifies as a certifying agency. It is reasonable to assume that the number of certifications statewide would be at least ten times those of the cities of Los Angeles and Oakland combined. The reporting requirement reimbursable costs will be minor.[46]

---

[43] Exhibit A, Test Claim, page 31 (Senate Committee on Appropriations Analysis of SB 674 as introduced February 27, 2015 page 4); Exhibit A, Test Claim, page 21 (Assembly Committee on Appropriations Analysis of SB 674 as introduced February 27, 2015, page 2).

[44] Exhibit A, Test Claim, page 27 (Senate Rules Committee, Office of Senate Floor Analyses, 3rd reading analysis of SB 674 as introduced February 27, 2015, page 6).

[45] Exhibit A, Test Claim, page 30 (Senate Committee on Appropriations Analysis of SB 674 as introduced February 27, 2015, page 3).

[46] Exhibit A, Test Claim, page 20 (Assembly Committee on Appropriations Analysis of SB 674 as introduced February 27, 2015, page 1). Legislative determinations of whether a statute imposes a reimbursable state-mandated program, however, are not binding on the Commission.

### D. On October 28, 2015, the California Department of Justice Issued an Information Bulletin to Law Enforcement Agencies Regarding the Test Claim Statute.

On October 28, 2015, California Department of Justice issued an Information Bulletin to all California State and Local Law Enforcement Agencies on "New and Existing State and Federal Laws Protecting Immigrant Victims of Crime." The bulletin states that:

> California's Immigrant Victims of Crime Equity Act (Senate Bill 674), which takes effect on January 1, 2016, requires state and local law enforcement agencies, prosecutors, and other officials to certify the helpfulness of victims of qualifying crimes on a federal U Nonimmigrant Status Certification (Form I-918 Supplement B), also known as a "U visa certification." **Unlike federal law, which provides certifying state and local agencies and officials with discretion in determining whether to complete the certification, <u>California's new law mandates that state and local agencies and officials submit certifications</u> when certain conditions are met.**[47]

The bulletin further explains that:

> This new law, Penal Code section 679.10, mandates that certain state and local agencies and officials complete U visa certifications, upon request, for immigrant crime victims who have been helpful, are being helpful, or are likely to be helpful in the detection, investigation, or prosecution of specified qualifying crimes.
>
> Significantly, under the Act:
>
> - There is a rebuttable presumption that an immigrant victim is helpful, has been helpful, or is likely to be helpful, if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.
> - A certifying official may withdraw a previously granted certification only if the victim refuses to provide information and assistance when reasonably requested.
>
> In addition, a certifying official must fully complete and sign the U visa certification and include "specific details about the nature of the crime investigated or prosecuted and a detailed description about the victim's helpfulness or likely helpfulness to the detection or investigation or prosecution of the criminal activity."
>
> The Act also requires certifying entities to complete the certification within 90 days of the request, except in cases where the applicant is in immigration removal

---

(*City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817; Gov. Code, § 17552 [stating that Government Code section 17500 et seq., provides the sole and exclusive procedure to claim reimbursement of state-mandated costs].)

[47] Exhibit X, California Department of Justice Information Bulletin No. DLE-2015-14, "New and Existing State and Federal Laws Protecting Immigrant Victims of Crime," October 28, 2015, page 1 [Emphasis in original].

proceedings, in which case the certification must be completed within 14 days of the request

The Act applies to the following California state and local entities and officials:

- State and local law enforcement agencies;
- Prosecutors;
- Judges;
- Agencies with criminal detection or investigative jurisdiction in their respective areas of expertise, including but not limited to child protective services, the Department of Fair Employment and Housing, and the Department of Industrial Relations; and
- Any other authority responsible for the detection or investigation or prosecution of a qualifying crime or criminal activity.

Additional provisions of the Act include:

- Certifying agencies are prohibited from disclosing the immigrant status of a victim or person requesting a U visa certification, except to comply with federal law or legal process, or if authorized by the victim or person requesting the certification.
- A current investigation, the filing of charges, and a prosecution or conviction are not required for the victim to request and obtain the certification from a certifying official.
- Certifying agencies that receive certification requests must report to the Legislature, on or before January 1, 2017, and annually thereafter, the number of victims that requested certifications from the particular agency, the number of certifications signed, and the number of certifications denied.[48]

In the Questions and Answers section, the Bulletin explains that:

> Eligibility for U visas is governed by the VTVPA and determined by USCIS. Under those federal provisions, individuals without authorized immigrant status are eligible to apply for a U visa if they: (1) are victims of specified qualifying crimes, (2) have suffered substantial physical or mental abuse as a result of having been a victim of criminal activity, (3) have specific knowledge and details of a qualifying crime committed within the United States, and (4) are currently assisting, have previously assisted, or are likely to be helpful in the detection, investigation, or prosecution of the qualifying crime.

[48] Exhibit X, California Department of Justice Information Bulletin No. DLE-2015-14, "New and Existing State and Federal Laws Protecting Immigrant Victims of Crime," October 28, 2015, pages 2-3.

> Victims may apply for a U visa even if they are no longer in the United States. Individuals presently in removal proceedings or with final orders of removal can also apply. Moreover, a parent without authorized immigrant status can petition for their own U visa as an "indirect victim" of the qualifying crime, if their child is: (1) under 21 years of age, (2) the victim of a qualifying crime, and (3) incompetent or incapacitated such that she or he is unable to provide law enforcement with adequate assistance in the investigation or prosecution of the crime. (An immigrant parent can petition for a U visa regardless of his/her child's citizenship status or whether his/her child died as the victim of murder or manslaughter.)[49]

The Bulletin further clarifies that:

> California's Immigrant Victims of Crime Equity Act makes clear that a current investigation, the filing of charges, and a prosecution or conviction are not required to sign the law enforcement certification. Many situations exist where an immigrant victim reports a crime, but an arrest or prosecution cannot take place due to evidentiary or other circumstances. For example, the perpetrator may have fled the jurisdiction, cannot be identified, or has been deported by federal law enforcement officials. In addition, neither a plea agreement nor a dismissal of a criminal case affects a victim's eligibility. Furthermore, a law enforcement certification is valid regardless of whether the crime that is eventually prosecuted is different from the crime that was investigated, as long as the individual is a victim of a qualifying crime and meets the other requirements for U visa eligibility.
>
> There is no statute of limitations that bars immigrant crime victims from applying for a U visa. Law enforcement can sign a certification at any time, and it can be submitted for a victim in an investigation or case that is already closed.[50]

In conclusion, the Bulletin states:

> [T]he Attorney General encourages all agencies and officials subject to California's new law to immediately establish and implement a U visa certification policy and protocol that is consistent with California law and the guidance provided in this law enforcement bulletin.[51]

---

[49] Exhibit X, California Department of Justice Information Bulletin No. DLE-2015-14, "New and Existing State and Federal Laws Protecting Immigrant Victims of Crime," October 28, 2015, page 3.

[50] Exhibit X, California Department of Justice Information Bulletin No. DLE-2015-14, "New and Existing State and Federal Laws Protecting Immigrant Victims of Crime," October 28, 2015, page 4.

[51] Exhibit X, California Department of Justice Information Bulletin No. DLE-2015-14, "New and Existing State and Federal Laws Protecting Immigrant Victims of Crime," October 28, 2015, page 4.

## III. Positions of the Parties

### A. City of Claremont

The claimant's March 6, 2018 Test Claim alleges that the addition of Penal Code section 679.10 resulted in reimbursable increased costs mandated by the state. The claimant alleges new activities for the City of Claremont Police Department as quoted below:

> One-time costs:
>
> 1) Updating Department Policies and Procedures to address new statutory requirements
>
> 2) Training staff on new requirements
>
> On-going activities:
>
> 1) Training new staff assigned to this duty on mandated program requirements
>
> 2) For all requests, research the original crime(s) the victim was involved to determine whether new law criteria are met and certification can be granted and to determine "victim's helpfulness". This includes obtaining prior criminal records, reports, and history, determining helpfulness and potential helpfulness of the victim; determining if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.
>
> *(Detailed research and review of crime history/reports is now required for each case to determine the victim's helpfulness and potential helpfulness.*
>
> *Before this law was added, the city would only have to determine the status of the case: if the case was found to be adjudicated, closed or is outside the statute of limitations, the City would find the victim's assistance was no longer needed and the UVISA application would be denied. Almost all requests could be denied just by determining whether the case was being or likely to be adjudicated which would typically take 5-10 minutes.*
>
> *Because of the new requirements, estimate additional time to research each per case would usually take an extra 20-30 mins per case)*
>
> 3) Fully complete, sign and certify the application (I-918 Form) including Supplement B for ALL requested I-918 applications. This must include a detailed description of the victim's helpfulness or likely helpfulness to the detection, investigation, or prosecution of the criminal activity.
>
> Time for completion of Supplement B is now 90 days of request or 14 days of request if noncitizen is in removal proceedings.

Full completion of application, Supplement B, and certification *is now required for ALL cases. In the past, almost all requests could be denied with a simple signature and full completion of forms was not required. Estimate additional time per case = 10-20 mins per case)*

4) Supervisor review and approval of the detailed description of victim's helpfulness narrative. *Estimate additional time at 5-10 minutes per case)*

5) Prepare and submit annual reports to the Legislature specifying total number of requests for UVISA certifications, the number approved and denied. *Estimated at 15-20 minutes per year)*[52]

The claimant also alleges increased costs for the following existing activities that are "modified by the mandate":

1) Review the UVISA request.
*(Estimated additional 5-10 minutes per request)*

2) Supervisor review and approval of the "complete" UVISA paperwork
*(Estimated additional 5-10 minutes per case.) In the past, denied cases did not require completion of all the forms, therefore additional time is required to review these additional requests and completed forms.*

3) Transmit results to involved parties and legal representatives.
*(Estimated additional approximately 5 minutes per case)*

4) File, log, and close case
*(Estimate additional 5-10 minutes per case).*[53]

The claimant alleges that after passage of the test claim statute it received its first U Visa certification request on November 21, 2017, and that the estimated increased costs for 2017-2018 fiscal year will amount to $2,755. During fiscal year 2018-2019, the total costs are estimated at $1,299.[54]

On May 1, 2018, the claimant submitted rebuttal comments in response to Finance's argument that the Test Claim did not meet the cost threshold of $1,000 in actual costs mandated by the state and should be rejected.[55] The claimant asserts that it has correctly satisfied the requirements for submitting its Test Claim. According to the claimant, "[t]he City only has to

[52] Exhibit A, Test Claim, page 4-5 [Emphasis in original].

[53] Exhibit A, Test Claim, page 5 [Emphasis in original].

[54] Exhibit A, Test Claim, pages 6, 11-12.

[55] Exhibit C, Claimant's Rebuttal Comments.

show that they expect that their costs will exceed $1,000 in order to file a test claim," [56] because "the Test Claim instructions require the claimant to include a statement that 'actual ***or estimated*** increased costs that ***will be*** incurred by the claimant to implement the alleged mandate' and that 'actual and/or ***estimated*** costs resulting from the alleged mandate exceeds $1,000."[57] In addition, the claimant asserts that Government Code section 17564(a) is not applicable to test claim process, but only "relate[s] to . . .the Reimbursement Claiming process when actual cost claims are submitted to the State Controller's Office after Parameters and Guidelines and Claiming Instructions are released."[58] The claimant further states that one-time costs of updating policies and procedures and training staff on the new requirements are reimbursable activities because they constitute a "standard practice for law enforcement agencies and a reasonable method of implementing newly mandated statutes."[59] The claimant further asserts that if the Commission finds that the alleged one-time costs are not reimbursable, the City of Claremont's estimated ongoing costs for 2017- 2018 fiscal year would still exceed $1,000. These estimated ongoing costs, consisting of $708 of direct costs and $372 of corresponding indirect costs (85% ICRP), will amount to $1,080 in 2017- 2018 fiscal year.[60]

### B. Department of Finance

Finance argues that the Test Claim does not meet the cost threshold of $1,000 and should be rejected.[61] Finance asserts that (1) the claimant did not incur at least $1,000 in actual costs before filing a claim, and (2) the claimant's estimated costs for fiscal year 2017-2018 do not meet the threshold of $1,000 because "most of the estimated 2017-18 costs . . . do not qualify for reimbursement under a plain reading of SB 674 because they are not required."[62] According to Finance, the following costs and activities are not required under a plain reading of the test claim statute: (1) costs for all one-time activities ($1,073), consisting of "costs for the Police Chief to review and approve new policies and procedures, for the Police Captain to research the new law and draft new policy, for the City Attorney to review and approve the new policies, and for the Police Lieutenant to review the new policies and training[,]" and (2) all indirect costs ($974).[63]

## IV. Discussion

Article XIII B, section 6 of the California Constitution provides in relevant part the following:

> Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of

---

[56] Exhibit C, Claimant's Rebuttal Comments, page 2.

[57] Exhibit C, Claimant's Rebuttal Comments, page 2 [Emphasis in original].

[58] Exhibit C, Claimant's Rebuttal Comments, page 2.

[59] Exhibit C, Claimant's Rebuttal Comments, pages 1-2.

[60] Exhibit C, Claimant's Rebuttal Comments, page 2.

[61] Exhibit B, Finance's Comments on the Test Claim, page 2.

[62] Exhibit B, Finance's Comments on the Test Claim, page 2.

[63] Exhibit B, Finance's Comments on the Test Claim, page 2.

> funds to reimburse such local government for the costs of such programs or increased level of service…

The purpose of article XIII B, section 6 is to "preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose."[64] Thus, the subvention requirement of section 6 is "directed to state-mandated increases in the services provided by [local government] …"[65]

Reimbursement under article XIII B, section 6 is required when the following elements are met:

1. A state statute or executive order requires or "mandates" local agencies or school districts to perform an activity.[66]
2. The mandated activity constitutes a "program" that either:
   a. Carries out the governmental function of providing a service to the public; or
   b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state.[67]
3. The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order and it increases the level of service provided to the public.[68]
4. The mandated activity results in the local agency or school district incurring increased costs, within the meaning of section 17514. Increased costs, however, are not reimbursable if an exception identified in Government Code section 17556 applies to the activity.[69]

The Commission is vested with the exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution.[70] The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.[71] In making its decisions, the Commission must

---

[64] *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

[65] *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

[66] *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874.

[67] *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874-875 (reaffirming the test set out in *County of Los Angeles* (1987) 43 Cal.3d 46, 56).

[68] *San Diego Unified School Dist.* (2004) 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal3d 830, 835.

[69] *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284; Government Code sections 17514 and 17556.

[70] *Kinlaw v. State of California* (1991) 53 Cal.3d 482, 487.

[71] *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 109.

strictly construe article XIII B, section 6 of the California Constitution, and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."[72]

### A. The Commission Has Jurisdiction to Decide This Test Claim.

#### 1. This Test Claim Is Timely Filed Pursuant to Government Code Section 17551.

Government Code section 17551(c) provides that test claims "shall be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later."[73] The Commission's regulations effective at the time this claim was filed provided that "[f]or purposes of claiming based on the date of first incurring costs, 'within 12 months' means by June 30 of the fiscal year following the fiscal year in which increased costs were first incurred by the test claimant."[74]

The test claim statute became effective on January 1, 2016, and the Test Claim was filed on March 6, 2018, more than 26 months later. The claimant, however, alleges costs were first incurred after first receiving its first U Visa request after the effective date of the test claim statute on November 21, 2017.[75] Therefore, the fiscal year in which costs were first incurred, for purposes of the Commission's regulations, is fiscal year 2017-2018, and the claimant had until June 30 of the following fiscal year, 2018-2019, to file its claim. A March 6, 2018, filing is therefore timely pursuant to the second prong of the Government Code section 17551(c) and the Commission's regulations. Based on the filing date, the potential period of reimbursement for this Test Claim would begin July 1, 2016.[76]

#### 2. This Test Claim Meets the Filing Requirements of the Government Code by Alleging that Reimbursable State-Mandated Costs Will Exceed $1,000.

Finance urges the Commission to reject the Test Claim because the claimant did not incur at least $1,000 in actual costs *before* filing a test claim pursuant to Government Code section 17564(a). Finance further states that Government Code section 17553(b)(1)(C) requires that a test claim show actual increased costs incurred during the fiscal year for which the claim was submitted. Finance argues that this Test Claim does not meet those requirements as follows:

> The City states the Police Department received its first U-Visa request in November 2017. Based on the Activity Cost Estimates table on page 4 of the test claim, it is unclear the Police Department incurred at least $1,000 in actual 2017-2018 costs. The Activity Cost Estimates table states the one-time and ongoing costs, totaling $2,755, are estimated.

---

[72] *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1280 [citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817].

[73] Government Code section 17551(c) (Stats. 2007, ch. 329).

[74] California Code of Regulations, title 2, section 1183.1(c) (Register 2016, No. 38).

[75] Exhibit A, Test Claim, pages 11-12.

[76] Government Code section 17557(e).

> Because the City states the Police Department has not incurred actual 2017-18 costs, the Commission should reject the test claim for not meeting the cost threshold.[77]

The claimant, in rebuttal comments, argues that the instructions to the Test Claim form require the claimant to include a statement of the "actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate" and that "actual and/or estimated costs resulting from the alleged mandate exceeds $1,000." Thus, the claimant argues that it only has to show that it expects costs will exceed $1,000 in order to file a test claim.[78]

The Commission finds that the Test Claim in this case meets the filing requirements and can be based on an estimate that costs to comply with the alleged mandated program will exceed $1,000. However, as explained below, a claimant is required as a matter of law to show, with evidence in the record, actual increased costs mandated by the state pursuant to Government Code section 17514 in order for reimbursement to be required under article XIII B, section 6 of the California Constitution.

The basic rules of statutory construction require that the words of a statute be given their common and ordinary meaning. The words must be read in context, keeping in mind the nature and obvious purpose of the statute.[79] If the words of the statute are clear, the Commission should not add to or alter them to accomplish a purpose that does not appear on the face of the statute or from its legislative history.[80] In this case, there is nothing in the language of Government Code sections 17564, 17551, 17553, or other relevant sections of the Government Code that requires local government to incur at least $1,000 in actual increased costs *prior* to filing a test claim.

Government Code section 17564(a) states the following:

> No *claim* shall be made pursuant to Sections 17551, 17561, or 17573, nor shall any payment be made on claims submitted pursuant to Sections 17551 or 17561, or pursuant to a legislative determination under Section 17573, unless these claims exceed one thousand dollars ($1,000).[81]

Government Code section 17551, the first section referenced in section 17564 above, requires the Commission to hear and decide a test claim *alleging* that local agencies or school districts are entitled to reimbursement for the costs mandated by the state, as required by article XIII B, section 6 of the California Constitution.

---

[77] Exhibit B, Finance's Comments on Test Claim, page 2.

[78] Exhibit C, Claimant's Rebuttal Comments, page 2.

[79] *People v. Valencia* (2017) 3 Cal.5th 347, 357.

[80] *People v. Knowles* (1950) 35 Cal.2d 175, 183.

[81] Emphasis added. The Legislature established a minimum threshold of $200 for claims made by local governments in 1986. This minimum claim amount remained the same until 2002, when it was raised to $1,000. *See* Statutes of 2002, Chapter 1124 (SB 3000). The threshold has remained at $1,000 ever since.

Government Code section 17521 defines a "test claim" to mean "the first claim filed with the commission *alleging* that a particular statute or executive order imposes costs mandated by the state."

Government Code section 17553(b)(1)(C) sets forth as a required element of a test claim narrative, the actual increased costs incurred by the claimant during the fiscal year for which the claim was filed. Evidence of actual increased costs in the record is required for the Commission to make a finding that the test claim statute imposes costs mandated by the state pursuant to Government Code section 17514. However, section 17553, when read with the filing requirements of section 17551(c), does not require a showing of actual increased costs in excess of $1,000 prior to filing a test claim. Government Code section 17551(c) requires the filing of a test claim "not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later." Under the first prong of section 17551(c), a test claim can be filed the day after the effective date of the statute, before costs are actually incurred, and be considered timely and complete. Jurisdiction, however, does not depend on whether claimant has already actually incurred costs exceeding $1,000.

Thus, in order for the Commission to take jurisdiction over a test claim, the claim must *allege* that reimbursable state-mandated costs will exceed $1,000.

Here, the claimant has alleged that it first incurred increased costs to comply with the test claim statute in fiscal year 2017-2018 and estimated that these costs will amount to $2,755 for that fiscal year, and $1,299 for the next fiscal year (2018-2019). [82] This exceeds the $1,000 minimum requirement for filing a test claim.

Accordingly, the Commission finds that the Test Claim meets the filing requirements of the Government Code.

### B. Penal Code Section 679.10 Does Not Impose a Reimbursable State-Mandated Program Within the Meaning of Article XIII B, Section 6 of the California Constitution Because There is No Evidence of Actual Increased Costs Mandated by the State.

As described below, the Commission finds that Penal Code section 679.10 added by the test claim statute (Stats. 2015, ch. 721) mandates a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution. However, there is no evidence of any increased actual costs mandated by the state in the record. Accordingly, based on this record, the Commission is required to deny this Test Claim.

#### 1. Penal Code section 679.10 Imposes New State-Mandated Activities on Local Agencies When a Victim or the Victim's Family Member Requests Certification of "Victim Helpfulness" on the Federal Form I-918 Supplement B.

The plain language of Penal Code Section 679.10 requires local agencies, identified in section 679.10(a) as "certifying agencies" to certify "victim's helpfulness" on the Form I-918 Supplement B when requested by a victim or the victim's family member, if the victim was a victim of qualifying criminal activity and has not refused or failed to provide information and

[82] Exhibit A, Test Claim, page 6.

assistance reasonably requested by law enforcement, and to complete the certification within 90 days of the request or within 14 days of the request if the applicant is in immigration removal proceedings. Section 679.10 states in relevant part the following:

> (e) Upon the request of the victim or victim's family member, a certifying official from a certifying entity *shall certify victim helpfulness on the Form I-918 Supplement B certification*, when the victim was a victim of a qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity.
>
> (f) For purposes of determining helpfulness pursuant to subdivision (e), *there is a rebuttable presumption that a victim is helpful, has been helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity*, if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.
>
> (g) The certifying official *shall fully complete and sign the Form I-918 Supplement B certification* and, regarding victim helpfulness, include specific details about the nature of the crime investigated or prosecuted and a detailed description of the victim's helpfulness or likely helpfulness to the detection or investigation or prosecution of the criminal activity.
>
> (h) A certifying entity *shall process an I-918 Supplement B certification within 90 days of request, unless the noncitizen is in removal proceedings, in which case the certification shall be processed within 14 days of request.*
>
> (i) A current investigation, the filing of charges, and a prosecution or conviction are not required for the victim to request and obtain the Form I-918 Supplement B certification from a certifying official.
>
> (j) A certifying official may only withdraw the certification if the victim refuses to provide information and assistance with reasonably requested.

The Commission finds that the activity to certify victim helpfulness on the Form I-918 Supplement B certification, as specified in the statute, when the victim was a victim of a qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity, is mandated by the State. With the word "shall" in subdivisions (e) and (g); the rebuttable presumption that a victim is helpful in subdivision (f); the provision that certification does not depend on whether there is current investigation, the filing of charges, a prosecution or conviction in subdivision (i); and the provision in subdivision (j) authorizing a certifying official to withdraw certification *only* when the victim refuses to provide assistance, leaves local agencies no choice but to provide the Form I-918 Supplement B certification upon request of the victim or the victim's family when the local agency has determined that the victim was a victim of qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful to the detection, investigation, or prosecution of that qualifying criminal activity. Under these circumstances, the certifying official shall fully complete and sign the Form I-918 Supplement B certification and "include specific details about the nature of the crime investigated or prosecuted and a detailed description of the victim's

helpfulness or likely helpfulness to the detection or investigation or prosecution of the criminal activity" within 90 days of the request or 14 days of the request if the victim is in removal proceedings. The Form I-918 Supplement B includes six parts, with Parts 1 through 5 consisting of multiple subparts requesting information as following:

Part 1. Victim Information

Part 2. Agency Information

Part 3. Criminal Acts

Part 4. Helpfulness of the Victim

Part 5. Family Members Culpable In Criminal Activity

Upon completion of the five parts of Form I-918, the certifying official must then complete the certification contained in Part 6 of Form I-918B, which states the following:

> I am the head of the agency listed in Part 2. or I am the person in the agency who was specifically designated by the head of the agency to issue a U Nonimmigrant Status Certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual identified in Part 1. is or was a victim of one or more of the crimes listed in Part 3. I certify that the above information is complete, true, and correct to the best of my knowledge, and that I have made and will make no promises regarding the above victim's ability to obtain a visa from U.S. Citizenship and Immigration Services (USCIS), based upon this certification. I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim, I will notify USCIS.[83]

As explained in the Background, some local agencies, at their discretion, were completing and signing the Form I-918 Supplement B before the enactment of the test claim statute. The federal instructions for the form state that "[t]he decision whether to complete Supplement B is at the discretion of the certifying agency."[84] However, Government Code section 17565 states "[i]f a local agency or a school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate."

Thus, the Commission finds that the activity to fully complete and sign the Form I-918 Supplement B certification, as specified in section 679.10, when the victim is a victim of a qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity, is a new state-mandated activity.

The test claim statute does not directly define "victim", however, the "victim" referenced in the test claim statute must be interpreted broadly to include the direct and indirect victims of the

[83] Exhibit A, Test Claim, page 79 (Form I-918, Supplement B, page 4).

[84] Exhibit A, Test Claim, page 81 (Form I-918, Supplement B Instructions, page 1).

qualifying crimes that are expressly covered under federal U Visa regulations.[85] As discussed earlier, the test claim statute directs certifying entities to "certify victim helpfulness . . . when the victim was *a victim of a qualifying criminal activity*."[86] It further defines "qualifying criminal activity" as "qualifying criminal activity pursuant to Section 101(a)(15)(U)(iii) of the federal Immigration and Nationality Act" and identifies a nonexclusive list of twenty eight covered criminal activities, including manslaughter, murder, witness tampering, obstruction of justice, and perjury.[87] Thus, the term "victim," when read in context with the whole statute shows that the Legislature intended to apply the test claim statute to the victims defined in federal law.[88]

Moreover, Welfare and Institutions Code section 18945, which was enacted in 2006 as part of the Trafficking and Crime Victims Assistance Program (TCVAP) to provide social service assistance to U Visa applicants, defines victims consistent with federal law as "[i]ndividuals who have filed a formal application with the appropriate federal agency for status under Section 1101(a)(15)(U)(i) or (ii) of Title 8 of the United States Code."[89] Under the rules of construction, when two provisions of two different statutes deal with the same subject matter and form part of the same subject matter, they should be interpreted in the same manner.[90]

Finally, this interpretation of "victim" is consistent with the California Department of Justice's Bulletin on the test claim statute, which clarifies that a U Visa victim includes indirect victims identified in federal law as follows:

> ***1. Who is eligible for a U visa?***
>
> [¶]
>
> Moreover, a parent without authorized immigrant status can petition for their own U visa as an "indirect victim" of the qualifying crime, if their child is: (1) under 21 years of age, (2) the victim of a qualifying crime, and (3) incompetent or incapacitated such that she or he is unable to provide law enforcement with adequate assistance in the investigation or prosecution of the crime. (An immigrant parent can petition for a U visa regardless of his/her child's citizenship status or whether his/her child died as the victim of murder or manslaughter.)[91]

---

[85] 8 Code of Federal Regulations, 214.14(a)(14).

[86] Penal Code, section 679.10(e) (Emphasis added).

[87] Penal Code, section 679.10(c).

[88] *Doe v. City of Los Angeles* (2007) 42 Cal.4th 531, 536, stating that the words of a statute must be read in the context of the whole statute.

[89] Welfare and Institutions Code section 18945 (Stats. 2006, ch. 672).

[90] *People v. Honig* (1996) 48 Cal.App.4th 289, 327.

[91] Exhibit X, California Department of Justice Information Bulletin No. DLE-2015-14, "New and Existing State and Federal Laws Protecting Immigrant Victims of Crime," October 28, 2015, page 3.

Thus, the Commission finds that the test claim statute mandates local agencies to provide U Visa certifications to all victims as defined under federal law.

In addition, the plain language of section 679.10(l) requires local agencies that receive certification requests to report to the Legislature, on or before January 1, 2017, and annually thereafter, the number of victims that requested certifications from the particular agency, the number of certifications signed, and the number of certifications denied:

> (l) A certifying entity that receives a request for a Form I-918 Supplemental B certification *shall report to the Legislature*, on or before January 1, 2017, and annually thereafter, the number of victims that requested Form I-918 Form B certifications from the entity, the number of those certification forms that were signed, and the number that were denied. A report pursuant to this subdivision shall comply with Section 9795 of the Government Code.

This is a new reporting requirement mandated by the state.

These mandated activities are required of local agencies identified as "certifying entities." Section 679.10(a) states that:

> For purposes of this section, a "certifying entity" is any of the following:
>
> (1) A state or local law enforcement agency.
>
> (2) A prosecutor.
>
> (3) A judge.
>
> (4) Any other authority that has responsibility for the detection or investigation or prosecution of a qualifying crime or criminal activity.
>
> (5) Agencies that have criminal detection or investigative jurisdiction in their respective areas of expertise, including, but not limited to, child protective services, the Department of Fair Employment and Housing, and the Department of Industrial Relations.

And a "certifying official" is the person required by the statute to certify the Form I-918 Supplement B certification. A "certifying official" is defined in section 679.10(b) as the head of the certifying entity; a person in a supervisory role who has been specifically designated by the head of the certifying entity to issue Form I-918 Supplement B certifications on behalf of the agency; and a judge.

Thus, "certifying officials" from "certifying entities" include employees from the following local agency offices: district attorney offices, sheriff's departments, police departments, child protective services, and any other local agency authority that has the responsibility for the detection, investigation, or prosecution of a qualifying criminal activity. According to the Assembly Committee on Appropriations Analysis of SB 674, "[t]here are 58 counties and 482 cities and each of them has at least one "agency" that qualifies as a certifying agency.[92]

---

[92] Exhibit A, Test Claim, page 20 (Assembly Committee on Appropriations Analysis of SB 674, as introduced February 27, 2015, page 1).

However, it should be noted that while police/security departments of school districts or special districts might qualify as "certifying entities" and their employees may be "certifying officials" under the test claim statute, school districts and special districts are not be eligible for reimbursement for the costs incurred by their police/security departments. The Third District Court of Appeal, in *Department of Finance v. Commission on State Mandates* (*POBRA*) held that "school districts and special districts that are permitted by statute, but not required, to employ peace officers who supplement the general law enforcement units of cities and counties" are not eligible to claim reimbursement under article XIII B, section 6 for these costs.[93]

Furthermore, costs incurred by "judges" are not eligible for reimbursement since the funding of all "court operations," including the salary of judges, are paid by the State under the Trial Court Funding program.[94]

Therefore, "certifying officials" from the "certifying entities" of local agencies within the meaning of the section 679.10(a), with the *exception* of the police/security departments of school districts and special districts, and judges, are mandated by the state to perform the following new activities:

- The certifying official shall fully complete and sign the Form I-918 Supplement B certification upon the request of the victim or the victim's family member, and "include specific details about the nature of the crime investigated or prosecuted and a detailed description of the victim's helpfulness or likely helpfulness to the detection or investigation or prosecution of the criminal activity" within 90 days of the request or 14 days of the request if the victim is in removal proceedings, when the victim was a victim of a qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity. (Pen. Code, § 679.10(a)-(j).)
- A certifying entity that receives a request for a Form I-918 Supplement B certification shall report to the Legislature on or before January 1, 2017, and annually thereafter, the number of victims that requested certifications from the particular agency, the number of certifications signed, and the number of certifications denied. (Pen. Code, § 679.10(l).)

In addition, the claimant requests reimbursement for the one-time costs for training and updating policies and procedures, and for on-going training of new staff.[95] Although these activities may be reasonably necessary to comply with the mandate, they are not mandated by the plain language of the test claim statute.

2. <u>The Activities Mandated by the Test Claim Statute Constitute a New Program or Higher Level of Service.</u>

For the test claim statute to be subject to subvention pursuant to article XIII B, section 6 of the California Constitution, the activities mandated by the statute must constitute a new program or

---

[93] *Department of Finance v. Commission on State Mandates* (*POBRA*) (2009) 170 Cal.App.4th 1355, 1357.

[94] Government Code sections 70311, 77003.

[95] Exhibit A, Test Claim, pages 4, 6.

higher level of service. As indicated in the analysis above, the activities mandated by the state are new. In addition, the activities must "carry out the governmental function of providing services to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state."[96] The Supreme Court explained:

> The concern which prompted the inclusion of section 6 in article XIIIB was the perceived attempt by the state to enact legislation or adopt administrative orders creating programs to be administered by local agencies, thereby transferring to those agencies the fiscal responsibility for providing services which the state believed should be extended to the public. In their ballot arguments, the proponents of article XIIIB explained section 6 to the voters: "Additionally, this measure: (1) Will not allow the state government to *force programs* on local governments without the state paying for them." [citation omitted.] In this context the phrase "to force programs on local governments" confirms that the intent underlying section 6 was to require reimbursement to local agencies for the costs involved in carrying out functions peculiar to government, not for expenses.[97]

Here, the activities mandated by the test claim statute are unique to government, do not apply generally to all residents and entities of the state, and provide a service to the public. The purpose of the federal U Visa program is to create a new nonimmigrant visa classification that will strengthen the ability of law enforcement agencies to detect, investigate, and prosecute crimes against aliens, while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States.[98] The goal of the test claim statute "is to ensure the maximum amount of immigrant victims of crime in California have the opportunity to apply for the federal U-Visa when the immigrant was a victim of a qualifying crime and has been helpful or is likely to be helpful in the investigation or prosecution of that crime" and to create "equity in the granting of the certifications of victim helpfulness that are essential to the crime victim's U Visa application filed with the USCIS."[99]

Accordingly, the test claim statute imposes a new program or higher level of service.

3. <u>There Is No Evidence of Actual Increased Costs Mandated by the State Within the Meaning of Government Code 17514, and Thus, Reimbursement Is Not Required Under Article XIII B, Section 6.</u>

For the mandated activities to constitute reimbursable state-mandated activities under article XIII B, section 6 of the California Constitution, they must result in local agencies incurring increased costs mandated by the state. Government Code section 17514 defines "costs mandated by the state" as any increased cost that a local agency or school district incurs as a result of any statute or executive order that mandates a new program or higher level of service. Government

---

[96] *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

[97] *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56-57.

[98] Public Law No. 106-386, Title V, section 1513(a).

[99] Exhibit A, Test Claim, page 27 (Senate Rules Committee, Office of Senate Floor Analyses, Third Reading Analysis of SB 674, as introduced February 27, 2015, page 6).

Code section 17564(a) further requires that no claim shall be made nor shall any payment be made unless the claim exceeds $1,000. In addition, here, none of the exceptions in Government Code section 17556 apply to deny the claim.

However, the Commission cannot make a finding of increased costs mandated by the state without evidence in the record to support that finding. In *County of Sonoma*, the court concluded that article XIII B, section 6 requires a showing of "increased actual expenditures," and that "when the Constitution uses 'costs' in the context of subvention of funds to reimburse for the 'costs of such program,' that some *actual cost* must be demonstrated...."[100] Government Code section 17559 and section 1187.5 of the Commission's regulations require substantial evidence in the record to support a finding of actual increased costs mandated by the state. "[I]nstinct is insufficient to support a legal conclusion."[101]

The test claim statute became effective January 1, 2016. The claimant states that costs were first incurred under this program after the city received its first U Visa request after the effective date of the test claim statute on November 21, 2017 (fiscal year 2017-2018), but no evidence of actual costs is in the record. Instead, the Test Claim contains "detailed cost *estimates* required to implement the mandated program."[102] For the 2017-2018 fiscal year, the following costs are estimated:

1. One-time costs to research new law, and review and approve new policies and procedures, estimated at $1,073.01.
2. On-going costs to process U-Visa applications consisting of (1) salary and benefits of the Lieutenant for the time spent on *five* U-Visa applications (60 minutes per case) and to report to the Legislature (20 minutes annually), estimated at $708.09.
3. Indirect costs calculated jointly for the one-time and the on-going costs, as a percentage of salary and excluding benefits, together estimated at $974.[103]

For fiscal year 2018-2019, estimated costs are as follows:

1. On-going costs to process U-Visa applications consisting of (1) salary and benefits of the Lieutenant for the time spent on *six* U-Visa applications (60 minutes per case) and to report to the Legislature (20 minutes annually), estimated at $867.63.
2. Indirect costs calculated at 80% ICRP as a percentage of salary and excluding benefits, estimated at $431.[104]

---

[100] *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1284, 1285.

[101] *Department of Finance v. Commission on State Mandates (POBRA)* 170 Cal.App.4th 1355, 1369.

[102] Exhibit A, Test Claim, page 5.

[103] Exhibit A, Test Claim, page 6.

[104] Exhibit A, Test Claim, page 6.

The claimant's Finance Director filed a declaration stating that "the cost estimates presented in the test claim are accurate."[105]

However, even assuming the claimant's time estimates are accurate or reasonable, there is no showing that the claimant has, or will ever receive five or six requests for a U Visa certification and incur at least $1,000 in actual costs in a fiscal year to comply with the new state-mandated activities.

In addition, there is a striking difference in estimates between the cost per U Visa request alleged by the claimant and the cost per U Visa request identified in the legislative history of the test claim statute.[106] The claimant estimates the costs of processing each U Visa certification request in fiscal year 2017-2018 at $198.56, including the Lieutenant's salary, benefits, and indirect costs. Legislative history, however, estimates costs of $25 per U Visa request for the cities of Los Angeles and Oakland.[107] While, these estimates are not binding, they highlight the problem of cost estimates made in the absence of substantial evidence of increased actual costs mandated by the state.

Based on the foregoing, the Commission finds that there is no evidence in the record that the test claim statute results in increased actual costs mandated by the state within the meaning of article XIII B, section 6 and Government Code section 17514.

## V. Conclusion

Based on the foregoing analysis, the Commission denies this Test Claim and finds that the test claim statute does not impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution.

---

[105] Exhibit A, Test Claim, page 12.

[106] Exhibit A, Test Claim, page 20 (Assembly Committee on Appropriations Analysis of SB 674 as introduced February 27, 2015, page 1).

[107] Exhibit A, Test Claim, page 20 (Assembly Committee on Appropriations Analysis of SB 674 as introduced February 27, 2015, page 1).

## DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

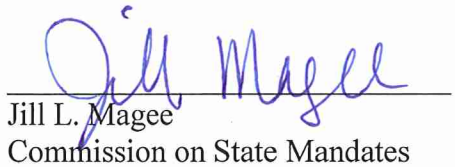
On July 20, 2018, I served the:

- **Draft Proposed Decision, Schedule for Comments, and Notice of Hearing issued July 20, 2018**

  *U Visa 918 Form, Victims of Crime: Nonimmigrant Status*, 17-TC-01
  Penal Code Section 679.10; Statutes 2015, Chapter 721 (SB 674)
  City of Claremont, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on July 20, 2018 at Sacramento, California.



Jill L. Magee
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 5/15/18

**Claim Number:** 17-TC-01

**Matter:** U Visa 918 Form, Victims of Crime: Nonimmigrant status

**Claimant:** City of Claremont

**TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:**

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

**Socorro Aquino**, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-7522
SAquino@sco.ca.gov

**Harmeet Barkschat**, *Mandate Resource Services,LLC*
5325 Elkhorn Blvd. #307, Sacramento, CA 95842
Phone: (916) 727-1350
harmeet@calsdrc.com

**Lacey Baysinger**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
lbaysinger@sco.ca.gov

**Cindy Black**, City Clerk, *City of St. Helena*
1480 Main Street, St. Helena, CA 94574
Phone: (707) 968-2742
ctzafopoulos@cityofsthelena.org

**Allan Burdick**,
7525 Myrtle Vista Avenue, Sacramento, CA 95831
Phone: (916) 203-3608
allanburdick@gmail.com

**J. Bradley Burgess**, *MGT of America*
895 La Sierra Drive, Sacramento, CA 95864
Phone: (916)595-2646
Bburgess@mgtamer.com

**Evelyn Calderon-Yee**, Bureau Chief, *State Controller's Office*

Local Government Programs and Services, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-5919
ECalderonYee@sco.ca.gov

**Gwendolyn Carlos**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-0706
gcarlos@sco.ca.gov

**Daniel Carrigg**, Deputy Executive Director/Legislative Director, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8222
Dcarrigg@cacities.org

**Annette Chinn**, *Cost Recovery Systems,Inc.*
**Claimant Representative**
705-2 East Bidwell Street, #294, Folsom, CA 95630
Phone: (916) 939-7901
achinncrs@aol.com

**Carolyn Chu**, Senior Fiscal and Policy Analyst, *Legal Analyst's Office*
925 L Street, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

**Mike Ciszek**, Lieutenant, *City of Claremont*
Police Department, 570 West Bonita Avenue, Claremont, CA 91711
Phone: (909) 399-5403
mciszek@ci.claremont.ca.us

**Michael Coleman**, *Coleman Advisory Services*
2217 Isle Royale Lane, Davis, CA 95616
Phone: (530) 758-3952
coleman@muni1.com

**Anita Dagan**, Manager, Local Reimbursement Section, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-4112
Adagan@sco.ca.gov

**Stacy Daugherty**, Finance Director, *City of Costa Mesa*
PO Box 1200, Costa Mesa, CA 92626-1200
Phone: (714) 754-5243
stacy.daugherty@costamesaca.gov

**Marieta Delfin**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-4320
mdelfin@sco.ca.gov

**Ed Everett**, Lieutenant, *City of Costa Mesa*
Police Department, PO Box 1200, Costa Mesa, CA 92626-1200
Phone: (714) 754-5395
eeverett@costamesaca.gov

**Donna Ferebee**, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814

Phone: (916) 445-3274
donna.ferebee@dof.ca.gov

**Susan Geanacou**, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
susan.geanacou@dof.ca.gov

**Dillon Gibbons**, Legislative Representative, *California Special Districts Association*
1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
dillong@csda.net

**Heather Halsey**, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
heather.halsey@csm.ca.gov

**Sunny Han**, Project Manager, *City of Huntington Beach*
2000 Main Street, Huntington Beach, CA 92648
Phone: (714) 536-5907
Sunny.han@surfcity-hb.org

**Chris Hill**, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Hill@dof.ca.gov

**Justyn Howard**, Program Budget Manager, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-1546
justyn.howard@dof.ca.gov

**Ray Hull**, Management Analyst, *City of Costa Mesa*
Finance Department, PO Box 1200, Costa Mesa, CA 92626-1200
Phone: (714) 754-5227
RAY.HULL@costamesaca.gov

**Kevin Hunt**, General Manager, *Central Basin Municipal Water District*
6252 Telegraph Road, Commerce, CA 90040
Phone: (323) 201-5500
kevinh@centralbasin.org

**Edward Jewik**, *County of Los Angeles*
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-8564
ejewik@auditor.lacounty.gov

**Jill Kanemasu**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-9891
jkanemasu@sco.ca.gov

**Anita Kerezsi**, *AK & Company*
3531 Kersey Lane, Sacramento, CA 95864
Phone: (916) 972-1666
akcompanysb90@gmail.com

**Lisa Kurokawa**, Bureau Chief for Audits, *State Controller's Office*

Compliance Audits Bureau, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 327-3138
lkurokawa@sco.ca.gov

**Jill Magee**, Program Analyst, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
Jill.Magee@csm.ca.gov

**Hortensia Mato**, *City of Newport Beach*
100 Civic Center Drive, Newport Beach, CA 92660
Phone: (949) 644-3000
hmato@newportbeachca.gov

**Michelle Mendoza**, *MAXIMUS*
17310 Red Hill Avenue, Suite 340, Irvine, CA 95403
Phone: (949) 440-0845
michellemendoza@maximus.com

**Meredith Miller**, Director of SB90 Services, *MAXIMUS*
3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670
Phone: (972) 490-9990
meredithcmiller@maximus.com

**Lourdes Morales**, Senior Fiscal and Policy Analyst, *Legal Analyst's Office*
925 L Street, Sacramento, CA 95814
Phone: (916) 319-8320
Lourdes.Morales@LAO.CA.GOV

**Andy Nichols**, *Nichols Consulting*
1857 44th Street, Sacramento, CA 95819
Phone: (916) 455-3939
andy@nichols-consulting.com

**Arthur Palkowitz**, *Artiano Shinoff*
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106
Phone: (619) 232-3122
apalkowitz@as7law.com

**Steven Pavlov**, Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Steven.Pavlov@dof.ca.gov

**Johnnie Pina**, Legislative Policy Analyst, *League of Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8214
jpina@cacities.org

**Adam Pirrie**, *City of Claremont*
207 Harvard Ave, Claremont, CA 91711
Phone: (909) 399-5356
apirrie@ci.claremont.ca.us

**Jai Prasad**, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415-0018
Phone: (909) 386-8854
jai.prasad@atc.sbcounty.gov

**Mark Rewolinski**, *MAXIMUS*
808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (949) 440-0845
markrewolinski@maximus.com

**Camille Shelton**, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

**Carla Shelton**, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
carla.shelton@csm.ca.gov

**Jim Spano**, Chief, Mandated Cost Audits Bureau, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-5849
jspano@sco.ca.gov

**Dennis Speciale**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
DSpeciale@sco.ca.gov

**Joe Stephenshaw**, Director, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
Joe.Stephenshaw@sen.ca.gov

**Derk Symons**, Staff Finance Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Derk.Symons@dof.ca.gov

**Jolene Tollenaar**, *MGT of America*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 243-8913
jolenetollenaar@gmail.com

**Evelyn Tseng**, *City of Newport Beach*
100 Civic Center Drive, Newport Beach, CA 92660
Phone: (949) 644-3127
etseng@newportbeachca.gov

**Brian Uhler**, Principal Fiscal & Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8328
Brian.Uhler@LAO.CA.GOV

**Renee Wellhouse**, *David Wellhouse & Associates, Inc.*
3609 Bradshaw Road, H-382, Sacramento, CA 95927
Phone: (916) 797-4883
dwa-renee@surewest.net

**Jennifer Whiting**, Assistant Legislative Director, *League of California Cities*
1400 K Street, Suite 400, Sacramento , CA 95814

Phone: (916) 658-8249
jwhiting@cacities.org

**Patrick Whitnell**, General Counsel, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8281
pwhitnell@cacities.org

**Elena Wilson**, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: 916-323-3562
elena.wilson@csm.ca.gov

**Hasmik Yaghobyan**, *County of Los Angeles*
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-9653
hyaghobyan@auditor.lacounty.gov

RECEIVED
August 23, 2018
Commission on
State Mandates

**CITY OF COSTA MESA**

P.O. BOX 1200 CALIFORNIA 92628-1200

**Exhibit E**

August 22, 2018

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Interested Party Response to Draft Proposed Decision:
Test Claim U Visa 918 Form, Victims of Crime: Nonimmigrant Status, 17-TC-01

Dear Ms. Halsey,

The City of Costa Mesa would like to submit this response and declaration as evidence to staff's Draft Proposed Decision on the UVISA Test Claim.

We are pleased and agree with the Commissions finding that the passage of Penal Code Section 679.10 constitutes a reimbursable State Mandate program.

As you know, the City of Costa Mesa was first to file a Test Claim on this same program, however, our filing was denied because we waited to submit our Test Claim until we knew we had incurred over $1,000 in costs for the activities mandated by Penal Code Section 679.10. Unfortunately for us, by waiting until we could prove our costs were over $1,000, we had exceeded your filing eligibility requirements.

In your February 8th letter (See page 3 of the attached February 8, 2018 Notice of Incomplete Test Claim letter) you stated, "Costa Mesa first incurred costs... in calendar year 2016, but neither the narrative nor the declarations specify the date that the test claimant *first* incurred increased costs as a result of new activities and modified existing activities required by this statute as required by section 1183.1 of the Commissions regulations."

Further, you continue in your letter, "even if the Commission were to adopt your novel theory that the date of first incurred costs means the date that at least $1000 have been incurred in a fiscal year, there is no evidence in this filing that $1000 has been incurred in a particular fiscal year."

Commission regulations we learned strictly interpreted "first incurred costs" as the first date costs were incurred, not the date when the agency noticed that their costs first "exceeded" $1,000.

It appears now that you are arguing the other side of the coin and recommendation to deny the City of Claremont "who filed their Test Claim within the required 12 months after incurring first cost" because you do not think that their Test Claim proved their costs exceeded $1,000 in a fiscal year. It is not fair to have it both ways.

If this is true, then your regulations have violated the intent of article XIII B of the California Constitution which states its purpose is "to preclude the state form shifting financial responsibility for carrying out governmental functions to local agencies which are ill equipped to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose."

Some State Mandated programs have a slow or delayed impact on local agencies. Sometimes it takes years for a programs full impact to be felt. By placing these filing barriers that a city must both "prove" its cost exceeded $1,000 in a fiscal year and that the filing is done within 12 months of the first observed costs unfairly stacks the deck against small sized agencies whose costs from a mandated program are slow in coming.

An agency must file a Test Claim immediately in order to preserve their right to file a future claim for State Reimbursement. If they file correctly when they first incur costs, yet if costs at the time of Test Claim do not exceeded the $1000 mark, they lose. Then if they do not file right away because their costs are too low, but when the costs do go over the $1000 it can be too late to file because more than a year has passed – so they lose again. Clearly both interpretations cannot be correct and would violate the intent of the legislature.

Another topic I would like to address is the one of time and cost to process a UVISA request.

Based on my actual process and experience as the Costa Mesa Police Department lieutenant, I estimate that it takes me an average of 45 minutes to process each UVISA request. Given that each UVISA case is unique and some are significantly more complex and require more time to gather process, it is my opinion and believe that the City of Claremont's approximate 1-hour request to process its first request is not an unreasonable amount of time.

Finally, I disagree with Commissions recommendation that one-time start-up costs to Update Department Policies and Procedures is not required as a result of the mandate. Law enforcement agencies that certify UVISA are mandated by DHS to have a policy/practice in place and are compelled to educate staff on the process and use UVISA certification. When there is a change or an update to law or statute law enforcement agencies must update their policies to ensure consistent and legal responses to State mandate statutes.

We appreciate your time and consideration and are happy to provide any additional information required. I can be reached at (714) 754-5395

Sincerely,

Lieutenant Edwin Everett
Costa Mesa Police Department

DECLARATION OF EDWIN EVERETT

I, Edwin Everett, make the following declaration under oath and under penalty of perjury under the laws of the State of California that the following statements are true and correct:

1) I am a Lieutenant for the City of Costa Mesa. I have been employed by the City in this capacity since 2015 and have been a law enforcement officer since 1995. As part of my duties, I am, and have been directly involved and have personal knowledge of the UVISA program, process, and activities performed by the City of Costa Mesa which were required by Penal Code 679.10, added by Senate Bill 674, Statutes of 2015 (referred to as the UVISA program).

2) I estimate that it takes me an average of 45 minutes to complete the activities required to comply with the requirements of the UVISA program.

3) Based on my actual process and experience as the Costa Mesa Police Department Lieutenant, I estimate that it takes me an average of 45 minutes to process each UVISA request.

4) Given that each UVISA case is unique and some are significantly more complex and require more time to gather process, it is my believe that the City of Claremont's approximately 1 hour request to process its first request is not unreasonable

5) The City of Costa Mesa incurred over $1000 in actual costs during FY 2017-18 to comply with the UVISA program.

6) Based on my knowledge of the UVISA program and my experience in law enforcement, the number of UVISA requests received state-wide will likely increase substantially in the future as immigrants become more aware of the existence of this program.

I am personally conversant with the foregoing facts and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing items 1) 2) 3) 5) and 6) are true and correct based upon my own personal knowledge.

I declare under penalty of perjury under the laws of the State of California that item 4) is true to the best of my information and belief.

Executed this 22nd day of August, 2018 in Costa Mesa, California.

Edwin Everett
Lieutenant,
Costa Mesa Police Department

STATE of CALIFORNIA
**COMMISSION ON STATE MANDATES**

***Sent via email to: AChinnCRS@aol.com and sdunivent@costamesaca.gov***

February 8, 2018

Ms. Annette Chinn
Cost Recovery Systems, Inc.
705-2 E. Bidwell St. #294
Folsom, CA 95630

Mr. Stephen Dunivent
Costa Mesa Police Department
PO Box 1200
Costa Mesa, CA 92626-1200

**RE: Notice of Incomplete Test Claim**
*U Visa 918 Form, Victims of Crime: Non-immigrant status*

Dear Ms. Chinn and Mr. Dunivent:

On December 14, 2017, the Costa Mesa Police Department filed a Test Claim with the Commission on State Mandates (Commission) on the above-named matter.

Upon initial review, Commission staff finds this Test Claim to be incomplete because it was not timely filed: it was not filed within 12 months of the effective date of the test claim statute or within 12 months of the date that costs were first incurred based on the evidence submitted with the filing.[1]

**To Be Considered Timely Filed Under Government Code 17551(c) a Test Claim Must Be Filed Not Later Than 12 Months Following the Effective Date of a Statute or Executive Order or, as Supported with Evidence in the Record, Within 12 Months of First Incurring Increased Costs as a Result of a Statute or Executive Order.**

Government Code section 17551(c) requires a local agency to file a test claim "not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later."
In addition, 1183.1(c) of the Commission's regulations, states in pertinent part, "[f]or purposes of claiming based on *the date* of first incurring costs, 'within 12 months' means by June 30 of

---

[1] Please note that there were numerous other completeness issues found but because it does not appear that the threshold issue of timeliness can be overcome in this case, there is no need to attempt to cure them. For your reference for future filings, those issues were the following:
1) Failure to identify "a city manager, director of finance, or other officer with a delegation by ordinance or resolution from the city council" as the claimant (Tit. 2 CCR §1183.1(a).);
2) Failure to include the applicable statute, and chapter in Section 4 of the test claim form;
3) Failure to support evidence of first incurring costs with evidence in the record based on personal knowledge under penalty of perjury (hearsay evidence is not sufficient in itself to support a finding of fact, though such evidence may be used to bolster other evidence); and
4) the filing lacked a complete description of "...the *new activities and costs that arise from the mandate*,...the existing *activities and costs that are modified by the mandate*, ...the *actual increased costs* incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate" and "the *actual or estimated annual costs that will be incurred* by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed" as required by Government Code section 17553(b)(1). Note that cost estimates are required by fiscal, not calendar, year.

the fiscal year following the fiscal year in which increased costs were *first incurred* by the test claimant." (Emphasis added.)

In this case, the narrative indicates:

> The City believes its additional costs to implement this mandated program did not exceed $1,000 (the minimum claimable amount) until a complete year from program effective date or by the end of calendar year 2016. State mandate claiming guidelines do not allow for submission of costs/claims unless they exceed $1,000 in a given fiscal year. Therefore, Fiscal Year 2016-2017 would be the City's first year of costs greater than the minimum claiming threshold. This test claim is therefore submitted within one year after the City first incurred costs in excess of $1,000 resulting from the mandate program. Costs for the FY 17-18 fiscal year are estimated to be about the same.[2]

First, this statement regarding not having costs of at least $1000 in 2015-2016 is not supported by any evidence in the record. Even the chart in the narrative purporting to show that $1000 in costs were not incurred in 2015-2016 does not provide any dates for when the costs were incurred or separate costs incurred in 2015-2016 from 2016-2017 to support this assertion. Please note that all representations of fact made to the Commission "shall be under oath or affirmation and signed under penalty of perjury by persons who are authorized and competent to do so and must be based on the declarant's personal knowledge, information or belief." (Cal. Code. Regs., tit. 2 §§ 1183.2 and 1187.5.) If written representations of fact are made, they must be supported with documentary evidence. (Cal. Code. Regs., tit. 2 §§ 1183.2 and 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.[3]

Additionally, this statement conflates two separate standards that apply to the filing of test claims: 1) the date costs were *first* incurred for purposes of determining a timely filing more than 12 months after the effective date of the test claim statute pursuant to Government Code section 17551 and California Code of Regulations section 1183.1(c); and 2) whether the requirement that a claim exceed $1000 has been met pursuant to Government Code section 17564.

The test claim statute pled became effective on January 1, 2016.[4] Twelve months following the effective date of January 1, 2016 would have been January 1, 2017 and the end of the fiscal year following the fiscal year in which increased costs were first incurred (2015-2016) would have been the end of fiscal year 2016-2017, or June 30, 2017. However, this Test Claim was filed nearly six months later, on December 14, 2017.

---

[2] Test Claim, page 6-7 (Narrative).

[3] Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

[4] Test Claim, page 1.

Further, the declaration of Steve Dunivent states, "the City of Costa Mesa first incurred costs as a result of this Test Claim statute in Calendar Year 2016…I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, of my own knowledge, except as to the matters which are stated upon information or belief…"[5] Both the narrative and declaration of costs provide the same chart that indicates that costs were incurred during part of fiscal year 2015-2016 and part of fiscal year 2016-2017 (calendar year 2016), and the declaration of Mr. Dunivent indicates that costs were first incurred in calendar year 2016, but neither the narrative nor the declarations specify *the date* that the test claimant *first* incurred increased costs as a result of new activities and modified existing activities required by this statute as required by section 1183.1 of the Commission's regulations.

However, to the extent that costs were incurred in 2015-2016 as reflected in the evidence (i.e. the declaration) you have filed, those costs were incurred on or before June 30, 2016. Thus, even assuming that costs were first incurred June 30, 2016 and applying the currently applicable standard that provides that for purposes of first incurring costs: "'within 12 months' means by June 30 of the fiscal year following the fiscal year in which increased costs were first incurred by test claimant" the claim would have had to be filed no later June 30, 2017.

Finally, even if the Commission were to adopt your novel theory that the date of first incurring costs means the date that at least $1000 have been incurred in a fiscal year, there is no evidence in this filing that $1000 has been incurred in a particular fiscal year.

Generally, in the case of an incomplete test claim, a claimant has 30 days from the notice of incomplete test claim to cure the filing, which would be **March 12, 2018** in this case. However, based on the evidence submitted with this filing, curing this filing appears to be an impossibility.

Sincerely,

Heather Halsey
Executive Director

[5] Test Claim, page 10 (Declaration of Steve Dunivent).

## DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On February 8, 2018 I served via e-mail to ***AChinnCRS@aol.com*** ***and*** ***sdunivent@costamesaca.gov*** the:

**Notice of Incomplete Test Claim**
*U Visa 918 Form, Victims of Crime: Non-immigrant status*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on February 8, 2018 at Sacramento, California.

Jill L. Magee
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

## DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On August 24, 2018, I served the:

- **Interested Party's Comments on the Draft Proposed Decision filed August 23, 2018**

  *U Visa 918 Form, Victims of Crime: Nonimmigrant Status*, 17-TC-01
  Penal Code Section 679.10; Statutes 2015, Chapter 721 (SB 674)
  City of Claremont, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on August 24, 2018 at Sacramento, California.

Lorenzo Duran
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 8/23/18

**Claim Number:** 17-TC-01

**Matter:** U Visa 918 Form, Victims of Crime: Nonimmigrant Status

**Claimant:** City of Claremont

**TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:**

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

**Bibi Ameer**, Accounting Manager/Acting Finance Director, *City of Claremont*
270 Harvard Ave, Claremont, CA 91711-0880
Phone: (909) 399-5346
bameer@ci.claremont.ca.us

**Socorro Aquino**, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-7522
SAquino@sco.ca.gov

**Harmeet Barkschat**, *Mandate Resource Services,LLC*
5325 Elkhorn Blvd. #307, Sacramento, CA 95842
Phone: (916) 727-1350
harmeet@calsdrc.com

**Lacey Baysinger**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
lbaysinger@sco.ca.gov

**Cindy Black**, City Clerk, *City of St. Helena*
1480 Main Street, St. Helena, CA 94574
Phone: (707) 968-2742
ctzafopoulos@cityofsthelena.org

**Allan Burdick**,
7525 Myrtle Vista Avenue, Sacramento, CA 95831
Phone: (916) 203-3608
allanburdick@gmail.com

**J. Bradley Burgess**, *MGT of America*

895 La Sierra Drive, Sacramento, CA 95864
Phone: (916)595-2646
Bburgess@mgtamer.com

**Evelyn Calderon-Yee**, Bureau Chief, *State Controller's Office*
Local Government Programs and Services, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-5919
ECalderonYee@sco.ca.gov

**Gwendolyn Carlos**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-0706
gcarlos@sco.ca.gov

**Daniel Carrigg**, Deputy Executive Director/Legislative Director, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8222
Dcarrigg@cacities.org

**Annette Chinn**, *Cost Recovery Systems,Inc.*
**Claimant Representative**
705-2 East Bidwell Street, #294, Folsom, CA 95630
Phone: (916) 939-7901
achinncrs@aol.com

**Carolyn Chu**, Senior Fiscal and Policy Analyst, *Legal Analyst's Office*
925 L Street, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

**Mike Ciszek**, Lieutenant, *City of Claremont*
Police Department, 570 West Bonita Avenue, Claremont, CA 91711
Phone: (909) 399-5403
mciszek@ci.claremont.ca.us

**Michael Coleman**, *Coleman Advisory Services*
2217 Isle Royale Lane, Davis, CA 95616
Phone: (530) 758-3952
coleman@muni1.com

**Anita Dagan**, Manager, Local Reimbursement Section, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-4112
Adagan@sco.ca.gov

**Stacy Daugherty**, Finance Director, *City of Costa Mesa*
PO Box 1200, Costa Mesa, CA 92626-1200
Phone: (714) 754-5243
stacy.daugherty@costamesaca.gov

**Marieta Delfin**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-4320
mdelfin@sco.ca.gov

**Ed Everett**, Lieutenant, *City of Costa Mesa*
Police Department, PO Box 1200, Costa Mesa, CA 92626-1200

Phone: (714) 754-5395
eeverett@costamesaca.gov

**Donna Ferebee**, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
donna.ferebee@dof.ca.gov

**Susan Geanacou**, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
susan.geanacou@dof.ca.gov

**Dillon Gibbons**, Legislative Representative, *California Special Districts Association*
1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
dillong@csda.net

**Heather Halsey**, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
heather.halsey@csm.ca.gov

**Sunny Han**, Project Manager, *City of Huntington Beach*
2000 Main Street, Huntington Beach, CA 92648
Phone: (714) 536-5907
Sunny.han@surfcity-hb.org

**Chris Hill**, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Hill@dof.ca.gov

**Justyn Howard**, Program Budget Manager, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-1546
justyn.howard@dof.ca.gov

**Ray Hull**, Management Analyst, *City of Costa Mesa*
Finance Department, PO Box 1200, Costa Mesa, CA 92626-1200
Phone: (714) 754-5227
RAY.HULL@costamesaca.gov

**Kevin Hunt**, General Manager, *Central Basin Municipal Water District*
6252 Telegraph Road, Commerce, CA 90040
Phone: (323) 201-5500
kevinh@centralbasin.org

**Edward Jewik**, *County of Los Angeles*
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-8564
ejewik@auditor.lacounty.gov

**Jill Kanemasu**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-9891
jkanemasu@sco.ca.gov

**Anita Kerezsi**, *AK & Company*

2425 Golden Hill Road, Suite 106, Paso Robles, CA 93446
Phone: (805) 239-7994
akcompanysb90@gmail.com

**Lisa Kurokawa**, Bureau Chief for Audits, *State Controller's Office*
Compliance Audits Bureau, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 327-3138
lkurokawa@sco.ca.gov

**Jill Magee**, Program Analyst, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
Jill.Magee@csm.ca.gov

**Michelle Mendoza**, *MAXIMUS*
17310 Red Hill Avenue, Suite 340, Irvine, CA 95403
Phone: (949) 440-0845
michellemendoza@maximus.com

**Meredith Miller**, Director of SB90 Services, *MAXIMUS*
3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670
Phone: (972) 490-9990
meredithcmiller@maximus.com

**Lourdes Morales**, Senior Fiscal and Policy Analyst, *Legal Analyst's Office*
925 L Street, Sacramento, CA 95814
Phone: (916) 319-8320
Lourdes.Morales@LAO.CA.GOV

**Andy Nichols**, *Nichols Consulting*
1857 44th Street, Sacramento, CA 95819
Phone: (916) 455-3939
andy@nichols-consulting.com

**Arthur Palkowitz**, *Artiano Shinoff*
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106
Phone: (619) 232-3122
apalkowitz@as7law.com

**Steven Pavlov**, Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Steven.Pavlov@dof.ca.gov

**Johnnie Pina**, Legislative Policy Analyst, *League of Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8214
jpina@cacities.org

**Adam Pirrie**, Finance Director, *City of Claremont*
207 Harvard Ave, Claremont, CA 91711
Phone: (909) 399-5356
apirrie@ci.claremont.ca.us

**Jai Prasad**, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415-0018
Phone: (909) 386-8854
jai.prasad@atc.sbcounty.gov

**Mark Rewolinski**, *MAXIMUS*
808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (949) 440-0845
markrewolinski@maximus.com

**Theresa Schweitzer**, *City of Newport Beach*
100 Civic Center Drive, Newport Beach, CA 92660
Phone: (949) 644-3140
tschweitzer@newportbeachca.gov

**Camille Shelton**, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

**Carla Shelton**, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
carla.shelton@csm.ca.gov

**Jim Spano**, Chief, Mandated Cost Audits Bureau, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-5849
jspano@sco.ca.gov

**Dennis Speciale**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
DSpeciale@sco.ca.gov

**Joe Stephenshaw**, Director, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
Joe.Stephenshaw@sen.ca.gov

**Derk Symons**, Staff Finance Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Derk.Symons@dof.ca.gov

**Jolene Tollenaar**, *MGT of America*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 243-8913
jolenetollenaar@gmail.com

**Evelyn Tseng**, *City of Newport Beach*
100 Civic Center Drive, Newport Beach, CA 92660
Phone: (949) 644-3127
etseng@newportbeachca.gov

**Brian Uhler**, Principal Fiscal & Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8328
Brian.Uhler@LAO.CA.GOV

**Renee Wellhouse**, *David Wellhouse & Associates, Inc.*
3609 Bradshaw Road, H-382, Sacramento, CA 95927

Phone: (916) 797-4883
dwa-renee@surewest.net

**Jennifer Whiting**, Assistant Legislative Director, *League of California Cities*
1400 K Street, Suite 400, Sacramento , CA 95814
Phone: (916) 658-8249
jwhiting@cacities.org

**Patrick Whitnell**, General Counsel, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8281
pwhitnell@cacities.org

**Elena Wilson**, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: 916-323-3562
elena.wilson@csm.ca.gov

**Hasmik Yaghobyan**, *County of Los Angeles*
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-9653
hyaghobyan@auditor.lacounty.gov

C R S Inc.
Cost Recovery Systems, Inc.

RECEIVED
September 05, 2018
Commission on State Mandates

**Exhibit F**

August 23, 2018

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

**Response to Draft Proposed Decision: Test Claim U Visa 918 Form, Victims of Crime: Nonimmigrant Status, 17-TC-01**

Dear Ms. Halsey,

The City of Claremont respectfully submits this response to your Draft Proposed Decision for our UVISA 918 Form, Victims of Crime: Nonimmigrant Status, Test Claim # 17-TC-01.

We agree with Commission staff analysis finding that new Penal Code 679.10 mandates a new program or higher level of service within the meaning of article XIII, section 6 of the California Constitution.

However, we disagree with the Commission's conclusion that "reimbursement is not required" and wish to address the concerns raised by providing evidence to show that reimbursement is required.

**ISSUE 1:**
Commission analysis states that "the Test Claim in this case meets the filing requirements and can be based on an estimate that costs to comply with the alleged mandated program will exceed $1,000. However, ...a claimant is required as a matter of law to show, with evidence in the record, actual increased costs mandated by the state pursuant to Government Code section 17514 in order for reimbursement to be required under article XIII B, section 6 of the California Constitution."

This Test Claim was submitted on March 6, 2018, before the end of the fiscal year; therefore, it was not possible to provide a full accounting of "actual" FY 2017-18 costs at the time of filing.

Now that the fiscal year has ended, the City has obtained actual cost data which is presented in this transmission including: Signed Declarations from the Finance Director and Police Department staff, and support/evidence in the attached "Supplemental Appendix 1" showing that both actual and estimated costs incurred by the City to comply with the mandate exceeded, and will exceed, $1,000.

**ISSUE 2:**
Commission questioned the City's time and cost to process each UVISA request at approximately one hour per case.

705-2 East Bidwell Street, # 294
Folsom, California 95630
Telephone: 916.939.7901
Fax: 916.939.7801

The Claremont Police Department staff provided a certification under the penalty of perjury that this was the actual time it took them to perform the activities necessary to comply the requirements of Penal Code 679.10. The process requires the certifying official to first determine that the applicant 1) was a victim of a qualifying crime, 2 determine that individual has suffered "substantial physical or mental abuse" as a result of the qualifying crime 3) possesses information about the criminal activities 4) has been deemed helpful in the investigation or prosecution of that criminal activity." Further the agency must provide "specific details about the nature of the crime investigated or prosecuted and a detailed description of the victim's helpfulness or likely helpfulness to the detection or investigation or prosecution of the criminal activity". The Commission's analysis on pages 12-18 provide a thorough discussion of the various activities a certifying agency must go through in this process.

This is time consuming because it requires the review of the request, the the research of past crime history and reports to determine the facts of the case (sometimes requiring review of audio and video tape recordings of past interviews to determine victims' helpfulness), then finally the completion of forms, and preparation of narratives. Since "there is no statute of limitations that bars immigrant crime victims from applying for a UVISA and law enforcement can sign a certification at any time, and it can be submitted for a victim in an investigation or case that is already closed," this can be extremely time consuming to research old cases that have been archived. We believe that the time presented is true and correct and that the resulting costs exceeded and will exceed $1,000 per fiscal year.

Commission cites "Legislative history... estimates costs of $25 per UVISA certification". It is not clear where the $25 amount came from of how it was computed. There is no explanation or analysis provided by the Assembly Committee on Appropriations. Their document simply states, "***If*** the cost to provide the certification were $25, the reimbursable mandate would be..." It is possible that the amount was just a guess.

Our costs and times however are based on actual time spent by Police Department staff who actually worked on the alleged mandated activities. The costs are based on the actual salary, benefit, and expenditure data and costs incurred by the City. These facts are supported by evidence provided in the attached Supplemental Appendix 1 including: 1) actual copies of FY 2017-18 UVISA requests processed, and 2) declarations from staff under the penalty of perjury that the time claimed is true and correct.

The Police Department has also provided actual UVISA requests from prior fiscal year showing that four cases were processed in the past (FY 2012-13) and that based on this evidence the City's estimates of five or six requests in future years is a reasonable projection of future activity. The City further provided evidence in the "Supplemental Appendix 1' attached herein, that even if the City were to receive 4 requests in the following fiscal year, and even if the Commission found that Updating Policies and Procedures and one-time training of staff was not reimbursable; estimated costs the City expects to incur would still exceed the minimum $1000 threshold. (see page 32 of the Supplemental Appendix A.)

$25 dollars per UVISA request would amount to only 5-10 minutes of a Lieutenant's time. Based on our Police Department's staff experience, 5-10 minutes is the approximate amount of time it takes to simply review and log in the request. As the Commission noted in the Draft Findings, "the Legislative analysis are non-binding" and there is no evidence as to how those costs were determined.

**ISSUE 3:**
We disagree with the Commissions opinion that Update of Policies and Procedures and one-time training of staff are not required by the passage of this new Penal Code.

Commission staff notes itself in it's analysis on page 23, "On October 28, 2015, California Department of Justice issued an Information Bulletin to all California State and Local Law Enforcement Agencies on "new and Existing State and Federal Laws Protecting Immigrant Victims of Crime." The Commission continues on page 25 of its Draft Proposed Decision, "This bulletin states: The Attorney General encourages all agencies and officials subject to California's new law to immediately establish and implement a U visa certification policy and protocol that is consistent with California law and the guidance provided in this law enforcement bulletin." (California Department of Justice Information Bulletin No. DLE-2015-14, "New and Existing State and Federal Laws Protecting Immigrant Victims of Crime," October 28, 2015).

California law enforcement agencies are required to have policies in place to ensure consistent and legal responses to State Statutes. Law enforcement agencies charged with certifying the UVISA requests must be properly informed and trained in the Statutory requirements and therefore Policy and Procedure Manual updates and legal review are the most efficient way to properly implement those new requirements.

The new UVISA requirements are extremely lengthy and complex. We believe the time requested to allow for the one-time training of staff on these complex new activities and the establishment of the written rules and guidelines in Departmental Policies and Procedure manuals is necessary cost that resulted directly from the passage of this new State Mandated program and therefore should be allowed as an eligible one-time cost.

**Conclusion:**
Commission found that addition of Penal Code imposed a state-mandated new program or higher level of service and the City has shown with actual and substantial evidence that actual costs were incurred that were "mandated by the State". In addition, we have shown with evidence in the record that the City had received 4 UVISA requests in the past and that therefore the projection of 4 UVISA requests in the future is reasonable and supported by evidence in the record.

Since we have satisfied all the requirements and addressed the issues raised in the Draft Proposed Decision, we believe the Commission must approve this program as eligible for State Reimbursement.

We appreciate your time and consideration and are happy to provide any additional information required. I can be reached at (916) 939-7901.

Sincerely,

Annette S. Chinn
Consultant Representative for
The City of Claremont

# DECLARATIONS

DECLARATION OF ADAM PIRRIE

I, Adam Pirrie, make the following declaration under oath and under penalty of perjury under the laws of the State of California that the following statements are true and correct of my own personal knowledge:

I am the Chief Financial Officer the City of Claremont. As part of my duties, I am responsible for the complete and timely recovery of costs mandated by the State.

The FY 2017-18 salary, benefit, expenditure and ICRP data presented in Supplemental Appendix 1 and used to compute actual costs is based on actual city financial records and are true and correct.

Based upon Police Department time records, the City of Claremont's actual FY 2017-18 costs to implement the requirements of Penal Code 679.10 which are subject of this Test Claim (referred to as UVISA program) exceeded $1,000.

The FY 2018-19 estimates of salary, benefit, expenditure and ICRP data presented in Supplemental Appendix 1 are reasonable and accurate approximations of the following fiscal year's costs to comply with the UVISA program.

Based upon Police Department time records and projection of future activity in the UVISA program, the City of Claremont's estimated FY 2018-19 and future year costs will exceed $1,000 annually.

The City of Claremont did not and does not anticipate receiving any payments, grant funds, or fees to offset any of the costs incurred by the City of Claremont for the implementation of the new activities required by the statutes (UVISA program) in question.

I have examined the information and costs presented in Supplemental Appendix 1 prepared with actual city records and believe these costs were incurred to implement the subject law of this Test Claim, Penal Code 679.10. I find the costs are true and correct, in my opinion, "costs mandated by the State", as defined in Government Code, Section 17514:

> " 'Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

I am personally conversant with the foregoing facts, and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon my own personal knowledge.

Executed this 16th day of August in Claremont, California.

Adam Pirrie
City of Claremont, Finance Director

DECLARATION OF SHELLY VANDER VEEN

I, Shelly Vander Veen, make the following declaration under oath and under penalty of perjury under the laws of the State of California that the following statements are true and correct of my own personal knowledge:

I am the Police Chief for the City of Claremont. I have been employed by the City in this capacity since November, 2016 and have been a law enforcement officer since 1993. As part of my duties, I am, and have been directly involved and have personal knowledge of the UVISA processes and activities performed by the City of Claremont which were required by Penal Code 679.10, added by Senate Bill 674, Statutes of 2015.

The Actual FY 2017-18 activities and time spent listed in the attached document (Supplemental Appendix 1, pages 3-4, and 31-33) are actual activities that the Claremont Police Department performed in order to comply with the requirements of Penal Code 679.10.

Based upon my knowledge and experience in law enforcement and this UVISA program, the City of Claremont's expectation that reimbursable state-mandated costs will exceed $1,000 in future fiscal years is true, correct, and reasonable.

I have examined the information and costs presented in Supplemental Appendix 1 prepared by the City and believe the costs in implementing the subject law, and find that such costs are true and correct, in my opinion, "costs mandated by the State", as defined in Government Code, Section 17514.

I am personally conversant with the foregoing facts and information presented in declaration and in this Test Claim and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon my own personal knowledge.

Executed this 23rd day of August, 2018 in Claremont, California.

Shelly Vander Veen
Police Chief
Claremont Police Department

DECLARATION OF MICHAEL CISZEK

I, Michael Ciszek, make the following declaration under oath and under penalty of perjury under the laws of the State of California that the following statements are true and correct of my own personal knowledge:

1) I am a Lieutenant for the City of Claremont. I have been employed by the City in this capacity since 2009 and have been a law enforcement officer since 1996. As part of my duties, I am, and have been directly involved and have personal knowledge of the UVISA program, process, and activities performed by the City of Claremont which were required by Penal Code 679.10, added by Senate Bill 674, Statutes of 2015 (referred to as the UVISA program).

2) The copies of UVISA requests and Form I-918 documents attached to this Supplemental Appendix 1 are actual cases processed by the Claremont Police Department and are true and correct.

3) While collecting records/evidence to support this Declaration and address Commission issues brought up in their Draft Proposed Decision letter, it came to my attention that there was a UVISA case processed before the 11-21-2017 case pled in our Test Claim to be the first incurred as a result of the new Test Claim subject statutes.

   The "[redacted]" UVISA case was actually the first costs incurred to implement the requirements of Penal Code Section 679.10 subject of this Test Claim. This case was sent to the City on July 25, 2017 (based on the cover letter date) and was processed during August, 2017. The paperwork for both of those cases is attached in Supplemental Appendix 1 as evidence of actual cost.

4) The Actual FY 2017-18 activities and time spent listed for me in the attached Supplemental Appendix 1 document are true and correct and actual activities that I performed in order to comply with the requirements of Penal Code 679.10.

   Based on actual financial data provided by the Claremont Finance Department, the actual costs incurred FY 2017-18 exceeded $1,000.

5) I have personal knowledge that in Fiscal Year 2012-13, the City of Claremont Police Department received 4 (four) UVISA requests. Copies of those actual requests are attached to this declaration to provide "substantial" evidence in the record that our projection of 4 cases per fiscal year in future fiscal year is an accurate and reasonable estimate of future UVISA activity.

6) The Estimated FY 2018-19 activities and time spent in the attached document (Supplemental Appendix 1, pages 1-8) are true and correct estimates. Estimated costs to comply with this mandated program during FY 2018-19 are expected to exceed $1,000.

7) I further believe based on my knowledge of the program and my experience in law enforcement, that the number of UVISA requests will likely increase substantially in the future as immigrants become more aware of the existence of this program.

8) I have examined the Supplemental Appendix 1 and the Information therein and believe the activities and costs presented are directly related to implementing the subject law, and find that such costs are true and correct, in my opinion, "costs mandated by the State", as defined in Government Code, Section 17514.

I am personally conversant with the foregoing facts and information presented in declaration and in this Test Claim and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon my own personal knowledge.

Executed this 23RD day of August, 2018 in Claremont, California.

Michael E. Ciszek

Michael Ciszek
Lieutenant
Claremont Police Department

# SUPPLEMENTAL APPENDIX 1

# SUPPLEMENTAL APPENDIX 1
# TABLE OF CONTENTS


| | PAGES |
|---|---|
| COMPUTATION OF ACTUAL COSTS | 2-13 |
| FY 2017-18 UVISA CASES (SUPPORT FOR ACTUAL COSTS) | 14-29 |
| COMPUTATION OF ESTIMATED COSTS | 30-33 |
| FY 2012-13 UVISA CASES (SUPPORT FOR ESTIMATED COSTS) | 34-51 |
| CITY ATTORNEY CONTRACTS (SUPPORT FOR ESTIMATED COSTS) | 52-85 |

# Computation of Actual Costs

| Program UVISAS | MANDATED COSTS<br>CITY OF CLAREMONT<br>ACTIVITY COST ESTIMATES | Actual Costs FY 2017-18 |
|---|---|---|

**City of Claremont**

**DIRECT COSTS**

**Description of Expenses:**

| Employee Names, Job Class., Functions Performed and Description of Expenses | Hourly Rate or Unit Cost | Benefit Rate | Hours Worked or Quantity | Salaries | Benefits | Contract | Total Salaries & Benefits |
|---|---|---|---|---|---|---|---|
| **Mike Ciszek, Lieutenant**<br>Research original crimes, complete and sign UVISA forms including detailed description of victims helpfulness.<br>(See following page for detailed list of activities)<br>(2 cases this fiscal year) | $93.35 | 67.0% | 2.00 | $187 | $125 | | $312 |
| **Shelly Vander Veen, Police Chief** | $109.35 | 63.9% | 0.25 | $27 | $17 | | $45 |
| **Mike Ciszek, Lieutenant**<br>Review and approve City UVISA response.<br>Review new State Statute requirements to determine legal requirements and appropriate City response to UVISA requests | $93.35 | 67.0% | 1.25 | $117 | $78 | | $195 |
| **Total Direct Costs** | | | 3.50 | $331 | $221 | | $551 |
| **INDIRECT COSTS (ICRP Rate = 90.1% based on salaries & benefits)** | | | | | | | $497 |
| **GRAND TOTAL** | | | | | | | **$1,048** |

## List of activities:

1. Review the UVISA request.

2 . For all requests, research the original crime(s) the victim was involved to determine whether new law criteria are met and certification can be granted and to determine "victims' helpfulness". This includes obtaining prior criminal records, reports, and history, determining helpfulness and potential helpfulness of the victim; determining if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.

(Detailed research and review of crime history/reports to determine the victim's helpfulness and potential helpfulness and to obtain info to complete the UVISA paperwork.

3. Fully complete, sign and certify the application (I-918 Form) including Supplement B for ALL requested I-918 applications. This must include a detailed description of the victim's helpfulness or likely helpfulness to the detection, investigation, or prosecution of the criminal activity.

4. Supervisor review and approval of the detailed description of victim's helpfulness narrative.

5. Transmit results to involved parties and legal representatives.

6. File, log, and close case

# INDIRECT COST RATE PROPOSAL
## City of Claremont
## Police
### Fiscal Year 2017-18

| Description of Costs | | Total Costs | Excludable Unallowable Costs | Allowable Indirect Costs | Allowable Direct Costs |
|---|---|---|---|---|---|
| **Salaries & Benefits** | | | | | |
| Salaries & Wages | | $5,618,115 | | $2,389,597 | $3,228,518 |
| Overtime & Part Time | | $910,570 | | | $910,570 |
| Benefits | 63.4% | $3,564,471 | $9,328 | $1,516,104 | $2,039,039 |
| **Total** | | $10,093,157 | $9,328 | $3,905,701 | $6,178,127 |
| **Services & Supplies** | | | | | |
| PROGRAM SUPPLIES | $ | 59,115.09 | $11,668 | $47,447 | |
| MEETINGS AND TRAVEL | $ | 8,584.98 | $2,432 | $6,153 | |
| DUES AND SUBSCRIPTIONS | $ | 8,976.46 | $1,765 | $7,211 | |
| TRAINING | $ | 4,844.96 | | $4,845 | |
| POST TRAINING | $ | 24,946.64 | | $24,947 | |
| POST EXPLORER COSTS | $ | 1,398.79 | | | $1,399 |
| SHOOTING PAY | $ | 13,491.18 | | $13,491 | |
| STC TRAINING | $ | 6,508.45 | $6,508 | $0 | |
| CONTRACT SERVICES | $ | 254,181.91 | $30,661 | $223,521 | |
| EQUIPMENT MAINTENANCE | $ | 26,184.09 | $10,101 | $16,083 | |
| UNIFORM SUPPLY | $ | 35,169.56 | $6,215 | $28,955 | |
| ANIMAL CONTROL | $ | 121,899.00 | | | $121,899 |
| CITATION COURT TAXES | $ | 101,865.09 | | | $101,865 |
| LIVE SCAN EQUIP MAINTENA | $ | - | | | |
| LIVE SCAN EQUIPMENT MAIN | $ | 2,495.00 | | | $2,495 |
| TELEPHONE | $ | 6,391.10 | | $6,391 | |
| VEHICLE RENTAL | $ | 494,981.00 | $57,134 | $437,847 | |
| MISCELLANEOUS | $ | 2,305.97 | | | $2,306 |
| RANGE EXPENSE | $ | 18,911.91 | | $18,912 | |
| JAIL SUPPLIES | $ | 16,401.08 | | | $16,401 |
| PRISONER MEDICAL | $ | 4,558.52 | | | $4,559 |
| RSVP PROGRAM COSTS | $ | 1,810.61 | | | $1,811 |
| DARE PROGRAM | $ | 3,149.62 | | | $3,150 |
| LEASE PURCHASE-XEROX | $ | 3,586.47 | | $3,586 | |
| **Total** | | $1,221,757 | $126,484 | $839,390 | $255,884 |
| **Capital Expenditures** | | | | | |
| **Total** | | | | | |
| **Total Expenditures** | | **$11,314,914** | **$135,812** | **$4,745,091** | **$6,434,011** |
| **Cost Plan Costs** | | | | | |
| **Total** | | | | | |
| **Total Alloc. Indirect Costs** | | **$11,314,914** | **$135,812** | **$4,745,091** | **$6,434,011** |

***ICRP RATE =*** **90.1%**
***(Rate is Based on Salaries)***

$4,745,091 = Total Allowable Indirect Costs
$5,267,557 Total Direct Salaries & Benefits

# City of Claremont
## Police
Fiscal Year
2017-18

| Name/Position | 100% Admin. or Support Staff Annual Salary | |
|---|---|---|
| Police Chief (99%) | $ | 195,810 |
| Admin Assist (2) | $ | 120,788 |
| Captain (1) (99%) | $ | 157,465 |
| Lieutenants (4) 99% | $ | 744,909 |
| Communications Officer II (6) | $ | 492,193 |
| Records Clerk (3) | $ | 138,007 |
| Snr Admin Assistant | $ | 60,123 |
| Property & Evidence Clerk | $ | 46,523 |
| Snr Records Clerk | $ | 58,847 |
| Police Sergeants 3 (50%) | $ | 176,626 |
| Support Services Supervisor | $ | 74,886 |
| Information Tech | $ | 73,490 |
| Police Corporal (50%) | $ | 49,931 |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| **TOTAL INDIRECT SALARIES** | **$** | **2,389,597** |

City of Claremont
Actual FY 2017-18
Salary Report

| Department | Classification | Annual Salary Minimum | Annual Salary Maximum | Total Regular Pay | Overtime Pay | Lump Sum Pay | Other Pay | Applicable Define Benefit Pension Formula | Employer Contrbutiopn to Employees' Share of Pension | Defined Benefit Plan | Deferred Compensation/Defined Contribution Plan | Health, Dental, Vision |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Police | Administrative Assistant | 44,208 | 53,408 | 53,408 | - | 648 | 1,281 | 2.5% @ 55 | - | 15,607 | - | 12,167 |
| Police | Administrative Assistant | 44,208 | 53,408 | 53,408 | - | - | 12,691 | 2.5% @ 55 | - | 15,607 | 2,430 | 609 |
| Police | Communications Officer II | 69,920 | 69,920 | - | 1,252 | - | - | 2.5% @ 55 | - | - | - | - |
| Police | Communications Officer II | 57,876 | 69,920 | 63,094 | 9,172 | - | 10,972 | 2.5% @ 55 | - | 19,409 | 435 | 8,862 |
| Police | Communications Officer II | 57,876 | 69,920 | 69,568 | 7,039 | 403 | 9,410 | 2.5% @ 55 | - | 22,889 | 699 | 14,434 |
| Police | Communications Officer II | 57,876 | 69,920 | 69,522 | 3,739 | 8 | 19,506 | 2.5% @ 55 | - | 22,860 | - | 3,703 |
| Police | Communications Officer II | 57,876 | 69,920 | 69,122 | 12,571 | - | 8,852 | 2.5% @ 55 | - | 23,040 | 524 | 15,297 |
| Police | Communications Officer II | 57,876 | 69,920 | 69,821 | 12,522 | 268 | 14,556 | 2.5% @ 55 | - | 22,592 | - | 7,143 |
| Police | Communications Officer II | 57,876 | 69,920 | 69,713 | 7,549 | 8 | 18,057 | 2.5% @ 55 | - | 21,895 | 524 | 1,908 |
| Police | Crossing Guard | 20,820 | 25,147 | 6,540 | - | - | - | N/A | - | - | - | - |
| Police | Crossing Guard | 20,820 | 25,147 | 6,679 | - | - | - | N/A | - | - | - | - |
| Police | Crossing Guard | 20,820 | 25,147 | 5,908 | - | - | - | N/A | - | - | - | - |
| Police | Crossing Guard | 20,820 | 25,147 | 6,524 | - | - | - | N/A | - | - | - | - |
| Police | Crossing Guard | 20,820 | 25,147 | 2,367 | - | - | - | N/A | - | - | - | - |
| Police | Information Technology Technic | 60,216 | 72,747 | 66,795 | - | - | 6,695 | 2% @ 62 | - | 19,531 | 729 | 7,033 |
| Police | Jailer | 45,780 | 55,307 | 27,335 | 7,434 | 2,877 | 2,660 | 2.5% @ 55 | - | 8,787 | - | 7,763 |
| Police | Jailer | 45,780 | 55,307 | 13,667 | - | - | 13 | 2% @ 62 | - | 323 | - | - |
| Police | Jailer | 45,780 | 55,307 | 45,240 | 6,552 | - | 8,082 | 2% @55 | - | 14,500 | - | 7,454 |
| Police | Jailer | 45,780 | 55,307 | 13,694 | 4,909 | 2,090 | 5,509 | 2% @ 62 | - | 4,287 | - | - |
| Police | Jailer | 45,780 | 55,307 | 52,756 | 11,789 | 694 | 10,097 | 2% @55 | - | 16,203 | - | 7,491 |
| Police | Parking Enforcement Officer | 45,324 | 54,756 | 54,303 | 340 | - | 4,911 | 2.5% @ 55 | - | 16,971 | - | 15,527 |
| Police | Police Aide | 24,523 | 29,640 | 12,610 | - | - | - | 2% @ 62 | - | 1,947 | - | - |
| Police | Police Aide | 24,523 | 29,640 | 898 | - | - | - | 2% @ 62 | - | 251 | - | - |
| Police | Police Aide | 24,523 | 29,640 | 11,286 | - | - | - | N/A | - | - | - | - |
| Police | Police Aide | 24,523 | 29,640 | 10,089 | - | - | - | N/A | - | - | - | - |
| Police | Police Aide | 24,523 | 29,640 | 12,838 | - | - | - | N/A | - | - | - | - |
| Police | Police Aide | 24,523 | 29,640 | 16,133 | - | - | - | 2% @ 62 | - | 3,368 | - | - |
| Police | Police Aide | 24,523 | 29,640 | 14,521 | - | - | - | 2% @ 62 | - | 2,749 | - | - |
| Police | Police Aide | 24,523 | 29,640 | 4,951 | - | - | - | N/A | - | - | - | - |
| Police | Police Captain | 145,604 | 175,905 | 148,132 | 4,568 | - | 10,124 | 3% @ 50 | - | 85,050 | 2,932 | 13,811 |
| Police | Police Chief | 166,592 | 201,262 | 176,844 | 465 | 3,579 | 19,950 | 3% @ 50 | - | 103,941 | 8,728 | 13,100 |
| Police | Police Corporal | 77,652 | 93,812 | 93,101 | 25,621 | - | 6,761 | 3% @ 50 | - | 55,089 | 270 | 14,512 |
| Police | Police Corporal | 77,652 | 93,812 | - | 452 | - | - | 3% @ 50 | - | - | - | - |
| Police | Police Corporal | 77,652 | 93,812 | 93,009 | 58,314 | 2,164 | 16,386 | 3% @ 50 | - | 55,983 | - | 7,167 |
| Police | Police Corporal | 77,652 | 93,812 | 91,900 | 48,200 | 1,082 | 17,510 | 3% @ 50 | - | 55,596 | - | 7,055 |
| Police | Police Corporal | 77,652 | 93,812 | 93,087 | 33,788 | 2,029 | 9,798 | 3% @ 50 | - | 54,199 | - | 12,850 |
| Police | Police Corporal | 77,652 | 93,812 | 92,999 | 41,551 | 1,082 | 6,044 | 3% @ 50 | - | 53,926 | - | 15,535 |
| Police | Police Corporal | 77,652 | 93,812 | 92,841 | 24,920 | 1,262 | 7,273 | 3% @ 50 | - | 54,433 | - | 15,527 |
| Police | Police Corporal | 77,652 | 93,812 | 91,355 | 21,047 | - | 20,428 | 3% @ 50 | - | 52,723 | - | 603 |
| Police | Police Corporal | 77,652 | 93,812 | 91,156 | 49,235 | 2,122 | 7,700 | 3% @ 50 | - | 53,589 | - | 15,527 |
| Police | Police Corporal | 77,652 | 93,812 | 92,956 | 24,084 | 1,082 | 22,482 | 3% @ 50 | - | 54,541 | - | - |
| Police | Police Lieutenant | 116,340 | 140,551 | 140,551 | 28,373 | - | 27,525 | 3% @ 50 | - | 84,468 | 6,937 | 2,704 |
| Police | Police Lieutenant | 116,340 | 140,551 | 140,551 | 53,773 | - | 16,560 | 3% @ 50 | - | 87,210 | - | 13,811 |
| Police | Police Lieutenant | 116,340 | 140,551 | 140,153 | 31,735 | 1,892 | 10,824 | 3% @ 50 | - | 80,354 | 6,937 | 12,787 |

| | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Police | Police Lieutenant (Acting) | 116,340 | 140,551 | 122,592 | 43,302 | - | 15,055 | 3% @ 50 | - | 73,701 | 5,359 | 13,811 |
| Police | Police Lieutenant (Acting) | 116,340 | 140,551 | 125,607 | 50,596 | 5,097 | 9,234 | 3% @ 50 | - | 74,366 | 5,767 | 13,700 |
| Police | Police Officer | 71,700 | 86,621 | 75,418 | 25,313 | - | 12,048 | 3% @ 55 | - | 23,154 | - | 7,033 |
| Police | Police Officer | 71,700 | 86,621 | 86,027 | 15,073 | - | 7,745 | 3% @ 50 | - | 50,016 | - | 15,528 |
| Police | Police Officer | 71,700 | 86,621 | 86,004 | 25,450 | - | 6,980 | 3% @ 50 | - | 51,017 | - | 15,527 |
| Police | Police Officer | 71,700 | 86,621 | 86,405 | 9,664 | 999 | 6,580 | 3% @ 50 | - | 49,813 | - | 15,527 |
| Police | Police Officer | 71,700 | 86,621 | 68,455 | 15,720 | 40 | 5,764 | 3% @ 50 | - | 40,503 | - | 12,939 |
| Police | Police Officer | 71,700 | 86,621 | 86,233 | 19,600 | 1,832 | 6,160 | 3% @ 50 | - | 51,025 | 1,389 | 15,527 |
| Police | Police Officer | 71,700 | 86,621 | 78,765 | 11,982 | 38 | 15,896 | 3% @ 55 | - | 25,017 | - | 7,143 |
| Police | Police Officer | 71,700 | 86,621 | 15,771 | 12,539 | 8,670 | 2,935 | 3% @ 55 | - | 5,334 | - | 1,249 |
| Police | Police Officer | 71,700 | 86,621 | 85,704 | 14,453 | 10 | 5,999 | 3% @ 55 | - | 26,978 | - | 15,527 |
| Police | Police Officer | 71,700 | 86,621 | 20,107 | 818 | - | - | N/A | - | - | - | - |
| Police | Police Officer | 71,700 | 86,621 | 78,290 | 24,472 | - | 9,285 | 3% @ 55 | - | 23,748 | - | 8,223 |
| Police | Police Officer | 71,700 | 86,621 | 15,035 | - | - | - | 3% @ 55 | - | 4,346 | - | - |
| Police | Police Officer | 71,700 | 86,621 | 81,269 | 32,271 | 941 | 13,309 | 3% @ 55 | - | 25,841 | - | 10,351 |
| Police | Police Officer | 71,700 | 86,621 | 73,796 | 25,610 | - | 22,039 | 2.7% @ 57 | - | 19,875 | - | - |
| Police | Police Officer | 71,700 | 86,621 | 76,134 | 43,903 | 1,700 | 22,075 | 2.7% @ 57 | - | 20,617 | - | - |
| Police | Police Officer | 71,700 | 86,621 | - | 431 | - | - | 2.7% @ 57 | - | - | - | - |
| Police | Police Officer | 71,700 | 86,621 | - | 473 | - | - | N/A | - | - | - | - |
| Police | Police Officer | 71,700 | 86,621 | 74,269 | 41,178 | 144 | 13,630 | 3% @ 55 | - | 23,592 | - | 8,456 |
| Police | Police Officer | 71,700 | 86,621 | - | 52 | - | - | 2.7% @ 57 | - | - | - | - |
| Police | Police Officer | 71,700 | 86,621 | 64,859 | 16,151 | 689 | 4,964 | 2.7% @ 57 | - | 17,413 | - | 12,570 |
| Police | Police Officer | 71,700 | 86,621 | 65,157 | 11,458 | 827 | 7,629 | 2.7% @ 57 | - | 17,447 | - | 9,750 |
| Police | Police Officer | 71,700 | 86,621 | 65,157 | 11,050 | 827 | 9,774 | 2.7% @ 57 | - | 18,134 | - | 9,939 |
| Police | Police Officer | 71,700 | 86,621 | 38,538 | 4,565 | - | 5,755 | 3% @ 55 | - | 11,995 | - | 3,513 |
| Police | Police Officer | 71,700 | 86,621 | 76,943 | 3,318 | 10,395 | 5,982 | 3% @ 50 | - | 37,864 | 349 | 11,645 |
| Police | Police Officer | 71,700 | 86,621 | 61,770 | 16,129 | 3,466 | 2,271 | 2.7% @ 57 | - | 15,763 | - | 12,939 |
| Police | Police Officer | 71,700 | 86,621 | 15,074 | 2,764 | 2,528 | 3,935 | 2.7% @ 57 | - | 4,192 | - | - |
| Police | Police Officer | 71,700 | 86,621 | 88,094 | 27,604 | - | 7,869 | 3% @ 50 | - | 52,419 | - | 15,528 |
| Police | Police Recruit | 54,792 | 66,194 | 33,831 | 10,321 | 11 | 14,005 | 2% @ 62 | - | 9,567 | - | - |
| Police | Police Recruit | 54,792 | 66,194 | 49,288 | 12,496 | 134 | 15,602 | 2% @ 62 | - | 16,819 | - | 7,491 |
| Police | Police Recruit | 54,792 | 66,194 | 16,986 | - | - | - | 2% @ 62 | - | 3,508 | - | - |
| Police | Police Reserve | 60,840 | 60,840 | - | 1,183 | - | 520 | N/A | - | - | - | - |
| Police | Police Reserve | 60,840 | 60,840 | 1,623 | 4,849 | 33,691 | 697 | 3% @ 50 | - | 966 | 292 | - |
| Police | Police Reserve | 60,840 | 60,840 | - | - | - | 520 | N/A | - | - | - | - |
| Police | Police Sergeant | 97,692 | 118,022 | - | 1,606 | - | - | N/A | - | - | - | - |
| Police | Police Sergeant | 97,692 | 118,022 | 115,629 | 24,493 | - | 10,892 | 3% @ 50 | - | 67,758 | 5,677 | 13,811 |
| Police | Police Sergeant | 97,692 | 118,022 | 100,302 | 17,503 | - | 10,877 | 3% @ 50 | - | 60,050 | 4,822 | 12,614 |
| Police | Police Sergeant | 97,692 | 118,022 | 106,483 | 49,324 | - | 9,068 | 3% @ 50 | - | 62,916 | 1,766 | 13,811 |
| Police | Property & Evidence Clerk | 37,320 | 45,086 | 45,086 | 136 | - | 1,437 | 2.5% @ 55 | - | 13,279 | - | 12,167 |
| Police | Records Clerk | 37,320 | 45,086 | 39,658 | 10,486 | 2,725 | 7,673 | 2.5% @ 55 | - | 12,345 | - | 7,128 |
| Police | Records Clerk | 37,320 | 45,086 | 45,086 | 9,190 | - | 5,440 | 2.5% @ 55 | - | 14,134 | - | 9,312 |
| Police | Records Clerk | 37,320 | 45,086 | 20,566 | 767 | 1,025 | 9,638 | 2% @ 62 | - | 6,886 | - | 70 |
| Police | Records Clerk | 37,320 | 45,086 | 8,019 | 581 | - | 1,927 | 2% @ 62 | - | 1,546 | - | - |
| Police | Senior Administrative Assistant | 48,600 | 58,714 | 58,714 | - | 713 | 1,409 | 2.5% @ 55 | - | 17,157 | 1,738 | 12,167 |
| Police | Senior Jailer | 58,714 | 58,714 | - | 854 | - | - | 2.5% @ 55 | - | - | - | - |
| Police | Senior Jailer | 50,568 | 61,091 | 60,937 | 15,675 | 704 | 9,047 | 2.5% @ 55 | - | 18,944 | - | 9,557 |
| Police | Senior Records Clerk | 47,892 | 57,858 | 57,858 | 15,834 | - | 2,928 | 2.5% @ 55 | - | 18,068 | - | 12,167 |
| Police | Support Services Supervisor | 73,131 | 73,131 | 73,131 | - | 888 | 1,755 | N/A | - | - | 3,304 | 11,153 |

110 GENERAL FUND

3040 POLICE ADMINISTRATION

| Account Number | | Adjusted Appropriation | Expenditures | Year-to-date Expenditures | Year-to-date Encumbrances | Balance | Prct Used |
|---|---|---|---|---|---|---|---|
| 3040-1101 | SALARIES FULL-TIME | 306,827.35 | 308,617.21 | 308,617.21 | 0.00 | -1,789.86 | 100.58 |
| 3040-1104 | SALARIES-OVERTIME | 0.00 | 193.89 | 193.89 | 0.00 | -193.89 | 0.00 |
| 3040-1201 | UNIFORM ALLOWANCE | 0.00 | 240.88 | 240.88 | 0.00 | -240.88 | 0.00 |
| 3040-1202 | EDUCATION INCENTIVE PAY | 6,000.00 | 6,016.18 | 6,016.18 | 0.00 | -16.18 | 100.27 |
| 3040-1219 | PERFORMANCE PAY | 0.00 | 6,935.13 | 6,935.13 | 0.00 | -6,935.13 | 0.00 |
| 3040-1401 | RETIREMENT-PERS | 113,244.70 | 147,732.60 | 147,732.60 | 0.00 | -34,487.90 | 130.45 |
| 3040-1402 | PERS PENSION OBLIGATION COST | -496,057.92 | -493,632.33 | -493,632.33 | 0.00 | -2,425.59 | 99.51 |
| 3040-1411 | W/C INS | 22,655.33 | 25,466.67 | 25,466.67 | 0.00 | -2,811.34 | 112.41 |
| 3040-1431 | INS/DEFER COMP | 52,272.69 | 51,910.41 | 51,910.41 | 0.00 | 362.28 | 99.31 |
| 3040-1441 | L/T DISAB INS | 690.36 | 576.24 | 576.24 | 0.00 | 114.12 | 83.47 |
| 3040-1461 | MEDICARE | 4,692.41 | 5,044.34 | 5,044.34 | 0.00 | -351.93 | 107.50 |
| | **Total** ** SALARIES AND BENEFITS | 10,324.92 | 59,101.22 | 59,101.22 | 0.00 | -48,776.30 | 572.41 |
| 3040-2101 | PROGRAM SUPPLIES | 1,500.00 | 1,065.20 | 1,065.20 | 0.00 | 434.80 | 71.01 |
| 3040-2201 | MEETINGS AND TRAVEL | 5,275.00 | 4,137.09 | 4,137.09 | 0.00 | 1,137.91 | 78.43 |
| 3040-2203 | DUES AND SUBSCRIPTIONS | 4,090.00 | 3,482.00 | 3,482.00 | 0.00 | 608.00 | 85.13 |
| 3040-2601 | VEHICLE RENTAL | 26,515.00 | 26,515.00 | 26,515.00 | 0.00 | 0.00 | 100.00 |
| 3040-2701 | MISCELLANEOUS | 1,800.00 | 2,305.97 | 2,305.97 | 0.00 | -505.97 | 128.11 |
| | **Total** ** SERVICES AND SUPPLIES | 39,180.00 | 37,505.26 | 37,505.26 | 0.00 | 1,674.74 | 95.73 |
| | **Total** POLICE ADMINISTRATION | 49,504.92 | 96,606.48 | 96,606.48 | 0.00 | -47,101.56 | 195.15 |

110 GENERAL FUND

3041 ANIMAL CONTROL

| Account Number | | Adjusted Appropriation | Expenditures | Year-to-date Expenditures | Year-to-date Encumbrances | Balance | Prct Used |
|---|---|---|---|---|---|---|---|
| 3041-2317 | ANIMAL CONTROL | 116,520.00 | 121,899.00 | 121,899.00 | 0.00 | -5,379.00 | 104.62 |
| | **Total** ANIMAL CONTROL | 116,520.00 | 121,899.00 | 121,899.00 | 0.00 | -5,379.00 | 104.62 |

110 GENERAL FUND

3042 DETECTIVE BUREAU

| Account Number | | Adjusted Appropriation | Expenditures | Year-to-date Expenditures | Year-to-date Encumbrances | Balance | Prct Used |
|---|---|---|---|---|---|---|---|
| 3042-1101 | SALARIES FULL-TIME | 623,279.42 | 692,138.90 | 692,138.90 | 0.00 | -68,859.48 | 111.05 |
| 3042-1104 | SALARIES-OVERTIME | 35,000.00 | 40,720.87 | 40,720.87 | 0.00 | -5,720.87 | 116.35 |
| 3042-1106 | SALARIES-PART TIME | 57,598.28 | 15,035.71 | 15,035.71 | 0.00 | 42,562.57 | 26.10 |
| 3042-1201 | UNIFORM ALLOWANCE | 2,400.00 | 4,209.37 | 4,209.37 | 0.00 | -1,809.37 | 175.39 |
| 3042-1202 | EDUCATION INCENTIVE PAY | 22,800.00 | 23,513.22 | 23,513.22 | 0.00 | -713.22 | 103.13 |
| 3042-1204 | BILINGUAL PAY | 900.00 | 1,530.56 | 1,530.56 | 0.00 | -630.56 | 170.06 |
| 3042-1212 | COURT OVERTIME | 0.00 | 619.60 | 619.60 | 0.00 | -619.60 | 0.00 |
| 3042-1214 | HOLIDAY PAY | 0.00 | 6,698.10 | 6,698.10 | 0.00 | -6,698.10 | 0.00 |
| 3042-1219 | PERFORMANCE PAY | 0.00 | 18,509.52 | 18,509.52 | 0.00 | -18,509.52 | 0.00 |
| 3042-1401 | RETIREMENT-PERS | 248,992.62 | 354,304.40 | 354,304.40 | 0.00 | -105,311.78 | 142.30 |
| 3042-1402 | PERS PENSION OBLIGATION COST | 67,164.52 | 0.00 | 0.00 | 0.00 | 67,164.52 | 0.00 |
| 3042-1406 | RETIREMENT PERS-P/T | 16,840.49 | 4,628.92 | 4,628.92 | 0.00 | 12,211.57 | 27.49 |
| 3042-1411 | W/C INS | 59,793.33 | 73,695.05 | 73,695.05 | 0.00 | -13,901.72 | 123.25 |
| 3042-1416 | W/C INS P/T | 2,303.93 | 607.48 | 607.48 | 0.00 | 1,696.45 | 26.37 |
| 3042-1431 | INS/DEFER COMP | 111,537.75 | 116,148.00 | 116,148.00 | 0.00 | -4,610.25 | 104.13 |
| 3042-1441 | L/T DISAB INS | 1,402.38 | 1,402.28 | 1,402.28 | 0.00 | 0.10 | 99.99 |
| 3042-1446 | L/T DISAB P/T | 129.60 | 38.52 | 38.52 | 0.00 | 91.08 | 29.72 |
| 3042-1461 | MEDICARE | 9,740.69 | 12,056.21 | 12,056.21 | 0.00 | -2,315.52 | 123.77 |
| 3042-1466 | MEDICARE-P/T | 863.97 | 220.22 | 220.22 | 0.00 | 643.75 | 25.49 |
| | **Total** ** SALARIES AND BENEFITS | 1,260,746.98 | 1,366,076.93 | 1,366,076.93 | 0.00 | -105,329.95 | 108.35 |
| 3042-2101 | PROGRAM SUPPLIES | 5,040.00 | 5,445.47 | 5,445.47 | 0.00 | -405.47 | 108.05 |
| 3042-2201 | MEETINGS AND TRAVEL | 1,000.00 | 125.45 | 125.45 | 0.00 | 874.55 | 12.55 |
| 3042-2203 | DUES AND SUBSCRIPTIONS | 395.00 | 50.00 | 50.00 | 0.00 | 345.00 | 12.66 |
| 3042-2301 | CONTRACT SERVICES | 15,950.00 | 17,940.25 | 17,940.25 | 0.00 | -1,990.25 | 112.48 |
| 3042-2306 | UNIFORM SUPPLY | 1,000.00 | 981.99 | 981.99 | 0.00 | 18.01 | 98.20 |
| 3042-2401 | TELEPHONE | 3,980.00 | 2,358.67 | 2,358.67 | 0.00 | 1,621.33 | 59.26 |
| 3042-2601 | VEHICLE RENTAL | 53,354.00 | 53,354.00 | 53,354.00 | 0.00 | 0.00 | 100.00 |
| | **Total** ** SERVICES AND SUPPLIES | 80,719.00 | 80,255.83 | 80,255.83 | 0.00 | 463.17 | 99.43 |
| | **Total** DETECTIVE BUREAU | 1,341,465.98 | 1,446,332.76 | 1,446,332.76 | 0.00 | -104,866.78 | 107.82 |

110 GENERAL FUND

3043 ADMINSTRATIVE SERVICES BUREAU

| Account Number | | Adjusted Appropriation | Expenditures | Year-to-date Expenditures | Year-to-date Encumbrances | Balance | Prct Used |
|---|---|---|---|---|---|---|---|
| 3043-1101 | SALARIES FULL-TIME | 206,680.58 | 211,252.41 | 211,252.41 | 0.00 | -4,571.83 | 102.21 |
| 3043-1104 | SALARIES-OVERTIME | 15,000.00 | 12,664.66 | 12,664.66 | 0.00 | 2,335.34 | 84.43 |
| 3043-1106 | SALARIES-PART TIME | 0.00 | 91.75 | 91.75 | 0.00 | -91.75 | 0.00 |
| 3043-1201 | UNIFORM ALLOWANCE | 540.00 | 1,607.38 | 1,607.38 | 0.00 | -1,067.38 | 297.66 |
| 3043-1202 | EDUCATION INCENTIVE PAY | 9,000.00 | 9,024.39 | 9,024.39 | 0.00 | -24.39 | 100.27 |
| 3043-1212 | COURT OVERTIME | 0.00 | 540.62 | 540.62 | 0.00 | -540.62 | 0.00 |
| 3043-1214 | HOLIDAY PAY | 0.00 | 4,891.75 | 4,891.75 | 0.00 | -4,891.75 | 0.00 |
| 3043-1218 | SPECIAL DETAIL | 0.00 | 23,602.99 | 23,602.99 | 0.00 | -23,602.99 | 0.00 |
| 3043-1219 | PERFORMANCE PAY | 0.00 | 6,411.45 | 6,411.45 | 0.00 | -6,411.45 | 0.00 |
| 3043-1401 | RETIREMENT-PERS | 65,259.41 | 100,677.87 | 100,677.87 | 0.00 | -35,418.46 | 154.27 |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 3043-1402 | PERS PENSION OBLIGATION COST | 26,487.02 | 0.00 | 0.00 | 0.00 | 26,487.02 | 0.00 |
| 3043-1411 | W/CINS | 23,251.56 | 27,388.85 | 27,388.85 | 0.00 | -4,137.29 | 117.79 |
| 3043-1416 | W/C INS P/T | 0.00 | 16.45 | 16.45 | 0.00 | -16.45 | 0.00 |
| 3043-1431 | INS/DEFER COMP | 35,598.33 | 34,290.89 | 34,290.89 | 0.00 | 1,307.44 | 96.33 |
| 3043-1441 | L/T DISAB INS | 465.03 | 450.12 | 450.12 | 0.00 | 14.91 | 96.79 |
| 3043-1461 | MEDICARE | 3,243.31 | 3,749.87 | 3,749.87 | 0.00 | -506.56 | 115.62 |
| 3043-1466 | MEDICARE-P/T | 0.00 | 5.97 | 5.97 | 0.00 | -5.97 | 0.00 |
| | **Total** ** SALARIES AND BENEFITS | 385,525.24 | 436,667.42 | 436,667.42 | 0.00 | -51,142.18 | 113.27 |
| 3043-2101 | PROGRAM SUPPLIES | 6,148.00 | 5,111.72 | 5,111.72 | 0.00 | 1,036.28 | 83.14 |
| 3043-2201 | MEETINGS AND TRAVEL | 390.00 | 121.28 | 121.28 | 0.00 | 268.72 | 31.10 |
| 3043-2203 | DUES AND SUBSCRIPTIONS | 3,430.00 | 3,020.46 | 3,020.46 | 0.00 | 409.54 | 88.06 |
| 3043-2207 | TRAINING | 5,000.00 | 4,844.96 | 4,844.96 | 0.00 | 155.04 | 96.90 |
| 3043-2209 | POST TRAINING | 48,000.00 | 24,946.64 | 24,946.64 | 0.00 | 23,053.36 | 51.97 |
| 3043-2210 | POST EXPLORER COSTS | 1,500.00 | 1,398.79 | 1,398.79 | 0.00 | 101.21 | 93.25 |
| 3043-2301 | CONTRACT SERVICES | 5,550.00 | 7,256.64 | 7,256.64 | 0.00 | -1,706.64 | 130.75 |
| 3043-2306 | UNIFORM SUPPLY | 10,508.00 | 10,069.55 | 10,069.55 | 0.00 | 438.45 | 95.83 |
| 3043-2401 | TELEPHONE | 2,394.00 | 1,061.16 | 1,061.16 | 0.00 | 1,332.84 | 44.33 |
| 3043-2601 | VEHICLE RENTAL | 34,776.00 | 34,776.00 | 34,776.00 | 0.00 | 0.00 | 100.00 |
| 3043-2825 | RSVP PROGRAM COSTS | 3,360.00 | 1,810.61 | 1,810.61 | 0.00 | 1,549.39 | 53.89 |
| 3043-2826 | DARE PROGRAM | 3,470.00 | 3,149.62 | 3,149.62 | 0.00 | 320.38 | 90.77 |
| | **Total** ** SERVICES AND SUPPLIES | 124,526.00 | 97,567.43 | 97,567.43 | 0.00 | 26,958.57 | 78.35 |
| | **Total** ADMINSTRATIVE SERVICES BUREAU | 510,051.24 | 534,234.85 | 534,234.85 | 0.00 | -24,183.61 | 104.74 |

**110 GENERAL FUND**

**3044 TRAFFIC BUREAU**

| Account Number | | Adjusted Appropriation | Expenditures | Year-to-date Expenditures | Year-to-date Encumbrances | Balance | Prct Used |
|---|---|---|---|---|---|---|---|
| 3044-1101 | SALARIES FULL-TIME | 266,746.91 | 291,554.67 | 291,554.67 | 0.00 | -24,807.76 | 109.30 |
| 3044-1104 | SALARIES-OVERTIME | 10,000.00 | 10,363.57 | 10,363.57 | 0.00 | -363.57 | 103.64 |
| 3044-1106 | SALARIES-PART TIME | 54,187.93 | 56,019.71 | 56,019.71 | 0.00 | -1,831.78 | 103.38 |
| 3044-1201 | UNIFORM ALLOWANCE | 1,224.00 | 1,523.08 | 1,523.08 | 0.00 | -299.08 | 124.43 |
| 3044-1202 | EDUCATION INCENTIVE PAY | 11,880.00 | 9,151.18 | 9,151.18 | 0.00 | 2,728.82 | 77.03 |
| 3044-1203 | MOTORCYCLE PAY | 1,200.00 | 984.03 | 984.03 | 0.00 | 215.97 | 82.00 |
| 3044-1212 | COURT OVERTIME | 0.00 | 623.10 | 623.10 | 0.00 | -623.10 | 0.00 |
| 3044-1214 | HOLIDAY PAY | 0.00 | 3,849.17 | 3,849.17 | 0.00 | -3,849.17 | 0.00 |
| 3044-1219 | PERFORMANCE PAY | 0.00 | 6,354.82 | 6,354.82 | 0.00 | -6,354.82 | 0.00 |
| 3044-1401 | RETIREMENT-PERS | 106,218.16 | 127,375.07 | 127,375.07 | 0.00 | -21,156.91 | 119.92 |
| 3044-1402 | PERS PENSION OBLIGATION COST | 27,175.33 | 0.00 | 0.00 | 0.00 | 27,175.33 | 0.00 |
| 3044-1406 | RETIREMENT PERS-P/T | 0.00 | 173.22 | 173.22 | 0.00 | -173.22 | 0.00 |
| 3044-1411 | W/C INS | 25,959.79 | 26,162.50 | 26,162.50 | 0.00 | -202.71 | 100.78 |
| 3044-1416 | W/C INS P/T | 2,167.52 | 2,227.19 | 2,227.19 | 0.00 | -59.67 | 102.75 |
| 3044-1431 | INS/DEFER COMP | 53,279.50 | 45,743.92 | 45,743.92 | 0.00 | 7,535.58 | 85.86 |
| 3044-1441 | L/T DISAB INS | 600.18 | 493.83 | 493.83 | 0.00 | 106.35 | 82.28 |
| 3044-1446 | L/T DISAB P/T | 0.00 | 3.30 | 3.30 | 0.00 | -3.30 | 0.00 |
| 3044-1461 | MEDICARE | 4,215.76 | 4,966.67 | 4,966.67 | 0.00 | -750.91 | 117.81 |
| 3044-1466 | MEDICARE-P/T | 812.82 | 807.51 | 807.51 | 0.00 | 5.31 | 99.35 |
| | **Total** ** SALARIES AND BENEFITS | 565,667.90 | 588,376.54 | 588,376.54 | 0.00 | -22,708.64 | 104.01 |
| 3044-2101 | PROGRAM SUPPLIES | 4,000.00 | 1,898.75 | 1,898.75 | 0.00 | 2,101.25 | 47.47 |
| 3044-2201 | MEETINGS AND TRAVEL | 255.00 | 0.00 | 0.00 | 0.00 | 255.00 | 0.00 |
| 3044-2303 | EQUIPMENT MAINTENANCE | 6,200.00 | 5,445.42 | 5,445.42 | 0.00 | 754.58 | 87.83 |
| 3044-2306 | UNIFORM SUPPLY | 4,740.00 | 4,138.97 | 4,138.97 | 0.00 | 601.03 | 87.32 |
| 3044-2323 | CITATION COURT TAXES | 112,000.00 | 68,858.16 | 68,858.16 | 0.00 | 43,141.84 | 61.48 |
| 3044-2324 | CITATION PROCESSING FEES | 50,000.00 | 30,762.54 | 30,762.54 | 0.00 | 19,237.46 | 61.53 |
| 3044-2601 | VEHICLE RENTAL | 40,233.00 | 40,233.00 | 40,233.00 | 0.00 | 0.00 | 100.00 |
| | **Total** ** SERVICES AND SUPPLIES | 217,428.00 | 151,336.84 | 151,336.84 | 0.00 | 66,091.16 | 69.60 |
| | **Total** TRAFFIC BUREAU | 783,095.90 | 739,713.38 | 739,713.38 | 0.00 | 43,382.52 | 94.46 |

**110 GENERAL FUND**

**3045 PATROL BUREAU**

| Account Number | | Adjusted Appropriation | Expenditures | Year-to-date Expenditures | Year-to-date Encumbrances | Balance | Prct Used |
|---|---|---|---|---|---|---|---|
| 3045-1101 | SALARIES FULL-TIME | 2,846,849.23 | 2,486,678.25 | 2,486,678.25 | 0.00 | 360,170.98 | 87.35 |
| 3045-1104 | SALARIES-OVERTIME | 320,000.00 | 495,652.27 | 495,652.27 | 0.00 | -175,652.27 | 154.89 |
| 3045-1106 | SALARIES-PART TIME | 0.00 | 1,416.80 | 1,416.80 | 0.00 | -1,416.80 | 0.00 |
| 3045-1201 | UNIFORM ALLOWANCE | 9,060.00 | 15,460.75 | 15,460.75 | 0.00 | -6,400.75 | 170.65 |
| 3045-1202 | EDUCATION INCENTIVE PAY | 108,000.00 | 104,715.61 | 104,715.61 | 0.00 | 3,284.39 | 96.96 |
| 3045-1204 | BILINGUAL PAY | 3,600.00 | 3,986.18 | 3,986.18 | 0.00 | -386.18 | 110.73 |
| 3045-1212 | COURT OVERTIME | 0.00 | 43,093.64 | 43,093.64 | 0.00 | -43,093.64 | 0.00 |
| 3045-1214 | HOLIDAY PAY | 0.00 | 92,336.42 | 92,336.42 | 0.00 | -92,336.42 | 0.00 |
| 3045-1219 | PERFORMANCE PAY | 0.00 | 60,321.15 | 60,321.15 | 0.00 | -60,321.15 | 0.00 |
| 3045-1401 | RETIREMENT-PERS | 1,009,770.18 | 1,303,102.49 | 1,303,102.49 | 0.00 | -293,332.31 | 129.05 |
| 3045-1402 | PERS PENSION OBLIGATION COST | 363,519.88 | 0.00 | 0.00 | 0.00 | 363,519.88 | 0.00 |
| 3045-1411 | W/C INS | 320,270.54 | 313,098.25 | 313,098.25 | 0.00 | 7,172.29 | 97.76 |
| 3045-1416 | W/C INS P/T | 0.00 | 176.27 | 176.27 | 0.00 | -176.27 | 0.00 |
| 3045-1431 | INS/DEFER COMP | 481,519.52 | 454,963.83 | 454,963.83 | 0.00 | 26,555.69 | 94.49 |
| 3045-1441 | L/T DISAB INS | 6,405.41 | 5,419.49 | 5,419.49 | 0.00 | 985.92 | 84.61 |
| 3045-1461 | MEDICARE | 44,512.64 | 51,766.64 | 51,766.64 | 0.00 | -7,254.00 | 116.30 |
| 3045-1466 | MEDICARE-P/T | 0.00 | 22.72 | 22.72 | 0.00 | -22.72 | 0.00 |
| | **Total** ** SALARIES AND BENEFITS | 5,513,507.40 | 5,432,210.76 | 5,432,210.76 | 0.00 | 81,296.64 | 98.53 |
| 3045-2101 | PROGRAM SUPPLIES | 9,230.00 | 8,436.82 | 8,436.82 | 0.00 | 793.18 | 91.41 |
| 3045-2201 | MEETINGS AND TRAVEL | 640.00 | 209.66 | 209.66 | 0.00 | 430.34 | 32.76 |
| 3045-2203 | DUES AND SUBSCRIPTIONS | 828.00 | 322.00 | 322.00 | 0.00 | 506.00 | 38.89 |
| 3045-2211 | SHOOTING PAY | 12,700.00 | 13,491.18 | 13,491.18 | 0.00 | -791.18 | 106.23 |
| 3045-2301 | CONTRACT SERVICES | 4,125.00 | 5,274.73 | 5,274.73 | 0.00 | -1,149.73 | 127.87 |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 3045-2303 | EQUIPMENT MAINTENANCE | 7,270.00 | 6,766.70 | 6,766.70 | 0.00 | 503.30 | 93.08 |
| 3045-2306 | UNIFORM SUPPLY | 18,500.00 | 14,739.10 | 14,739.10 | 0.00 | 3,760.90 | 79.67 |
| 3045-2401 | TELEPHONE | 2,666.00 | 2,971.27 | 2,971.27 | 0.00 | -305.27 | 111.45 |
| 3045-2601 | VEHICLE RENTAL | 316,376.00 | 316,376.00 | 316,376.00 | 0.00 | 0.00 | 100.00 |
| 3045-2708 | RANGE EXPENSE | 18,950.00 | 18,911.91 | 18,911.91 | 0.00 | 38.09 | 99.80 |
| | **Total** ** SERVICES AND SUPPLIES | 391,285.00 | 387,499.37 | 387,499.37 | 0.00 | 3,785.63 | 99.03 |
| | **Total** PATROL BUREAU | 5,904,792.40 | 5,819,710.13 | 5,819,710.13 | 0.00 | 85,082.27 | 98.56 |

**110 GENERAL FUND**

**3046 RECORDS & COMMUNICATIONS BUREAU**

| Account Number | | Adjusted Appropriation | Expenditures | Year-to-date Expenditures | Year-to-date Encumbrances | Balance | Prct Used |
|---|---|---|---|---|---|---|---|
| 3046-1101 | SALARIES FULL-TIME | 768,971.84 | 748,683.59 | 748,683.59 | 0.00 | 20,288.25 | 97.36 |
| 3046-1104 | SALARIES-OVERTIME | 35,000.00 | 98,616.72 | 98,616.72 | 0.00 | -63,616.72 | 281.76 |
| 3046-1106 | SALARIES-PART TIME | 61,642.37 | 38,394.58 | 38,394.58 | 0.00 | 23,247.79 | 62.29 |
| 3046-1201 | UNIFORM ALLOWANCE | 3,960.00 | 5,650.54 | 5,650.54 | 0.00 | -1,690.54 | 142.69 |
| 3046-1202 | EDUCATION INCENTIVE PAY | 21,000.00 | 19,993.84 | 19,993.84 | 0.00 | 1,006.16 | 95.21 |
| 3046-1204 | BILINGUAL PAY | 0.00 | 522.53 | 522.53 | 0.00 | -522.53 | 0.00 |
| 3046-1206 | MATRON DUTY PAY | 10,800.00 | 10,131.27 | 10,131.27 | 0.00 | 668.73 | 93.81 |
| 3046-1212 | COURT OVERTIME | 0.00 | 332.93 | 332.93 | 0.00 | -332.93 | 0.00 |
| 3046-1214 | HOLIDAY PAY | 0.00 | 23,666.67 | 23,666.67 | 0.00 | -23,666.67 | 0.00 |
| 3046-1219 | PERFORMANCE PAY | 0.00 | 16,460.24 | 16,460.24 | 0.00 | -16,460.24 | 0.00 |
| 3046-1401 | RETIREMENT-PERS | 240,614.82 | 251,617.08 | 251,617.08 | 0.00 | -11,002.26 | 104.57 |
| 3046-1406 | RETIREMENT PERS-P/T | 5,436.12 | 6,331.56 | 6,331.56 | 0.00 | -895.44 | 116.47 |
| 3046-1411 | W/C INS | 7,689.72 | 34,545.83 | 34,545.83 | 0.00 | -26,856.11 | 449.25 |
| 3046-1416 | W/C INS P/T | 2,465.69 | 1,572.96 | 1,572.96 | 0.00 | 892.73 | 63.79 |
| 3046-1431 | INS/DEFER COMP | 175,209.89 | 171,456.79 | 171,456.79 | 0.00 | 3,753.10 | 97.86 |
| 3046-1441 | L/T DISAB INS | 1,730.19 | 1,583.03 | 1,583.03 | 0.00 | 147.16 | 91.49 |
| 3046-1446 | L/T DISAB P/T | 40.91 | 45.72 | 45.72 | 0.00 | -4.81 | 111.76 |
| 3046-1461 | MEDICARE | 12,070.98 | 13,498.17 | 13,498.17 | 0.00 | -1,427.19 | 111.82 |
| 3046-1466 | MEDICARE-P/T | 924.64 | 570.13 | 570.13 | 0.00 | 354.51 | 61.66 |
| | **Total** ** SALARIES AND BENEFITS | 1,347,557.17 | 1,443,674.18 | 1,443,674.18 | 0.00 | -96,117.01 | 107.13 |
| 3046-2101 | PROGRAM SUPPLIES | 29,075.00 | 27,387.35 | 27,387.35 | 0.00 | 1,687.65 | 94.20 |
| 3046-2201 | MEETINGS AND TRAVEL | 1,800.00 | 1,560.00 | 1,560.00 | 0.00 | 240.00 | 86.67 |
| 3046-2203 | DUES AND SUBSCRIPTIONS | 398.00 | 337.00 | 337.00 | 0.00 | 61.00 | 84.67 |
| 3046-2301 | CONTRACT SERVICES | 11,898.00 | 13,645.43 | 13,645.43 | 0.00 | -1,747.43 | 114.69 |
| 3046-2303 | EQUIPMENT MAINTENANCE | 9,500.00 | 9,316.25 | 9,316.25 | 0.00 | 183.75 | 98.07 |
| 3046-2306 | UNIFORM SUPPLY | 1,860.00 | 3,164.26 | 3,164.26 | 0.00 | -1,304.26 | 170.12 |
| 3046-2333 | LIVE SCAN EQUIPMENT MAINTENANCE | 2,500.00 | 2,495.00 | 2,495.00 | 0.00 | 5.00 | 99.80 |
| 3046-2601 | VEHICLE RENTAL | 6,826.00 | 6,826.00 | 6,826.00 | 0.00 | 0.00 | 100.00 |
| 3046-2865 | LEASE PURCHASE-XEROX | 4,750.00 | 3,586.47 | 3,586.47 | 0.00 | 1,163.53 | 75.50 |
| | **Total** ** SERVICES AND SUPPLIES | 68,607.00 | 68,317.76 | 68,317.76 | 0.00 | 289.24 | 99.58 |
| | **Total** RECORDS & COMMUNICATIONS BUREAU | 1,416,164.17 | 1,511,991.94 | 1,511,991.94 | 0.00 | -95,827.77 | 106.77 |

**110 GENERAL FUND**

**3047 EMERGENCY PREPAREDNESS**

| Account Number | | Adjusted Appropriation | Expenditures | Year-to-date Expenditures | Year-to-date Encumbrances | Balance | Prct Used |
|---|---|---|---|---|---|---|---|
| 3047-1104 | SALARIES-OVERTIME | 5,000.00 | 2,945.80 | 2,945.80 | 0.00 | 2,054.20 | 58.92 |
| 3047-1411 | W/C INS | 0.00 | 331.40 | 331.40 | 0.00 | -331.40 | 0.00 |
| 3047-1431 | INS/DEFER COMP | 0.00 | 459.28 | 459.28 | 0.00 | -459.28 | 0.00 |
| 3047-1441 | L/T DISAB INS | 0.00 | 9.82 | 9.82 | 0.00 | -9.82 | 0.00 |
| 3047-1461 | MEDICARE | 0.00 | 43.56 | 43.56 | 0.00 | -43.56 | 0.00 |
| | **Total** ** SALARIES AND BENEFITS | 5,000.00 | 3,789.86 | 3,789.86 | 0.00 | 1,210.14 | 75.80 |
| 3047-2101 | PROGRAM SUPPLIES | 16,917.30 | 2,963.05 | 2,963.05 | 0.00 | 13,954.25 | 17.51 |
| 3047-2201 | MEETINGS AND TRAVEL | 515.00 | 220.89 | 220.89 | 0.00 | 294.11 | 42.89 |
| 3047-2203 | DUES AND SUBSCRIPTIONS | 2,175.00 | 1,765.00 | 1,765.00 | 0.00 | 410.00 | 81.15 |
| 3047-2207 | TRAINING | 6,685.00 | 0.00 | 0.00 | 0.00 | 6,685.00 | 0.00 |
| 3047-2301 | CONTRACT SERVICES | 38,022.70 | 25,360.57 | 25,360.57 | 0.00 | 12,662.13 | 66.70 |
| 3047-2303 | EQUIPMENT MAINTENANCE | 4,335.00 | 4,655.72 | 4,655.72 | 0.00 | -320.72 | 107.40 |
| 3047-2306 | UNIFORM SUPPLY | 3,150.00 | 1,160.41 | 1,160.41 | 0.00 | 1,989.59 | 36.84 |
| 3047-2601 | VEHICLE RENTAL | 9,755.00 | 9,755.00 | 9,755.00 | 0.00 | 0.00 | 100.00 |
| | **Total** ** SERVICES AND SUPPLIES | 81,555.00 | 45,880.64 | 45,880.64 | 0.00 | 35,674.36 | 56.26 |
| 3047-5102 | COMPUTER EQUIPMENT | 1,000.00 | 0.00 | 0.00 | 0.00 | 1,000.00 | 0.00 |
| | **Total** ** CAPITAL OUTLAY | 1,000.00 | 0.00 | 0.00 | 0.00 | 1,000.00 | 0.00 |
| | **Total** EMERGENCY PREPAREDNESS | 87,555.00 | 49,670.50 | 49,670.50 | 0.00 | 37,884.50 | 56.73 |

**110 GENERAL FUND**

**3048 K-9 PROGRAM**

| Account Number | | Adjusted Appropriation | Expenditures | Year-to-date Expenditures | Year-to-date Encumbrances | Balance | Prct Used |
|---|---|---|---|---|---|---|---|
| 3048-1104 | SALARIES-OVERTIME | 5,000.00 | 2,379.75 | 2,379.75 | 0.00 | 2,620.25 | 47.60 |
| 3048-1212 | COURT OVERTIME | 0.00 | 241.74 | 241.74 | 0.00 | -241.74 | 0.00 |
| 3048-1411 | W/C INS | 0.00 | 294.94 | 294.94 | 0.00 | -294.94 | 0.00 |
| 3048-1431 | INS/DEFER COMP | 0.00 | 108.91 | 108.91 | 0.00 | -108.91 | 0.00 |
| 3048-1441 | L/T DISAB INS | 0.00 | 5.21 | 5.21 | 0.00 | -5.21 | 0.00 |
| 3048-1461 | MEDICARE | 0.00 | 38.03 | 38.03 | 0.00 | -38.03 | 0.00 |
| | **Total** ** SALARIES AND BENEFITS | 5,000.00 | 3,068.58 | 3,068.58 | 0.00 | 1,931.42 | 61.37 |
| 3048-2101 | PROGRAM SUPPLIES | 7,900.00 | 5,502.45 | 5,502.45 | 0.00 | 2,397.55 | 69.65 |
| 3048-2201 | MEETINGS AND TRAVEL | 2,800.00 | 2,210.61 | 2,210.61 | 0.00 | 589.39 | 78.95 |
| 3048-2301 | CONTRACT SERVICES | 3,730.00 | 3,659.00 | 3,659.00 | 0.00 | 71.00 | 98.10 |

| | | | | | | |
|---|---|---|---|---|---|---|
| **Total** ** SERVICES AND SUPPLIES | 14,430.00 | 11,372.06 | 11,372.06 | 0.00 | 3,057.94 | 78.81 |
| **Total** ** CAPITAL OUTLAY | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| **Total** K-9 PROGRAM | 19,430.00 | 14,440.64 | 14,440.64 | 0.00 | 4,989.36 | 74.32 |

**110 GENERAL FUND**

**3146 TECHNOLOGY**

| Account Number | | Adjusted Appropriation | Expenditures | Year-to-date Expenditures | Year-to-date Encumbrances | Balance | Prct Used |
|---|---|---|---|---|---|---|---|
| 3146-1101 | SALARIES FULL-TIME | 158,524.03 | 152,311.94 | 152,311.94 | 0.00 | 6,212.09 | 96.08 |
| 3146-1219 | PERFORMANCE PAY | 0.00 | 3,749.13 | 3,749.13 | 0.00 | -3,749.13 | 0.00 |
| 3146-1401 | RETIREMENT-PERS | 47,398.68 | 46,145.77 | 46,145.77 | 0.00 | 1,252.91 | 97.36 |
| 3146-1411 | W/C INS | 3,604.48 | 3,391.24 | 3,391.24 | 0.00 | 213.24 | 94.08 |
| 3146-1431 | INS/DEFER COMP | 29,181.68 | 29,460.64 | 29,460.64 | 0.00 | -278.96 | 100.96 |
| 3146-1441 | L/T DISAB INS | 356.68 | 342.02 | 342.02 | 0.00 | 14.66 | 95.89 |
| 3146-1461 | MEDICARE | 2,377.86 | 2,418.32 | 2,418.32 | 0.00 | -40.46 | 101.70 |
| | **Total** ** SALARIES AND BENEFITS | 241,443.41 | 237,819.06 | 237,819.06 | 0.00 | 3,624.35 | 98.50 |
| 3146-2301 | CONTRACT SERVICES | 200,457.00 | 179,403.66 | 179,403.66 | 0.00 | 21,053.34 | 89.50 |
| | **Total** ** SERVICES AND SUPPLIES | 200,457.00 | 179,403.66 | 179,403.66 | 0.00 | 21,053.34 | 89.50 |
| | **Total** TECHNOLOGY | 441,900.41 | 417,222.72 | 417,222.72 | 0.00 | 24,677.69 | 94.42 |

**110 GENERAL FUND**

**3345 JAIL BUREAU**

| Account Number | | Adjusted Appropriation | Expenditures | Year-to-date Expenditures | Year-to-date Encumbrances | Balance | Prct Used |
|---|---|---|---|---|---|---|---|
| 3345-1101 | SALARIES FULL-TIME | 271,111.65 | 239,313.68 | 239,313.68 | 0.00 | 31,797.97 | 88.27 |
| 3345-1104 | SALARIES-OVERTIME | 18,000.00 | 39,991.83 | 39,991.83 | 0.00 | -21,991.83 | 222.18 |
| 3345-1201 | UNIFORM ALLOWANCE | 1,800.00 | 1,952.95 | 1,952.95 | 0.00 | -152.95 | 108.50 |
| 3345-1202 | EDUCATION INCENTIVE PAY | 12,600.00 | 7,280.34 | 7,280.34 | 0.00 | 5,319.66 | 57.78 |
| 3345-1204 | BILINGUAL PAY | 1,800.00 | 737.63 | 737.63 | 0.00 | 1,062.37 | 40.98 |
| 3345-1212 | COURT OVERTIME | 0.00 | 139.60 | 139.60 | 0.00 | -139.60 | 0.00 |
| 3345-1214 | HOLIDAY PAY | 0.00 | 9,533.56 | 9,533.56 | 0.00 | -9,533.56 | 0.00 |
| 3345-1219 | PERFORMANCE PAY | 0.00 | 6,657.61 | 6,657.61 | 0.00 | -6,657.61 | 0.00 |
| 3345-1401 | RETIREMENT-PERS | 85,906.18 | 75,833.07 | 75,833.07 | 0.00 | 10,073.11 | 88.27 |
| 3345-1411 | W/C INS | 10,844.47 | 9,907.82 | 9,907.82 | 0.00 | 936.65 | 91.36 |
| 3345-1431 | INS/DEFER COMP | 78,352.20 | 66,257.52 | 66,257.52 | 0.00 | 12,094.68 | 84.56 |
| 3345-1441 | L/T DISAB INS | 610.00 | 516.92 | 516.92 | 0.00 | 93.08 | 84.74 |
| 3345-1461 | MEDICARE | 4,309.67 | 5,028.66 | 5,028.66 | 0.00 | -718.99 | 116.68 |
| | **Total** ** SALARIES AND BENEFITS | 485,334.17 | 463,151.19 | 463,151.19 | 0.00 | 22,182.98 | 95.43 |
| 3345-2101 | PROGRAM SUPPLIES | 823.00 | 1,304.28 | 1,304.28 | 0.00 | -481.28 | 158.48 |
| 3345-2212 | STC TRAINING | 6,500.00 | 6,508.45 | 6,508.45 | 0.00 | -8.45 | 100.13 |
| 3345-2301 | CONTRACT SERVICES | 2,265.00 | 1,641.63 | 1,641.63 | 0.00 | 623.37 | 72.48 |
| 3345-2306 | UNIFORM SUPPLY | 825.00 | 915.28 | 915.28 | 0.00 | -90.28 | 110.94 |
| 3345-2324 | CITATION PROCESSING FEES | 0.00 | 2,244.39 | 2,244.39 | 0.00 | -2,244.39 | 0.00 |
| 3345-2333 | LIVE SCAN EQUIP MAINTENANCE | 2,500.00 | 0.00 | 0.00 | 0.00 | 2,500.00 | 0.00 |
| 3345-2601 | VEHICLE RENTAL | 7,146.00 | 7,146.00 | 7,146.00 | 0.00 | 0.00 | 100.00 |
| 3345-2717 | JAIL SUPPLIES | 16,920.00 | 16,401.08 | 16,401.08 | 0.00 | 518.92 | 96.93 |
| 3345-2718 | PRISONER MEDICAL | 5,000.00 | 4,558.52 | 4,558.52 | 0.00 | 441.48 | 91.17 |
| | **Total** ** SERVICES AND SUPPLIES | 41,979.00 | 40,719.63 | 40,719.63 | 0.00 | 1,259.37 | 97.00 |
| | **Total** JAIL BUREAU | 527,313.17 | 503,870.82 | 503,870.82 | 0.00 | 23,442.35 | 95.55 |

**110 GENERAL FUND**

**3414 2008 COPS TECHNOLOGY GRANT**

| Account Number | Adjusted Appropriation | Expenditures | Year-to-date Expenditures | Year-to-date Encumbrances | Balance | Prct Used |
|---|---|---|---|---|---|---|
| **Total** 2008 COPS TECHNOLOGY GRANT | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |

**110 GENERAL FUND**

**3415 2008 STATE HOMELAND SECURITY GRANT**

| Account Number | Adjusted Appropriation | Expenditures | Year-to-date Expenditures | Year-to-date Encumbrances | Balance | Prct Used |
|---|---|---|---|---|---|---|
| **Total** 2008 STATE HOMELAND SECURITY GRANT | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |

**110 GENERAL FUND**

**3421 2009 HOMELAND SECURITY GRANT**

| Account Number | Adjusted Appropriation | Expenditures | Year-to-date Expenditures | Year-to-date Encumbrances | Balance | Prct Used |
|---|---|---|---|---|---|---|
| **Total** 2009 HOMELAND SECURITY GRANT | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |

**110 GENERAL FUND**

**3422 2009 COPS TECHNOLOGY GRANT**

| Account Number | Adjusted Appropriation | Expenditures | Year-to-date Expenditures | Year-to-date Encumbrances | Balance | Prct Used |
|---|---|---|---|---|---|---|
| **Total** 2009 COPS TECHNOLOGY GRANT | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |

**110 GENERAL FUND**

**3427 2011 SHSGP GRANT**

| Account Number | Adjusted Appropriation | Expenditures | Year-to-date Expenditures | Year-to-date Encumbrances | Balance | Prct Used |
|---|---|---|---|---|---|---|
| **Total** 2011 SHSGP GRANT | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |

**110 GENERAL FUND**

**3428 2010 HOME LAND SECURITY GRANT**

| Account Number | Adjusted Appropriation | Expenditures | Year-to-date Expenditures | Year-to-date Encumbrances | Balance | Prct Used |
|---|---|---|---|---|---|---|
| **Total** 2010 HOME LAND SECURITY GRANT | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |

**110 GENERAL FUND**

**3430 2013 HOMELAND SECURITY GRANT**

| Account Number | Adjusted Appropriation | Expenditures | Year-to-date Expenditures | Year-to-date Encumbrances | Balance | Prct Used |
|---|---|---|---|---|---|---|
| **Total** 2013 HOMELAND SECURITY GRANT | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |

**110 GENERAL FUND**

**3433 OTS GRANT PT1607**

| Account Number | Adjusted Appropriation | Expenditures | Year-to-date Expenditures | Year-to-date Encumbrances | Balance | Prct Used |
|---|---|---|---|---|---|---|
| 3433-1104 SALARIES-OVERTIME | 0.00 | 29,269.45 | 29,269.45 | 0.00 | -29,269.45 | 0.00 |
| 3433-1411 W/C INS | 0.00 | 2,554.77 | 2,554.77 | 0.00 | -2,554.77 | 0.00 |
| 3433-1431 INS/DEFER COMP | 0.00 | 2,565.14 | 2,565.14 | 0.00 | -2,565.14 | 0.00 |
| 3433-1441 L/T DISAB INS | 0.00 | 50.57 | 50.57 | 0.00 | -50.57 | 0.00 |
| 3433-1461 MEDICARE | 0.00 | 425.66 | 425.66 | 0.00 | -425.66 | 0.00 |
| **Total** ** SALARIES AND BENEFITS | 0.00 | 34,865.59 | 34,865.59 | 0.00 | -34,865.59 | 0.00 |
| **Total** ** CAPITAL OUTLAY | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| **Total** OTS GRANT PT1607 | 0.00 | 34,865.59 | 34,865.59 | 0.00 | -34,865.59 | 0.00 |

**110 GENERAL FUND**

**3434 2016-17 ABC GRANT**

| Account Number | Adjusted Appropriation | Expenditures | Year-to-date Expenditures | Year-to-date Encumbrances | Balance | Prct Used |
|---|---|---|---|---|---|---|
| 3434-1104 SALARIES-OVERTIME | 23,692.02 | 597.98 | 597.98 | 0.00 | 23,094.04 | 2.52 |
| 3434-1411 W/C INS | 0.00 | 56.67 | 56.67 | 0.00 | -56.67 | 0.00 |
| 3434-1461 MEDICARE | 0.00 | 8.71 | 8.71 | 0.00 | -8.71 | 0.00 |
| **Total** 2016-17 ABC GRANT | 23,692.02 | 663.36 | 663.36 | 0.00 | 23,028.66 | 2.80 |

**110 GENERAL FUND**

**3435 BSCC MENTAL HEALTH GRANT**

| Account Number | Adjusted Appropriation | Expenditures | Year-to-date Expenditures | Year-to-date Encumbrances | Balance | Prct Used |
|---|---|---|---|---|---|---|
| 3435-1104 SALARIES-OVERTIME | 0.00 | 20,623.82 | 20,623.82 | 0.00 | -20,623.82 | 0.00 |
| 3435-1411 W/C INS | 0.00 | 1,450.90 | 1,450.90 | 0.00 | -1,450.90 | 0.00 |
| 3435-1431 INS/DEFER COMP | 0.00 | 1,358.84 | 1,358.84 | 0.00 | -1,358.84 | 0.00 |
| 3435-1441 L/T DISAB INS | 0.00 | 26.10 | 26.10 | 0.00 | -26.10 | 0.00 |
| 3435-1461 MEDICARE | 0.00 | 232.36 | 232.36 | 0.00 | -232.36 | 0.00 |
| **Total** BSCC MENTAL HEALTH GRANT | 0.00 | 23,692.02 | 23,692.02 | 0.00 | -23,692.02 | 0.00 |

# FY 2017-18
# Actual UVISACases

# (Support for Actual Costs)

## ACTUAL UVISA CASES PROCESSED IN FY 2017-18

| | CASE | date received | agency signature date |
|---|---|---|---|
| case 1 | [redacted] | Aug-17 | 8/15/2017 |
| case 2 | [redacted] | Nov-17 | 11/21/2017 |

# Case 1

Los Angeles
IMMIGRATION
Attorneys

700 South Flower Street, Suite 2925, Los Angeles, California 90017 | (213) 995-6642
2670 North Main Street, Suite 302, Santa Ana, California 92705 | (714) 551-9490

James Eric Price, Esq. *
Frances E. Arroyo, Esq.
Denise Platter Cabrera, Esq.
Cecilia Murillo-Quintana, Esq.
Jamaica E. Abare, Esq.

July 25, 2017

**Via U.S. Mail**
Claremont Police Department
570 W. Bonita Ave
Claremont, CA 91711

**Re:** ***U-Visa Certification Request***
**Applicant:** [redacted]
**Other Names:** [redacted]
**Incident Report No.: 1103597**

Dear Officer in Charge:

My office represents Mr. [redacted] in his legal matters. On December 10, 2011, Mr. [redacted] was a victim of a **felonious assault and robbery.** Copy of the Investigative Report is enclosed for your review.

Congress created the "U" nonimmigrant classification with passage of the *Victims of Trafficking and Violence Protection Act* (including the Battered Immigrant Women's Protection Act) in October 2000. The legislation was intended to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of aliens and other crimes while, at the same time, offering protection to victims of such crimes. The legislation also helps law enforcement agencies to better serve immigrant crime victims.

**On October 9, 2015, California Senate Bill SB674, "Victims of Crime: Nonimmigrant Status," was signed into law by Governor Jerry Brown. This new law requires certifying officials from certifying agencies to sign certification requests if the victim meets the requirements as explained above. Furthermore, the certifying entity is required to process the Form I-918 Supplement B certification within 90 days of the request.**

**Please note that a current investigation, filing of charges, prosecution, or a conviction are not required for a request of Form I-918 Supplement B certification.**

**Mr. [redacted] provided law enforcement agencies with his full cooperation and provided as much information as he was able to. Mr.**

* Admitted to practice law in Florida
Not licensed to practice law in California
Practice limited to federal immigration law

**[redacted] was fully cooperative and desirous for the prosecution of his attacker.**

Certifying agencies include federal, state, or local law enforcement agencies, prosecutor, judge, or other authority that has responsibility for the investigation or prosecution of the criminal activity. The rule also includes other agencies such as child protective services, the Equal Employment Opportunity Commission, and the Department of Labor, since they have criminal investigative jurisdiction within their respective areas of expertise.

We would like to request your assistance in filling out the USCIS form I-918 Supplement B in regards to Mr. [redacted].

This form is a necessity for victims of a crime seeking federal government assistance while their case is pending a resolution; Mr. [redacted] to qualify for such Immigration benefits pursuant to section 101(a) (15) (U) of the INA.

If you should have any question regarding the contents of this letter, please contact our office immediately.

Sincerely,

J. Eric Price, Esq.
Attorney at Law
/cg

*Enclosures.*

# Supplement B, U Nonimmigrant Status Certification

**Department of Homeland Security**
U.S. Citizenship and Immigration Services

**USCIS**
**Form I-918**
OMB No. 1615-0104
Expires 02/28/2019

| For USCIS Use Only | Remarks |
|---|---|
| | |

▶ **START HERE - Type or print in black or blue ink.**

## Part 1. Victim Information

1. Alien Registration Number (A-Number) (if any)

2.a. Family Name (Last Name) [redacted]

2.b. Given Name (First Name) [redacted]

2.c. Middle Name [redacted]

**Other Names Used** (In [redacted] d aliases, if applicable.)

If you need extra space to provide additional names, use the space provided in **Part 7. Additional Information.**

3.a. Family Name (Last [redacted]

3.b. Given [redacted] (First [redacted]

3.c. Middle me [redacted]

4. Date of Birth (mm/dd/yyyy) [redacted]

5. Gender ☒ Male ☐ Female

## Part 2. Agency Information

1. Name of Certifying Agency
Claremont Police Department

Name of Certifying Official

2.a. Family Name (Last Name) CISZEK

2.b. Given Name (First Name) MICHAEL

2.c. Middle Name

3. Title and Division/Office of Certifying Official
DETECTIVE LIGUTENANT

Name of Head of Certifying Agency

4.a. Family Name (Last Name) VANDER VEEN

4.b. Given Name (First Name) SHELLY

4.c. Middle Name

### *Agency Address*

5.a. Street Number and Name 570 W Bonita Ave

5.b. ☐ Apt. ☐ Ste. ☐ Flr.

5.c. City or Town Claremont

5.d. State CA 4.f. ZIP Code 91711

5.f. Province

5.g. Postal Code

5.h. Country
United States

### *Other Agency Information*

6. Agency Type
☐ Federal ☐ State ☒ Local

7. Case Status
☐ On-going ☒ Completed
☐ Other

8. Certifying Agency Category
☐ Judge ☒ Law Enforcement ☐ Prosecutor
☐ Other

9. Case Number
1103597

10. FBI Number or SID Number (if applicable)

## Part 3. Criminal Acts

If you need extra space to complete this section, use the space provided in **Part 7. Additional Information.**

1. The petitioner is a victim of criminal activity involving a violation of one of the following Federal, state, or local criminal offenses (or any similar activity). (Select **all applicable boxes**)

- [ ] Abduction
- [ ] Abusive Sexual Contact
- [ ] Attempt to Commit Any of the Named Crimes
- [ ] Being Held Hostage
- [ ] Blackmail
- [ ] Conspiracy to Commit Any of the Named Crimes
- [ ] Domestic Violence
- [ ] Extortion
- [ ] False Imprisonment
- [X] Felonious Assault
- [ ] Female Genital Mutilation
- [ ] Fraud in Foreign Labor Contracting
- [ ] Incest
- [ ] Involuntary Servitude
- [ ] Kidnapping
- [ ] Manslaughter
- [ ] Murder
- [ ] Obstruction of Justice
- [ ] Peonage
- [ ] Perjury
- [ ] Prostitution
- [ ] Rape
- [ ] Sexual Assault
- [ ] Sexual Exploitation
- [ ] Slave Trade
- [ ] Solicitation to Commit Any of the Named Crimes
- [ ] Stalking
- [ ] Torture
- [ ] Trafficking
- [ ] Unlawful Criminal Restraint
- [ ] Witness Tampering

Provide the dates on which the criminal activity occurred.

2.a. Date (mm/dd/yyyy) 12/10/2011

2.b. Date (mm/dd/yyyy)

2.c. Date (mm/dd/yyyy)

2.d. Date (mm/dd/yyyy)

3. List the statutory citations for the criminal activity being investigated or prosecuted, or that was investigated or prosecuted.

PC 211, PC 245(A)(2) and PC 417(A)(2)

4.a. Did the criminal activity occur in the United States (including Indian country and military installations) or the territories or possessions of the United States?

[X] Yes [ ] No

4.b. If you answered "Yes," where did the criminal activity occur?

Claremont, CA

5.a. Did the criminal activity violate a Federal extraterritorial jurisdiction statute? [ ] Yes [X] No

5.b. If you answered "Yes," provide the statutory citation providing the authority for extraterritorial jurisdiction.

6. Briefly describe the criminal activity being investigated and/or prosecuted and the involvement of the petitioner named in **Part 1.** Attach copies of all relevant reports and findings.

Vicitm [redacted] received a call from dispatch to pick up people in the Double Tree Hotel. Victim [redacted] then drove the two male Suspects to an apartment in Pomona and back to the hotel. Once the suspects arrived to their destination one of the suspects pulled out a gun and pointed it at Victim [redacted]. The suspects got off the taxi and went into the hotel through a hallway near the parking lot where Victim [redacted] dropped off the suspects.

7. Provide a description of any known or documented injury to the victim. Attach copies of all relevant reports and findings.

No injuries were reported.

## Part 4. Helpfulness Of The Victim

For the following questions, if the victim is under 16 years of age, incompetent or incapacitated, then a parent, guardian, or next friend may act on behalf of the victim.

1. Does the victim possess information concerning the criminal activity listed in **Part 3.**? ☒ Yes ☐ No

2. Has the victim been helpful, is the victim being helpful, or is the victim likely to be helpful in the investigation or prosecution of the criminal activity detailed above? ☒ Yes ☐ No

3. Since the initiation of cooperation, has the victim refused or failed to provide assistance reasonably requested in the investigation or prosecution of the criminal activity detailed above? ☐ Yes ☒ No

If you answer "Yes" to **Item Numbers 1. - 3.**, provide an explanation in the space below. If you need extra space to complete this section, use the space provided in **Part 7. Additional Information.**

4. Other. Include any additional information you would like to provide.

The Victim was fully cooperative with law enforcement officers and desired prosecution of the suspects for the robbery, assault with a firearm and exhibiting a firearm.

## Part 5. Family Members Culpable In Criminal Activity

1. Are any of the victim's family members culpable or believed to be culpable in the criminal activity of which the petitioner is a victim? ☐ Yes ☒ No

If you answered "Yes," list the family members and their criminal involvement. (If you need extra space to complete this section, use the space provided in **Part 7. Additional Information.**)

2.a. Family Name (Last Name)

2.b. Given Name (First Name)

2.c. Middle Name

2.d. Relationship

2.e. Involvement

3.a. Family Name (Last Name)

3.b. Given Name (First Name)

3.c. Middle Name

3.d. Relationship

3.e. Involvement

4.a. Family Name (Last Name)

4.b. Given Name (First Name)

4.c. Middle Name

4.d. Relationship

4.e. Involvement

## Part 6. Certification

I am the head of the agency listed in **Part 2.** or I am the person in the agency who was specifically designated by the head of the agency to issue a U Nonimmigrant Status Certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual identified in **Part 1.** is or was a victim of one or more of the crimes listed in **Part 3.** I certify that the above information is complete, true, and correct to the best of my knowledge, and that I have made and will make no promises regarding the above victim's ability to obtain a visa from U.S. Citizenship and Immigration Services (USCIS), based upon this certification. I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim, I will notify USCIS.

1. Signature of Certifying Official

➡ Michael Cizet

2. Date of Signature (mm/dd/yyyy) 08-15-17

3. Daytime Telephone Number

(909) 399-5411

4. Fax Number

(909) 399-5435

## Part 7. Additional Information

If you need extra space to complete any item within this supplement, use the space below or attach a separate sheet of paper; type or print the agency's name, petitioner's name, and the Alien Registration Number (A-Number) (if any) at the top of each sheet; indicate the **Page Number, Part Number, and Item Number** to which your answer refers; and sign and date each sheet. If you need more space than what is provided, you may also make copies of this page to complete and file with this supplement.

1. Agency Name

Claremont Police Department

[redacted]

2.b. Given [redacted] (First [redacted]

2.c. Middle Name [redacted]

3. A-Number (if any)

► A-

| 4.a. Page Number | 4.b. Part Number | 4.c. Item Number |
|---|---|---|
| 2 | 3 | crimes |

4.d.

Other: Robbery

Other: Assault with a Firearm

Other: Exhibiting Firearm

| 5.a. Page Number | 5.b. Part Number | 5.c. Item Number |
|---|---|---|
| | | |

5.d.

| 6.a. Page Number | 6.b. Part Number | 6.c. Item Number |
|---|---|---|
| | | |

6.d.

# Case 2

# Supplement B, U Nonimmigrant Status Certification

**Department of Homeland Security**
U.S. Citizenship and Immigration Services

**USCIS Form I-918**
OMB No. 1615-0104
Expires 02/28/2019

| For USCIS Use Only | Remarks |
|---|---|
| | |

▶ **START HERE - Type or print in black or blue ink.**

## Part 1. Victim Information

1. Alien Registration Number (A-Number) (if any)
   ▶ A-

2.a. Family Name (Last Name) [redacted]

2.b. Given Name (First Name) [redacted]

2.c. Middle Name

**Other Names Used** (Include maiden names, nicknames, and aliases, if applicable.)

If you need extra space to provide additional names, use the space provided in **Part 7. Additional Information.**

3.a. Family Name (Last Name)

3.b. Given Name (First Name)

3.c. Middle Name

4. Date of Birth (mm/dd/yyyy) [redacted]

5. Gender ☐ Male ☒ Female

## Part 2. Agency Information

1. Name of Certifying Agency
   CLAREMONT PD

Name of Certifying Official

2.a. Family Name [redacted]

2.b. Given Name [redacted]

2.c. Middle Name

3. Title and Division/Office of Certifying Official
   DETECTIVE LIEUTENANT

Name of Head of Certifying Agency

4.a. Family Name (Last Name) VANDER VEEN

4.b. Given Name (First Name) SHELLY

4.c. Middle Name

### *Agency Address*

5.a. Street Number and Name 570 W. BONITA AVE

5.b. ☐ Apt. ☐ Ste. ☐ Flr.

5.c. City or Town CLAREMONT

5.d. State CA 5.f. ZIP Code 91711

5.g. Province

5.h. Postal Code

5.i. Country
UNITED STATES

### *Other Agency Information*

6. Agency Type
   ☐ Federal ☐ State ☒ Local

7. Case Status
   ☐ On-going ☒ Completed
   ☐ Other

8. Certifying Agency Category
   ☐ Judge ☒ Law Enforcement ☐ Prosecutor
   ☐ Other

9. Case Number
   1702123

10. FBI Number or SID Number (if applicable)

## Part 3. Criminal Acts

If you need extra space to complete this section, use the space provided in **Part 7. Additional Information.**

1. The petitioner is a victim of criminal activity involving a violation of one of the following Federal, state, or local criminal offenses (or any similar activity). (Select **all applicable** boxes)

- ☐ Abduction
- ☐ Abusive Sexual Contact
- ☐ Attempt to Commit Any of the Named Crimes
- ☐ Being Held Hostage
- ☐ Blackmail
- ☐ Conspiracy to Commit Any of the Named Crimes
- ☒ Domestic Violence
- ☐ Extortion
- ☐ False Imprisonment
- ☐ Felonious Assault
- ☐ Female Genital Mutilation
- ☐ Fraud in Foreign Labor Contracting
- ☐ Incest
- ☐ Involuntary Servitude
- ☐ Kidnapping
- ☐ Manslaughter
- ☐ Murder
- ☐ Obstruction of Justice
- ☐ Peonage
- ☐ Perjury
- ☐ Prostitution
- ☐ Rape
- ☐ Sexual Assault
- ☐ Sexual Exploitation
- ☐ Slave Trade
- ☐ Solicitation to Commit Any of the Named Crimes
- ☐ Stalking
- ☐ Torture
- ☐ Trafficking
- ☐ Unlawful Criminal Restraint
- ☐ Witness Tampering

Provide the dates on which the criminal activity occurred.

2.a. Date (mm/dd/yyyy) 07/21/2017

2.b. Date (mm/dd/yyyy)

2.c. Date (mm/dd/yyyy)

2.d. Date (mm/dd/yyyy)

3. List the statutory citations for the criminal activity being investigated or prosecuted, or that was investigated or prosecuted.

PC 243(e)(1)

4.a. Did the criminal activity occur in the United States (including Indian country and military installations) or the territories or possessions of the United States?

☒ Yes ☐ No

4.b. If you answered "Yes," where did the criminal activity occur?

CLAREMONT, CA

5.a. Did the criminal activity violate a Federal extraterritorial jurisdiction statute?

☐ Yes ☒ No

5.b. If you answered "Yes," provide the statutory citation providing the authority for extraterritorial jurisdiction.

6. Briefly describe the criminal activity being investigated and/or prosecuted and the involvement of the petitioner named in **Part 1.** Attach copies of all relevant reports and findings.

VICTIM [redacted] BECAME INVOLVED IN A VERBAL ARGUMENT WITH SUSPECT DURING ARGUMENT, THE SUSPECT STABBED VICTIM. THE SUSPECT WAS ARRESTED

7. Provide a description of any known or documented injury to the victim. Attach copies of all relevant reports and findings.

NO INJURIES REPORTED

## Part 4. Helpfulness Of The Victim

For the following questions, if the victim is under 16 years of age, incompetent or incapacitated, then a parent, guardian, or next friend may act on behalf of the victim.

1. Does the victim possess information concerning the criminal activity listed in **Part 3.**? ☒ Yes ☐ No

2. Has the victim been helpful, is the victim being helpful, or is the victim likely to be helpful in the investigation or prosecution of the criminal activity detailed above? ☒ Yes ☐ No

3. Since the initiation of cooperation, has the victim refused or failed to provide assistance reasonably requested in the investigation or prosecution of the criminal activity detailed above? ☐ Yes ☒ No

If you answer "Yes" to **Item Numbers 1. - 3.**, provide an explanation in the space below. If you need extra space to complete this section, use the space provided in **Part 7. Additional Information.**

4. Other. Include any additional information you would like to provide.

THE VICTIM FULLY COOPERATED WITH POLICE DEPT AND DISTRICT ATTORNEY'S OFFICE.

## Part 5. Family Members Culpable In Criminal Activity

1. Are any of the victim's family members culpable or believed to be culpable in the criminal activity of which the petitioner is a victim? ☐ Yes ☐ No

If you answered "Yes," list the family members and their criminal involvement. (If you need extra space to complete this section, use the space provided in **Part 7. Additional Information.**)

2.a. Family Name (Last Name)

2.b. Given Name (First Name)

2.c. Middle Name

2.d. Relationship

2.e. Involvement

3.a. Family Name (Last Name)

3.b. Given Name (First Name)

3.c. Middle Name

3.d. Relationship

3.e. Involvement

4.a. Family Name (Last Name)

4.b. Given Name (First Name)

4.c. Middle Name

4.d. Relationship

4.e. Involvement

## Part 6. Certification

I am the head of the agency listed in **Part 2.** or I am the person in the agency who was specifically designated by the head of the agency to issue a U Nonimmigrant Status Certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual identified in **Part 1.** is or was a victim of one or more of the crimes listed in **Part 3.** I certify that the above information is complete, true, and correct to the best of my knowledge, and that I have made and will make no promises regarding the above victim's ability to obtain a visa from U.S. Citizenship and Immigration Services (USCIS), based upon this certification. I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim, I will notify USCIS.

1. Signature of Certifying Official (sign in ink)

2. Date of Signature (mm/dd/yyyy) 11/21/17

3. Daytime Telephone Number 909-399-5411

4. Fax Number 909-399-5435

## Part 7. Additional Information

If you need extra space to complete any item within this supplement, use the space below or attach a separate sheet of paper; type or print the agency's name, petitioner's name, and the Alien Registration Number (A-Number) (if any) at the top of each sheet; indicate the **Page Number, Part Number**, and **Item Number** to which your answer refers; and sign and date each sheet. If you need more space than what is provided, you may also make copies of this page to complete and file with this supplement.

1. Agency Name

CLAREMONT PD

***Petitioner's Name***

2.a. Family Name (Last Name) [redacted]

2.b. Given Name (First Name) [redacted]

2.c. Middle Name

3. A-Number (if any)

▶ A-

4.a. Page Number: 4

4.b. Part Number: 2

4.c. Item Number: CRIME

4.d.

CRIME - 243(e)(1) PC

5.a. Page Number

5.b. Part Number

5.c. Item Number

5.d.

6.a. Page Number

6.b. Part Number

6.c. Item Number

6.d.

# Computation of Estimated Costs

| Program UVISAS | MANDATED COSTS<br>CITY OF CLAREMONT<br>ACTIVITY COST ESTIMATES | Estimated Costs FY 2018-19 |
|---|---|---|

**City of Claremont**

**DIRECT COSTS**

**Description of Expenses:**

| Employee Names, Job Class., Functions Performed and Description of Expenses | Hourly Rate or Unit Cost | Benefit Rate | Hours Worked or Quantity | Salaries | Benefits | Contract | Total Salaries & Benefits |
|---|---|---|---|---|---|---|---|
| **Shelly Vander Veen, Police Chief** | $113.73 | 63.9% | 0.50 | $57 | $36 | | $93 |
| **Mike Ciszek, Lieutenant** | $97.09 | 67.0% | 1.00 | $97 | $65 | | $162 |
| **Contract Service 1 hr (legal review)**<br>Update Department Policies and Procedures to reflect change in new State Statutes regarding UVISA requirements | | | 1.00 | | | $364 | |
| **Mike Ciszek, Lieutenant**<br>Research original crimes, complete and sign UVISA forms including detailed description of victims helpfulness.<br>(See following page for detailed list of activities)<br>(4 cases estimated for this fiscal year) | $97.09 | 67.0% | 4.00 | $388 | $260 | | $648 |
| **Mike Ciszek, Lieutenant**<br>Report results to legislature annually | $97.09 | 67.0% | 0.50 | $49 | $33 | | $81 |
| **Total Direct Costs** | | | 7.00 | $591 | $394 | $364 | $985 |
| **INDIRECT COSTS (ICRP Rate = 94% based on salaries & benefits)** | | | | | | | $926 |
| **GRAND TOTAL** | | | | | | | **$2,275** |

| Program UVISAS | MANDATED COSTS<br>CITY OF CLAREMONT<br>ACTIVITY COST ESTIMATES | Estimated Costs FY 2018-19 |
|---|---|---|

**City of Claremont**

**DIRECT COSTS**

**Description of Expenses:**

| Employee Names, Job Class., Functions Performed and Description of Expenses | Hourly Rate or Unit Cost | Benefit Rate | Hours Worked or Quantity | Salaries | Benefits | Contract | Total Salaries & Benefits |
|---|---|---|---|---|---|---|---|
| **(Costs Without Policies and Procedures update pursuant to CSM Staff comments)** | | | | | | | |
| **Mike Ciszek, Lieutenant**<br>Research original crimes, complete and sign UVISA forms including detailed description of victims helpfulness.<br>(See following page for detailed list of activities)<br>(4 cases estimated for this fiscal year) | $97.09 | 67.0% | 4.00 | $388 | $260 | | $648 |
| **Mike Ciszek, Lieutenant**<br>Report results to legislature annually | $97.09 | 67.0% | 0.50 | $49 | $33 | | $81 |
| **Total Direct Costs** | | | 4.50 | $437 | $293 | | $729 |
| **INDIRECT COSTS (ICRP Rate = 94% based on salaries & benefits)** | | | | | | | $686 |
| **GRAND TOTAL** | | | | | | | **$1,415** |

## List of activities:

1. Review the UVISA request.

2 . For all requests, research the original crime(s) the victim was involved to determine whether new law criteria are met and certification can be granted and to determine "victims' helpfulness". This includes obtaining prior criminal records, reports, and history, determining helpfulness and potential helpfulness of the victim; determining if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.

(Detailed research and review of crime history/reports to determine the victim's helpfulness and potential helpfulness and to obtain info to complete the UVISA paperwork.

3. Fully complete, sign and certify the application (I-918 Form) including Supplement B for ALL requested I-918 applications. This must include a detailed description of the victim's helpfulness or likely helpfulness to the detection, investigation, or prosecution of the criminal activity.

4. Supervisor review and approval of the detailed description of victim's helpfulness narrative.

5. Transmit results to involved parties and legal representatives.

6. File, log, and close case

7. Prepare and submit annual reports to the Legislature specifying total number of requests for UVISA certifications, the number approved and denied.

# FY 2012-13
# Actual UVISA Cases

(Support to prove estimate of 4 cases per year is a reasonable estimate of future activity)

## ACTUAL UVISA CASES PROCESSED IN FY 2012-13

| | CASE | date received | agency signature date |
|---|---|---|---|
| case 1 | [redacted] | Mar-13 | 3/25/2013 |
| case 2 | [redacted] | Apr-13 | 4/23/2013 |
| case 3 | [redacted] | Apr-13 | 4/29/2013 |
| case 4 | [redacted] | Jun-13 | 7/3/2013 |

# Case 1

OMB No. 1615-0104 Expires 07/31/2012

Department of Homeland Security
U.S. Citizenship and Immigration Services

# I-918 Supplement B, U Nonimmigrant Status Certification

START HERE - Please type or print in black ink.

## Part 1. Victim information:

Family Name: [redacted]
Given Name: [redacted]
Middle Name: [redacted]

Other Names Used *(Include maiden name/nickname)*:

Date of Birth *(mm/dd/yyyy)*: [redacted]

Gender: ☐ Male ☒ Female

## Part 2. Agency information:

Name of Certifying Agency: CLAREMONT POLICE DEPARTMENT

Name of Certifying Official: M. CISZEK # 310B

Title and Division/Office of Certifying Official: LIEUTENANT / DETECTIVE

Name of Head of Certifying Agency: PAUL COOPER - CHIEF

Agency Address - Street Number and Name: 570 W. BONITA AVE

Suite #:

City: CLAREMONT

State/Province: CA

Zip/Postal Code: 91711

Daytime Phone # *(with area code and/or extension)*: 909-399-5411

Fax # *(with area code)*: 909-399-5435

Agency Type: ☐ Federal ☐ State ☒ Local

Case Status: ☐ On-going ☒ Completed ☐ Other:

Certifying Agency Category: ☐ Judge ☒ Law Enforcement ☐ Prosecutor ☐ Other:

Case Number: 12-01629

FBI # or SID # *(if applicable)*:

**For USCIS Use Only.**

| | |
|---|---|
| Returned | Receipt |
| Date | |
| Date | |
| Resubmitted | |
| Date | |
| Date | |
| Reloc Sent | |
| Date | |
| Date | |
| Reloc Rec'd | |
| Date | |
| Date | |

Remarks

## Part 3. Criminal acts:

1. The applicant is a victim of criminal activity involving or similar to violations of one of the following Federal, State or local criminal offenses. *(Check all that apply.)*

| | | | |
|---|---|---|---|
| ☐ Abduction | ☐ Female Genital Mutilation | ☐ Obstruction of Justice | ☐ Slave Trade |
| ☐ Abusive Sexual Contact | ☐ Hostage | ☐ Peonage | ☐ Torture |
| ☐ Blackmail | ☐ Incest | ☐ Perjury | ☐ Trafficking |
| ☐ Domestic Violence | ☐ Involuntary Servitude | ☐ Prostitution | ☐ Unlawful Criminal Restraint |
| ☐ Extortion | ☐ Kidnapping | ☐ Rape | ☐ Witness Tampering |
| ☐ False Imprisonment | ☐ Manslaughter | ☐ Sexual Assault | ☐ Related Crime(s) |
| ☒ Felonious Assault | ☐ Murder | ☐ Sexual Exploitation | ☐ Other: *(If more space needed, attach seperate sheet of paper.)* |
| ☐ Attempt to commit any of the named crimes | ☐ Conspiracy to commit any of the named crimes | ☐ Solicitation to commit any of the named crimes | |

## Part 3. Criminal acts. *(Continued.)*

2. Provide the date(s) on which the criminal activity occurred.

| Date *(mm/dd/yyyy)* | Date *(mm/dd/yyyy)* | Date *(mm/dd/yyyy)* | Date *(mm/dd/yyyy)* |
|---|---|---|---|
| 06/16/2012 | | | |

3. List the statutory citation(s) for the criminal activity being investigated or prosecuted, or that was investigated or prosecuted.

245(a)(1) P.C. - ASSAULT WITH A DEADLY WEAPON.

4. Did the criminal activity occur in the United States, including Indian country and military installations, or the territories or possessions of the United States? ☒ Yes ☐ No

   a. Did the criminal activity violate a Federal extraterritorial jurisdiction statute? ☐ Yes ☒ No

   b. If "Yes," provide the statutory citation providing the authority for extraterritorial jurisdiction.

   c. Where did the criminal activity occur?

5. Briefly describe the criminal activity being investigated and/or prosecuted and the involvement of the individual named in Part 1. Attach copies of all relevant reports and findings.

SUSPECT ATTEMPTED TO STAB VICTIM FOR UNKNOWN REASON.

6. Provide a description of any known or documented injury to the victim. Attach copies of all relevant reports and findings.

N/A

## Part 4. Helpfulness of the victim.

The victim (or parent, guardian or next friend, if the victim is under the age of 16, incompetent or incapacitated.):

1. Possesses information concerning the criminal activity listed in **Part 3**. ☒ Yes ☐ No
2. Has been, is being or is likely to be helpful in the investigation and/or prosecution of the criminal activity detailed above. *(Attach an explanation briefly detailing the assistance the victim has provided.)* ☒ Yes ☐ No
3. Has not been requested to provide further assistance in the investigation and/or prosecution. *(Example: prosecution is barred by the statute of limitation.) (Attach an explanation.)* ☐ Yes ☒ No
4. Has unreasonably refused to provide assistance in a criminal investigation and/or prosecution of the crime detailed above. *(Attach an explanation.)* ☐ Yes ☒ No

## Part 4. Helpfulness of the victim. *(Continued.)*

5. Other, please specify.

VICTIM NOTIFIED POLICE OF ASSAULT. SUSPECT LOCATED BY POLICE AND VICTIM IDENTIFIED SUSPECT AT IN FIELD SHOW-UP. VICTIM ALSO TESTIFIED IN COURT

## Part 5. Family members implicated in criminal activity.

1. Are any of the victim's family members believed to have been involved in the criminal activity of which he or she is a victim? ☐ Yes ☒ No

2. If "Yes," list relative(s) and criminal involvement. *(Attach extra reports or extra sheet(s) of paper if necessary.)*

| Full Name | Relationship | Involvement |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| | | |

## Part 6. Certification.

I am the head of the agency listed in **Part 2** or I am the person in the agency who has been specifically designated by the head of the agency to issue U nonimmigrant status certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual noted in **Part 1** is or has been a victim of one or more of the crimes listed in **Part 3**. I certify that the above information is true and correct to the best of my knowledge, and that I have made, and will make no promises regarding the above victim's ability to obtain a visa from the U.S. Citizenship and Immigration Services, based upon this certification. I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he/she is a victim, I will notify USCIS.

**Signature of Certifying Official Identified in Part 2.** Michael E. Cizzi

**Date** *(mm/dd/yyyy)* 3/25/2013

# Case 2

OMB No. 1615-0104: Expires 07/31/2012

Department of Homeland Security
U.S. Citizenship and Immigration Services

# I-918 Supplement B, U Nonimmigrant Status Certification

START HERE - Please type or print in black ink.

## Part 1. Victim information.

F[redacted] Name [redacted] Middle Name

O d (Include maiden name/nickname)

NONE

Date of Birth (mm/dd/yyyy) [redacted]

Gender ☐ Male ☒ Female

## Part 2. Agency information.

Name of Certifying Agency

CLAREMONT POLICE DEPT.

Name of Certifying Official: William Holl

Title and Division/Office of Certifying Official: SUPPORT SERVICES SUPERVISOR

Name of Head of Certifying Agency: PAUL COOPER, CHIEF

Agency Address - Street Number and Name: 570 W. BONITA AVE

Suite #:

City: CLAREMONT

State/Province: CA

Zip/Postal Code: 91711

Daytime Phone # (with area code and/or extension): 909-399-5411

Fax # (with area code): 909-399-5435

Agency Type
☐ Federal ☐ State ☒ Local

Case Status
☐ On-going ☒ Completed ☐ Other:

Certifying Agency Category
☐ Judge ☒ Law Enforcement ☐ Prosecutor ☐ Other:

Case Number: 09-2419

FBI # or SID # (if applicable):

For USCIS Use Only.

| Returned | Receipt |
|---|---|
| Date | |
| Date | |
| Resubmitted | |
| Date | |
| Date | |
| Reloc Sent | |
| Date | |
| Date | |
| Reloc Rec'd | |
| Date | |
| Date | |

Remarks

## Part 3. Criminal acts.

1. The applicant is a victim of criminal activity involving or similar to violations of one of the following Federal, State or local criminal offenses. (Check all that apply.)

| | | | |
|---|---|---|---|
| ☐ Abduction | ☒ Female Genital Mutilation | ☐ Obstruction of Justice | ☐ Slave Trade |
| ☒ Abusive Sexual Contact | ☐ Hostage | ☐ Peonage | ☐ Torture |
| ☐ Blackmail | ☐ Incest | ☐ Perjury | ☐ Trafficking |
| ☐ Domestic Violence | ☐ Involuntary Servitude | ☐ Prostitution | ☐ Unlawful Criminal Restraint |
| ☐ Extortion | ☐ Kidnapping | ☐ Rape | ☐ Witness Tampering |
| ☐ False Imprisonment | ☐ Manslaughter | ☒ Sexual Assault | ☐ Related Crime(s) |
| ☐ Felonious Assault | ☐ Murder | ☐ Sexual Exploitation | ☐ Other: (If more space needed, attach seperate sheet of paper.) |
| ☐ Attempt to commit any of the named crimes | ☐ Conspiracy to commit any of the named crimes | ☐ Solicitation to commit any of the named crimes | |

OMB No. 1615-0104: Expires 07/31/2012

Department of Homeland Security
U.S. Citizenship and Immigration Services

# I-918 Supplement B, U Nonimmigrant Status Certification

START HERE - Please type or print in black ink.

## Part 1. Victim information.

Family Name: [redacted]
Given Name: [redacted]
Middle Name:

Other Names Used *(Include maiden name/nickname)*: NONE

Date of Birth *(mm/dd/yyyy)*: [redacted]

Gender: ☐ Male ☒ Female

## Part 2. Agency information.

Name of Certifying Agency: CLAREMONT POLICE DEPT.

Name of Certifying Official: William Holl

Title and Division/Office of Certifying Official: SUPPORT SERVICES SUPERVISOR

Name of Head of Certifying Agency: PAUL COOPER, CHIEF

Agency Address - Street Number and Name: 570 W. BONITA AVE

Suite #:

City: CLAREMONT

State/Province: CA

Zip/Postal Code: 91711

Daytime Phone # *(with area code and/or extension)*: 909-399-5411

Fax # *(with area code)*: 909-399-5435

Agency Type: ☐ Federal ☐ State ☒ Local

Case Status: ☐ On-going ☒ Completed ☐ Other:

Certifying Agency Category: ☐ Judge ☒ Law Enforcement ☐ Prosecutor ☐ Other:

Case Number: 09-2419

FBI # or SID # *(if applicable)*:

**For USCIS Use Only.**

| Returned | Receipt |
|---|---|
| Date | |
| Date | |
| Resubmitted | |
| Date | |
| Date | |
| Reloc Sent | |
| Date | |
| Date | |
| Reloc Rec'd | |
| Date | |
| Date | |

Remarks

## Part 3. Criminal acts.

1. The applicant is a victim of criminal activity involving or similar to violations of one of the following Federal, State or local criminal offenses. *(Check all that apply.)*

| | | | |
|---|---|---|---|
| ☐ Abduction | ☒ Female Genital Mutilation | ☐ Obstruction of Justice | ☐ Slave Trade |
| ☒ Abusive Sexual Contact | ☐ Hostage | ☐ Peonage | ☐ Torture |
| ☐ Blackmail | ☐ Incest | ☐ Perjury | ☐ Trafficking |
| ☐ Domestic Violence | ☐ Involuntary Servitude | ☐ Prostitution | ☐ Unlawful Criminal Restraint |
| ☐ Extortion | ☐ Kidnapping | ☐ Rape | ☐ Witness Tampering |
| ☐ False Imprisonment | ☐ Manslaughter | ☒ Sexual Assault | ☐ Related Crime(s) |
| ☐ Felonious Assault | ☐ Murder | ☐ Sexual Exploitation | ☐ Other: *(If more space needed, attach seperate sheet of paper.)* |
| ☐ Attempt to commit any of the named crimes | ☐ Conspiracy to commit any of the named crimes | ☐ Solicitation to commit any of the named crimes | |

## Part 4. Helpfulness of the victim. *(Continued.)*

5. Other, please specify.

## Part 5. Family members implicated in criminal activity.

1. Are any of the victim's family members believed to have been involved in the criminal activity of which he or she is a victim? ☐ Yes ☐ No

2. If "Yes," list relative(s) and criminal involvement. *(Attach extra reports or extra sheet(s) of paper if necessary.)*

| Full Name | Relationship | Involvement |
|---|---|---|
| [redacted] | WIFE | 288(a) PC - SUSPECT |
| | | |
| | | |
| | | |
| | | |

## Part 6. Certification.

I am the head of the agency listed in **Part 2** or I am the person in the agency who has been specifically designated by the head of the agency to issue U nonimmigrant status certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual noted in **Part 1** is or has been a victim of one or more of the crimes listed in **Part 3**. I certify that the above information is true and correct to the best of my knowledge, and that I have made, and will make no promises regarding the above victim's ability to obtain a visa from the U.S. Citizenship and Immigration Services, based upon this certification. I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he/she is a victim, I will notify USCIS.

**Signature of Certifying Official Identified in Part 2.** [illegible]

**Date** *(mm/dd/yyyy)* 4/22/13

# Case 3

OMB No. 1615-0104: Expires 07/31/2012

**Department of Homeland Security**
U.S. Citizenship and Immigration Services

# I-918 Supplement B, U Nonimmigrant Status Certification

**START HERE - Please type or print in black ink.**

## Part 1. Victim information.

Family Name: [redacted]
Given Name: [redacted]
Middle Name: [redacted]

Other Names Used (include maiden name): NONE

Date of Birth (mm/dd/yyyy): [redacted]

Gender: ☐ Male ☒ Female

## Part 2. Agency information.

Name of Certifying Agency: CLAREMONT POLICE DEPT.

Name of Certifying Official: William Hall

Title and Division/Office of Certifying Official: SUPPORT SERVICES SUPERVISOR

Name of Head of Certifying Agency: PAUL COOPER, CHIEF

Agency Address - Street Number and Name: 570 W. BONITA AVE

Suite #:

City: CLAREMONT

State/Province: CA

Zip/Postal Code: 91711

Daytime Phone # (with area code and/or extension): 909-399-5411

Fax # (with area code): 909-399-5435

Agency Type: ☐ Federal ☐ State ☒ Local

Case Status: ☐ On-going ☒ Completed ☐ Other:

Certifying Agency Category: ☐ Judge ☒ Law Enforcement ☐ Prosecutor ☐ Other:

Case Number: 09-2419

FBI # or SID # (if applicable):

**For USCIS Use Only.**

| Returned | Receipt |
|---|---|
| Date | |
| Date | |
| Resubmitted | |
| Date | |
| Date | |
| Reloc Sent | |
| Date | |
| Date | |
| Reloc Rec'd | |
| Date | |
| Date | |

**Remarks**

## Part 3. Criminal acts.

1. The applicant is a victim of criminal activity involving or similar to violations of one of the following Federal, State or local criminal offenses. *(Check all that apply.)*

| | | | |
|---|---|---|---|
| ☐ Abduction | ☒ Female Genital Mutilation | ☐ Obstruction of Justice | ☐ Slave Trade |
| ☒ Abusive Sexual Contact | ☐ Hostage | ☐ Peonage | ☐ Torture |
| ☐ Blackmail | ☐ Incest | ☐ Perjury | ☐ Trafficking |
| ☐ Domestic Violence | ☐ Involuntary Servitude | ☐ Prostitution | ☐ Unlawful Criminal Restraint |
| ☐ Extortion | ☐ Kidnapping | ☐ Rape | ☐ Witness Tampering |
| ☐ False Imprisonment | ☐ Manslaughter | ☒ Sexual Assault | ☐ Related Crime(s) |
| ☐ Felonious Assault | ☐ Murder | ☐ Sexual Exploitation | ☐ Other: *(If more space needed, attach seperate sheet of paper.)* |
| ☐ Attempt to commit any of the named crimes | ☐ Conspiracy to commit any of the named crimes | ☐ Solicitation to commit any of the named crimes | |

Form I-918 Supplement B (Rev. 11/23/10) Y

OMB No. 1615-0104; Expires 07/31/2012

Department of Homeland Security
U.S. Citizenship and Immigration Services

# I-918 Supplement B, U Nonimmigrant Status Certification

START HERE - Please type or print in black ink.

## Part 1. Victim information.

Family Name: [redacted]

Given Name: [redacted]

Middle Name: [redacted]

Other Names Used *(Include maiden name/nickname)*: NONE

Date of Birth *(mm/dd/yyyy)*: 06/29/1998

Gender: ☐ Male ☒ Female

## Part 2. Agency information.

Name of Certifying Agency: CLAREMONT POLICE DEPT.

Name of Certifying Official: William Hall

Title and Division/Office of Certifying Official: SUPPORT SERVICES SUPERVISOR

Name of Head of Certifying Agency: PAUL COOPER, CHIEF

Agency Address - Street Number and Name: 570 W. BONITA AVE

Suite #:

City: CLAREMONT

State/Province: CA

Zip/Postal Code: 91711

Daytime Phone # *(with area code and/or extension)*: 909-399-5411

Fax # *(with area code)*: 909-399-5435

Agency Type: ☐ Federal ☐ State ☒ Local

Case Status: ☐ On-going ☒ Completed ☐ Other:

Certifying Agency Category: ☐ Judge ☒ Law Enforcement ☐ Prosecutor ☐ Other:

Case Number: 09-2419

FBI # or SID # *(if applicable)*:

**For USCIS Use Only.**

| | |
|---|---|
| Returned | Receipt |
| Date | |
| Date | |
| Resubmitted | |
| Date | |
| Date | |
| Reloc Sent | |
| Date | |
| Date | |
| Reloc Rec'd | |
| Date | |
| Date | |

Remarks

## Part 3. Criminal acts.

1. The applicant is a victim of criminal activity involving or similar to violations of one of the following Federal, State or local criminal offenses. *(Check all that apply.)*

| | | | |
|---|---|---|---|
| ☐ Abduction | ☒ Female Genital Mutilation | ☐ Obstruction of Justice | ☐ Slave Trade |
| ☒ Abusive Sexual Contact | ☐ Hostage | ☐ Peonage | ☐ Torture |
| ☐ Blackmail | ☐ Incest | ☐ Perjury | ☐ Trafficking |
| ☐ Domestic Violence | ☐ Involuntary Servitude | ☐ Prostitution | ☐ Unlawful Criminal Restraint |
| ☐ Extortion | ☐ Kidnapping | ☐ Rape | ☐ Witness Tampering |
| ☐ False Imprisonment | ☐ Manslaughter | ☒ Sexual Assault | ☐ Related Crime(s) |
| ☐ Felonious Assault | ☐ Murder | ☐ Sexual Exploitation | ☐ Other: *(If more space needed, attach seperate sheet of paper.)* |
| ☐ Attempt to commit any of the named crimes | ☐ Conspiracy to commit any of the named crimes | ☐ Solicitation to commit any of the named crimes | |

## Part 4. Helpfulness of the victim. *(Continued.)*

5. Other, please specify.

## Part 5. Family members implicated in criminal activity.

1. Are any of the victim's family members believed to have been involved in the criminal activity of which he or she is a victim? ☒ Yes ☐ No

2. If "Yes," list relative(s) and criminal involvement. *(Attach extra reports or extra sheet(s) of paper if necessary.)*

| Full Name | Relationship | Involvement |
|---|---|---|
| [redacted] | UNCLE | 288(a) PC SUSPECT |
| | | |
| | | |
| | | |
| | | |

## Part 6. Certification.

I am the head of the agency listed in **Part 2** or I am the person in the agency who has been specifically designated by the head of the agency to issue U nonimmigrant status certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual noted in **Part 1** is or has been a victim of one or more of the crimes listed in **Part 3**. I certify that the above information is true and correct to the best of my knowledge, and that I have made, and will make no promises regarding the above victim's ability to obtain a visa from the U.S. Citizenship and Immigration Services, based upon this certification. I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he/she is a victim, I will notify USCIS.

**Signature of Certifying Official Identified in Part 2.** [signature]

**Date** *(mm/dd/yyyy)* 4/29/13

# Case 4

OMB No. 1615-0104: Expires 01/31/2016

Department of Homeland Security
U.S. Citizenship and Immigration Services

# Form I-918 Supplement B, U Nonimmigrant Status Certification

START HERE - Please type or print in black ink.

## Part 1. Victim Information

Family Name: [redacted]

Given Name: [redacted]

Other Names Used *(Include maiden name/nickname)*:

Date of Birth *(mm/dd/yyyy)*: 07/05/1979

Gender: ☐ Male ☒ Female

## Part 2. Agency Information

Name of Certifying Agency: CLAREMONT POLICE DEPT.

Name of Certifying Official: M. CISZEK

Title and Division/Office of Certifying Official: LIEUTENANT / DETECTIVE BUREAU

Name of Head of Certifying Agency: PAUL COOPER

Agency Address - Street Number and Name: 570 W. BONITA AVE

Suite No.:

City: CLAREMONT

State/Province: CA

Zip/Postal Code: 91711

Daytime Phone No. *(with area code and/or extension)*: 909-399-5411

Fax No. *(with area code)*: 909-399-5435

Agency Type
☐ Federal ☐ State ☒ Local

Case Status
☐ On-going ☒ Completed ☐ Other:

Certifying Agency Category
☐ Judge ☒ Law Enforcement ☐ Prosecutor ☐ Other:

Case Number: 1301731

FBI No. or SID *No. (if applicable)*:

| For USCIS Use Only | |
|---|---|
| Returned | Receipt |
| Date | |
| Date | |
| Resubmitted | |
| Date | |
| Date | |
| Reloc Sent | |
| Date | |
| Date | |
| Reloc Rec'd | |
| Date | |
| Date | |
| Remarks | |

## Part 3. Criminal Acts

1. The applicant is a victim of criminal activity involving or similar to violations of one of the following Federal, State or local criminal offenses. *(Check all that apply.)*

| | | | |
|---|---|---|---|
| ☐ Abduction | ☐ Female Genital Mutilation | ☐ Obstruction of Justice | ☐ Slave Trade |
| ☐ Abusive Sexual Contact | ☐ Hostage | ☐ Peonage | ☐ Torture |
| ☐ Blackmail | ☐ Incest | ☐ Perjury | ☐ Trafficking |
| ☐ Domestic Violence | ☐ Involuntary Servitude | ☐ Prostitution | ☐ Unlawful Criminal Restraint |
| ☐ Extortion | ☐ Kidnapping | ☐ Rape | ☐ Witness Tampering |
| ☐ False Imprisonment | ☐ Manslaughter | ☐ Sexual Assault | ☐ Related Crime(s) |
| ☐ Felonious Assault | ☐ Murder | ☐ Sexual Exploitation | ☒ Other: *(If more space needed, attach seperate sheet of paper.)* |
| ☐ Attempt to commit any of the named crimes | ☐ Conspiracy to commit any of the named crimes | ☐ Solicitation to commit any of the named crimes | ROBBERY |

## Part 3. Criminal Acts *(continued)*

2. Provide the date(s) on which the criminal activity occurred.

| Date *(mm/dd/yyyy)* | Date *(mm/dd/yyyy)* | Date *(mm/dd/yyyy)* | Date *(mm/dd/yyyy)* |
|---|---|---|---|
| 06/14/2013 | | | |

3. List the statutory citation(s) for the criminal activity being investigated or prosecuted, or that was investigated or prosecuted.

211 P.C. - ROBBERY

4. Did the criminal activity occur in the United States, including Indian country and military installations, or the territories or possessions of the United States? ☒ Yes ☐ No

   a. Did the criminal activity violate a Federal extraterritorial jurisdiction statute? ☐ Yes ☒ No

   b. If "Yes," provide the statutory citation providing the authority for extraterritorial jurisdiction.

   c. Where did the criminal activity occur?

   366 S. INDIAN HILL BL. CLAREMONT CA 91711

5. Briefly describe the criminal activity being investigated and/or prosecuted and the involvement of the individual named in Part 1. Attach copies of all relevant reports and findings.

[redacted] WAS A CLERK AT YUM YUM DONUTS WHEN SUSPECT ENTERED BUSINESS, BRANDISHED A GUN AND DEMANDED CASH FROM THE REGISTER.

6. Provide a description of any known or documented injury to the victim. Attach copies of all relevant reports and findings.

N/A

## Part 4. Helpfulness of the Victim

The victim (or parent, guardian or next friend, if the victim is under the age of 16, incompetent or incapacitated.):

1. Possesses information concerning the criminal activity listed in **Part 3.** ☒ Yes ☐ No

2. Has been, is being or is likely to be helpful in the investigation and/or prosecution of the criminal activity detailed above. *(Attach an explanation briefly detailing the assistance the victim has provided.)* IDENTIFIED SUSPECT IN LIVE LINE-UP. ☒ Yes ☐ No

3. Has not been requested to provide further assistance in the investigation and/or prosecution. *(Example: prosecution is barred by the statute of limitation.) (Attach an explanation.)* SUSPECT TOOK 2 YR PRISON TERM ☐ Yes ☒ No

4. Has unreasonably refused to provide assistance in a criminal investigation and/or prosecution of the crime detailed above. *(Attach an explanation.)* ☐ Yes ☒ No

## Part 4. Helpfulness of the Victim *(continued)*

5. Other, please specify.

SUSPECT WAS ARRESTED ON ANOTHER CHARGE. OFFICER BELIEVED SUSPECT WAS INVOLVED IN THIS CASE. VICTIM RESPONDED TO POLICE DEPARTMENT FOR A LIVE SUSPECT IDENTIFICATION. VICTIM POSITIVELY IDENTIFIED THE SUSPECT.

## Part 5. Family Members Implicated in Criminal Activity

1. Are any of the victim's family members believed to have been involved in the criminal activity of which he or she is a victim? ☐ Yes ☒ No

2. If "Yes," list relative(s) and criminal involvement. *(Attach extra reports or extra sheet(s) of paper if necessary.)*

| Full Name | Relationship | Involvement |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| | | |

## Part 6. Certification

I am the head of the agency listed in **Part 2** or I am the person in the agency who has been specifically designated by the head of the agency to issue U nonimmigrant status certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual noted in **Part 1** is or has been a victim of one or more of the crimes listed in **Part 3**. I certify that the above information is true and correct to the best of my knowledge, and that I have made, and will make no promises regarding the above victim's ability to obtain a visa from the U.S. Citizenship and Immigration Services, based upon this certification. I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he/she is a victim, I will notify USCIS.

**Signature of Certifying Official Identified in Part 2.** Michael E. Cuzzo #3108

**Date** *(mm/dd/yyyy)* 07/03/2013

# Actual Attorney Contracts showing validity of $364 hourly billing rate in FY 18-19 Cost Estimate

Indian Wells
(760) 568-2611
Irvine
(949) 263-2600
Los Angeles
(213) 617-8100
Ontario
(909) 989-8584

BBK
BEST BEST & KRIEGER
ATTORNEYS AT LAW

3750 University Avenue, Suite 125, P.O. Box 1028, Riverside, CA 92502
Phone: (951) 686-1450 | Fax: (951) 686-3083 | www.bbklaw.com

Sacramento
(916) 325-4000
San Diego
(619) 525-1300
Walnut Creek
(925) 977-3300
Washington, DC
(202) 785-0600

**William Hendertilo**
(951) 826-8390
william.hendertilo@bbklaw.com

June 26, 2017

City of Claremont
Attn: Dawn Crandall
Post Office Box 880
Claremont, CA 91711-0880

Re: Biannual Notice of Automatic Increase in Legal Services Rates based upon CPI

Dear Valued Best Best & Krieger LLP Client,

In accordance with our current agreement, the hourly rates are to adjust on July 1st of every other year, in accordance with the All Urban Consumer Price Index, Los Angeles-Riverside-Orange County, CA Area, most recent 12-month published. The Index has increased by 2.5%, therefore, the hourly rates will be:

**Monthly Fee & Cost Retainer:** $ 19,748.00

| **Special Services** | **Rate/Hr.** | **Third Party Reimbursable** | |
|---|---|---|---|
| Attorneys | $ 265.00 | Partner/Of Counsel | $ 364.00 |
| Non-Attorneys | $ 141.00 | Associate/Associate 2 | $ 286.00 |
| | | Non-Attorneys | $ 171.00 |
| **Complex Legal Services** | | | |
| Attorneys | $ 364.00 | | |
| Non-Attorneys | $ 171.00 | | |

These rates will adjust automatically on July 1, 2017.

Best Best & Krieger sincerely appreciates your continuing loyalty and the choice of our firm for your legal services. If you have any questions about this or any of our billing policies, please contact your BB&K attorney, Sonia Carvalho.

Sincerely,

William Hendertilo
Assistant Billing Manager
for BEST BEST & KRIEGER LLP

cc

Indian Wells
(760) 568-2611
Irvine
(949) 263-2600
Los Angeles
(213) 617-8100
Ontario
(909) 989-8584

BBK
BEST BEST & KRIEGER
ATTORNEYS AT LAW

3750 University Avenue, Suite 125, P.O. Box 1028, Riverside, CA 92502
Phone: (951) 686-1450 | Fax: (951) 686-3083 | www.bbklaw.com

Sacramento
(916) 325-4000
San Diego
(619) 525-1300
Walnut Creek
(925) 977-3300
Washington, DC
(202) 785-0600

**William Hendertilo**
(951) 826-8390
william.hendertilo@bbklaw.com

RECEIVED
JUL 05 2016
Financial Services

June 27, 2016

Dawn Crandall
City of Claremont
P.O. Box 880
Claremont, CA 91711-0880

Re: Annual Notice of Automatic Increase in Legal Services Rates based upon CPI

Dear Valued Best Best & Krieger LLP Client,

In accordance with our current agreement, the hourly rates are to adjust on July 1st of each year, in accordance with the All Urban Consumer Price Index, Los Angeles-Riverside-Orange County, CA, most recent 12-month published. The Index has increased by 1.5%, therefore, the hourly rates will be:

**Monthly Fee & Cost Retainer:** $19,285.00

| Basic Services | Rate/Hr. | Special Services | Rate/Hr. |
|---|---|---|---|
| Partner / Of Counsel | $ 238.00 | Attorneys | $ 259.00 |
| Associate | $ 200.00 | | |
| Associate 2 | $ 172.00 | Non-Attorneys | $ 138.00 |
| Non-Attorneys | $ 128.00 | | |

| Complex Legal Services | Rate/Hr. | Third Party Reimbursable Legal Services | Rate/Hr. |
|---|---|---|---|
| Attorneys | $ 355.00 | Partner / Of Counsel | $ 355.00 |
| Non-Attorneys | $ 167.00 | Associate / Associate 2 | $ 279.00 |
| | | Non-Attorneys | $ 167.00 |

These rates will automatically be adjusted on July 1, 2016.

Best Best & Krieger sincerely appreciates your continuing loyalty and the choice of our firm for your legal services. If you have any questions about this or any of our billing policies, please contact your BB&K attorney, Sonia Carvalho.

Sincerely,

William Hendertilo
Assistant Billing Manager
for BEST BEST & KRIEGER LLP

**LEGAL SERVICES AGREEMENT**
**BETWEEN THE CITY OF CLAREMONT**
**AND BEST BEST & KRIEGER LLP**

**1. PARTIES AND DATE.**

This Agreement is made and entered into as of the **26** day of **May, 2015**, by and between the **CITY OF CLAREMONT** ("Client") and **BEST BEST & KRIEGER LLP**, a limited liability partnership, engaged in the practice of law ("BB&K").

**2. RECITALS.**

2.1 Client wishes to engage the services of BB&K as its General Counsel to perform all necessary legal services for the Client on the terms set forth below.

**3. TERMS.**

3.1 Term. The term of this Agreement shall commence on **May 26, 2015,** and shall continue in full force and effect until terminated in accordance with Section 3.13.

3.2 Scope of Services. BB&K shall serve as General Counsel and shall perform legal services ("Services") as may be required from time to time by the Client as set forth by this Agreement, unless otherwise agreed to by the Client and BB&K. As part of the Services to be performed hereunder, BB&K shall be responsible for the following:

3.2.1 Attend and represent the City's legal interests at all City Council meetings (including Closed and Study Sessions), Planning Commission, and other meetings of Commissions and Committees on an as needed basis specified by the City. The City Attorney will maintain regular office hours at City Hall, the City Attorney will be expected to attend all meetings of the City Council and the Assistant City Attorney will be expected to attend all Planning and other Commission meetings as requested, when needed, unless excused by the City Council or City Manager. Regular City Council meetings are held the second and fourth Tuesday of each month at 6:30pm, with closed sessions scheduled earlier. Provide legal opinions, advice, assistance and consultation to the City Council, City Manager and City staff related to municipal law issues, including, but not limited to, the Brown Act, the Public Records Act, election law, contracts and franchises, real estate and property transactions, land use, environmental law/CEQA, public improvements/capital projects, code enforcement, pending and current state and federal legislation and court decisions, tort liability and risk management, fees, taxes, assessments, Proposition 218 and other matters as directed.

3.2.2 Provide such routine legal opinions, advice, assistance and consultation to the City Council, City Manager and City staff in written or oral form via personal consultations or telephone/e-mail correspondence as needed.

3.2.3 Review, approve and/or prepare legal opinions, staff reports, ordinances, resolutions, agreements, contracts, forms, notices, certificates, deeds, leases/licenses, and other documents required by the City.

15341.0002B\9791144.1

3.2.4 Represent the City in civil litigation brought on behalf of or against the City, as directed by the City Council.

3.2.5 Maintain effective in-house capabilities required to provide additional expertise and advice to the City as necessary.

3.2.6 Provide training and/or advice to the City Council, appointed Commissioners, and City staff related to the Brown Act, AB 1234/conflict of interest, Political Reform Act, meeting parliamentary procedures, and other legal requirements imposed by statute.

3.2.7 Act as legal counsel to agencies the City Council serves as governing body to.

3.2.8 Communicate with the press regarding City legal matters when authorized to do so by the City Manager or City Council.

3.2.9 Provide written updates to new state or federal legislation or judicial decisions and suggest action or procedures to ensure compliance.

3.2.10 Perform all duties of the City Attorney as provided in the Claremont Municipal Code.

3.3 Designated General Counsel. **SONIA R. CARVALHO** shall be designated as City Attorney, and shall be responsible for the performance of all Services under this Agreement, including the supervision of Services performed by other members of BB&K. No change in this assignment shall be made without the consent of the Client. Client consent may be provided by action of the City Council or in writing by the City Manager.

3.4 Time of Performance. The Services of BB&K shall be performed expeditiously in the time frames and as directed by the Client.

3.5 Assistance. The Client agrees to provide all information and documents necessary for the attorneys at BB&K to perform their obligations under this Agreement.

3.6 Independent Contractor. BB&K shall perform all legal services required under this Agreement as an independent contractor of the Client and shall remain, at all times as to the Client, a wholly independent contractor with only such obligations as are required under this Agreement. Neither the Client, nor any of its employees, shall have any control over the manner, mode or means by which BB&K, its agents or employees, render the legal services required under this Agreement, except as otherwise set forth. The Client shall have no voice in the selection, discharge, supervision or control of BB&K's employees, representatives or agents, or in fixing their number, compensation, or hours of service.

3.7 Services and Compensation. BB&K shall render and bill for legal services in the following categories and at the following rates, in accordance with the BB&K Billing Policies attached hereto as Exhibit "B" and incorporated herein by reference. BB&K shall provide Basic Legal Services and Client shall pay BB&K a flat monthly retainer of $19,000.00 per month for such Basic Legal Services. In addition to the flat monthly amount, BB&K may bill within the retainer invoice any extraordinary travel, copying, electronic research or third-party administrative charges related to the provision of Basic Legal Services.

3.7.1 Basic Legal Services – Description. Basic Legal Services shall include all services provided to Client which are not otherwise specifically identified below as either Special Legal Services, Complex Legal Services, Third Party Reimbursable Legal Services or Public Finance Legal Services ("Basic Legal Services").

3.7.2 Basic Legal Services – Rates. The Client shall pay for Basic Legal Services according to Exhibit "C" attached.

3.7.3 Special Legal Services – Description. Special Legal Services shall include the following types of services:

- Litigation and formal administrative or other adjudicatory hearing matters, including Pitchess motions and other police litigation matters
- Labor relations and employment matters. (excluding employee negotiations)
- Non-routine real estate matters (e.g. CC&R's, deed or title work)
- Land acquisition and disposal matters (including pre-condemnation)
- General Redevelopment/successor agency and housing matters
- Utility Board, electric and water utility matters
- Taxes, fees and charges matters (e.g. Prop. 218 & Mitigation Fee Act)
- Public construction disputes
- Non-routine contract negotiation matters (including non-BB&K model agreements and franchise agreements)
- Non-routine land use and development matters (including general plan updates, Williamson Act issues, annexations and development agreements)
- Bankruptcy-related matters
- CEQA, other environmental matters and solid waste matters
- Telecommunications matters
- Advocacy services
- Other matters mutually agreed upon

3.7.4 Special Legal Services – Rates. The Client shall pay for Special Legal Services according to Exhibit "C" attached.

3.7.5 Complex Legal Services – Description. Complex Legal Services shall include highly specialized CEQA and environmental matters such as the current Golden State Water Company matters. This distinction will be agreed upon by both parties before such rates are charged.

3.7.6 Complex Legal Services – Rates. The Client shall pay for Complex Legal Services according to Exhibit "C" attached.

3.7.7 Third Party Reimbursable Legal Services – Description. Third Party Reimbursable Legal Services shall include legal services provided to the City for which the City receives reimbursement from a developer or other third party. These Reimbursable Legal Services typically include litigation for which the City is indemnified by a project applicant, CEQA and land use planning review, review of CC&Rs, establishment of financing districts (i.e., Community Facilities Districts, Assessment Districts, Landscape and Lighting Maintenance Districts), and land use/environmental projects for which the City is entitled to reimbursement.

3.7.8 Third Party Reimbursable Legal Services – Rates. The Client shall pay for Third Party Reimbursable Legal Services according to Exhibit "C" attached.

3.7.9 Public Finance Legal Services – Description and Rates. The Client shall pay for Public Finance Legal Services at the rates attached hereto as Exhibit "A" and incorporated herein by reference.

3.7.10 Agreement Regarding Rate Categories. If BB&K believes that a matter falls within the Special Legal Services, Complex Legal Services, Third Party Reimbursable Legal Services or Public Finance Legal Services rate categories, BB&K shall seek approval from the City Manager or his/her designee. The City Manager's or his designee's approval of such a request from BB&K shall not be unreasonably withheld.

3.7.11 Other Billing Personnel. Additional billing personnel shall bill at the rates included in Exhibit "C" for all services performed.

3.7.12 Annual Adjustments; Other Mutual Adjustments. The rates or amounts provided for in Sections 3.7.1 through 3.7.8 and 3.7.11 shall be automatically adjusted as follows: On July 1, 2016 and every July 1st thereafter during the term of this Agreement, they shall be adjusted for the change in the cost of living for the twelve (12) month period published for the month of May, as shown by the U.S. Department of Labor in its All Urban Consumers Index set forth for the Los Angeles-Anaheim-Riverside area; provided, however, that such adjustment shall never be lower than zero percent (0%) nor more than three percent (3%). In addition to the automatic rate adjustments, either BB&K or the Client may initiate consideration of a rate increase at any time; provided, however, that such an additional rate increase shall not occur without the express written consent of the Client.

3.7.13 Cost Reimbursement and Exceptions. The Client shall reimburse BB&K for reasonable and necessary expenses incurred by it in the performance of the Services under this Agreement. Authorized reimbursable expenses shall include, but are not limited to, printing and copying expenses, mileage expenses at the rate allowed by the Internal Revenue Service, toll road expenses, long distance telephone and facsimile tolls, computerized research time (e.g. Lexis or Westlaw), research services performed by BB&K's library staff, extraordinary mail or delivery costs (e.g. courier, overnight and express delivery), court fees and similar costs relating to the Services that are generally chargeable to a client. However, no separate charge shall be made by BB&K for secretarial or word processing services.

3.8 Billing. BB&K shall submit monthly to the Client a detailed statement of account for Services. The Client shall review BB&K's monthly statements and pay BB&K for Services rendered and costs incurred, as provided for in this Agreement, on a monthly basis.

3.9 Annual Reviews. The Client and BB&K agree that a review of performance and the compensation amounts referenced in this Agreement should occur at least annually.

3.10 Insurance. BB&K carries errors and omissions insurance with Lloyd's of London. After a standard deductible, this insurance provides coverage beyond what is required by the State of California. A separate schedule containing BB&K's insurance policies will be available for inspection upon Client's request.

3.11 Attorney-Client Privilege. Confidential communication between the Client and BB&K shall be covered by the attorney-client privilege. As used in this article, "confidential communication" means information transmitted between the Client and BB&K in the course of the relationship covered by this Agreement and in confidence by a means which, so far as the Client is aware, discloses the information to no third persons other than those who are present to further the interests of the Client in the consultation or those to whom disclosure is reasonably necessary for the transmission of the information or the accomplishment of the purpose for which BB&K is consulted, and includes any legal opinion formed and advice given by BB&K in the course of this relationship.

3.12 Indemnification. BB&K shall indemnify and hold the Client free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages or injuries, in law or equity, to property or persons, to the extent arising out of any omissions, negligence or willful misconduct of BB&K in connection with the performance of the Services under this Agreement. BB&K shall reimburse the Client for any and all legal expenses and costs incurred by Client in connection therewith or in enforcing the indemnity herein provided.

3.13 Termination of Agreement and Legal Services. This Agreement and the Services rendered under it may be terminated at any time upon thirty (30) days' prior written notice from either party, with or without cause. In the event of such termination, BB&K shall be paid for all Services authorized by the Client and performed up through and including the effective date of termination. BB&K shall also be reimbursed for all costs associated with transitioning any files or other data or documents to a new law firm or returning them to the Client.

3.14 Entire Agreement. This Agreement contains the entire agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements.

3.15 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Los Angeles County.

3.16 Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both parties.

3.17 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel or otherwise.

3.18 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.19 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.20 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Client: City of Claremont
207 Harvard Avenue
Claremont, CA 91711
Attention: City Manager

BB&K: Best Best & Krieger LLP
18101 Von Karman Avenue, Suite 1000
Irvine, CA 92612
Attention: Sonia R. Carvalho, Partner

Such notices shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

IN WITNESS WHEREOF, the Client and BB&K have executed this Agreement for City Attorney Legal Services as of the date first written above.

**CITY OF CLAREMONT**

By: _____
**Mayor**

**BEST BEST & KRIEGER LLP**

By: _____
**Sonia R. Carvalho**
**Partner**

## EXHIBIT "A"

## BB&K SCHEDULE OF PUBLIC FINANCE FEES

For bond counsel and special counsel services in connection with the financing of public facilities, BB&K shall be compensated, depending upon the type of bonds, certificates of participation or other obligations which are to be issued, based on the following schedules. Unless otherwise mutually agreed, our fees as bond counsel on these financings will be payable from proceeds of each series of the bonds upon their issuance.

1. Certificates of Participation and Revenue Bonds. For services in connection with the issuance and sale of certificates of participation and revenue bonds, BB&K shall be paid a fee which will be the greater of (i) $35,000 or (ii) an amount based on the total principal amount of the certificates of participation or bonds to be sold, computed as follows:

.50% of the first $10 million of the amount of the certificates or bonds issued, plus

.25% of the next $10 million of the amount thereof, plus

.125% of the amount thereof, if any, over $20 million

Notwithstanding the foregoing, in those cases where the fees are reimbursable by a third party, at BB&K's option it may proceed on an hourly basis and utilize the Third Party Reimbursable Legal Services category provided for in Section 3.7 of the Agreement.

2. Community Facilities Districts ("CFD"). For services in connection with the issuance and sale of bonds of community facilities districts, BB&K shall be paid a fee which will be the greater of (i) $35,000 or (ii) an amount based on the total principal amount of the bonds to be sold, computed as follows:

.50% of the first $10 million of the amount of the bonds issued, plus

.25% of the next $10 million of the amount thereof, plus

.125% of the amount thereof, if any, over $20 million

Notwithstanding the foregoing, in those cases where the fees are reimbursable by a third party, at BB&K's option it may proceed on an hourly basis and utilize the Third Party Reimbursable Legal Services category provided for in Section 3.7 of the Agreement with respect to services rendered for the formation of or annexation to a CFD, as well as the negotiation and preparation of funding agreements and joint financing agreements. Hourly compensation shall be payable solely from deposits of third parties and bond counsel fees shall be payable solely from the proceeds of the sale of bonds.

3. Assessment Districts ("AD"). For services in connection with the issuance and sale of bonds of assessment districts, BB&K shall be paid a fee which will be the greater of (i) $35,000 or (ii) an amount based on the total principal amount of the bonds to be sold, computed as follows:

.50% of the first $6 million of the amount of the bonds issued, plus

.25% of the next $10 million of the amount thereof, plus

.125% of the amount thereof, if any, over $16 million

Notwithstanding the foregoing, in those cases where the fees are reimbursable by a third party, at BB&K's option it may proceed on an hourly basis and utilize the Third Party Reimbursable Legal Services category provided for in Section 3.7 of the Agreement with respect to services rendered for the formation of or annexation to an AD, as well as the negotiation and preparation of funding agreements and joint financing agreements. Hourly compensation shall be payable solely from deposits of third parties and bond counsel fees shall be payable solely from the proceeds of the sale of bonds.

4. Tax Allocation Bonds. For services in connection with the issuance and sale of tax allocation bonds, BB&K shall be paid a fee which will be the greater of (i) $35,000, or (ii) an amount based on the total principal amount of the bonds to be sold, computed as follows:

.50% of the first $6 million of the amount of bonds issued, plus

.25% of the next $4 million of the amount of bonds issued, plus

.20% of the next $5 million of the amount of bonds issued, plus

.15% of the next $5 million of the amount of bonds issued, plus

.125% of the amount thereof, if any, over $20 million

Notwithstanding the foregoing, in those cases where the fees are reimbursable by a third party, at BB&K's option it may proceed on an hourly basis and utilize the Third Party Reimbursable Legal Services category provided for in Section 3.7 of the Agreement.

5. Investment and Other Agreements. For investment agreements, derivative transactions or interest rate swaps relating to any bond issue, a separate fee will be charged depending on the type of derivative. Generally, our fee for a derivative transaction mirrors our bond counsel fee. Review of investment agreements will be charged at our hourly rates.

6. Issuer's Counsel Opinions. For all Issuer's Counsel opinions provided by BB&K in connection with any bond financing, fees shall be the following: (1) for opinions on financings for which BB&K does not provide bond counsel and disclosure counsel services, $10,000; (2) for opinions on financings for which BB&K provides bond counsel services only, $5,000; (3) for opinions on financings for which BB&K provides disclosure counsel services only, $2,500; and (4) for opinions on financings for which BB&K provides both bond and disclosure counsel services, there will be no charge.

7. Other Public Finance Services. If other services are requested by the City which are not within the scope of those provided for above, they will be performed on an hourly basis at the Complex Legal Services category provided for in Section 3.7 of the Agreement.

## EXHIBIT "B"

## BILLING POLICIES

Our century of experience has shown that the attorney-client relationship works best when there is mutual understanding about fees, expenses, billing and payment terms... Therefore, this statement is intended to explain our billing policies and procedures. Clients are encouraged to discuss with us any questions they have about these policies and procedures. Clients may direct specific questions about a bill to the attorney with whom the client works or to our Accounting Department. Any specific billing arrangements different from those set forth below will be confirmed in a separate written agreement between the client and the firm.

### Fees for Professional Services

Unless a flat fee is set forth in our engagement letter with a client, our fees for the legal work we undertake will be based in substantial part on time spent by personnel in our office on that client's behalf. In special circumstances which will be discussed with the client and agreed upon in writing, fees will be based upon the novelty or difficulty of the matter, or the time or other special limitations imposed by the client.

Hourly rates are set to reflect the skill and experience of the attorney or other legal personnel rendering services on the client's behalf. Time is accrued on an incremental basis for such matters as telephone calls (minimum .3 hour) and letters (minimum .5 hour), and on an actual basis for all other work. Our attorneys are currently billed at rates from $245 to $725 per hour, and our administrative assistants, research assistants, paralegals and law clerks are billed at rates from $136 to $275 per hour. These hourly rates are reviewed annually to accommodate rising firm costs and to reflect changes in attorney status as lawyers attain new levels of legal experience. Any increases resulting from such reviews will be instituted automatically and will apply to each affected client, after advance notice.

### Fees for Other Services, Costs and Expenses

We attempt to serve all our clients with the most effective support systems available. Therefore, in addition to fees for professional legal services, we also charge separately for some other services and expenses to the extent of their use by individual clients. These charges include but are not limited to, mileage at the current IRS approved rate per mile, extraordinary telephone and document delivery charges, copying charges, computerized research, court filing fees and other court-related expenditures including court reporter and transcription fees. No separate charge is made for secretarial or word processing services; those costs are included within the above hourly rates.

We may need to advance costs and incur expenses on your behalf on an ongoing basis. These items are separate and apart from attorneys' fees and, as they are out-of-pocket charges, we need to have sufficient funds on hand from you to pay them when due. We will advise the client

from time to time when we expect items of significant cost to be incurred, and it is required that the client send us advances to cover those costs before they are due.

## Advance Deposit Toward Fees and Costs

Because new client matters involve both a substantial undertaking by our firm and the establishment of client credit with our accounting office, we require an advance payment from clients. The amount of this advance deposit is determined on a case-by-case basis discussed first with the client, and is specified in our engagement letter.

Upon receipt, the advance deposit will be deposited into the firm's client trust account. Our monthly billings will reflect such applications of the advance deposit to costs and not to attorneys' fees. At the end of engagement, we will apply any remaining balance first to costs and then to fees. We also reserve the right to require increases or renewals of these advanced deposits.

By signing the initial engagement letter, each client is agreeing that trust account balances may be withdrawn and applied to costs as they are incurred and to our billings, after presentation to the client. If we succeed in resolving your matter before the amounts deposited are used, any balance will be promptly refunded.

## Monthly Invoices and Payment

Best Best & Krieger LLP provides our clients with monthly invoices for legal services performed and expenses incurred. Invoices are due and payable upon receipt.

Each monthly invoice reflects both professional and other fees for services rendered through the end of the prior month, as well as expenses incurred on the client's behalf that have been processed by the end of the prior month. Processing of some expenses is delayed until the next month and billed thereafter.

Our fees are not contingent upon any aspect of the matter and are due upon receipt. All billings are due and payable within ten (10) days of presentation unless the full amount is covered by the balance of an advance held in our trust account.

It is our policy to treat every question about a bill promptly and fairly. It is also our policy that if a client does not pay an invoice within sixty (60) days of mailing, we assume the client is, for whatever reason, refusing to pay. We will then advise the client by letter that the client may pay the invoice within fourteen (14) days or the firm will take appropriate steps to withdraw as attorney of record. If the delay is caused by a problem in the invoice, we must rely upon the client to raise that with us during the fourteen (14) day period. This same policy applies to fee arrangements which require the client to replenish fee deposits or make deposits for anticipated costs.

From time to time clients have questions about the format of the bill or description of work performed. If you have any such questions, please ask them when you receive the bill so we may address them on a current basis.

## Changes in Fee Arrangements and Budgets

It may be necessary under certain circumstances for a client to increase the size of required advances for fees after the commencement of our engagement and depending upon the scope of the work. For example, prior to a protracted trial or hearing, the firm may require a further advance payment to the firm's trust account sufficient to cover expected fees. Any such changes in fee arrangements will be discussed with the client and mutually agreed in writing.

Because of the uncertainties involved, any estimates of anticipated fees that we provide at the request of a client for budgeting purposes, or otherwise, can only be an approximation of potential fees.

## EXHIBIT "C"

## FEE SCHEDULE

Basic Legal Services – Description and Rate. Basic Legal Services shall include all services provided to Client that are not otherwise specifically identified below as either Special Legal Services, Complex Legal Services, Third Party Reimbursable Legal Services, or Public Finance Legal Services ("Basic Legal Services"). The Client shall pay for Basic Legal Services at the flat rate monthly retainer amount of $19,000 per month.

Special Legal Services – Rates. The Client shall pay for Special Legal Services at the blended hourly rate of $255 per hour for all attorneys and $136 per hour for paralegals and law clerks.

Complex Legal Services – Rates. The Client shall pay for Complex Legal Services at the blended hourly rate of $350 per hour for all attorneys and $165 per hour for paralegals and law clerks.

Third Party Reimbursable Legal Services – Rates. The Client shall pay for Third Party Reimbursable Legal Services at the following hourly rates:

| Attorney | Hourly Rate |
|---|---|
| Partner/Of Counsel: | $350 per hour |
| Associates: | $275 per hour |
| Paralegals/Law Clerks | $165 per hour |

**LEGAL SERVICES AGREEMENT**
**BETWEEN THE CITY OF CLAREMONT**
**AND RUTAN & TUCKER, LLP**

1. **PARTIES AND DATE**. This Agreement is made and entered into as of the 13th day of March 2018, by and between the CITY OF CLAREMONT ("Client" or "City") and RUTAN & TUCKER, LLP, a limited liability partnership, engaged in the practice of law ("Rutan").

2. **RECITALS**.

2.1 Client wishes to engage the services of Rutan as its General Counsel and City Attorney to perform all necessary legal services for the Client on the terms set forth below.

2.2 This Agreement is required by California Business and Professions Code section 6148 and is intended to fulfill the requirements of that section.

3. **TERMS**.

3.1 **Term.** The term of this Agreement shall commence on March 13, 2018, and shall continue in full force and effect until March 12, 2023 unless terminated in accordance with Section 3.13. Subject to the term and conditions set forth below, Client may, at its option, extend the term of this Agreement for an additional five (5) years ("Renewal Term") by written notice to Rutan within 60 days of March 23, 2023. Such extension notice by Client, alone, does not commit either party to this Agreement to such extension. If, within 30 days of notice by the Client of the intent to extend the terms of this contract, Rutan thereafter accepts the Client's extension option in writing, the extended contract shall then be considered to include this option clause. The parties may, thereafter, extend the Renewal Term for an additional five (5) years by following the same procedure. Any reference in the Agreement to the Term shall be deemed to include the Renewal Term and apply thereto, unless it is expressly provided otherwise.

3.2 **Scope of Services.** Rutan shall serve as General Counsel and City Attorney for Client and shall perform legal services ("Services") as may be required from time to time by the Client as set forth by this Agreement, unless otherwise agreed to in writing by the Client and Rutan. As part of the Services to be performed hereunder, Rutan shall be responsible for the following:

3.2.1 **Meeting Attendance.** The City Attorney will be expected to attend all meetings of the City Council (including Closed and Study Sessions), and the City Attorney will be expected to attend Planning and other Commission meetings, as requested, by the City Council or City Manager. Regular City Council meetings are currently held the second and fourth Tuesday of each month at 6:30pm, with Closed Sessions scheduled earlier on the same days. The City Attorney will maintain regular office hours at City Hall. The City Attorney will also attend weekly Department Head

meetings (currently held Wednesday mornings at 10:00am). Non-attendance at any of the above meetings may be excused, in advance, by the City Manager

3.2.2 **Legal Opinions, Advice and Assistance.** The City Attorney shall, as part of Rutan's scope of service and Rutan's Basic Legal Services (as referenced and described in Section 3.7) provide legal opinions, advice, assistance and consultation to the City Council, City Manager, and City staff related to municipal law issues, including, but not limited to, the Brown Act, the Public Records Act, election law, contracts and franchises, real estate and property transactions, land use, environmental law/CEQA, public improvements/capital projects, code enforcement, pending and current state and federal legislation and court decisions, tort liability and risk management, fees, taxes, assessments, Proposition 218 and other matters as directed. Further, City Attorney will act as legal counsel to agencies, boards, and bodies for which City serves as the governing body. Such routine legal opinions, advice, assistance and consultation to the City Council, City Manager and City staff will be provided in written or oral form via personal consultations or telephone/e-mail correspondence as needed.

3.2.3 **Legal Documents.** The City Attorney shall review, approve and/or prepare legal opinions, staff reports, ordinances, resolutions, agreements, contracts, forms, notices, certificates, deeds, leases/licenses, and other documents required by the City.

3.2.4 **Litigation.** The City Attorney shall represent the City in civil litigation brought on behalf of or against the City, as directed by the City Council only in the event such representation is not provided by the California JPIA and/or other pooling or insurance organization or as otherwise requested by Client.

3.2.5 **Expertise.** The City Attorney shall maintain effective in-house capabilities required to provide additional expertise and advice to the City as necessary.

3.2.6 **Training.** The City Attorney shall provide training and/or advice to the City Council, appointed Commissioners, and City staff related to the Brown Act, AB 1234/conflict of interest, Political Reform Act, meeting parliamentary procedures, contract, and other legal requirements imposed by statute.

3.2.7 **Press Communication.** The City Attorney will communicate with the press regarding City legal matters only when authorized to do so by the City Manager or City Council.

3.2.8 **Changes in Legislation/Case Law**. The City Attorney shall provide proactive written updates to new state or federal legislation or judicial decisions and suggest action or procedures to ensure compliance.

3.2.9 **Specific Duties.** In addition to the scope of services outlined herein, the City Attorney must perform all duties of the City Attorney as provided in the Claremont Municipal Code.

3.3 **Designated General Counsel.** ALISHA PATTERSON shall be designated as City Attorney, and must be responsible for the performance of all Services under this Agreement, including the supervision of Services performed by other members of Rutan. JEFFREY M. ODERMAN must serve as Assistant City Attorney. No change in this assignment may be made without the consent of the Client. Client consent may be provided by action of the City Council or in writing by the City Manager. The expertise, knowledge, capability, and reputation of ALISHA PATTERSON and JEFFREY M. ODERMAN were substantial inducements for City to enter into this Agreement. Therefore, Rutan shall not assign nor contract with any other person to perform Services under this Agreement without written approval of the City Manager or his or her designee, except as set forth in Exhibit B.

3.4 **Time of Performance.** The Services of Rutan shall be performed expeditiously within the time frames provided and as directed by the Client.

3.5 **Assistance.** The Client agrees to provide all information and documents necessary for the attorneys at Rutan to perform their obligations under this Agreement.

3.6 **Independent Contractor.** Rutan shall perform all legal services required under this Agreement as an independent contractor of the Client and shall remain, at all times as to the Client, a wholly independent contractor with only such obligations as are required under this Agreement. Neither the Client, nor any of its employees, shall have any control over the manner, mode or means by which Rutan, its agents or employees, render the legal services required under this Agreement, except as otherwise set forth. The Client shall have no voice in the selection, discharge, supervision or control of Rutan's employees, representatives or agents, or in fixing their number, compensation, or hours of service.

3.7 **Services and Compensation.** Rutan shall render and bill for legal services, costs, and expenses in the following categories and at the following rates, in accordance with the Rutan Billing Policies attached hereto as Exhibit "A" and incorporated herein by reference. Rutan shall provide the services outlined herein as well as those services outlined in the attached Cost Proposal Submittal Worksheet Exhibit B and Rutan's Basic Legal Services for which Client shall pay Rutan a flat monthly retainer of $19,748.00 per month. In addition to the flat monthly amount, Rutan may bill within the retainer invoice any extraordinary travel, copying, electronic research or third-party administrative charges related to the provision of Basic Legal Services. Mileage shall not be reimbursed for travel to Claremont for normal meetings/office hours etc. by City Attorney and Assistant City Attorney.

3.7.1 Basic Legal Services - Description. Basic Legal Services shall include all services provided to Client which are not otherwise specifically identified below as either Special Legal Services, Complex Legal Services, Third Party Reimbursable Legal Services or Public Finance Legal Services ("Basic Legal Services"). The attached Cost Proposal Submittal Worksheet provides an outline of those services that are included in Basic Legal Services.

3.7.2 Basic Legal Services - Rates. The Client shall pay for Basic Legal Services according to Exhibit "C" attached.

3.7.3 Special Legal Services - Description. Special Legal Services shall include the following types of services:

- Litigation and formal administrative or other adjudicatory hearing matters, including Pitchess motions and other police litigation matters
- Labor relations and employment matters (excluding employee negotiations)
- Non-routine real estate matters (e.g. CC&R's, deed or title work)
- Land acquisition and disposal matters (including pre-condemnation)
- General Redevelopment/successor agency and housing matters
- Utility Board, electric and water utility matters
- Taxes, fees and charges matters (e.g. Prop. 218 & Mitigation Fee Act)
- Public construction disputes
- Non-routine contract negotiation matters (including non-Rutan model agreements and franchise agreements)
- Non-routine land use and development matters (including general plan updates, Williamson Act issues, annexations and development agreements)
- Bankruptcy-related matters
- CEQA, other environmental matters and solid waste matters
- Telecommunications matters
- Advocacy services
- Other matters mutually agreed upon

3.7.4 Special Legal Services Rates. The Client shall pay for Special Legal Services according to Exhibit "C" attached.

3.7.5 Complex Legal Services - Description. Complex Legal Services shall include highly specialized CEQA and environmental matters. This distinction will be agreed upon, in writing, by both parties before such rates are charged.

3.7.6 Complex Legal Services Rates. The Client shall pay for Complex Legal Services according to Exhibit "C" attached.

3.7.7 Third Party Reimbursable Legal Services - Description. Third Party Reimbursable Legal Services shall include legal services provided to the City for which the City receives reimbursement from a developer or other third party. These Reimbursable Legal Services typically include litigation for which the City is indemnified by a project applicant, CEQA and land use planning review, review of CC&Rs, establishment of financing districts (i.e., Community Facilities Districts, Assessment Districts, Landscape and Lighting Maintenance Districts), and land use/environmental projects for which the City is entitled to reimbursement.

3.7.8 Third Party Reimbursable Legal Services - Rates. The Client shall pay for Third Party Reimbursable Legal Services according to Exhibit "C" attached.

3.7.9 Agreement Regarding Rate Categories. If Rutan believes that a matter falls within the Special Legal Services, Complex Legal Services, Third Party Reimbursable Legal Services or Public Finance Legal Services rate categories, Rutan shall seek approval from the City Manager or his/her designee before billing at one of these rate categories. The City Manager's or his designee's approval of such a request from Rutan shall not be unreasonably withheld.

3.7.10 Other Billing Personnel. Additional billing personnel shall bill at the rates included in Exhibit "C" for all services performed.

3.7.11 Annual Adjustments: Other Mutual Adjustments. The rates or amounts provided for in Sections 3.7.1 through 3.7.8 and 3.7.11 shall be automatically adjusted as follows: On July 1, 2018, and every July 1st thereafter during the term of this Agreement, rates shall be adjusted for the change in the cost of living for the twelve (12) month period published for the month of May, as shown by the U.S. Department of Labor in its All Urban Consumers Index set forth for the Los Angeles-Anaheim-Riverside area; provided, however, that such adjustment shall never be lower than zero percent (0%) nor more than three percent (3%). In addition to the automatic rate adjustments, Rutan may request consideration of a rate increase at any time; provided, however, that such an additional rate increase shall not occur without the express written consent of the Client.

3.7.12 Cost Reimbursement and Exceptions. The Client shall reimburse Rutan for reasonable and necessary expenses incurred by it in the performance of the Services under this Agreement. Authorized reimbursable expenses shall include, but are not limited to, printing and copying expenses, mileage expenses at the rate allowed by the Internal Revenue Service (except as set forth in Section 3.7 above), toll road expenses, long distance telephone and facsimile tolls, computerized research time (e.g.

Lexis or Westlaw), research services performed by Rutan's library staff, extraordinary mail or delivery costs (e.g. courier, overnight and express delivery), court fees and similar costs relating to the Services that are generally chargeable to a client. However, no separate charge shall be made by Rutan for secretarial or word processing services. Meals shall not be reimbursed without prior approval from the City Manager.

3.8 **Billing**. On no sooner than a monthly basis, Rutan shall submit a detailed statement of account for fees, costs, and expenses to Client. On receipt of Rutan's statement of account, the Client shall review Rutan's monthly statements and pay Rutan for Services rendered and costs incurred, as provided for in this Agreement, on a monthly basis.

3.9 **Annual Reviews**. The Client and Rutan agree that a review of performance and the compensation amounts referenced in this Agreement should occur at least annually.

3.10 **Insurance**. Rutan represents that it carries errors and omissions insurance as a member of the Attorneys Insurance Mutual Risk Retention Group. The parties to this Agreement understand that, after a standard deductible, this insurance provides coverage beyond what is required by the State of California. A separate schedule containing Rutan's insurance policies will be available for inspection upon Client's request.

3.11 **Attorney-Client Privilege**. Confidential communication between the Client and Rutan shall be covered by the attorney-client privilege. As used in this article, "confidential communication" means information transmitted between the Client and Rutan in the course of the relationship covered by this Agreement and in confidence by a means which, so far as the Client is aware, discloses the information to no third persons other than those who arc present to further the interests of the Client in the consultation or those to whom disclosure is reasonably necessary for the transmission of the information or the accomplishment of the purpose for which Rutan is consulted, and includes any legal opinion formed and advice given by Rutan in the course of this relationship. By signing this Agreement, Client acknowledges and authorizes that Rutan may communicate with Client on cellular phones, text messaging, and email, without encryption, notwithstanding the risk that such use and storage may heighten the risk of inadvertent or unintended disclosures or other adverse consequences occurring, including the loss of the confidential nature of Rutan's communications with Client.

3.12 **Indemnification and Hold Harmless**. Rutan shall indemnify and hold City its officers, employees and agents harmless from and against any and all actions, suits, claims, demands, judgments, attorney's fees, costs, damages to persons or property, losses, penalties, obligations, expenses or liabilities (herein "claims" or "liabilities") that may be asserted or claimed by any person or entity arising out of the willful or negligent acts, errors or omissions of Rutan, its employees, agents, representatives or subcontractors which directly or indirectly relate to the work being performed or services being provided under this Agreement, whether or not there is concurrent active or passive

negligence on the part of City and its officers, employees and agents, but excluding such claims or liabilities arising from the sole active negligence or willful misconduct of City or and/or its officers, employees and agents in connection therewith. The parties agree that City shall, in its sole discretion, have the right to choose legal counsel to defend it as to any actions, suits, claims, demands, judgments, attorney's fees, costs, damages to persons or property, losses, penalties, obligations, expenses or liabilities contemplated by this Section notwithstanding Rutan's obligations to indemnify and hold the City harmless. The parties further anticipate that Rutan's insurance policy or policies will provide coverage that shall be primary for the matters addressed by this Section.

**3.13** **Termination of Agreement and Legal Services**. This Agreement and the Services rendered under it may be terminated at any time upon one (1) business days' prior written notice by City to Rutan or upon thirty (30) days' prior written notice by Rutan to City, with or without cause. In the event of such termination, Rutan shall be paid for all Services authorized by the Client and performed up through and including the effective date of termination. Rutan shall also be reimbursed for all costs associated with transitioning any files or other data or documents to a new law firm or returning them to the Client.

**3.14** **Entire Agreement**. This Agreement, together with all attachments, sets forth the entire agreement between Rutan and Client with regard to the subject matter of this Agreement. All agreements, covenants, representations and warranties, express and implied, oral and written, of the Parties with regard to the subject matter of this Agreement are contained within this Agreement, and the documents referred to in this Agreement or implementing the provisions of this Agreement. Other than the stated attachments, no other agreements, covenants, representations or warranties, express or implied, oral or written have been made by either party to the other with respect to the subject matter of this Agreement. All prior and contemporaneous conversations, negotiations, possible and alleged agreements and representations, covenants, and warranties with respect to the subject matter of this Agreement are waived, merged in this Agreement and superseded in and by this Agreement. This is an integrated Agreement.

**3.15** **Governing Law**. This Agreement shall be governed by the laws of the State of California. In the event of any dispute, venue shall be the California Superior Court for the County of Los Angeles.

**3.16** **Amendment; Modification**. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both parties.

**3.17** **Waiver**. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel or otherwise.

**3.18** **Invalidity; Severability**. In the event that any covenant, condition or provision of this Agreement is held to be invalid, void or illegal, it shall be deemed severable from the remainder of this Agreement and shall in no way affect, impair or

invalidate any other covenant, condition or other provision of this Agreement. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such covenant, condition or other provision shall be deemed valid to the extent of the scope or breadth permitted by law.

**3.19** **Counterparts**. This Agreement may be signed in counterparts, each of which shall constitute an original.

**3.20** **Captions**. Paragraph titles or captions contained in this Agreement are inserted as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Agreement or the rights or obligations of Rutan or The Client.

**3.21** **Delivery of Notices**. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Client: City of Claremont
207 Harvard Avenue
Claremont, CA 91711
Attention: City Manager

Rutan: Rutan & Tucker, LLP
611 Anton Boulevard, 14th Floor
Costa Mesa, CA 92626
Attention: Alisha Patterson, Partner

Such notices shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

IN WITNESS WHEREOF, the Client and Rutan have executed this Agreement for City Attorney Legal Services as of the date first written above.

CITY OF CLAREMONT

By:_____
Mayor

RUTAN & TUCKER LLP

By:_____
Alisha Patterson
Partner

## EXHIBIT "A"
## POLICY ON PROFESSIONAL FEES
## AND
## GENERAL TERMS OF ENGAGEMENT

Professional Fees and Billing Procedures.

Unless otherwise agreed in writing by you and us, our professional fees will be based on the hourly rates of the attorneys and paraprofessionals working on your matter(s). Our hourly rates for attorneys and paraprofessionals are adjusted from time to time and generally as of January 1st of each year. Adjustments in billing rates will be reflected in the invoice for legal services which constitutes our written notice to you.

Rutan & Tucker, LLP bills its clients for costs advanced on a client's behalf, such as filing fees, transcript and deposition fees, reasonable travel expenses, and expert witness fees. The firm also charges for certain costs and expenses incurred on behalf of clients such as long-distance telephone calls, facsimile and telecopier transmissions, copying, scanning, printing, postage, mileage, messengers, and computerized research. Notwithstanding the foregoing, we may forward to you large disbursement invoices for your direct payment to the supplier. We make every effort to include disbursements in the statement for the month in which the disbursements are incurred. Some disbursements, however, may not be available to us until the following months, in which case a subsequent statement may be rendered to you for these additional charges, or an estimated amount may be included in the initial billing and an adjustment made when the actual disbursement information is available.

In the absence of other arrangements, our billing statements ordinarily will be rendered to you on a monthly basis.

Unless specifically agreed in writing, we cannot make any guarantee as to the amount which you will incur for attorneys' fees and costs in any matter, as those figures will wholly depend on the time and effort required to be devoted to such matter. Any estimates of anticipated fees and costs, whether for budgeting purposes or otherwise, are, due to the uncertainties involved, necessarily only an approximation of potential fees and costs. Unless specifically agreed in writing, such estimates are not a maximum or minimum quotation and are not binding. The actual fees and costs will be determined in accordance with the policies described above.

General Terms.

We have been engaged to represent the person(s), company(ies) or organization(s) agreed to in writing by this firm. Unless agreed to in writing, we are not representing any of their respective city council members or other public officials, employees, affiliates, subsidiaries, or joint ventures. Accordingly, we can take on matters that may be adverse to these related parties or their legal interests, unless precluded by reason of the Rules of Professional Conduct.

Either of us may terminate the engagement at any time for any reason by written notice (delivered in accordance with the notice provisions set forth in the Agreement), subject on our part to compliance with the applicable Rules of Professional Conduct. If we terminate the engagement, we will take such steps as are reasonably practicable to protect your interests in the matter(s) for which we have been engaged. If you so request, we will use reasonable efforts to suggest to you possible successor counsel and provide it with whatever documents you have provided to us, but will retain materials that we have generated, as noted below.

Unless previously terminated, our representation of you in any matter will terminate upon our sending to you our final invoice for services rendered for such matter. Upon the termination of such representation, our own lawyer work product documents, notes and files (the "Work Product Files") pertaining to your matter will be retained by the firm. Your documents, property and files that are not Work Product Files (the "Client Files") will be, at your request, returned to you upon the termination of such representation. Both the Client Files (unless otherwise returned to you at your request) and the Work Product Files will be transferred to the person responsible for administering our records retention program. For various reasons, including the minimization of unnecessary storage expenses, we reserve the right to destroy or otherwise dispose of any such documents, property, files or other materials retained by us within a reasonable time after the termination of the engagement. Specifically, it is our current policy to store your Client Files for a period of five (5) years and at the conclusion of such five (5) year period we will make an attempt to contact you as to the disposition of your Client Files, but if we are unable to locate you, we reserve the right to destroy such Client Files.

You are engaging the firm to provide legal services in connection with specific matter(s). After completion, changes may occur in the applicable laws or regulations that could have an impact upon your future rights and liabilities. Unless you actually engage us after these matters have been completed to provide additional advice on issues arising from these matters, this firm has no continuing obligation to advise you with respect to future legal developments. In particular, please be advised that this firm does not undertake to perform further actions on your behalf in connection with renewal of perfection of liens, filing of UCC continuation statements, and the like in connection with any loan related matter. Further, we do not offer the service of annuity/maintenance fee payments with respect to patent prosecution.

We have made no representations, promises or guarantees to you regarding the outcome of any of your matters. Any comments about the outcome of your matters at any time during the performance of services do not constitute promises, guarantees, or assurances, as to the outcome of your matters.

Unless otherwise agreed in a signed writing, the firm shall have no responsibility to investigate or evaluate whether insurance is available for any matter covered by this engagement or to tender any matter covered by this engagement to any insurance carrier. If we are required to respond to a subpoena of our records relating to services we have

performed for you, or testify by deposition or otherwise concerning such services, then we will take reasonable steps to consult with you as to whether you wish to supply the information demanded or assert objections to the extent you may properly do so. You agree to pay us for our time and costs incurred in responding to any such demand, in accordance with the provisions of this letter, including, but not limited to, time and expense incurred in search and photocopying costs, reviewing documents, appearing at depositions or hearings, and otherwise litigating issues raised by the request.

In order to maximize efficiency, please be advised that attorneys and paraprofessionals at this firm routinely use the following communications methods to the fullest extent possible: e-mail, document transfer by computer, mobile telephones, and facsimile transfers.

Although not required in California, some states require that a law firm disclose the existence of errors and omissions insurance coverage applicable to the services to be rendered. Rutan & Tucker, LLP hereby confirms the existence of such insurance coverage for the purposes of complying with such a requirement.

Duty to Preserve Relevant Evidence in the Event of Litigation or Disputes.

If you are currently involved in a dispute which has resulted or is likely to result in litigation, or if you become involved in such a dispute at a later date, please be aware that you have a legal obligation to preserve "documents and data" potentially relevant to any such dispute. In addition to the obvious fact that we may need the evidence to help prove or defend your case, the primary reason we need to tell you about this obligation is because, if you do not take such steps, you could suffer severe sanctions in any litigation (or arbitration) that might arise. Those sanctions could include, among others, direct and substantial monetary sanctions, "issue sanctions", resulting in a directed finding against you on certain issues in the case, or even possibly a directed judgment against you, resulting in loss of the entire case.

Compliance with the obligation to preserve all potentially relevant evidence may not be as easy as it sounds. Preservation obligations include, for example, the obligation to suspend normal document destruction routines and otherwise protect against inadvertent deletion of evidence, especially electronic evidence. You need to notify and work with all of your employees and managerial personnel who might possess any such evidence, and consider all of the places where such evidence might be located, such as, e.g., home computers, laptop computers, cell phones, backup devices, and a wide range of other electronic devices and physical locations outside your normal offices and outside your network. You also need to evaluate the extent to which any of your agents, outside professionals, or consultants may have evidence which should be preserved. Furthermore, all of this needs to be documented.

We ask that you coordinate with our professional staff to ensure that proper steps have been taken to preserve all potentially relevant evidence, including electronic evidence whenever litigation, or a dispute which may lead to litigation, arises. To the

extent that you have qualified and sophisticated in-house personnel experienced with document preservation activities, such coordination may simply consist of providing us with the documentation reflecting the steps taken and review of that documentation and the processes reflected. To the extent you do not have such in-house capabilities, our staff can help lead you through the process. In either event, it is very important for us to confirm the steps that have been taken so that we can later both establish your compliance with the obligation to preserve potentially relevant evidence and also utilize the documentation to coordinate the efficient identification, retrieval, and production of evidence for the presentation of your case.

Please let me know if you have any questions and, in any event, please let me know who within your organization would be best to coordinate these efforts so that I can put them in touch with our staff.

**Exhibit "B"**

**COST PROPOSAL SUBMITTAL WORKSHEET**

| SERVICE | PROVIDED BY FIRM (YES/NO) | INCLUDED IN RETAINER (YES/NO) | TITLE OF PERSON PERFORMING THIS SERVICE |
|---|---|---|---|
| Attend regular and special Council and Commission meetings | Yes | Yes | A. Patterson |
| Attend Executive Team, Department Head, and other similar meetings as requested | Yes | Yes | A. Patterson |
| Weekly office hours | Yes | Yes | A. Patterson |
| Agenda review and follow-up | Yes | Yes | A. Patterson |
| Standard ordinances/resolution review and revision | Yes | Yes | A. Patterson |
| Standard contract review and revision | Yes | Yes | A. Patterson |
| Standard conflict issues | Yes | Yes | A. Patterson |
| Brown Act request and response issues | Yes | Yes | A. Patterson |
| Public Record Act request and response issues | Yes | Yes | A. Patterson |
| General legal advice and counsel on matters pertaining to the City, not involving more than three (3) hours of research | Yes | Yes | A. Patterson |
| Routine personnel and labor questions, which can be responded to orally, not involving more than one (1) hour of research | Yes | Yes | A. Patterson or B. Shaeffer |
| Police Department Issues – Pitchess motion handling and responses | Yes | Yes | A. Patterson |
| Code Enforcement Issues – City code interpretation and implications | Yes | Yes | A. Patterson or N. Duzman |
| Code Enforcement Issues – Consultation with staff and City prosecutor | Yes | Yes | A. Patterson or N. Duzman |
| Code Enforcement Issues – Preparation and review of notices, demands, and orders | Yes | Yes if standard/routine; otherwise, no | A. Patterson or N. Duzman |

| SERVICE | PROVIDED BY FIRM (YES/NO) | INCLUDED IN RETAINER (YES/NO) | TITLE OF PERSON PERFORMING THIS SERVICE |
|---|---|---|---|
| Litigation (including eminent domain and matters not involving the City's coverage with the CJPIA or other pooling organizations) | Yes | No | A. Patterson (or specialist in field of litigation) |
| Personnel services – Personnel Board of Review (including drafting of at-will agreements, review of practices and procedures, and handling of grievances, mediation, and/or arbitration) | Yes | No | A. Patterson or B. Shaeffer |
| Transactions – Purchase and sales agreements | Yes | Yes for review of standard/routine City forms; otherwise, no | A. Patterson or B. Ihrke |
| Transactions – Options | Yes | Yes for review of standard/routine City forms; otherwise, no | A. Patterson or B. Ihrke |
| Transactions – Leases | Yes | Yes for review of standard/routine City forms; otherwise, no | A. Patterson or B. Ihrke |
| Transactions – Statutory development agreements | Yes | Yes for review of standard/routine City forms; otherwise, no | A. Patterson or B. Ihrke |
| Transactions – Specialized fee credit or reimbursement agreements | Yes | Yes for review of standard/routine City forms; otherwise, no | A. Patterson or B. Ihrke |
| Water rights and water quality issues | Yes | No | J. Jungreis |
| Franchising | Yes | No | J. Oderman |
| Telecommunications | Yes | No | J. Melcing & B. Maricorena |
| Public Works – Contract disputes and interpretation services | Yes | No | J. Oderman & B. Owen |

| SERVICE | PROVIDED BY FIRM (YES/NO) | INCLUDED IN RETAINER (YES/NO) | TITLE OF PERSON PERFORMING THIS SERVICE |
|---|---|---|---|
| Public Works – drafting construction and similar contracts and conditions | Yes | Yes for review of standard/routine City forms; otherwise, no | J. Oderman & B. Owen |
| Public Works – prevailing wage issues | Yes | Yes if not involving more than 1 hour of research; otherwise, no | J. Oderman & B. Ihrke |
| Public Works – Special condition approval | Yes | Yes if not involving more than 1 hour of research; otherwise, no | J. Oderman & B. Owen |
| Development Services – assessment district and CFD issues | Yes | Yes if not involving more than 1 hour of research; otherwise, no | J. Oderman & B. Marticorena |
| Development Services – Right-of-way acquisition | Yes | Yes if not involving more than 1 hour of research; otherwise, no | J. Oderman & D. Dennington |
| Development Services – relocation issues | Yes | Yes if not involving more than 1 hour of research; otherwise, no | J. Oderman & D. Dennington |
| Development Services – CEQA issues and document review | Yes | Yes if not involving more than 1 hour of research; otherwise, no | A. Patterson or K. Jenson |
| Development Services – MSHCP implementation | Yes | Yes if not involving more than 1 hour of research; otherwise, no | A. Patterson & H. Van Ligten |

| SERVICE | PROVIDED BY FIRM (YES/NO) | INCLUDED IN RETAINER (YES/NO) | TITLE OF PERSON PERFORMING THIS SERVICE |
|---|---|---|---|
| Development Services – Endangered species issues | Yes | Yes if not involving more than 1 hour of research; otherwise, no | A. Patterson & H. Van Ligten |
| Development Services – Army Corps issues | Yes | Yes if not involving more than 1 hour of research; otherwise, no | A. Patterson & H. Van Ligten |
| Development Services – Routine and non-routine Subdivision Map Act issues | Yes | Yes if not involving more than 1 hour of research; otherwise, no | A. Patterson |
| Development Services – Zoning and land use issues | Yes | Yes if not involving more than 1 hour of research; otherwise, no | A. Patterson |
| Development Services – Review of General and Specific Plan amendments and documents | Yes | Yes if not involving more than 1 hour of research; otherwise, no | A. Patterson |
| Development Services – Successor Agency activities | Yes | Generally yes, but not for tasks/projects that require more than 2 hours of work (e.g., drafting a disposition and development agreement) | J. Oderman or B. Ihrke |
| Ordinance and resolutions – Drafting and compilation of non-routine ordinances and resolutions; review and analysis of non-routine ordinances and resolutions drafted by City staff or other jurisdictions | Yes | Generally yes, but not for tasks/projects that require more than 2 hours of work (e.g., drafting a new ADU ordinance) | A. Patterson |

| SERVICE | PROVIDED BY FIRM (YES/NO) | INCLUDED IN RETAINER (YES/NO) | TITLE OF PERSON PERFORMING THIS SERVICE |
|---|---|---|---|
| Training – Brown Act, CEQA, Ethics, etc. | Yes | Yes | A. Patterson |
| MS4 Issues | Yes | No | J. Jungreis |
| Appearance before other public entities or government agencies on behalf of City | Yes | No | A. Patterson |
| Complete review and update of the City's Municipal Code | Yes | No | A. Patterson |
| Proposed may add any additional, pertinent services it can provide to the City of Claremont in lines below | | | |
| American with Disabilities Act (ADA) compliance and defense | Yes | Yes if not involving more than 1 hour of research; otherwise, no | A. Patterson & D. Dennington |
| Fair Housing Laws compliance and defense | Yes | Yes if not involving more than 1 hour of research; otherwise, no | A. Patterson |
| Elections law & ballot initiatives | Yes | Yes if not involving more than 1 hour of research; otherwise, no | A. Patterson |
| ABx1 26 implementation and litigation | Yes | Yes if not involving more than 1 hour of research; otherwise, no | J. Oderman & B. Ihrke |

Global Comment – Reimbursable services are not included in the retainer. We would bill this work to a separate account so the costs can be passed along to project applicants.

## EXHIBIT "C"

## FEE SCHEDULE

Basic Legal Services — Description and Rate. Basic Legal Services shall include. all services provided to Client that are not otherwise specifically identified below as either Special Legal Services, Complex Legal Services, Third Party Reimbursable Legal Services, or Public Finance Legal Services ("Basic Legal Services"). The Client shall pay for Basic Legal Services at the flat rate monthly retainer amount of $19,748 per month.

Special Legal Services — Rates. The Client shall pay for Special Legal Services at the blended hourly rate of $265 per hour for all attorneys and $141 per hour for paralegals and law clerks.

Complex Legal Services — Rates. The Client shall pay for Complex Legal Services at the blended hourly rate of $364 per hour for all attorneys and $171 per hour for paralegals and law clerks.

Third Party Reimbursable Legal Services — Rates. The Client shall pay for Third Party Reimbursable Legal Services at the following hourly rates.

| Attorney | Hourly Rate |
|---|---|
| Partner/Of Counsel: | $364 per hour |
| Associates: | $286 per hour |
| Paralegals/Law Clerks | $171 per hour |

112/020944-0002
11577075 2 a03/08/18

## DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

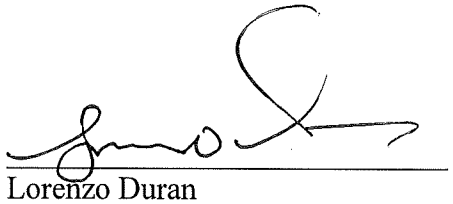
On September 5, 2018, I served the:

- **Claimant's Corrected Comments on the Draft Proposed Decision filed September 5, 2018**

  *U Visa 918 Form, Victims of Crime: Nonimmigrant Status*, 17-TC-01
  Penal Code Section 679.10; Statutes 2015, Chapter 721 (SB 674)
  City of Claremont, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 5, 2018 at Sacramento, California.



Lorenzo Duran
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 8/23/18

**Claim Number:** 17-TC-01

**Matter:** U Visa 918 Form, Victims of Crime: Nonimmigrant Status

**Claimant:** City of Claremont

**TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:**

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

**Bibi Ameer**, Accounting Manager/Acting Finance Director, *City of Claremont*
270 Harvard Ave, Claremont, CA 91711-0880
Phone: (909) 399-5346
bameer@ci.claremont.ca.us

**Socorro Aquino**, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-7522
SAquino@sco.ca.gov

**Harmeet Barkschat**, *Mandate Resource Services,LLC*
5325 Elkhorn Blvd. #307, Sacramento, CA 95842
Phone: (916) 727-1350
harmeet@calsdrc.com

**Lacey Baysinger**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
lbaysinger@sco.ca.gov

**Cindy Black**, City Clerk, *City of St. Helena*
1480 Main Street, St. Helena, CA 94574
Phone: (707) 968-2742
ctzafopoulos@cityofsthelena.org

**Allan Burdick**,
7525 Myrtle Vista Avenue, Sacramento, CA 95831
Phone: (916) 203-3608
allanburdick@gmail.com

**J. Bradley Burgess**, *MGT of America*

895 La Sierra Drive, Sacramento, CA 95864
Phone: (916)595-2646
Bburgess@mgtamer.com

**Evelyn Calderon-Yee**, Bureau Chief, *State Controller's Office*
Local Government Programs and Services, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-5919
ECalderonYee@sco.ca.gov

**Gwendolyn Carlos**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-0706
gcarlos@sco.ca.gov

**Daniel Carrigg**, Deputy Executive Director/Legislative Director, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8222
Dcarrigg@cacities.org

**Annette Chinn**, *Cost Recovery Systems,Inc.*
**Claimant Representative**
705-2 East Bidwell Street, #294, Folsom, CA 95630
Phone: (916) 939-7901
achinncrs@aol.com

**Carolyn Chu**, Senior Fiscal and Policy Analyst, *Legal Analyst's Office*
925 L Street, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

**Mike Ciszek**, Lieutenant, *City of Claremont*
Police Department, 570 West Bonita Avenue, Claremont, CA 91711
Phone: (909) 399-5403
mciszek@ci.claremont.ca.us

**Michael Coleman**, *Coleman Advisory Services*
2217 Isle Royale Lane, Davis, CA 95616
Phone: (530) 758-3952
coleman@muni1.com

**Anita Dagan**, Manager, Local Reimbursement Section, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-4112
Adagan@sco.ca.gov

**Stacy Daugherty**, Finance Director, *City of Costa Mesa*
PO Box 1200, Costa Mesa, CA 92626-1200
Phone: (714) 754-5243
stacy.daugherty@costamesaca.gov

**Marieta Delfin**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-4320
mdelfin@sco.ca.gov

**Ed Everett**, Lieutenant, *City of Costa Mesa*
Police Department, PO Box 1200, Costa Mesa, CA 92626-1200

Phone: (714) 754-5395
eeverett@costamesaca.gov

**Donna Ferebee**, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
donna.ferebee@dof.ca.gov

**Susan Geanacou**, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
susan.geanacou@dof.ca.gov

**Dillon Gibbons**, Legislative Representative, *California Special Districts Association*
1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
dillong@csda.net

**Heather Halsey**, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
heather.halsey@csm.ca.gov

**Sunny Han**, Project Manager, *City of Huntington Beach*
2000 Main Street, Huntington Beach, CA 92648
Phone: (714) 536-5907
Sunny.han@surfcity-hb.org

**Chris Hill**, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Hill@dof.ca.gov

**Justyn Howard**, Program Budget Manager, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-1546
justyn.howard@dof.ca.gov

**Ray Hull**, Management Analyst, *City of Costa Mesa*
Finance Department, PO Box 1200, Costa Mesa, CA 92626-1200
Phone: (714) 754-5227
RAY.HULL@costamesaca.gov

**Kevin Hunt**, General Manager, *Central Basin Municipal Water District*
6252 Telegraph Road, Commerce, CA 90040
Phone: (323) 201-5500
kevinh@centralbasin.org

**Edward Jewik**, *County of Los Angeles*
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-8564
ejewik@auditor.lacounty.gov

**Jill Kanemasu**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-9891
jkanemasu@sco.ca.gov

**Anita Kerezsi**, *AK & Company*

2425 Golden Hill Road, Suite 106, Paso Robles, CA 93446
Phone: (805) 239-7994
akcompanysb90@gmail.com

**Lisa Kurokawa**, Bureau Chief for Audits, *State Controller's Office*
Compliance Audits Bureau, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 327-3138
lkurokawa@sco.ca.gov

**Jill Magee**, Program Analyst, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
Jill.Magee@csm.ca.gov

**Michelle Mendoza**, *MAXIMUS*
17310 Red Hill Avenue, Suite 340, Irvine, CA 95403
Phone: (949) 440-0845
michellemendoza@maximus.com

**Meredith Miller**, Director of SB90 Services, *MAXIMUS*
3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670
Phone: (972) 490-9990
meredithcmiller@maximus.com

**Lourdes Morales**, Senior Fiscal and Policy Analyst, *Legal Analyst's Office*
925 L Street, Sacramento, CA 95814
Phone: (916) 319-8320
Lourdes.Morales@LAO.CA.GOV

**Andy Nichols**, *Nichols Consulting*
1857 44th Street, Sacramento, CA 95819
Phone: (916) 455-3939
andy@nichols-consulting.com

**Arthur Palkowitz**, *Artiano Shinoff*
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106
Phone: (619) 232-3122
apalkowitz@as7law.com

**Steven Pavlov**, Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Steven.Pavlov@dof.ca.gov

**Johnnie Pina**, Legislative Policy Analyst, *League of Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8214
jpina@cacities.org

**Adam Pirrie**, Finance Director, *City of Claremont*
207 Harvard Ave, Claremont, CA 91711
Phone: (909) 399-5356
apirrie@ci.claremont.ca.us

**Jai Prasad**, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415-0018
Phone: (909) 386-8854
jai.prasad@atc.sbcounty.gov

**Mark Rewolinski**, *MAXIMUS*
808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (949) 440-0845
markrewolinski@maximus.com

**Theresa Schweitzer**, *City of Newport Beach*
100 Civic Center Drive, Newport Beach, CA 92660
Phone: (949) 644-3140
tschweitzer@newportbeachca.gov

**Camille Shelton**, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

**Carla Shelton**, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
carla.shelton@csm.ca.gov

**Jim Spano**, Chief, Mandated Cost Audits Bureau, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-5849
jspano@sco.ca.gov

**Dennis Speciale**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
DSpeciale@sco.ca.gov

**Joe Stephenshaw**, Director, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
Joe.Stephenshaw@sen.ca.gov

**Derk Symons**, Staff Finance Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Derk.Symons@dof.ca.gov

**Jolene Tollenaar**, *MGT of America*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 243-8913
jolenetollenaar@gmail.com

**Evelyn Tseng**, *City of Newport Beach*
100 Civic Center Drive, Newport Beach, CA 92660
Phone: (949) 644-3127
etseng@newportbeachca.gov

**Brian Uhler**, Principal Fiscal & Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8328
Brian.Uhler@LAO.CA.GOV

**Renee Wellhouse**, *David Wellhouse & Associates, Inc.*
3609 Bradshaw Road, H-382, Sacramento, CA 95927

Phone: (916) 797-4883
dwa-renee@surewest.net

**Jennifer Whiting**, Assistant Legislative Director, *League of California Cities*
1400 K Street, Suite 400, Sacramento , CA 95814
Phone: (916) 658-8249
jwhiting@cacities.org

**Patrick Whitnell**, General Counsel, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8281
pwhitnell@cacities.org

**Elena Wilson**, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: 916-323-3562
elena.wilson@csm.ca.gov

**Hasmik Yaghobyan**, *County of Los Angeles*
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-9653
hyaghobyan@auditor.lacounty.gov

**Exhibit G**

STATE *of* CALIFORNIA
**COMMISSION ON STATE MANDATES**

August 29, 2018

Ms. Annette Chinn
Cost Recovery Systems, Inc.
705-2 East Bidwell Street, #294
Folsom, CA 95630

*And Parties, Interested Parties, and Interested Persons (See Mailing List)*

**RE: Request for Additional Information**
*U Visa 918 Form, Victims of Crime: Nonimmigrant Status*, 17-TC-01
Penal Code Section 679.10; Statutes 2015, Chapter 721 (SB 674)
City of Claremont, Claimant

Dear Ms. Chinn:

Commission on State Mandates (Commission) staff is in the process of reviewing the Claimant's Comments on the Draft Proposed Decision and preparing the Proposed Decision for this Test Claim, which will issue on or before September 14 and is scheduled for hearing on September 28, 2018.

In comments on the Draft Proposed Decision, the claimant alleges that it incurred increased actual costs mandated by the state exceeding $1,000 in fiscal year 2017-2018. To support this assertion, the claimant included a computation of actual costs incurred in fiscal year 2017-2018, based in part on the hourly pay of Lieutenant Mike Ciszek at $93.35 per hour.[1] The $93.35 hourly rate, however, appears to be inconsistent with the hourly rate calculated from the annual salary range of $116,340 to $140,551 for the position of Police Lieutenant identified in the City of Claremont's Actual FY 2017-2018 Salary Report which was also included with claimant's comments.[2] Based on the salary range identified in the Salary Report, the hourly rate for Lieutenant Mike Ciszek could not exceed $67.57.[3] Assuming a maximum hourly rate of $67.57, the total amount of actual costs identified by the claimant for fiscal year 2017-2018 should be $780.80, falling below the required $1,000 threshold. Therefore, with two different hourly rates identified in the evidence filed by the claimant, there is no substantial evidence in the record to support a finding of actual increased costs mandated by the state at the $1,000 minimum threshold, as required by Government Code sections 17559 and 17564.

Accordingly, please provide evidence to support the assertion that the hourly rate of pay for Lieutenant Ciszek is $93.35 an hour, as used in the claimant's computation of actual costs incurred in fiscal year 2017-2018, rather than $67.57 based upon claimant's Salary Report.

---

[1] Claimant's Comments on the Draft Proposed Decision, page 13.

[2] Claimant's Comments on the Draft Proposed Decision, page 17.

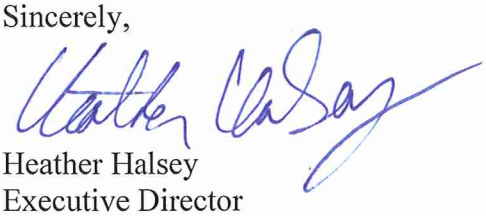
[3] On average, full-time, salaried employee works 40 hours a week, or 2,080 (40 x 52) hours a year. Therefore, the hourly rate can be determined by dividing the annual salary by 2,080. Accordingly, using $140,551 as annual salary, the calculation for the maximum hourly rate for a lieutenant is $140,551/2,080, or $67.57 per hour.

Oral or written representations of fact offered by any person shall be under oath or affirmation and signed under penalty of perjury by persons who are authorized and competent to do so and must be based on the declarant's personal knowledge, information, or belief. (Cal. Code. Regs., tit. 2 §§ 1183.2 and 1187.5.) If new representations of fact are made, they must be supported with documentary evidence filed with the comments on the Test Claim. (Cal. Code. Regs., tit. 2 §§ 1183.2 and 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.[4] Requests for extensions of time to file comments may be filed in accordance with section 1187.9 of the Commission's regulations.

To be included in the Proposed Decision, your additional comments must be filed no later than **September 7, 2018**.

You are advised that if written materials are filed in hard copy, the filing must simultaneously be served on everyone on the mailing list, and be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents on the Commission's website. For instructions on electronic filing, please see the Commission's website at http://www.csm.ca.gov/dropbox_procedures.php. The comments will be posted on the Commission's website and the mailing list will be notified by electronic mail of the posting and the comment period. This procedure will satisfy all the service requirements under California Code of Regulations, title 2, section 1181.3.

Sincerely,



Heather Halsey
Executive Director

[4] Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

## DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

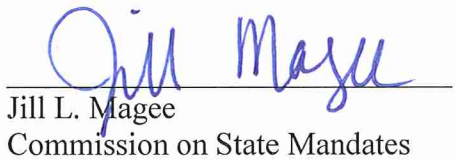
On August 29, 2018, I served the:

- **Request for Additional Information issued August 29, 2018**

  *U Visa 918 Form, Victims of Crime: Nonimmigrant Status*, 17-TC-01
  Penal Code Section 679.10; Statutes 2015, Chapter 721 (SB 674)
  City of Claremont, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on August 29, 2018 at Sacramento, California.



Jill L. Magee
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 8/23/18

**Claim Number:** 17-TC-01

**Matter:** U Visa 918 Form, Victims of Crime: Nonimmigrant Status

**Claimant:** City of Claremont

**TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:**

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

**Bibi Ameer**, Accounting Manager/Acting Finance Director, *City of Claremont*
270 Harvard Ave, Claremont, CA 91711-0880
Phone: (909) 399-5346
bameer@ci.claremont.ca.us

**Socorro Aquino**, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-7522
SAquino@sco.ca.gov

**Harmeet Barkschat**, *Mandate Resource Services,LLC*
5325 Elkhorn Blvd. #307, Sacramento, CA 95842
Phone: (916) 727-1350
harmeet@calsdrc.com

**Lacey Baysinger**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
lbaysinger@sco.ca.gov

**Cindy Black**, City Clerk, *City of St. Helena*
1480 Main Street, St. Helena, CA 94574
Phone: (707) 968-2742
ctzafopoulos@cityofsthelena.org

**Allan Burdick**,
7525 Myrtle Vista Avenue, Sacramento, CA 95831
Phone: (916) 203-3608
allanburdick@gmail.com

**J. Bradley Burgess**, *MGT of America*

895 La Sierra Drive, Sacramento, CA 95864
Phone: (916)595-2646
Bburgess@mgtamer.com

**Evelyn Calderon-Yee**, Bureau Chief, *State Controller's Office*
Local Government Programs and Services, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-5919
ECalderonYee@sco.ca.gov

**Gwendolyn Carlos**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-0706
gcarlos@sco.ca.gov

**Daniel Carrigg**, Deputy Executive Director/Legislative Director, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8222
Dcarrigg@cacities.org

**Annette Chinn**, *Cost Recovery Systems,Inc.*
**Claimant Representative**
705-2 East Bidwell Street, #294, Folsom, CA 95630
Phone: (916) 939-7901
achinncrs@aol.com

**Carolyn Chu**, Senior Fiscal and Policy Analyst, *Legal Analyst's Office*
925 L Street, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

**Mike Ciszek**, Lieutenant, *City of Claremont*
Police Department, 570 West Bonita Avenue, Claremont, CA 91711
Phone: (909) 399-5403
mciszek@ci.claremont.ca.us

**Michael Coleman**, *Coleman Advisory Services*
2217 Isle Royale Lane, Davis, CA 95616
Phone: (530) 758-3952
coleman@muni1.com

**Anita Dagan**, Manager, Local Reimbursement Section, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-4112
Adagan@sco.ca.gov

**Stacy Daugherty**, Finance Director, *City of Costa Mesa*
PO Box 1200, Costa Mesa, CA 92626-1200
Phone: (714) 754-5243
stacy.daugherty@costamesaca.gov

**Marieta Delfin**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-4320
mdelfin@sco.ca.gov

**Ed Everett**, Lieutenant, *City of Costa Mesa*
Police Department, PO Box 1200, Costa Mesa, CA 92626-1200

Phone: (714) 754-5395
eeverett@costamesaca.gov

**Donna Ferebee**, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
donna.ferebee@dof.ca.gov

**Susan Geanacou**, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
susan.geanacou@dof.ca.gov

**Dillon Gibbons**, Legislative Representative, *California Special Districts Association*
1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
dillong@csda.net

**Heather Halsey**, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
heather.halsey@csm.ca.gov

**Sunny Han**, Project Manager, *City of Huntington Beach*
2000 Main Street, Huntington Beach, CA 92648
Phone: (714) 536-5907
Sunny.han@surfcity-hb.org

**Chris Hill**, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Hill@dof.ca.gov

**Justyn Howard**, Program Budget Manager, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-1546
justyn.howard@dof.ca.gov

**Ray Hull**, Management Analyst, *City of Costa Mesa*
Finance Department, PO Box 1200, Costa Mesa, CA 92626-1200
Phone: (714) 754-5227
RAY.HULL@costamesaca.gov

**Kevin Hunt**, General Manager, *Central Basin Municipal Water District*
6252 Telegraph Road, Commerce, CA 90040
Phone: (323) 201-5500
kevinh@centralbasin.org

**Edward Jewik**, *County of Los Angeles*
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-8564
ejewik@auditor.lacounty.gov

**Jill Kanemasu**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-9891
jkanemasu@sco.ca.gov

**Anita Kerezsi**, *AK & Company*

2425 Golden Hill Road, Suite 106, Paso Robles, CA 93446
Phone: (805) 239-7994
akcompanysb90@gmail.com

**Lisa Kurokawa**, Bureau Chief for Audits, *State Controller's Office*
Compliance Audits Bureau, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 327-3138
lkurokawa@sco.ca.gov

**Jill Magee**, Program Analyst, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
Jill.Magee@csm.ca.gov

**Michelle Mendoza**, *MAXIMUS*
17310 Red Hill Avenue, Suite 340, Irvine, CA 95403
Phone: (949) 440-0845
michellemendoza@maximus.com

**Meredith Miller**, Director of SB90 Services, *MAXIMUS*
3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670
Phone: (972) 490-9990
meredithcmiller@maximus.com

**Lourdes Morales**, Senior Fiscal and Policy Analyst, *Legal Analyst's Office*
925 L Street, Sacramento, CA 95814
Phone: (916) 319-8320
Lourdes.Morales@LAO.CA.GOV

**Andy Nichols**, *Nichols Consulting*
1857 44th Street, Sacramento, CA 95819
Phone: (916) 455-3939
andy@nichols-consulting.com

**Arthur Palkowitz**, *Artiano Shinoff*
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106
Phone: (619) 232-3122
apalkowitz@as7law.com

**Steven Pavlov**, Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Steven.Pavlov@dof.ca.gov

**Johnnie Pina**, Legislative Policy Analyst, *League of Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8214
jpina@cacities.org

**Adam Pirrie**, Finance Director, *City of Claremont*
207 Harvard Ave, Claremont, CA 91711
Phone: (909) 399-5356
apirrie@ci.claremont.ca.us

**Jai Prasad**, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415-0018
Phone: (909) 386-8854
jai.prasad@atc.sbcounty.gov

**Mark Rewolinski**, *MAXIMUS*
808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (949) 440-0845
markrewolinski@maximus.com

**Theresa Schweitzer**, *City of Newport Beach*
100 Civic Center Drive, Newport Beach, CA 92660
Phone: (949) 644-3140
tschweitzer@newportbeachca.gov

**Camille Shelton**, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

**Carla Shelton**, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
carla.shelton@csm.ca.gov

**Jim Spano**, Chief, Mandated Cost Audits Bureau, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-5849
jspano@sco.ca.gov

**Dennis Speciale**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
DSpeciale@sco.ca.gov

**Joe Stephenshaw**, Director, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
Joe.Stephenshaw@sen.ca.gov

**Derk Symons**, Staff Finance Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Derk.Symons@dof.ca.gov

**Jolene Tollenaar**, *MGT of America*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 243-8913
jolenetollenaar@gmail.com

**Evelyn Tseng**, *City of Newport Beach*
100 Civic Center Drive, Newport Beach, CA 92660
Phone: (949) 644-3127
etseng@newportbeachca.gov

**Brian Uhler**, Principal Fiscal & Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8328
Brian.Uhler@LAO.CA.GOV

**Renee Wellhouse**, *David Wellhouse & Associates, Inc.*
3609 Bradshaw Road, H-382, Sacramento, CA 95927

Phone: (916) 797-4883
dwa-renee@surewest.net

**Jennifer Whiting**, Assistant Legislative Director, *League of California Cities*
1400 K Street, Suite 400, Sacramento , CA 95814
Phone: (916) 658-8249
jwhiting@cacities.org

**Patrick Whitnell**, General Counsel, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8281
pwhitnell@cacities.org

**Elena Wilson**, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: 916-323-3562
elena.wilson@csm.ca.gov

**Hasmik Yaghobyan**, *County of Los Angeles*
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-9653
hyaghobyan@auditor.lacounty.gov

C R S Inc.
Cost Recovery Systems, Inc.

RECEIVED
September 07, 2018
Commission on State Mandates

**Exhibit H**

September 6, 2018

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

**Response to Request for Additional Information: Test Claim U Visa 918 Form, Victims of Crime: Nonimmigrant Status, 17-TC-01**

Dear Ms. Halsey,

Attached is the additional evidence you requested in your August 29, 2018 letter questioning our assertion that Lieutenant Ciszek's $93.35 hourly rate of pay is accurate.

Please see the attached Declaration of the City of Claremont Finance Director, Adam Pirie and additional supporting evidence to prove that the rates claimed are supported. In addition, we provided additional evidence to show that if we had computed the rates based on "Actual Productive Hours" allowable in the claiming instructions, the allowable salary rates would be even higher.

We believe our original computation of costs was conservative and believe we have presented adequate evidence to show our actual costs would exceed $1,000 in FY 2017-18 and that our Test Claim should be approved.

If you have any other questions or would like additional documentation, please let us know. We would not object to a delay in the hearing date if you would like any additional documentation or information.

Sincerely,

Annette Chinn
Consultant Representative for the
City of Claremont

705-2 East Bidwell Street, # 294
Folsom, California 95630
Telephone: 916.939.7901
Fax: 916.939.7801

DECLARATION OF ADAM PIRRIE

I, Adam Pirrie, make the following declaration under oath and under penalty of perjury under the laws of the State of California that the following statements are true and correct of my own personal knowledge:

I am the Chief Financial Officer the City of Claremont. As part of my duties, I am responsible for the complete and timely recovery of costs mandated by the State.

Lieutenant Ciszek's actual rate of pay was above the published salary range due to his qualification for various special pays. In the case of Lt. Ciszek these special pay types included Uniform Pay, Education Incentive Pay, Bonus Pay , Longevity Pay, and Cafeteria Taxable Cash Pay which in the accounting period totaled an additional $27,525 in addition to his regular pay rate of $140,551.

These amounts are documented, actual, federally taxable salaries that appears on the employees Federal W-2 forms. We did not include Overtime Pay in our total annual salary base.

The computation for Lieutenant Ciszek's total actual salary is $140,551 (Total Regular Pay) + $27,525 (Other Pay) = $168,076

See column 3 of numeric data labeled – "Total Regular Pay" and column 6 "Other Pay" of the Salary Report attached both here under "Tab 1" and in our prior submission of Pay Table in our August 23, 2018 submission.

According to State Claiming Instructions, (See "Tab 2") local agencies are allowed to use the default 1,800 productive annual hours OR to compute their own actual annual productive hours. In our original filing, we computed hourly rates based on the 1,800 default hours.

Lt. Ciszek's Productive hourly salary rate based on the default 1,800 hours =
$168,076 annual actual salary / 1,800 default annual productive hours = $93.38

State Claiming Instructions also allow claimants to compute and use their own "actual" annual productive hour computation. In our case, for Lt. Ciszek and Chief Vander Veen, this annual total would conservatively be 1,728 hours of productive time based on the City's Memorandum of Understanding with the Police Officers Associations (see attached document). The computation of this Productive Annual Hours is included under "Tab 1".

Based on this computation of actual annual productive hours in FY2017-18:

Lt. Ciszek's Actual Productive hourly salary rate based on the 1,728 hours =
$168,076 annual actual salary / 1,728 actual annual productive hours = $97.27

And

Police Chief's Actual Productive hourly salary rate based on 1,728 hours =
$196,794 annual actual salary / 1,728 default annual productive hours = $113.89

The revised computation of our actual costs is also included under "Tab 1".

Based upon Police Department time records, the City of Claremont's actual FY 2017-18 costs to implement the requirements of Penal Code 679.10 which are subject of this Test Claim (referred to as UVISA program) exceeded $1,000.

Based upon Police Department time records and projection of future activity in the UVISA program, the City of Claremont's estimated FY 2018-19 and future year costs will exceed $1,000 annually.

I am personally conversant with the foregoing facts, and if so required, I could and would testify to the statements made herein.

I believe that the rates and information presented have been computed accurately in accordance with the State Controller's Office claiming instructions, rules, and guidelines.

I declare under penalty of perjury under the laws of the State of California that the above declarations and the information contained under "Tab 1" are true and correct based upon my own personal knowledge.

I further declare that the information presented under "Tab 2" is from the State Controller's Office website and I believe that this information is true and correct based on my information and belief.

Executed this 6th day of September in Claremont, California.

Adam Pirrie
City of Claremont, Finance Director

# TAB 1

*Containing:*

1) Actual Salary Data Table

2) Computation of Annual Actual Productive Hours Worked

3) City of Claremont & Claremont Police Officers' Association FY 2017-18 Memorandum of Understanding

4) Updated Computation of FY 2017-18 UVISA Costs based on allowable "actual" productive hours computation

# Actual Salary Data

Actual FY 2017-18
Salary Report

| Department | Classification | Annual Salary Minimum | Annual Salary Maximum | Total Regular Pay | Overtime Pay | Lump Sum Pay | Other Pay | Applicable Define Benefit Pension Formula | Employer Contrbuti opn to Employee s' Share of Pension | Defined Benefit Plan | Deferred Compens ation/Defi ned Contributi on Plan | Health, Dental, Vision |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Police | Administrative Assistant | 44,208 | 53,408 | 53,408 | - | 648 | 1,281 | 2.5% @ 55 | - | 15,607 | - | 12,167 |
| Police | Administrative Assistant | 44,208 | 53,408 | 53,408 | - | - | 12,691 | 2.5% @ 55 | - | 15,607 | 2,430 | 609 |
| Police | Communications Officer II | 69,920 | 69,920 | - | 1,252 | - | - | 2.5% @ 55 | - | - | - | - |
| Police | Communications Officer II | 57,876 | 69,920 | 63,094 | 9,172 | - | 10,972 | 2.5% @ 55 | - | 19,409 | 435 | 8,862 |
| Police | Communications Officer II | 57,876 | 69,920 | 69,568 | 7,039 | 403 | 9,410 | 2.5% @ 55 | - | 22,889 | 699 | 14,434 |
| Police | Communications Officer II | 57,876 | 69,920 | 69,522 | 3,739 | 8 | 19,506 | 2.5% @ 55 | - | 22,860 | - | 3,703 |
| Police | Communications Officer II | 57,876 | 69,920 | 69,122 | 12,571 | - | 8,852 | 2.5% @ 55 | - | 23,040 | 524 | 15,297 |
| Police | Communications Officer II | 57,876 | 69,920 | 69,821 | 12,522 | 268 | 14,556 | 2.5% @ 55 | - | 22,592 | - | 7,143 |
| Police | Communications Officer II | 57,876 | 69,920 | 69,713 | 7,549 | 8 | 18,057 | 2.5% @ 55 | - | 21,895 | 524 | 1,908 |
| Police | Crossing Guard | 20,820 | 25,147 | 6,540 | - | - | - | N/A | - | - | - | - |
| Police | Crossing Guard | 20,820 | 25,147 | 6,679 | - | - | - | N/A | - | - | - | - |
| Police | Crossing Guard | 20,820 | 25,147 | 5,908 | - | - | - | N/A | - | - | - | - |
| Police | Crossing Guard | 20,820 | 25,147 | 6,524 | - | - | - | N/A | - | - | - | - |
| Police | Crossing Guard | 20,820 | 25,147 | 2,367 | - | - | - | N/A | - | - | - | - |
| Police | Information Technology Technic | 60,216 | 72,747 | 66,795 | - | - | 6,695 | 2% @ 62 | - | 19,531 | 729 | 7,033 |
| Police | Jailer | 45,780 | 55,307 | 27,335 | 7,434 | 2,877 | 2,660 | 2.5% @ 55 | - | 8,787 | - | 7,763 |
| Police | Jailer | 45,780 | 55,307 | 13,667 | - | - | 13 | 2% @ 62 | - | 323 | - | - |
| Police | Jailer | 45,780 | 55,307 | 45,240 | 6,552 | - | 8,082 | 2% @55 | - | 14,500 | - | 7,454 |
| Police | Jailer | 45,780 | 55,307 | 13,694 | 4,909 | 2,090 | 5,509 | 2% @ 62 | - | 4,287 | - | - |
| Police | Jailer | 45,780 | 55,307 | 52,756 | 11,789 | 694 | 10,097 | 2% @55 | - | 16,203 | - | 7,491 |
| Police | Parking Enforcement Officer | 45,324 | 54,756 | 54,303 | 340 | - | 4,911 | 2.5% @ 55 | - | 16,971 | - | 15,527 |
| Police | Police Aide | 24,523 | 29,640 | 12,610 | - | - | - | 2% @ 62 | - | 1,947 | - | - |
| Police | Police Aide | 24,523 | 29,640 | 898 | - | - | - | 2% @ 62 | - | 251 | - | - |
| Police | Police Aide | 24,523 | 29,640 | 11,286 | - | - | - | N/A | - | - | - | - |
| Police | Police Aide | 24,523 | 29,640 | 10,089 | - | - | - | N/A | - | - | - | - |
| Police | Police Aide | 24,523 | 29,640 | 12,838 | - | - | - | N/A | - | - | - | - |
| Police | Police Aide | 24,523 | 29,640 | 16,133 | - | - | - | 2% @ 62 | - | 3,368 | - | - |
| Police | Police Aide | 24,523 | 29,640 | 14,521 | - | - | - | 2% @ 62 | - | 2,749 | - | - |
| Police | Police Aide | 24,523 | 29,640 | 4,951 | - | - | - | N/A | - | - | - | - |
| Police | Police Captain | 145,604 | 175,905 | 148,132 | 4,568 | - | 10,124 | 3% @ 50 | - | 85,050 | 2,932 | 13,811 |
| Police | Police Chief | 166,592 | 201,262 | 176,844 | 465 | 3,579 | 19,950 | 3% @ 50 | - | 103,941 | 8,728 | 13,100 |
| Police | Police Corporal | 77,652 | 93,812 | 93,101 | 25,621 | - | 6,761 | 3% @ 50 | - | 55,089 | 270 | 14,512 |
| Police | Police Corporal | 77,652 | 93,812 | - | 452 | - | - | 3% @ 50 | - | - | - | - |
| Police | Police Corporal | 77,652 | 93,812 | 93,009 | 58,314 | 2,164 | 16,386 | 3% @ 50 | - | 55,983 | - | 7,167 |
| Police | Police Corporal | 77,652 | 93,812 | 91,900 | 48,200 | 1,082 | 17,510 | 3% @ 50 | - | 55,596 | - | 7,055 |
| Police | Police Corporal | 77,652 | 93,812 | 93,087 | 33,788 | 2,029 | 9,798 | 3% @ 50 | - | 54,199 | - | 12,850 |
| Police | Police Corporal | 77,652 | 93,812 | 92,999 | 41,551 | 1,082 | 6,044 | 3% @ 50 | - | 53,926 | - | 15,535 |
| Police | Police Corporal | 77,652 | 93,812 | 92,841 | 24,920 | 1,262 | 7,273 | 3% @ 50 | - | 54,433 | - | 15,527 |
| Police | Police Corporal | 77,652 | 93,812 | 91,355 | 21,047 | - | 20,428 | 3% @ 50 | - | 52,723 | - | 603 |
| Police | Police Corporal | 77,652 | 93,812 | 91,156 | 49,235 | 2,122 | 7,700 | 3% @ 50 | - | 53,589 | - | 15,527 |
| Police | Police Corporal | 77,652 | 93,812 | 92,956 | 24,084 | 1,082 | 22,482 | 3% @ 50 | - | 54,541 | - | - |
| Police | Police Lieutenant | 116,340 | 140,551 | 140,551 | 28,373 | - | 27,525 | 3% @ 50 | - | 84,468 | 6,937 | 2,704 |
| Police | Police Lieutenant | 116,340 | 140,551 | 140,551 | 53,773 | - | 16,560 | 3% @ 50 | - | 87,210 | - | 13,811 |
| Police | Police Lieutenant | 116,340 | 140,551 | 140,153 | 31,735 | 1,892 | 10,824 | 3% @ 50 | - | 80,354 | 6,937 | 12,787 |

# COMPUTATION OF ANNUAL ACTUAL PRODUCTIVE HOURS WORKED

CALCULATION OF ANNUAL PRODUCTIVE HOURS FOR PEACE OFFICER STAFF > 13 YR TENURE

| | | | | |
|---|---|---|---|---|
| | **2080** | **base** | **hours per year worked** | |
| less | 96 | holidays | 12 days annually | |
| less | 96 | sick leave | 3.69 hours per pay period | (26 pay periods) |
| less | 160 | vacation | 6.15 hours per pay period | (26 pay periods) |
| less | * | vacation longevity incentive (extra 80 hours after 10, 15, 20 year anniversary) | | |
| | 1728 | actual productive annual hours (*Not including longevity incentive vacation time) | | |

# MEMORANDUM OF UNDERSTANDING

# BETWEEN

# THE CLAREMONT POLICE OFFICERS' ASSOCIATION

# AND

# THE CITY OF CLAREMONT

## JULY 1, 2017 – JUNE 30, 2018

CLAREMONT POLICE OFFICERS' ASSOCIATION

MEMORANDUM OF UNDERSTANDING
2017-2018

## TABLE OF CONTENTS


ARTICLE I – PREAMBLE ..... 1
ARTICLE II – RECOGNITION ..... 1
ARTICLE III – ASSOCIATION RIGHTS ..... 1
ARTICLE IV – DUES DEDUCTION ..... 1
ARTICLE V – MANAGEMENT RIGHTS ..... 1
ARTICLE VI – SALARIES ..... 2
ARTICLE VII – EDUCATIONAL INCENTIVE PAY ..... 3
ARTICLE VIII – BILINGUAL PAY ..... 3
ARTICLE IX – SPECIAL DUTY COMPENSATION/ASSIGNMENT ..... 3
ARTICLE X – CALL BACK TIME ..... 4
ARTICLE XI – ON-CALL TIME ..... 4
ARTICLE XII – OVERTIME/COMPENSATORY TIME ..... 5
ARTICLE XIII – RETIREMENT ..... 6
ARTICLE XIV – SHOOTING PAY ..... 8
ARTICLE XV – SPECIAL DUTY PAY ..... 8
ARTICLE XVI – TUITION REIMBURSEMENT ..... 8
ARTICLE XVII – UNIFORM ALLOWANCE AND REIMBURSEMENT ..... 9
ARTICLE XVIII – FLEXIBLE BENEFIT PLAN ..... 9
ARTICLE XIX – LIFE INSURANCE ..... 10
ARTICLE XX – DEFERRED COMPENSATION ..... 10
ARTICLE XXI – DEFERRED COMPENSATION MATCH ..... 10
ARTICLE XXII – RETIREE MEDICAL INSURANCE ..... 10
ARTICLE XXIII – LONG TERM DISABILITY ..... 10
ARTICLE XXIV– WORKERS' COMPENSATION ..... 10
ARTICLE XXV – HOLIDAYS ..... 11
ARTICLE XXVI – MILITARY LEAVE ..... 13
ARTICLE XXVII – SICK LEAVE ..... 13
ARTICLE XXVIII – VACATION ..... 15
ARTICLE XXIX – DISCIPLINARY PROCEDURE ..... 16

ARTICLE XXX – LAYOFF PROCEDURE ..... 20
ARTICLE XXXI – COMMUNICATION OFFICERS ..... 22
ARTICLE XXXII – WORK STOPPAGE ..... 23
ARTICLE XXXIII – DRUG AND ALCOHOL TESTING ..... 23
ARTICLE XXXIV – ALTERNATIVE WORK SCHEDULES ..... 30
ARTICLE XXXV – FULL UNDERSTANDING/EFFECT OF AGREEMENT ..... 31
ARTICLE XXXVI – SAVINGS CLAUSE ..... 31
ARTICLE XXXVII – TERM OF AGREEMENT ..... 32

# CITY OF CLAREMONT
# AND
# CLAREMONT POLICE OFFICERS' ASSOCIATION

## MEMORANDUM OF UNDERSTANDING

## ARTICLE I – PREAMBLE

It is the intent and purpose of this Memorandum of Understanding to set forth the understanding of the parties reached as a result of meeting and conferring in good faith regarding, but not limited to, matters relating to the wages, hours, and terms and conditions of employment between employees represented by the Claremont Police Officers' Association (CPOA, "Association") and representatives of the City of Claremont ("City").

## ARTICLE II – RECOGNITION

The following positions shall be represented by the Association: Police Corporal, Police Officer, Police Recruit, Communications Officer I, Communications Officer II, Senior Jailer, Jailer, and Parking Enforcement Officer.

## ARTICLE III – ASSOCIATION RIGHTS

Employees of the City shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee organizations and shall have the right to represent themselves individually in their employment relations with the City. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against by the City, another employee, or any employee organization because of his/her exercise of these rights. A minimum of two members of the CPOA Board of Directors shall be involved in the meet and confer process.

## ARTICLE IV – DUES DEDUCTION

During the life of this Memorandum, the City shall deduct, two pay periods per month from the net amount, the monthly dues plus any voluntary insurance premium deduction of each employee in the recognized unit who has furnished the City with an individual written authorization, revocable pursuant to the City of Claremont's Resolution 71-106. The Association shall indemnify the City and defend at its expense against any liability, claim, demand, judgment or loss from any lawsuit filed by any employee or group of employees in connection with this check-off provision. The City shall remit such deductions to the Association monthly and the Association shall repay any amount paid in error.

## ARTICLE V – MANAGEMENT RIGHTS

The rights of the City include, but are not limited to, the exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; determine when work shall be contracted or transferred out of the unit; determine the content of job classifications; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work. The inclusion of such

rights in a list of City rights, and the right of the City to act on such rights shall not be subject to grievance.

## ARTICLE VI – SALARIES

The Association agrees to the following one (1) time benefit during the term of this contract:

> "Cash Out" of 48 hours of accumulated vacation, sick leave, or floating holiday leave on 7/20/2017 or 11/23/2017 at your base salary as of 7/1/2017. This is considered a 1-time cash-out and does not carry over to subsequent contracts. This is only eligible for members on payroll as of 6/30/2017.
>
> OR
>
> 2.4% bonus of your annual base salary on 7/1/2017 paid out on 7/20/2017 or 11/23/2017. This is considered a 1-time bonus and does not carry over to subsequent contracts. This is only eligible for members on payroll as of 6/30/2017.

The salary range for the Police Officer classification shall be increased .5%, Police Corporal 1%, and Jailer .5% effective 7/1/2017.

The Performance Recognition Program shall be continued with the following guidelines:

1. All provisions of Administrative Policy #30-19, "Performance Recognition Program" are hereby incorporated by reference. However, Provision B-1-b shall, for the purposes of employees represented by the Claremont Police Officers' Association, read: "An employee whose overall performance is rated "exceeds expectations" shall receive a merit increase of not less than 5%, not to exceed the top of the range" and Provision B-1-c shall read, "An employee whose overall performance is rated "excellent" shall receive a merit increase of not less than 6%, not to exceed the top of the range."

2. Employees who, by nature of their assignment, are supervised by more than one supervisor during the review period, shall have their evaluations completed by the supervisor who has supervised the employee the longest period of time. The other supervisor(s) shall confer with that supervisor and provide for said evaluation.

3. At least ten (10) days prior to preparing an employee's evaluation, the supervisor charged with completing the evaluation shall request the employee to provide written input for his/her evaluation.

4. An employee may request to have their evaluation reviewed by an evaluation review board. The request must be made within 15 calendar days of being given the evaluation. The employee must submit the request in writing and shall at a minimum contain a summary of the specific areas the employee is requesting to have reviewed. The review board shall consist of the Personnel Manager, a Police Department supervisor (Sergeant or above) chosen by the employee, and a Police Department supervisor (Sergeant or above) chosen by the Chief of Police or his designee. The evaluation review committee is advisory in nature and any committee recommendations to the Police Chief following the review are non-binding.

5. A salary survey shall occur in January 2018. Survey cities will be Arcadia, Azusa, Brea, Chino, Glendora, La Verne, Monrovia, Montclair, Upland, Covina, and

Rialto. The City will work with the association to review and revise as necessary to come to an agreement on suitable survey cities for subsequent surveys. Salary ranges shall be placed at the average of the survey cities.

## ARTICLE VII – EDUCATIONAL INCENTIVE PAY

Employees (safety positions and communications officers) with an AA degree, 60 semester units, or 90 quarter units, and/or a POST Intermediate Certificate shall receive $250 a month.

Employees (safety positions and communications officers) with a Bachelor's degree, 120 semester units, or 180 quarter units, and/or Advanced POST certificate shall receive $350 a month.

Communications Officers, upon proof of completion of POST mandated training, shall receive $100 a month or degree compensation, whichever is greater.

Jailers upon proof of completion of STC training shall receive $100 a month or degree compensation, whichever is greater.

In order to qualify for this benefit, the employee shall submit to the Personnel Division a diploma or transcripts from an accredited institution(s), or an Intermediate or Advanced certificate issued from the Commission on Peace Officer Standards and Training (POST). Qualifying for the POST certificate alone does not qualify the employee to receive this benefit. The employee only qualifies to receive this benefit upon issuance of the certificate by POST. For payroll purposes, the date stamped on the issued POST certificate will be considered the qualification date; qualification for this benefit under the education component is based on the date the employee submits a copy of their transcripts and/or qualifying diploma to the Personnel Division.

## ARTICLE VIII – BILINGUAL PAY

Employees who successfully complete a proficiency exam shall receive $75/month Bilingual Pay for Spanish or other languages as may be designated by the City.

## ARTICLE IX – SPECIAL DUTY COMPENSATION/ASSIGNMENT

A. **Traffic Assignment:** Unit employees regularly assigned and serving as motorcycle officers shall receive assignment pay at the rate of fifty dollars ($50.00) per month. Such officers shall receive this assignment pay for each pay period during which they were able and available to perform such assignment for a minimum of five (5) scheduled shifts during the pay period. In lieu of overtime otherwise compensable under the Fair Labor Standards Act (FLSA), motor officers shall continue to receive one day off (10 hours) per month for the purposes of maintaining their motorcycles. The day off shall be earned following a minimum of ten worked shifts in a traffic assignment from the previous month and cannot be accrued.

B. **Field Training Officer Assignment:** Corporals and Officers selected to be Field Training Officers (FTOs)to train full-time Police Department personnel shall be compensated an additional 7% during the time they are actually conducting training. Corporals and Officers selected as FTO's will have to successfully complete a POST approved Field Training Officer course prior to training and serve at the leisure of the department.

C. **Non-Sworn Training Assignment:** Non-sworn employees, other than Communications Officer II or Senior Jailer, assigned to train full-time Police Department personnel shall receive an additional 7% during the time they are actually conducting training. Employees

selected as trainers, and who complete a train-the-trainer or FTO course serve at the leisure of the department.

D. **Matron Duty:** Communication Officer I and Communication Officer II shall receive $100 per month for Matron Duty Pay.

E. **Detective Bureau Assignment – Police Officer:** A Police Officer may be assigned to the Detective Bureau for a period of one (1) year, with the possibility of extending the assignment for an additional year. Assignments and extensions would only occur with the agreement of both the Chief of Police and the assigned Officer(s). While assigned to the Detective Bureau, the Officer's pay rate would remain at the same rate as if the Officer were assigned to Patrol, with no enhancements, except that while assigned to the Detective Bureau the Officer will receive uniform allowance commensurate with an administrative assignment.

F. **Canine Assignment:** Employees who are assigned to a canine officer detail are entitled to compensation for off-duty hours spent caring, grooming, and feeding their canine. In lieu of overtime otherwise compensable under the Fair Labor Standards Act (FLSA), canine officers receive one day off (12 hours) per month for the purposes of maintaining their canines. The day off shall be earned following a minimum of ten worked shifts in a canine assignment from the previous month and cannot be accrued.

## ARTICLE X – CALL BACK TIME

Employees who are called to work overtime from their day off or other off-duty hours shall be compensated for a minimum of three (3) hours of work. If the "call back time" is adjacent to regularly scheduled hours, the employee shall be paid overtime for time actually worked.

Compensation shall commence at the time an employee reaches the place where he/she is directed to report and shall continue until the work is completed. If the employee is required to be in uniform traveling in a department vehicle, pay begins when officers depart from the station. The travel time must be approved by the on-duty Lieutenant or Sergeant in their absence (Exception: Article XV – Special Duty Pay).

## ARTICLE XI – ON-CALL TIME

A. Employees who are required to stand-by during their off-duty time for an appearance in court shall receive two (2) hours of pay at straight time in the morning and two (2) hours of straight time in the afternoon while on-call. If an employee, however, is called to appear in court, the employee shall instead receive compensation in accordance with the callback provision of Article X of the MOU. If an employee scheduled for court is cancelled within 48 hours of appearing, they will receive two (2) hours of straight time, provided the court time is outside their normal shift.

B. In order to receive compensation for afternoon on-call, the employee must contact the Deputy District Attorney handling the case to confirm afternoon on-call status. The name of the district attorney confirming afternoon on-call status shall be included on the overtime slip authorization submitted by the employee.

C. Former employees who are called to court on any Claremont subpoena shall be compensated by the City of Claremont for their appearance. Said compensation shall be at the rate of pay, at the time of appearance that the employee would have been earning had he/she still been employed by the City. . Current City employees called to court on any subpoena related to a previous employer shall not be compensated by the City of

Claremont and in cases where the employee is called to court during their scheduled working hours, the employee must utilize leave time (vacation, comp, or floating holiday) for the time they are unable to work their regularly scheduled hours for the City of Claremont. The person being subpoenaed may request reimbursement from the attorney who has issued the subpoena

## ARTICLE XII – OVERTIME/COMPENSATORY TIME

A. It is the policy of the City of Claremont to avoid overtime work whenever possible. In cases of emergency, however, or whenever public interest or necessity requires, any employee may be directed by proper authority, and is expected to perform overtime work. No overtime shall be recorded or reported for less than fifteen minutes of work. All overtime work, except for emergency conditions, must have the approval of the Department Head or designee prior to actual performance of the work. Failure to obtain such approval in advance will be justification for disapproval of any overtime compensation.

1. Unit employees shall receive overtime at the rate of one and one-half (1-1/2) times their regular rate of pay for time worked over 80 hours in a 14-day work period. The work period shall be determined by the City.

2. Hours worked shall include holiday, vacation, compensatory leave, jury duty (non-sworn employees only), and workers' compensation for injuries which occur during the pay period in which the overtime was accrued. Sick time will be counted as time worked for overtime computation if the overtime is worked outside of 24 hours of the shift the sick time was used. All other leaves of absence, paid or unpaid, shall not be considered as hours worked.

   All overtime worked within a 24-hour period before any sick time used, and all overtime worked within a 24-hour period after any sick time is used, shall be calculated at straight time. All other overtime shall be calculated at time-and-a-half.

   Example: An officer calls in sick on 07/13/07 for 0700-1900 hours. That officer will only receive straight time for overtime worked from 0700 hours on 07/12/07 through 1900 hours on 07/14/07. If that officer works overtime on 07/12/07 0300-1100 hours, their overtime would be calculated as follows:

   - 0300-0700 hours: Overtime at Time-and-a-Half (time beyond the 24 hours of sick time used)

   - 0700-1100 hours: Overtime at Straight Time (time within the 24 hours of sick time used)

3. The Police Department uses a 14-day work period with an overtime threshold of 86 hours pursuant to 29 USC §207(k) of the FLSA. The first 14-day work period shall be Monday, July 3, 2017 at 0001 hours through Sunday, July 16, 2017 at 2400 hours, and continue every 14 days thereafter.

4. The accrual and/or use of compensatory time shall be subject to the following conditions:

   a. Employees may request to accrue compensatory time in lieu of overtime payments. The request to earn compensatory time must be submitted on

the overtime authorization form to the supervisor or Department Head prior to working the overtime.

b. Employees may accrue compensatory time at one and one-half times the actual hours worked over 80 hours in the 14-day work period.

c. All paid or unpaid leaves, with the exception of holidays, vacation, compensatory leave, and workers' compensation shall not be considered as hours worked for the purpose of computing accrual of compensatory time, but shall be considered as time worked for purposes of accruing compensatory time at straight time.

d. The Department Head or designee shall determine whether to approve compensatory time or payment for overtime based on the needs of the department and the City and on the employee's accumulated compensatory hours.

e. Total accumulated compensatory time shall not exceed 120 hours. Employees who have accumulated 120 hours of compensatory time shall have overtime paid in cash until their accumulated compensatory hours fall below the 120-hour limit.

f. Employees may cash-out up to 24 hours of accumulated compensatory time on 7/20/2017 at their base salary as of 7/1/2017. This is considered a 1-time cash-out and does not carry over to subsequent contracts. This is only eligible for members on payroll as of 6/30/2017 and compensatory accrued as of 7/1/2017.

g. Use of accrued compensatory time shall be granted at the discretion of the Department Head or designee on the needs of the department and the City. Employees shall request use of compensatory time a minimum of fourteen (14) days in advance. In the case of emergency or unforeseen circumstances, the fourteen (14) day notification requirement may be waived by the Chief of Police or his/her designee

h. Unused compensatory time shall be paid off at termination.

## ARTICLE XIII – RETIREMENT

1. **Safety (Sworn) PERS Plan Formula:**

A. **Classic Member:** A classic member is defined as an employee who meets the definition of a "classic" member for purposes of retirement pension benefits in accordance with the Public Employees' Pension Reform Act of 2013. Generally, this includes employees that were hired before January 1, 2013 in the California Public Employees Retirement System (CalPERS) or a reciprocal retirement system with no break in service longer than six months. CalPERS ultimately determine who is a classic member in compliance with the law.

a. The City shall provide for classic member employees, hired prior to March 19, 2012, shall receive the 3.0% at 50 formula (First Tier). Classic member employees hired after March 19, 2012, shall receive 3.0% at 55 (Second Tier).

B. **New Member**: A new member is defined as an employee who meets the definition of a "new" member for purposes of retirement pension benefits to the Public Employees' Pension Reform Act of 2013. Generally, this includes employees that were hired into a regular position on or after January 1, 2013 or former members who have more than a six-month break in service. CalPERS ultimately determine who is a classic member in compliance with the law.

a. The City shall provide for new member employees the 2.7% at 55 (Third Tier).

2. **Miscellaneous (Non-Sworn) PERS Plan Formula**

A. **Classic Member**: A classic member is defined as an employee who meets the definition of a "classic" member for purposes of retirement pension benefits in accordance with the Public Employees Pension Reform Act of 2013. Generally, this includes employees that were hired before January 1, 2013 in the California Public Employees Retirement System (CalPERS) or a reciprocal retirement system with no break in service longer than six months. CalPERS ultimately determine who is a classic member in compliance with the law.

a. The City shall provide for classic member employees, hired prior to March 19, 2012, shall receive the 2.5% at 55 formula (First Tier). Classic member employees hired after March 19, 2012, shall receive 2% at 55 (Second Tier).

B. **New Member**: A new member is defined as an employee who meets the definition of a "new" member for purposes of retirement pension benefits to the Public Employees Pension Reform Act of 2013. Generally, this includes employees that were hired into a regular position on or after January 1, 2013 or former members who have more than a six-month break in service. CalPERS ultimately determine who is a classic member in compliance with the law.

a. The City shall provide for new member employees the 2% at 62 (Third Tier).

3. **PERS Highest Pension Calculation Compensation Period -** The City shall continue to provide the Single Highest One Year Final Compensation Pension calculation benefit to current employees hired prior to March 19, 2012. Employees hired after March 19, 2012 shall receive the highest average Three Year Final Compensation calculation benefit.

4. The City shall provide employees with the following benefits/provisions:

A. The City's contract with PERS provides credit for unused sick leave.

B. The City's contract with PERS provides the Third Level of 1959 Survivor Benefit.

C. **Safety (Sworn) Classic Members**: Employees shall contribute 9% toward the PERS employee share.

**Safety (Sworn) New Members**: Employees shall contribute 11.50% or 50% of the total normal cost (whichever is greater) toward the PERS employee share.

**Miscellaneous (Non-sworn) Classic Members**: Employees hired prior to March 19, 2012 shall contribute 8% toward the PERS employee share. Employees hired after March 19, 2012 shall contribute 7% toward the PERS employee share.

**Miscellaneous (Non-sworn) New Members:** Employees hired after January 1, 2013 shall contribute 6.25% or 50% of the total normal cost (whichever is greater) toward the PERS employee share.

Both City and employee contributions shall at the time of separation, belong to the employee.

## ARTICLE XIV – SHOOTING PAY

All sworn unit employees shall be credited with three (3) hours overtime or actual hours worked whichever is higher for each month they are required to shoot during off-duty hours.

## ARTICLE XV – SPECIAL DUTY PAY

Unit employees assigned to perform police functions at special duty events shall be paid at time and one-half the top step of Corporal pay. Pay starts at time the employee arrives at location and is scheduled to perform police functions at the special duty event.

## ARTICLE XVI – TUITION REIMBURSEMENT

A. Eligibility

1. All unit employees shall be reimbursed if they secure prior written approval of the course from their Department Head and the City Manager, and earn a grade of C or better (a grade of B or better for graduate courses).

2. Courses must be job related as determined by the City Manager.

B. Amount of Reimbursement

1. All unit employees shall be eligible to receive up to fifteen hundred ($1,500) per year as reimbursement for tuition and/or related school expenses (i.e., textbooks, health fees, application fees, unreimbursed mandatory school expenses related to offsite school projects, fieldtrips, transportation, parking fees, etc.).

2. No employee shall receive reimbursement for courses eligible for full or partial reimbursement from another funding source (e.g., Veteran's benefits or POST).

3. If an employee is terminated from the City within one year after the completion of a reimbursed course for which the City has paid more than $50, the employee shall reimburse the City by an amount equal to 1/12 of the reimbursement amount times the number of months remaining in the year. Terminated employees shall be required to sign an authorization for the City to deduct from the last paycheck any amount due to the City.

4. If an employee is directed to take a course by the Department Head, and the Department Head requests in writing the approval of the City Manager, the City Manager may approve that the full cost of tuition and fees be paid in advance by the

City. The City may also pay transportation or mileage and the cost for books and other materials at the discretion of the City Manager.

C. Submitting Tuition Reimbursement Requests

1. All requests for tuition reimbursement forms shall be completed by the employee and filed with the department secretary.

2. The department secretary shall see that the form has the necessary Department Head approval and shall submit the request to the accounting division.

3. The Finance Department shall review the appropriate training account to determine whether sufficient funds are available and forward the form to the City Manager.

4. The City Manager shall approve or reject the request and return the form to the accounting division.

5. In the event that the City Manager approves the request for tuition reimbursement, the accounting division shall record this approval as an encumbrance against the appropriate training account, return one copy of the request for tuition reimbursement form to the employee making the request, and file one copy with the training account log.

6. Upon successful completion of the course, and within 30 days of the issuance of the course grade, the employee shall complete a demand form and submit it, together with a copy of the original approved request for tuition reimbursement form, receipts, and proof of course grade, to the accounting division.

## ARTICLE XVII – UNIFORM ALLOWANCE AND REIMBURSEMENT

A. Allowance: All uniformed personnel (Corporals, Officers, Communication Officer I, Communication Officer II, Jailers, Senior Jailer, and Parking Enforcement Officer) shall receive thirty ($30.00) per month allowance for uniform maintenance. All persons assigned to administrative duties (investigations, DARE, training, community relations) will receive forty ($40.00) per month allowance.

B. Reimbursement: Employees shall be eligible to receive reimbursement of up to $400 per fiscal year for uniform and equipment purchases. All purchases shall be in compliance with City and Police Department policy and reimbursement shall occur upon submittal of proof of purchase receipts. Ineligible items include firearms, magazines, and ammunition.

## ARTICLE XVIII – FLEXIBLE BENEFIT PLAN

The City's Flexible Benefit Plan shall include, for the employee and eligible dependents, City sponsored health insurance including medical, dental and vision insurance. The Flexible Benefit Plan shall also include, for employee only, supplemental benefit options available.

The City shall contribute $1,294.00 per month towards the flexible benefit plan. Employees who do not use the full amount of the Flexible Benefit shall receive the remaining amount as taxable income. Should the total cost of premiums for benefits selected under the plan exceed the City's monthly contribution, the overage will be paid by the employee via pretax payroll deductions.

If an employee has medical, dental, and/or vision through other means, the employee is able to submit proof of other coverage, and will receive the Flexible Benefit amount as taxable income.

## ARTICLE XIX – LIFE INSURANCE

The City agrees to provide life insurance in the amount of $75,000 per employee and $10,000 for his/her dependents.

## ARTICLE XX – DEFERRED COMPENSATION

Employees have the opportunity to participate in a supplemental retirement savings account, 457 Deferred Compensation plan. Through tax-deferred payroll deductions, employees are eligible to deposit funds into their account, up to the maximum allowed by law.

## ARTICLE XXI – DEFERRED COMPENSATION MATCH

Beginning with the employees' fifteenth (15th) consecutive year of service in CPOA, the City will match up to one and one/half percent (1.5%) of their base pay, payable into their deferred compensation account. This percentage increases to two percent (2%) at the beginning of their twentieth (20th) year in CPOA. To qualify for the deferred compensation match, an employee must have at least three (3) of five (5) years, preceding the eligibility year, of "exceeds expectations" evaluations. On an annual basis, employee must maintain "exceeds expectations" evaluation or lose eligibility for that year. Employee would be eligible for deferred compensation match once again, if they maintain the three (3) of five (5) year "exceeds expectations" evaluations.

## ARTICLE XXII – RETIREE MEDICAL INSURANCE

The City shall continue to offer retirees the option to participate in group medical programs offered by the City. Association members that retire after October 25, 2011 may continue retiree group medical coverage at their own expense. Association members that retired before October 25, 2011 shall continue to be eligible for retiree group medical coverage at the retiree's expense minus the City's current retiree-only $32.20 monthly contribution. Premium costs and level of coverage shall remain the same as for active employees, when applicable. Retirees eligible for Medicare have different premiums and coverage then non-Medicare eligible retirees, and active employees.

## ARTICLE XXIII – LONG TERM DISABILITY

The City shall provide a long term disability program which includes the following benefits: 66.66% of base pay; maximum benefit up to $8,000; to age 65, following a 60-day wait period. Between the 60th and 90th day of disability, the City will fund an amount equivalent to that under the long-term disability policy. After the 90th day, the policy itself will be in effect.

## ARTICLE XXIV– WORKERS' COMPENSATION

All injuries sustained in the course of employment shall be reported at once to the unit employee's immediate supervisor or the on-duty Watch Commander (whichever is immediately available), who shall report the injury to their Division Manager, Department Head and the Personnel Manager. In the event the employee is physically incapacitated in such a manner as to prevent submission of a report, the Department Head or his/her designee shall complete and forward the required report to the Personnel Manager within 24 hours following the injury.

A. **NON-SWORN EMPLOYEES:**

Whenever any employee is compelled by direction of the City's physician or the employee's physician where the City has not appointed one, to be absent from duty on account of injury arising out of and in the course of his/her City employment, he/she shall receive full compensation during the first thirty (30) calendar days of such absence. During the period of time that an employee is receiving full salary, any workers' compensation payments received by the employee or by the City in his/her behalf shall be paid over to the City.

After thirty (30) days, an employee may elect to apply prorated accrued sick leave to such absence and to receive compensation equal to the difference between the compensation to which he/she is entitled under the California Workers' Compensation Law and his/her regular City salary, not to exceed the amount of earned sick leave. If the employee does elect and has applied his/her accrued sick leave to such absence, then he/she shall be entitled to receive compensation for absences following and related to the occurrence of a specific injury until his/her sick leave is exhausted. Such compensation shall be in an amount equal to the difference between compensation to which he/she is entitled under the California Workers' Compensation Law and his/her regular City salary.

Any permanent employee shall continue to accrue vacation, holidays and sick leave and to earn eligibility for consideration for merit salary increases during an absence resulting from an on-the-job injury providing he/she receives compensation payments under the provisions of the California Workers' Compensation Law. A probationary employee shall be entitled to the same benefits as a permanent employee, except he/she shall not continue to earn eligibility for consideration for merit salary increases or permanent status.

Medical care and payments for permanent disabilities incurred in the course of employment shall be as prescribed by the Workers' Compensation Act.

B. **SWORN EMPLOYEES:**

Whenever a sworn police employee sustains an injury while actively engaged in law enforcement, he/she shall receive compensation as provided under the State Workers' Compensation Act. Such officer shall be placed upon leave of absence at full pay and shall be paid by the City for so long as is required by Section 4850 and related Section of the Labor Code. During the time the City is required to pay and actually pays, the employee shall not be entitled to receive any temporary disability payments under the Workers' Compensation System, and the City shall be entitled to receive all payments which would otherwise be payable to such employee for such temporary disability or upon retirement.

Any permanent employee shall continue to accrue vacation, holidays and sick leave and to earn eligibility for consideration for merit salary increases during an absence resulting from an on-the-job injury providing he/she receives compensation payments under the provisions of the California Workers' Compensation Law. A probationary employee shall be entitled to the same benefits as a permanent employee, except he/she shall not continue to earn eligibility for consideration for merit salary increases or permanent status.

Medical care and payments for permanent disabilities incurred in the course of employment shall be prescribed by the Workers' Compensation Act.

## ARTICLE XXV – HOLIDAYS

A. **AUTHORIZED HOLIDAYS**:

All unit employees shall be entitled to the following holidays with pay each calendar year and such other days as may be designated by action of the City Council:

1. January 1 (New Year's Day)
2. The third Monday in January (Martin Luther King's Birthday)
3. The third Monday in February (President's Day)
4. The last Monday in May (Memorial Day)
5. July 4 (Independence Day)
6. The first Monday in September (Labor Day)
7. Veteran's Day
8. Thanksgiving Day
9. December 25 (Christmas Day)

B. Unit employees shall receive three floating holidays (24 hours) each calendar year, of which 1) sixteen (16) hours must be used in the fiscal year, eight (8) may be compensable under the terms of "D" below; 2) require a minimum of fourteen (14) days advance approval. In the case of emergency or unforeseen circumstance, the fourteen days notification requirement may be waived. All 24 floating holiday hours shall be credited to the employee the first pay period in January and must be used by November 30 of the same calendar year or shall be compensable on the pay date closest to December 1st of each calendar year.

C. The specific days that City employees will observe the holiday may be determined by the City Council and/or the City Manager. The City Manager is empowered to determine whether the City shall observe special days of declaration by the President or Governor as a day of public fast, thanksgiving, mourning or holiday, as well as determine if Christmas Eve, and/or any other day shall be a holiday.

D. Employees shall have the option of receiving straight time compensatory time in lieu of holiday pay. Such hours shall be banked as floating holiday hours.

E. Employees shall receive holiday pay equal to the number of hours they are scheduled to work on a holiday or the number of hours actually worked on a holiday, whichever is greater. Those employees normally scheduled off on a holiday will receive holiday pay of eight (8) hours.

**Application:** A recognized holiday is from midnight the night prior through midnight the day of the holiday. For example, the July 4 holiday is from July 3 at 2400 hours through July 4 at 2400 hours.

**Example 1:** An officer has a regularly scheduled day off on July 4, and does not work that day. That officer receives eight (8) hours of holiday pay.

**Example 2:** An officer works July 3 from 1900 hours through July 4 at 0700 hours, and is off work the rest of July 4. That officer worked 7 hours of the holiday (2400-0700 hours), but will receive eight (8) hours of holiday pay since eight (8) hours is the minimum.

**Example 3:** An officer works July 3 from 1900 hours through July 4 at 0700 hours, and works again July 4 from 1900 hours through July 5 at 0700 hours. That officer is considered working the holiday from July 3 at 2400 hours through July 4 at 0700 hours, and July 4 at 1900 hours through 2400 hours, for a total of 12 hours. That officer would receive 12 hours of holiday pay.

**Example 4:** An officer works July 3 from 1900 hours through July 4 at 0700 hours, and works again July 4 from 1500 hours through 2300 hours. That officer is considered

working the holiday from July 3 at 2400 hours through July 4 at 0700 hours, and July 4 at 1500 hours through 2300 hours, for a total of 15 hours. That officer would receive 15 hours of holiday pay.

**Example 5:** A detective would normally be scheduled to work 10 hours on July 4, but is taking the day off using 10 holiday hours. Those 10 hours are considered holiday pay, so no additional holiday pay is awarded.

**Example 6:** A detective would normally be scheduled to work 10 hours on July 4, but is taking the day off using 10 holiday hours. The detective works five (5) hours overtime at the fireworks show. The detective receives no additional holiday pay, since 10 hours of holiday has already been paid, which is greater than the actual time worked (5 hours).

**Example 8:** An officer is normally scheduled to work July 3 from 1900 hours through July 4 at 0700 hours, but takes time off using vacation. The officer then works July 4 from 1900 hours through July 5 at 0700 hours. The 5 hours from July 3 at 1900 hours through 2400 hours are charged to vacation. The 7 hours from July 3 at 2400 hours through July 4 at 0700 hours are charged to holiday pay instead of vacation (per the CPOA MOU XXVII (C)). The 5 hours on July 4 at 1900 to 2400 hours are considered working on the holiday, so the officer will receive holiday pay for those hours. The officer will receive a total of 12 hours holiday pay (the seven (7) hours used to take the day off, and the five (5) hours earned while working).

## ARTICLE XXVI – MILITARY LEAVE

Military leave with pay shall be granted in accordance with provisions of the Military and Veterans Code of the State and applicable Federal law.

An employee entitled to military leave shall give his/her Department Head an opportunity within the limits of military regulations to determine when such leave shall be taken. Prior to taking such leave, an employee shall present a copy of his/her military orders to his/her Department Head. The Department Head shall advise the Personnel Manager of such military orders immediately. Sick leave and annual vacation leave will accrue to the employee during the period he/she is on military leave.

In the event an employee is called to active duty, he/she shall receive his/her compensation less his/her military pay for up to six months.

## ARTICLE XXVII – SICK LEAVE

A. **ACCRUAL OF SICK LEAVE:** Employees shall accrue 3.69 hours sick leave for each pay period.

1. An employee shall not receive payment for unused sick leave accumulated to his/her credit upon termination of employment or retirement (either disability or regular). An employee may not use sick leave to extend his/her retirement (either disability or regular) date. This prohibition shall not affect an employee's right to obtain sick leave credit with PERS.

2. Up to five (5) days/shifts more sick leave than has been accumulated may be advanced to an employee on the recommendation of his/her Department Head and the approval of the City Manager. If the employee does not return to work or terminates before repaying the advance, his/her pay for those days shall be deducted from his/her paycheck.

3. Sick leave is not a leave which an employee may use at his/her discretion, but shall be allowed only in cases of actual sickness or disability that is non-industrial and which make it impossible for the employee to perform his/her normal work assignments.

4. Employees scheduled to work on a holiday who are unable to do so due to illness shall be compensated (8) hours of holiday pay and have the total number of hours they were scheduled to work deducted from their accrued sick leave.

5. No mention on performance reviews or the financial penalization of employees for legitimate use of sick leave that qualifies under the Family Medical Leave Act or Family sick leave (Kincare Law) to care for sick family members, or as Pregnancy Disability Leave.

6. Any abuse of sick leave as evidenced by patterned absences, evidence of fraud or more than 40 hours annual use of sick leave not justified by apparent good cause may be mentioned on performance evaluations.

B. **PROOF OF ILLNESS:**

In order to be paid for time while absent from duty on sick leave, the employee must notify his/her immediate supervisor at least two (2) hours prior to the time set for the beginning of his/her regular duties. Notification is defined as actual contact with the supervisor and/or the on-duty Watch Commander either in-person or over the phone. Calling in to other staff does not meet the notification requirement.

The Department Head, or his designee, may request a certificate issued by a licensed physician or other satisfactory proof of illness before sick leave is granted.

The Department Head, or his designee, may also choose the licensed physician to conduct a physical examination and such examination shall be conducted at City expense.

C. **LEAVE**

**Family School Partnership Leave**

In compliance with the Family School Partnership Act, an employee who is the parent, guardian, or grandparent having custody of a child in kindergarten or grades one through twelve, including a licensed child care facility, can take off up to forty (40) hours a year, but may not exceed more than eight (8) hours in one calendar month, to participate in the child's school activities. School activities include field trips, open houses, extracurricular activities, and school meetings for a suspended child. The employee must give at least five (5) working day notice to the Department Head prior to participating in the school activity. The Department Head may require the employee to provide documentation of the school activity. The employee may use accumulated leave time such as vacation, comp time, administrative leave, or floating holidays. The employee may also use unpaid leave.

**Family Sick Leave (Kincare Law)**

In compliance with Labor Code section 233 and City Administrative Policy 30-32 - Sick Leave, employees may use sick leave for qualifying family sick leave events.

**Family Care and Medical Leave (FMLA)**

In compliance with City Administrative Policy 30-36 - Family Care and Medical Leave (FMLA), employees may use sick leave, vacation, compensatory time, administrative leave, and/or floating holiday hours for time off work as the result of a qualifying FMLA event.

**Pregnancy Disability Leave**

In compliance with City Administrative Policy 30-32 - Sick Leave, and Family Care and Medical Leave (FMLA) Policy 30-36, employees may use sick leave, vacation, compensatory time, administrative leave, and/or floating holiday hours for time off due to pregnancy caused disability.

**Bereavement Leave**

In compliance with City Administrative Policy 30-32 - Sick Leave, employees may take bereavement leave for the death of a family member.

## ARTICLE XXVIII – VACATION

### A. BASIS OF ACCRUAL

1. Accrual of vacation leave begins with the first pay period. Every employee shall accrue 3.69 hours of vacation leave per pay period for the first year of full-time continuous service with the City.

2. Following the completion of the first year of full-time continuous service, employees shall accrue vacation leave at the rate of 4.62 hours per pay period.

3. Following the completion of the thirteenth year of full-time continuous service, employees shall accrue vacation leave at the rate of 6.15 hours per pay period.

4. Beginning with an employee's tenth year of employment and in five-year increments thereafter, he/she shall receive a one-time longevity incentive of eighty hours on his/her 10th, 15th, 20th, 25th, 30th etc. anniversary date. The longevity incentive shall be used within 12 months after receiving it.

### B. VACATION ACCRUAL LIMIT

All employees shall be entitled to have a total accrued vacation leave equal to two years (52 times their pay period accrual rate).

### C. EFFECTS OF HOLIDAY ON VACATION LEAVE

In the event one or more authorized municipal holidays falls within a vacation leave, such holiday shall not be charged as vacation.

### D. EFFECTS OF SICK LEAVE ON VACATION LEAVE.

In the event an employee becomes ill during his/her vacation period, such time shall not be charged as vacation leave if the following conditions are met:

1. Notice is given immediately to the employee's supervisor or the on-duty Watch Commander Sick leave will only be granted for those days on which notice is given or which follow notice to the City; and

2. The employee submits a doctor's certificate for the period of sick leave.

E. **COMPENSATION FOR CITY WORK DURING VACATION PROHIBITED**

No person shall be permitted to work for compensation for the City in any capacity, except compensation for mandated court appearances or special duty assignments during the time of his/her paid vacation leave from City services.

F. **SCHEDULING VACATIONS**

An employee may take his/her annual vacation leave at any time during the year, contingent upon determination by his/her Department Head that such absence will not adversely affect the department.

Each employee must consider the needs of the department when requesting annual vacation leave. An employee shall provide a minimum of fourteen (14) days written notice of requested vacation time off. In the case of emergency or unforeseen circumstances, the fourteen (14) day notification requirement may be waived by the Chief of Police and/or is designee.

G. **VACATION PAY UPON TERMINATION**

Any employee separating from City service who has accrued vacation leave shall be entitled to pay in lieu of such vacation. An employee may not use vacation leave to extend his/her termination effective date.

When separation is caused by death of any employee, payment shall be made to the spouse or the estate of such employee or, in applicable cases, as provided by the Probate Code of the State.

## ARTICLE XXIX – DISCIPLINARY PROCEDURE

No permanent employee shall be disciplined without just cause. For purposes of this Article, discipline shall be defined to include: oral warnings, written reprimands, suspensions, demotions, reductions in pay, and discharge. Probationary employees may be dismissed for any lawful reason without just cause.

A permanent employee who receives an oral warning, written reprimand, or suspension of less than three days may appeal such action in accordance with the grievance procedure contained in this Agreement (commencing with Article XXIX-C-1).

Except in emergencies, or as authorized by law, suspensions of three days or more, demotions, reductions in pay or discharge, shall not be put in effect until the employee has received written notice advising the employee of the proposed action, the reason(s) therefore, the facts giving rise thereto, the proposed effective date, access to written material that forms a basis for the proposed action, and the opportunity to respond to the Police Chief orally or in writing within five (5) calendar days of receipt of such notice. If the proposed action or some modified action is then implemented, the employee may then appeal such action in accordance with the Grievance Procedure contained in this Agreement (commencing with Article XXIX-C-3).

Grounds for disciplinary action shall include, but not be limited to:

1. Dishonesty
2. Incompetence
3. Inefficiency
4. Neglect of duty
5. Negligence which affects the safety of the employee or of others
6. Bringing to the workplace or use of or being under the influence of alcohol or intoxicating drugs while on duty or on City property.
7. Unexcused or excessive absences (including tardiness).
8. Violation of the rules, regulations or orders established by a supervisor, department or City Council.
9. Conviction of a felony or of a misdemeanor involving moral turpitude.
10. Discourtesy to the public or fellow employees.
11. Misuse or abuse of City property or equipment.
12. Substandard job performance.
13. Insubordination.
14. Outside employment which conflicts with the employee's position and not specifically authorized by the Police Chief.
15. Falsification of any City report or record (including application form).
16. Other acts which are incompatible with service to the public including any conduct or behavior, either on or off duty, which causes discredit or would reasonably tend to cause discredit to fall upon the City, its officers, agents, or departments.

This Article is intended to supersede the Disciplinary and Appeals Procedures contained in the City's Personnel Rules and Regulations.

Disciplinary actions shall be removed from an employee's file five years from the date of discipline and therefore shall not be used in considering any subsequent personnel matters including but not limited to promotions, demotions or other disciplinary action.

## ARTICLE XXX – GRIEVANCE PROCEDURE

A. "Grievance" is an allegation by an employee or the Association that the employee has been adversely affected by a violation of the specific provisions of this Agreement or of the specific provisions of the Personnel Rules and Regulations. Actions to challenge or change the policies of the City as set forth in the rules and regulations or administrative regulations and procedures, so long as these are consistent with the terms of the Agreement, must be undertaken under separate legal processes. Other matters for which a specified method of review is provided by law are not within the scope of this procedure.

B. Informal Grievance Procedure: The grievant and the City's representative shall make every effort to resolve the grievance at the lowest level of supervision. The grievant shall discuss the resolution with his/her immediate supervisor within ten (10) calendar days of the occurrence. The immediate supervisor shall render an informal decision within ten (10) calendar days of the discussion regarding the grievance. If the grievant does not agree with the supervisor's decision, or if no answer has been received within the specified time period, the grievant may continue the informal process through discussion of the grievance within ten (10) calendar days with his/her second level supervisor. The second level supervisor shall render an informal decision within ten (10) calendar days of such

discussion. If the grievant does not agree with the second level supervisor's decision, or if no answer has been received within the ten (10) day time period, the grievant may proceed to the Formal Grievance Procedure, First Level.

C. Levels of Review:

1. First Level of Review: The grievant shall present the formal grievance in writing to his/her supervisor within ten (10) calendar days of completion of the informal process. The written grievance shall contain the following information:

   a. Name of grievant and job title;
   b. Department/Section;
   c. Clear and concise statement of the nature of the grievance including the circumstances and dates involved;
   d. The specific provision(s) of the MOU or Personnel Rules alleged to have been violated;
   e. Requested remedy;
   f. Name of the grievant's representative, if any;
   g. Date and signature of the grievant.

   The supervisor shall render a decision and comments in writing and return them to the grievant within ten (10) calendar days after receiving the written grievance. If the grievant does not agree with his supervisor's decision or if no answer has been received within specified time period, the grievant may present the grievance in writing to the Police Chief or his designee.

2. Second Level - Department Review: The Police Chief or his designee shall discuss, upon request, the grievance with the grievant, his/her representative, if any, and with other appropriate persons. The Police Chief or designee shall render his decision and comments in writing and return them to the grievant within ten (10) calendar days after receiving the formal written grievance or after the meeting with the grievant, whichever is later. If the grievant does not agree with the decision reached or if no answer has been received within the specified time period, the grievant may appeal the formal grievance to the next level of the grievance procedure within ten (10) calendar days.

3. Third Level - Advisory Arbitration

   a. To activate advisory arbitration, the grievant must, within the time period specified above, present the grievance in writing to the Personnel Manager for further processing. Failure of the grievant to take this action will constitute a waiver and bar to further processing of the grievance.

   b. The scope of advisory arbitration of grievances shall be limited to discharges, demotions, or reduction in pay, or suspensions of three (3) days or more without pay. The grievant may waive the right to go to advisory arbitration and instead go directly to the Fourth Level (City Manager). All other grievances shall bypass the Third Level of the grievance procedures and advance to Fourth Level.

   c. The Personnel Manager and the grievant shall request a list of five arbitrators from the California State Mediation and Conciliation Service.

d. An arbitrator shall be selected by the following procedure: A representative of the Association or the grievant, if not represented by the Association, and the City's representative shall select the arbitrator from the California State Conciliation Service list by eliminating names until one name remains. The one remaining name shall be the arbitrator. All grievances reaching the arbitration level shall be numbered consecutively during the current fiscal year. The odd-numbered grievances will give the grievant first elimination; the even-numbered grievances will give the City first elimination.

e. Once the arbitrator has been selected, hearings shall commence at the convenience of the arbitrator. The technical rules of evidence shall not apply during the arbitration hearing.

f. The arbitrator shall be strictly bound by the time limits set forth in the grievance procedure and shall not question or entertain any grievance in which the grievant has not adhered to such time limits.

g. Employees called as witnesses shall be scheduled to be released from duty to testify at the hearings. The parties recognize that due to the essential nature of the services performed by the Department, scheduling of time for each employee to testify at arbitration shall be in such a manner so that normal operations are not disrupted. The grievant must submit at least five working days prior to the scheduled arbitration hearing date a list of employees and estimated time that their testimonies will take, as well as the date of the hearing, to the Personnel Manager, with a copy to the Police Chief.

h. The jurisdiction of the arbitrator shall be confined to a determination of the facts and the interpretation of the provisions of the Memorandum of Understanding and/or the Personnel Rules and Regulations. The arbitrator will have no power to add to, subtract from, or modify the terms of this Agreement or the written policies, rules, regulations, and procedures of the employer. Witnesses will be assured that their testimony will be kept confidential.

I. Within thirty (30) days after the conclusion of the hearing, the arbitrator shall render an advisory decision in writing to the parties (including the City Manager).

j. The arbitrator's fees and expenses shall be shared equally by the parties. All other costs shall be borne by the party incurring such expenses.

4. <u>Fourth Level - City Manager</u>

a. If the grievance is submitted to the City Manager for review and settlement, the City Manager in non-arbitrable cases, may elect the methods he/she considers appropriate for the study of the issues and shall render a written decision to the parties within fifteen days. Notwithstanding the above, upon the grievant's request, the matter shall be submitted to mediation prior to the City Manager's determination.

b. For all cases involving advisory arbitration recommendations, the City Manager shall review the entire matter within ten days after receipt of arbitrator's recommendations and render his/her decision.

c. In all cases, the decision of the City Manager shall be final.

D. General Provisions

1. The grievant is entitled to representation of his/her choice at any point in the grievance procedure.

2. Failure by the grievant to meet any of the specified time lines shall constitute a withdrawal of the grievance. Failure by the City to meet any of the specified time lines shall entitle the grievant to appeal to the next level of review.

3. Since it is important that grievances be processed as rapidly as possible, the number of days indicated at each level shall be considered as a maximum, and every effort should be made to expedite the process. If the last day of the specified time period falls on the weekend or a City Hall observed holiday, it shall be moved to the next working day. The times specified, however, may be extended by mutual consent.

4. Probationary employees not previously holding permanent status in a lower classification may file grievances under all grievable grounds defined in section A above except in cases involving rejection from probation (i.e., termination).

5. Employees shall be assured freedom from reprisal for using the grievance procedures.

## ARTICLE XXX – LAYOFF PROCEDURE

A. The Personnel Manager may separate any employee or class of positions without prejudice, because of financial or economic condition of the City, reduction of work, or abandonment of activities. The City shall give such employees no less than thirty (30) calendar days written notice of separation and the reason thereof. The notice will be hand-delivered or sent by registered mail. However, no permanent full-time employee shall be separated from a department while emergency, seasonal, and probationary personnel are employed and serving in the same position in the department.

B. In establishing the order of layoff of employees, the retention of those employees determined to be the most qualified is of concern and therefore, job performance will be considered. However, the principal criteria used in determining the order of layoff and bumping rights shall be seniority, time worked within a class within the City, provided the employee presently possesses the skills, abilities and qualifications to perform the job. Furthermore, seniority shall govern unless the following criteria show that ability, merit and record of the employees considered for layoff are not equal:

1. An employee's last four performance evaluations, if in existence;

2. Any history of employee written disciplinary actions;

3. Attendance record - tardiness and unexcused absences;

4. Safety record - vehicular and injury.

C. In the event that a less senior employee in the position in the classification to be laid off has superior skills, abilities, qualifications, merit and record, as determined by the Personnel Manager in the above manner, the more senior employee shall be laid off.

D. Length of classification seniority shall be counted as all periods of time served as a probationary and permanent employee within a classification.

a. The person who holds the higher rank shall be the senior employee.

b. If two persons are of equal rank, the one promoted first shall be the senior employee.

c. If two persons are promoted on the same day, the person in the higher band shall be the senior employee. If two persons are promoted on the same day and from within the same band, the person who had been senior prior to the promotion shall be the senior employee.

Leave of absences will not be considered when determining seniority.

E. Bumping Rights - A laid-off employee shall be entitled to bump to the next classification/rank down in accordance with the criteria specified in B 1-4 above. The laid-off employee must be physically and mentally able to perform the duties of the former class. No employee shall be transferred or demoted to a position for which they do not possess the minimum qualifications.

F. After the City has notified the affected employee of the position available, if any, the employee must notify the Personnel Manager in writing of his/her intent to exercise the bumping rights within ten (10) calendar days, and the position and classification in the City to which he/she intends to bump, or the bumping rights shall be barred and waived to the employee. The employee with the least seniority in the class shall be bumped by the person who is laid off. The employee bumped shall be considered as laid off for the same reason as the person who bumped them and shall in the same manner be eligible to bump to the next classification/rank down in accordance with the criteria specified in B 1-4 above.

G. An employee's appointment shall not be terminated as a result of a layoff before they have been made a reasonable offer of reassignment, if such an offer is immediately possible or available. Determination of a reasonable offer of reassignment and its availability will be made by the Personnel Manager.

H. The names of permanent employees who have been laid off due to a reduction in force shall be placed on an appropriate re-employment list according to date separated and shall be eligible for re-employment. The last employee laid off shall be the first employee on the list, with other employees listed in sequential order thereafter. Each employee on a re-employment list shall remain on that list for one year, at which time the list expires unless extended by the Personnel Manager for a maximum of one (1) additional year. The employee first listed shall also be first considered should a vacancy occur within that classification.

I. Names of laid-off employees on a re-employment list shall be removed under the following provisions:

1. If the employee is re-hired by the City in the same classification.

2. If the employee requests such removal in writing.

3. If the employee fails to respond within ten (10) calendar days upon receipt of notice of certification by the Personnel Manager to that last known address available.

4. If the employee refused an appointment to a position of the same classification.

J. An employee who fails to respond in writing within ten (10) calendar days, refuses recall, or fails to report on the prescribed date, waives all further right to recall and reinstatement as an employee.

K. A person appointed from a re-employment list must serve a new probationary period if a recall from such list occurs more than one year after the effective date of layoff. A new probationary period in such circumstances shall not be less than one year.

## ARTICLE XXXI – COMMUNICATION OFFICERS

All new Communications Officers are hired as a Communication Officer I regardless of previous training/experience. Once a Communication Officer I has completed the below requirements, they shall submit a memorandum and supporting documentation to the Support Services Supervisor requesting to be reclassified to a Communications Officer II position. The Support Services Supervisor shall review the memorandum and supporting documentation to ensure the minimum requirements are met to reclassify the employee to a Communications Officer II position and forward a recommendation to the Chief of Police. The Chief of Police will forward approval of the reclassification to the Personnel Division. The reclassification will take place on the next pay period following submission to the Personnel Division.

A. Completion of the POST Basic Communications Officer Course.

B. Completion of five (5) years of service as a Communication Officer I with Claremont Police Department.

C. Last two annual evaluations were at an "exceeds expectations" rating.

D. Completion of a department approved Communication Officer training course.

E. One year as a Communications Training Officer (after completion of course, even if not assigned to a training assignment in that year)

F. Completion of a department approved Public Records Act training courses.

G. Completion of a minimum of two of the following courses:

1. Department approved Critical Incident training
2. Dispatch/Domestic Violence-Sexual Assault
3. Dispatcher/Active Shooter Situations
4. Dispatcher/Public Safety-Advanced
5. Dispatcher/Tactical Dispatching
6. Dispatcher/Complacency-Critical Decision Making

The Department recognizes that changes to training offerings may occur during the length of this MOU that limits or eliminates the availability of the above courses and while it retains its rights to approve or disapprove of alternate training courses, it is committed to working with the

Communications staff to ensure that Communications Officer I positions may be reclassified to Communications Officer II positions as quickly as they are qualified.

## ARTICLE XXXII – WORK STOPPAGE

It is agreed and understood that there will be no strike, sympathy strike, work stoppage, slow-down, or refusal or failure to fully and faithfully perform job functions and responsibilities, or other interference with the operations of the City by the Association or by its officers, agents, or members during the term of this Agreement. Compliance with the request of other labor organizations to engage in such activity is included in this prohibition.

The Association and its Board of Directors recognizes the duty and obligation of its representatives to comply with the provisions of this Agreement and to make every effort toward inducing its members to do so. In the event of a strike, sympathy strike, work stoppage, slow-down, or other interference with operations of the City by Association members, the Association agrees in good faith to actively take affirmative action to cause those employees to cease such action.

It is agreed and understood that any employee violating this article may be subject to disciplinary action up to and including discharge, and/or, may be considered to have automatically resigned from the City service.

It is understood that in the event this article is violated, the City shall be entitled to withdraw any rights, privileges or services provided for in this Agreement or in any other City rules, regulations, resolutions and/or ordinances, from any employee and/or Association.

## ARTICLE XXXIII – DRUG AND ALCOHOL TESTING

The parties recognize that the abuse of alcohol and drugs presents a serious societal problem which must be addressed by employers, employee organizations, employees and society as a whole. Both the Association and the City affirm our objective to see an end to all abuse of alcohol and drugs in the workplace.

Alcoholism and drug dependency are recognized by medical authorities and the parties as diseases, although the causes are not fully understood and the cures are difficult. Nonetheless, the City and the Association believe that constructive measures are possible to deal with alcohol and drug abuse, which can be a cause of family breakdowns, absenteeism and lost productivity, and which ultimately can be related to serious personal breakdowns.

The end objective of this policy is to help employees who are afflicted with alcoholism or drug dependency who wish to be rid of these problems. The keys to this effort will be the providing of education, assistance to the employees and their families, encouraging the employees to receive treatment as needed, fostering and encouraging an environment which is free of alcohol and drug abuse and deterrents to the abuse of alcohol and drugs.

This policy applies to all employees of the City and prohibits the use of alcohol and drugs including all substances, drugs or medications whether legal or illegal, which could impair an employee's ability to effectively and safely perform the functions of the job. This Policy sets forth the rights and obligations of the City and its employees. The use of or being under the influence of drugs and/or alcohol in the workplace in violation of this Policy, shall be grounds for disciplinary action, up to and including termination.

A. Definitions

1. ***ALCOHOL:*** The intoxicating agent in beverage alcohol, Ethyl Alcohol, or other low molecular weight alcohol, including Methyln Isopropyl Alcohol.

2. ***CITY:*** The City of Claremont.

3. ***CONTROLLED SUBSTANCE:*** Heroin, Amphetamines (Uppers), Barbiturates (Downers), Benzodiazepines (Tranquilizers, Valium), Cannabinoids (Marijuana), Cocaine, Methaqualones (Quaaludes, Downers), Opiates (Codeine, Morphine), Phencyclidine, and PCP; including prescription medications and drugs, and any drugs with an impairing effect.

4. ***EMPLOYEE:*** An individual in the service of the City, when the City has the right to control and direct that individual in the performance of their job and/or duties; any individual who works for the City.

5. ***EMPLOYER:*** The City of Claremont, and includes its agents, officers and representatives.

6. ***IMPAIR:*** To make worse or diminish an employee's ability to perform his/her job duties.

7. ***INTOXICATE:*** Mental and physical impairment caused by the consumption of alcohol and/or use of drugs.

8. ***MEDICAL REVIEW OFFICE:*** The agency responsible for receiving laboratory results generated by the City's Drug and Alcohol Testing Program which has knowledge of substance abuse disorders and has individuals with the appropriate medical training to interpret and evaluate an individual's confirmed positive test results together with his/her medical history and any other relevant biomedical information.

9. ***PRESCRIPTION DRUGS:*** Drugs which are administered by an individual who is licensed, certified, and/or registered, in accordance with applicable federal, state, local, or foreign laws and regulations to prescribe such controlled substances and other drugs.

10. ***REASONABLE SUSPICION:*** A belief based on objective facts sufficient to lead a reasonably prudent supervisor/or person, to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced. The following factors taken alone or in combination may constitute reasonable suspicion – slurred speech; alcohol odor on breath; unsteady walking and movement; an on-duty accident; change in attendance patterns or personal demeanor; physical altercation; verbal altercation; unusual behavior; possession of alcohol or drugs; information obtained from a reliable person with personal knowledge.

11. ***SUBJECT TO DUTY:*** Includes any and all time, from the time an employee begins to work or is required to be ready for work until the time he/she is relieved from work and all responsibility for performing such work.

12. ***UNDER THE INFLUENCE:*** Any condition where alcohol or drugs has so far affected the nervous system, brain or muscles of an individual as to impair, to an appreciable degree, his/her ability to operate and/or function in the matter that an

ordinary, prudent and cautious person, in full possession of their faculties, using reasonable care, would operate or function under like conditions.

B. Employee Responsibilities

An employee must:

- Not possess or use alcohol or be under the influence or impairing drugs, including illegal drugs and prescription drugs without a prescription, during working hours or while subject to duty, on breaks, during meal periods or at any time while on City property;

- Not directly or through a third party sell or provide drugs or alcohol to any person, including any employee while either or both employees are on duty or subject to begin called to duty;

- Submit immediately to an alcohol and drug test when requested by a City representative;

- Notify a supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with safe and effective performance of duties or operation of agency equipment; and

- Provide, within twenty-four (24) hours of request, bona fide verification of a current valid prescription for any potentially impairing drug or medication identified when a drug screen/test is positive. The prescription must be in the employee's name.

C. Management Responsibilities and Guidelines

- Managers and supervisors are responsible for reasonable enforcement of this policy.

- Managers and supervisors may request that an employee submit to a drug and/or alcohol test when a manager or supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol while on the job or subject to being called.

D. Education and Training

1. Employees shall be advised in writing of the City's Alcohol and Drug Abuse Policy and Program. Information provided shall cover aspects of the policy including the reasons for the program, benefits for the employees and the City, employee assistance programs, effects of alcohol and drugs on individuals and their families, use of inspections, alcohol tests and drug tests.

2. Managers, selected Association officials and other selected employees shall attend at least one hour of training on alcohol misuse and at least one hour of training on controlled substances misuse, to include the following issues:

   a. Employee Assistance Programs ("EAP").

      (1) Alcohol and drug abuse recognition, symptoms and effects.

      (2) Methods of identifying and helping employees who might be suffering from personal problems that could signal possible alcohol or drug problems.

(3) Methods of referring employees who may be subject to the effects of alcohol and/or drugs to the EAP.

b. City policies and procedures related to handling employees who appear to be subject to the effects of alcohol and/or drugs.

c. Documentation of observations and impressions of persons who may be subject to the effects of alcohol and/or illegal drugs.

d. Alcohol and drug testing policy, rules, procedures, and safeguards.

e. Benefit programs and alternatives available.

f. Safety aspects of alcohol or drug problems in both work and social environment.

3. Training shall be at City expense.

E. Employee Assistance Program

1. It is the policy of the City to offer referral to appropriate education, prevention, counseling, treatment and rehabilitation programs and services to employees and their eligible dependents when alcohol or drug abuse, individual psychological problems; marital, family or child difficulties, work stress, or financial or legal concerns arise which may impact the employees' work performance.

2. The City will provide an active EAP to assess and refer employees and their eligible dependents to appropriate education, prevention, counseling, treatment, or rehabilitation services.

3. It is the responsibility of each employee to seek assistance from the Employee Assistance Program before the employee's alcohol or drug problems lead to disciplinary action.

4. An employee's decision to seek voluntary help from the Employee Assistance Program shall not be used as a basis for disciplinary action against the employee.

5. In order for the employee's decision to enter the EAP to be considered voluntary, the employee must seek to enter the EAP prior to a referral for purposes of obtaining a breath alcohol test; or a drug test which subsequently tests positive; or mandatory referral by the employee's supervisor.

6. The confidentiality of individuals utilizing the EAP will be protected within the limits of the law.

F. Alcohol and Drug Testing

Protocol developed by LWD Inc., the City's designated testing service for drug testing, describes the method in which the initial test will be conducted, how the sample will be processed after the drug and/or alcohol test is completed, and how a confirmatory test after an initial positive result will be performed.

1. Testing Based on Reasonable Suspicion

The City may require an employee to submit to a drug screen as a condition of continued employment based on reasonable suspicion as defined by this Policy.

a. When an employee shows signs of impairment constituting reasonable suspicion of being under the influence of drugs or alcohol, the employee will be sent for testing.

(1) A test for alcohol shall be conducted and/or a urine specimen for drug testing shall be required.

(2) Prior to requesting an employee to provide a urine specimen, the employee shall be advised of the right to have an Association representative present for the purpose of consultation about the test and the implications of refusal to take the test and/or positive test results.

2. Post-Accident Testing

Post-accident drug and alcohol testing will be conducted on employees following an accident where the employee's performance cannot be discounted as a contributing factor. The only reason an employee will not be tested is if a determination is made that the employee's performance could not have been a contributing factor. If a fatality occurs, the employee will be tested irrespective of whether his/her performance may be discounted.

Post-accident alcohol tests shall be administered within eight (8) hours following an accident. A post-accident drug test shall be administered within thirty-two (32) hours following an accident.

An accident is defined as an incident involving a vehicle where, as a result of damage:

1) a vehicle must be transported away from the site of the accident; or

2) a vehicle cannot depart from the site in its usual manner without some repair and/or maintenance; or

3) a vehicle can depart from the site in its usual manner but will later require some repair and/or maintenance for safe operation; and/or bodily injury occurs to the driver and/or other individual(s) which requires medical attention to said driver and/or individual; and/or which results in death.

G. Random Testing

The City will randomly test employees for any substances, as defined in the Policy, which could impair an employee's ability to effectively and safely perform the functions of his/her job. No employee may be tested more than twice in one calendar year without cause.

1. Ten percent (10%) of safety sensitive employees shall be tested for alcohol and fifty percent (50%) of safety sensitive employees shall be tested for drugs each year.

2. LWD Inc. shall administer random drug tests for such safety sensitive employees on a quarterly basis.

3. In making the random selection, the following process shall be used:

   a. Each unit employee's unique four digit City of Claremont ID number shall be provided to LWD Inc. for use in the random drug screen selection process.

   b. LWD Inc. using a scientific valid method shall randomly select a quantity of employee ID numbers that comply with Item 1, and forward to the City of Claremont Personnel Division.

   b. The Claremont Personnel Division shall match the selected ID numbers with corresponding employees.

   c. All employees who have their employee ID number selected shall participate in the random drug screen.

   d. All unit employee ID numbers shall be utilized in the random selection process the subsequent quarter.

   e. Based on the results of the first round of testing, the frequency of the tests may be either increased or decreased.

H. Positive Test for Alcohol or Drugs

An employee whose alcohol or drug test is positive will be considered in violation of City policy. A positive drug and/or alcohol test may result in disciplinary action, up to and including discharge. If the drug screen is positive, the employee must provide within twenty-four hours of request bona fide verification of a valid current prescription for the drug identified in the drug screen. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his or her supervisor, the employee will be subject to disciplinary action up to and including discharge.

If an employee tests positive for alcohol or drugs, the City shall conduct an investigation to gather all facts. The decision to discipline or discharge will be carried out in conformance with [reference to City's pertinent discipline procedures].

1. A positive alcohol test shall measure blood alcohol level of 0.02 or higher. An employee whose alcohol test indicates an alcohol concentration level of 0.02 or higher will be removed from his/her safety sensitive position. The City will re-test the employee before the employee may return to his/her position. The employee's alcohol concentration must indicate a concentration level below 0.02 before the employee may be returned to his/her safety-sensitive position.

   a. First Positive - The employee shall be placed on an immediate leave of absence, referred to an EAP and given the option of participating in City directed counseling and assistance or a City approved alcohol or drug treatment program.

      (1) An employee will not be paid during his/her leave of absence. However, an employee may use any of his/her accumulated leaves or vacation time. Current benefit coverage will continue.

(2) An employee will be given a Last Chance Agreement which explains the consequences of a second positive test after returning to work. The employee must sign this Agreement to return to work after the treatment recommended by the City, including and not limited to treatment by the City's medical office.

b. Second Positive - If within one year of the First Positive, an employee again tests positive for either alcohol or drugs, the employee will be discharged pursuant to the terms of the Last Chance Agreement.

I. Refusal to Consent to Action Plan following Positive Test

An employee's refusal to submit to testing will result in discipline, up to and including termination. The employee will be treated in the same manner as an employee who has tested 0.02 or greater on an alcohol test or positive on a controlled substance test. Upon refusal, the employee will be reminded of the City's drug and alcohol policy and his or her responsibilities pursuant to the policy. If reasonably believed to be impaired, the employee will not be allowed to continue working.

A refusal to submit to an alcohol or controlled substances test required by this Policy includes, but is not limited to:

1. A refusal to provide a urine sample for a drug test;

2. An inability to provide a urine sample without a valid medical explanation;

3. A refusal to complete and sign the breath alcohol testing form or otherwise cooperate with the testing process in a way that prevents the completion of the test;

4. An inability to provide breath or to provide an adequate amount of breath without a valid medical explanation;

5. Tampering with or attempting to adulterate the urine specimen or collection procedure;

6. Not reporting to the collection site in the time allotted by the supervisor or manager who directs the employee to be tested;

7. Leaving the scene of an accident without a valid reason as to why without authorization from a supervisor or manager.

J. Procedure for Alcohol or Drug Testing

1. *Consent* - No alcohol test may be administered, urine sample obtained or any drug test conducted on such sample without the written consent of the person being tested. Employees have the right to have a representative of the Association present prior to testing if requested by the employee.

2. *Post-collection Interviews* - After a positive alcohol or drug test, individuals will be thoroughly interviewed by a medical review officer to determine if there may be any medications (prescription or non-prescription legal) or other substances that may have been inhaled, ingested, or injected in the past two weeks which could result in a positive test. In the event an Association member tests positive for drugs or alcohol, a post screening interview will be conducted by the City's doctor to

determine if the positive test could have been the result of an on the job exposure to drugs or from prescription and/or over-the-counter medications.

3. *Alcohol Testing* - The administration of an alcohol test shall be in accordance with the test equipment manufacturer's instructions and the procedures outlined in the Federal Register. Please refer to Attachment A.

4. *Chain of Custody* - Collection and shipment of all urine samples will follow strict chain of custody procedures. Please refer to Attachment A.

5. *Drug Testing* - The obtaining of a urine sample for drug testing and the testing of such sample shall be conducted in accordance with the procedures and protocols contained in Attachment A.

6. *Retention of Sample* - All urine samples confirmed positive for illegal drugs will be frozen by the testing laboratory and retained for a minimum of one year. Please refer to Attachment A.

7. *Confidentiality* - The identities of employees who have tested positive shall be limited to those persons having a need to know.

8. *Contractor/Vendor/Consultant Requirements* - In all future contracts with individuals or organizations that wish to conduct business with the City, a stipulation will be made in the contract that requires the contractor to inform all its employees who will be working on City property of the provisions of the City's Rules of Conduct with respect to Alcohol and Drug Abuse and that the employees of such contractors will be subject to the same Rules of Conduct, and Alcohol and Drug Testing procedures required of the City's employees.

## ARTICLE XXXIV – ALTERNATIVE WORK SCHEDULES

A. Alternative work schedules shall continue as agreed unless otherwise modified. In the event any difficulties in alternative schedules cannot be mutually resolved, any changes, deviations, elimination or extension shall occur after 30 days advanced notice, unless a state of emergency or other extraordinary circumstances preclude such advance notice.

B. So long as alternative schedules are in effect, the work period for the purposes of computing premium overtime shall be eighty (80) hours in a fourteen (14) day work period.

C. If an employee is sent to a school which lasts more than three days, that employee's schedule will revert to a traditional five (5) day eight (8) hour schedule during the time the employee scheduled to attend work.

D. Any employee placed on light duty or jury duty may be required, at the Department's discretion, to revert to a traditional five (5) day eight (8) hour schedule during the time the employee is on light-duty.

E. Holiday, vacation and sick leave accruals shall continue at the current rates of accrual: Ninety-six (96) hours of holiday per year; ninety-six (96) hours of vacation during the first year of service, one hundred twenty (120) hours of vacation during the second through the 13th year of service and one hundred sixty (160) hours of vacation during the 14th and subsequent years of service; and ninety-six (96) hours of sick leave per year.

F. Holiday, vacation, sick leave and compensatory time used shall be deducted from accrued hours on an hour-for-hour basis. For example, in the event an employee on a three (3) day twelve (12) hour shift is ill on a regularly scheduled work day, he/she shall have 12 hours deducted from his/her sick leave accrual bank.

G. Shift assignments will be made on a seniority basis with a sign-up list posted in the briefing room for patrol officers and in other appropriate places for jailers, and communications officers. Shift changes will take place every six (6) months, during the months of September and March.

H. As long as alternative work schedules are in effect, an Officer, Corporal, Jailer, or Communications Officer may not work more than two consecutive night and day shift rotations. The Chief or his designee may allow an extension of one shift rotation, if an identified emergency or hardship exists and there is no other alternative to remedy the emergency or hardship.

I. The current Communications Officer schedule shall continue unless vacancies, extended illness/injury or other staffing deficiencies require a modification. Upon mutual agreement of affected personnel and police department management, jailers shall work an alternative schedule unless vacancies, extended illness/injury or other staffing deficiencies require further modification.

J. The patrol shifts will change at 0700 and 1900 hours. The eight hour shifts shall be 0700 to 1500, 1500 to 2300, and 1900 to 0300 hours starting with the shift change in September, 1994. One officer from day shift and one from night shift shall report to duty at 0600 and 1800, respectively, to provide overlap coverage to reduce late call overtime.

K. Employees shall only be required to take a thirty (30) minute paid meal period.

## ARTICLE XXXV – FULL UNDERSTANDING/EFFECT OF AGREEMENT

It is understood and agreed that the specific provisions contained in this Agreement shall prevail over employer practices and procedures, prior written agreements, and over state laws to the extent permitted by state law, and that, in the absence of specific provision in this Agreement such practices and procedures are discretionary.

During the term of this Agreement, the parties expressly waive and relinquish the right to meet and confer and agree the parties shall not be obligated to meet and negotiate with respect to any subject matter, whether referred to or covered in this Agreement or not, even though each subject or matter may not have been within the knowledge or contemplation of either or both the City or the Association at the time they met and negotiated on and executed this Agreement, and even though such subjects or matters were proposed and later withdrawn.

This Agreement constitutes the total and entire agreement between the parties and no verbal statements shall supersede any of its provisions.

## ARTICLE XXXVI – SAVINGS CLAUSE

If any section, subsection, subdivision, sentence, clause, or phrase of this Agreement is for any reason held to be illegal or unconstitutional, such decision shall not effect the validity of the remaining portions of this Agreement.

## ARTICLE XXXVII – TERM OF AGREEMENT

This Memorandum of Understanding shall be in effect upon ratification by the Claremont Police Officers' Association and approval by the City Council July 1, 2017 through June 30, 2018.

**FOR THE CITY OF CLAREMONT POLICE OFFICERS' ASSOCIATION:**

6/5/17

Chris Casas
CPOA President
Date

6/5/17

Matt Hamill
CPOA Vice President
Date

6-5-17

Brian Thompson
CPOA Treasurer
Date

6/5/17

Tami Pope
CPOA Secretary
Date

**FOR THE CITY OF CLAREMONT:**

6-6-17

Colin Tudor
Assistant City Manager
Date

# Updated Computation of FY 2017-18 costs based on the City's computation of allowable productive hours pursuant to the approved FY 2017-18 MOU with the Claremont Police Officer's Association

## COSTS ASSUMING CITY USES ACTUAL PRODUCTIVE HOUR CALCULATION ALLOWED IN CLAIMING INSTRUCTIONS

| Program UVISAS | MANDATED COSTS CITY OF CLAREMONT ACTIVITY COST ESTIMATES | | | | | | Actual Costs FY 2017-18 |
|---|---|---|---|---|---|---|---|
| **City of Claremont** | | | | | | | |
| **DIRECT COSTS** | | | | | | | |
| **Description of Expenses:** | | | | | | | |
| Employee Names, Job Class., Functions Performed and Description of Expenses | Hourly Rate or Unit Cost | Benefit Rate | Hours Worked or Quantity | Salaries | Benefits | Contract | Total Salaries & Benefits |
| **Mike Ciszek, Lieutenant**<br>Research original crimes, complete and sign UVISA forms including detailed description of victims helpfulness.<br>(See following page for detailed list of activities)<br>(2 cases this fiscal year) | $97.27 | 67.0% | 2.00 | $195 | $130 | | $325 |
| **Shelly Vander Veen, Police Chief** | $113.89 | 63.9% | 0.25 | $28 | $18 | | $47 |
| **Mike Ciszek, Lieutenant**<br>Review and approve City UVISA response.<br>Review new State Statute requirements to determine legal requirements and appropriate City response to UVISA requests | $97.27 | 67.0% | 1.25 | $122 | $81 | | $203 |
| **Total Direct Costs** | | | 3.50 | $345 | $230 | | $574 |
| **INDIRECT COSTS (ICRP Rate = 90.1% based on salaries & benefits)** | | | | | | | $518 |
| **GRAND TOTAL** | | | | | | | **$1,092** |

# TAB 2

# FY 2016-17 SCO
# Claiming Instructions

# B. Filing a Claim

## 1. Introduction

Government Code (GC) sections 17500 through 17617 provide for the reimbursement of costs incurred by local agencies for costs mandated by the State. These are costs that local agencies are required to incur after July 1, 1980, as a result of any statute enacted after January 1, 1975, or any executive order implementing such statute which mandates a new program or higher level of service of an existing program.

Reimbursement claims are defined as any claim filed with the State Controller's Office (SCO) for reimbursement of costs incurred for which an appropriation is made for the purpose of paying the claim. All claims received by SCO will be reviewed to verify all actual costs claimed. An adjustment of the claim will be made if the amount claimed is determined to be excessive, improper, or unreasonable.

If a claimant is using an indirect cost rate that exceeds 10%, documentation to support the indirect cost rate must be submitted with the claim. A detailed explanation of the indirect cost methods can be found in Section B., Filing a Claim, page 10, Indirect Costs. Documentation to support actual costs must be kept on hand by the claimant and made available to SCO upon request as explained in Section B., Filing a Claim, page 21, Retention of Claim Records and Supporting Documentation.

SCO is authorized to make payments for costs of mandated programs from amounts appropriated by the State Budget Act, by the State Mandates Claims Fund, or by specific legislation. In the event the appropriation is insufficient to pay claims in full, claimants will receive prorated payments in proportion to the dollar amount of approved claims for the program. Balances of prorated payments will be made when supplementary funds become available.

## 2. Types of Claims

Claimants may file a claim for reimbursement of actual costs incurred in prior fiscal years for a state-mandated program. The types of claims, as defined in GC section 17522, are as follows:

a) Initial Reimbursement Claim

A claim filed with SCO for costs to be reimbursed for the fiscal years specified in the first claiming instructions issued by SCO pursuant to GC section 17558(b).

b) Annual Reimbursement Claim

A claim filed with SCO for actual costs incurred in a prior fiscal year for which appropriations are made to SCO for this purpose.

c) Entitlement Claim

A claim filed with the SCO for the purpose of establishing or adjusting a base-year entitlement. All entitlement claims are subject to GC section 17616.

### 3. Minimum Claim Amount

For initial claims and annual claims filed, if the total costs for a given year do not exceed $1,000, no reimbursement will be allowed except as otherwise authorized by GC section 17564. Combined claims may be filed only when the county is the fiscal agent for the claimant. The county will determine if the submission of a combined claim is economically feasible and will be responsible for disbursing the funds to each claimant. A combined claim must show the individual claim costs for each eligible claimant. All subsequent claims based upon the same mandate must be filed in the combined form only unless a special district provides to the county and to SCO, at least 180 days prior to the deadline for filing the claim, a written notice of its intent to file a separate claim.

### 4. Filing Deadline for Claims

a) Initial Reimbursement Claims

Each claimant, to which the mandate is applicable, shall submit claims for the costs of the initial fiscal years to SCO within 120 days of the issuance date of the claiming instructions, pursuant to GC section 17561(d)(1)(A). Any claim for initial reimbursement filed after the filing deadline will be reduced by 10% of the amount that would have been allowed had the claim been timely filed, with no limitation. SCO may withhold payment of any late claim for initial reimbursement until the next payment deadline for funded claims unless sufficient funds are available to pay the claim after all timely filed claims have been paid. Amended initial claims filed after the deadline will be reduced by 10% of the increased amount of the initial costs, with no limitation. For the purpose of computing a late penalty, claims for all initial fiscal years required to be filed on their initial filing date for a program shall be considered one claim. In no case may a reimbursement claim be paid if submitted more than one year after the filing deadline specified in the SCO's claiming instructions.

b) Annual Reimbursement Claims

Each claimant must submit a claim to SCO by February 15, unless otherwise specified in the claiming instructions, following the fiscal year in which costs were incurred for the program. Claims for fiscal year 2016-17 will be accepted without a late penalty if postmarked or delivered on before the deadline. Claims filed after the deadline will be reduced by a late penalty of 10%, not to exceed $10,000. Amended claims filed after the deadline will be reduced by 10% of the increased amount, not to exceed $10,000. In no case may a reimbursement claim be paid if submitted more than one year after the filing deadline specified in the SCO's claiming instructions.

c) Entitlement Claims

When a mandated program has been included in the SMAS, SCO will determine a base-year entitlement amount for each claimant that has submitted reimbursement claims (or entitlement claims) for three consecutive fiscal years. An entitlement claim should not contain nonrecurring or initial start-up costs. There is no statutory deadline for the filing of entitlement claims. However, these claims should be filed by February 15 following the third fiscal year used to develop the entitlement claim, to permit an orderly processing of claims.

## 5. Payment of Claims

In order for SCO to authorize the payment of a claim, the Certification of Claim, Form FAM-27, must be properly filled out, signed in blue ink, and dated by the agency's authorized officer. Pursuant to GC section 17561(d), reimbursement claims are paid by October 15 or 60 days after the date the appropriation for the claim is effective, whichever is later. In the event the amount appropriated by the Legislature is not sufficient to pay the approved amount in full for a program, claimants will receive a prorated payment in proportion to the amount of approved claims timely filed and on hand at the time of proration.

a) Initial Reimbursement Claims

When paying a timely filed claim for initial reimbursement, SCO shall withhold 20% of the amount of the claim until the claim is audited to verify the actual amount of the mandated costs.

The payment of an initial reimbursement claim by SCO shall include accrued interest at the Pooled Money Investment Account (PMIA) rate, if the payment is made more than 365 days after adoption of the statewide cost estimate for an initial claim. Interest shall begin to accrue as of the 366th day after the adoption of the statewide cost estimate for the initial claim.

b) Annual Reimbursement Claims

A claimant is entitled to receive accrued interest at the PMIA rate for any unpaid subsequent claim amount remaining on August 15 following the filing deadline. Interest shall begin to accrue on August 16 following the filing deadline.

c) Entitlement Claims

Initial apportionments are made on an individual program basis. After the initial year, all apportionments are made by November 30. The amount to be apportioned is the base-year entitlement adjusted by annual changes in the Implicit Price Deflator (IPD) for cost of goods and services to governmental agencies as determined by the Department of Finance (DOF).

When SCO has made a payment on claims prior to the Commission's approval of the program for inclusion in the SMAS, the payment shall be adjusted in the next apportionment to the amount which would have been subvened to the claimant for that fiscal year had the SMAS been in effect at the time of the initial payment.

SCO reports the amounts of insufficient appropriations to the Director of DOF, the Chairperson of the Joint Legislative Budget Committee, and the Chairperson of the respective fiscal committee in each House of the Legislature. Any balances remaining on these claims will be paid if supplementary funds become available.

**5. Payment of Claims (continued)**

Unless specified in the statutes, regulations, or Parameters and Guidelines (Ps & Gs), the determination of allowable and unallowable costs for mandates is based on the Ps & Gs adopted by the Commission on State Mandates (CSM). Allowable costs are those direct and indirect costs, less applicable credits, considered eligible for reimbursement. In order for costs to be allowable and thus eligible for reimbursement, the costs must meet the following general criteria:

- The cost is necessary and reasonable for proper and efficient administration of the mandate and not a general expense required in carrying out the overall responsibilities of government;
- The cost is allocable to a particular cost objective identified in the Ps & Gs; and
- The cost is net of any applicable credits that offset or reduce expenses of items allocable to the mandate.

SCO has identified certain costs that should not be claimed as direct program costs unless specified as reimbursable under the program's Ps & Gs. These costs include, but are not limited to, subscriptions, depreciation, memberships, conferences, workshops, general education, and travel costs.

**6. State Mandates Apportionment System (SMAS), GC sections 17615 – 17617**

Chapter 1534, Statutes of 1985, established the SMAS. It is the intent of the Legislature to streamline the reimbursement process for costs mandated by the State by creating a system of state mandate apportionments to fund the costs of certain programs mandated by the State. This method is utilized whenever a program has been approved for inclusion in the SMAS by CSM.

Once CSM approves a mandate for inclusion in the SMAS, SCO will determine a base-year entitlement amount for each claimant that has submitted reimbursement claims (or entitlement claims) for three consecutive fiscal years. A base-year entitlement amount is determined by averaging the approved reimbursement claims (or entitlement claims) for any three consecutive fiscal years. The amounts are first adjusted by any change in the IPD, which is applied separately to each year's costs for the three years that comprise the base period. The base period is the three fiscal years succeeding CSM's approval.

When the claims are approved and a base-year entitlement amount is determined, the claimant will receive an apportionment reflective of the program's current-year costs. The apportionment amount is adjusted annually for any change in the IPD. If the mandated program was included in the SMAS after January 1, 1988, the annual apportionment is adjusted for any change in both the IPD and the workload.

SCO will perform this computation for each claimant that has filed claims for three consecutive years. If a claimant has incurred costs for three consecutive years but has not filed a claim in each of those years, the claimant may file an entitlement claim, Form FAM-43, to establish a base-year entitlement. The Form FAM-43 is included in the claiming instructions for SMAS programs.

**6. State Mandates Apportionment System (SMAS), GC sections 17615 – 17617 (continued)**

If a SMAS program is discontinued or made permissive, SCO shall determine the amount of the entitlement attributable to that mandate according to GC section 17615.6. If the program is modified or amended by the Legislature or an executive order and the modification or amendment significantly affects the program, as determined by CSM, the program shall be removed from the SMAS and the payments reduced accordingly, pursuant to GC section 17615.7.

In the event CSM determines that the apportionment amount or base-year entitlement does not accurately reflect costs incurred by the claimant of all mandates upon which that apportionment is based, CSM shall direct SCO to adjust the apportionment as set forth in GC section 17615.8(c).

**7. Direct Costs**

A direct cost is a cost that can be identified specifically with a particular program or activity. Documentation to support direct costs must be kept on hand, unless otherwise specified in the claiming instructions, and made available to SCO upon request.

It is the responsibility of the claimant to maintain documentation in the form of general and subsidiary ledgers, purchase orders, invoices, contracts, canceled warrants, equipment usage records, land deeds, receipts, employee time sheets, agency travel guidelines, inventory records, and other relevant documents to support claimed costs. The type of documentation necessary for each claim may differ with the type of mandate.

Costs typically classified as direct costs are:

a) Employee Wages, Salaries, and Fringe Benefits

A productive hourly rate may be computed by the claimant for each employee or classification whose labor is directly related to the claimed reimbursable cost. For each of the reimbursable mandated activities performed, list the names of the employees, job classifications, hours worked on the mandate, and rate of pay.

A claimant has the option of using one of the following methods: (1) Actual Annual Productive Hourly Rate (per employee); or (2) Weighted-Average Annual Productive Hourly Rate (per classification). The claimant must maintain documentation of how the hours were computed for either option.

(1) Actual Annual Productive Hourly Rate

The annual productive hours (APH) to be used is 1,800 for the computation of the productive hourly rate. APH must exclude employee time for paid holidays, vacation earned, used sick leave, informal time off, jury duty, and used military leave.

## 7. Direct Costs (continued)

There are two methods to compute actual annual productive hourly rate (PHR):

(a) Employee's Annual Salary (EAS) + Actual Fringe Benefits Costs (Benefits) Method

To illustrate the computation of PHR, assuming that the employee's compensation was $26,000 and $8,099 for annual salary and fringe benefits, respectively; using the formula shown in Table 1 below, this method would yield a PHR of $18.94.

**Table 1: Employee's Annual Salary + Actual Fringe Benefits Costs Method**

| |
|---|
| **Formula:** [(EAS + Benefits) ÷ APH] = PHR |
| [($26,000 + $8,099)] ÷ 1,800 = 18.94 |

- To convert a biweekly salary to an annual salary, multiply the biweekly salary by 26.
- To convert a monthly salary to an annual salary, multiply the monthly salary by 12.
- Use the same methodology to convert other salary periods.

(b) Percent of Salary Method

To compute PHR using this method, the claimant should first determine the benefit rates (BR).

**Table 2: Percent of Salary Method**

**Example:**

**Step 1:** Benefits as a Percent of Salary

| | |
|---|---|
| Retirement | 15.00 % |
| Social Security & Medicare | 7.65 |
| Health & Dental Insurance | 5.25 |
| Workers' Compensation | 3.25 |
| **Total** | **31.15** % |

**Step 2:** Productive Hourly Rate

**Formula:** [(EAS x (100% + BR)) ÷ APH] = PHR

[($26,000 x (1.3115)) ÷ 1,800 ] = $18.94

**7. Direct Costs (continued)**

As illustrated in Table 1 and Table 2, both methods produce the same PHR.

Reimbursement for personnel services includes, but is not limited to, compensation paid for salaries, wages and employee fringe benefits. Employee fringe benefits include employer's contributions for social security, pension plans, insurance, worker's compensation insurance, and similar payments. These benefits are eligible for reimbursement as long as they are distributed equitably to all activities. Whether these costs are allowable is based on the following presumptions:

- The amount of compensation is reasonable for the service rendered;
- The compensation paid and benefits received are appropriately authorized by the governing board;
- Amounts charged for personnel services are based on payroll documents that are supported by time and attendance or equivalent records for individual employees; and
- The methods used to distribute personnel services produce an equitable distribution of direct and indirect allowable costs.

For each of the employees included in the claim, the claimant must use reasonable rates and hours in computing the wage cost. If a person of a higher-level job position performs an activity which normally would be performed by a lower-level position, reimbursement for time spent is allowable at the average salary range for the lower-level position. The salary rate of the person at the higher-level position may be claimed if it can be shown that it was more cost effective in comparison to the performance by a person at the lower-level position under normal circumstances and conditions. The number of hours charged to an activity should reflect the time expected to complete the activity under normal circumstances and conditions. The number of hours in excess of normal expected hours is not reimbursable.

(2) Weighted-Average Annual Productive Hourly Rate

Those instances for which the claiming instructions allow a unit as a basis of claiming costs, the direct labor component of the unit cost should be expressed as an average productive hourly rate and can be determined as follows:

**7. Direct Costs (continued)**

**Table 3: Calculating an Average Productive Hourly Rate**

| | Time Spent | Productive Hourly Rate | Total Cost by Employee |
|---|---|---|---|
| Employee A | 1.25 hrs | $6.00 | $7.50 |
| Employee B | 0.75 hrs | $4.50 | $3.38 |
| Employee C | 3.50 hrs | $10.00 | $35.00 |
| Total | 5.50 hrs | | $45.88 |
| Average Productive Hourly Rate is $45.88 ÷ 5.50 hrs = $8.34 | | | |

b) Employer's Benefits Contribution

A claimant has the option of claiming actual employer's fringe benefit contributions or computing an average fringe benefit cost for the employee's job classification and claiming it as a percentage of direct labor. The same time base should be used for both salary and fringe benefits when computing a percentage. For example, if health and dental insurance payments are made annually, use an annual salary. After the percentage of salary for each fringe benefit is computed, total them.

For example:

| Employer's Contribution | % of Salary |
|---|---|
| Retirement | 15.00 |
| Social Security & Medicare | 7.65 |
| Health & Dental Insurance | 5.25 |
| Workers' Compensation | 0.75 |
| Total | 28.65% |

c) Materials and Supplies

Only actual expenses may be claimed for materials and supplies that were acquired and consumed specifically for the purpose of a mandated program. The claimant must list the materials and supplies that were used to perform the mandated activity, the number of units consumed, the cost per unit, and the total dollar amount claimed. Materials and supplies purchased to perform a particular mandated activity should be reasonable in quality, quantity, and cost. Purchases in excess of reasonable quality, quantity, and cost are not reimbursable. Materials and supplies withdrawn from inventory and charged to the mandated activity must be based on a recognized method of pricing, consistently applied. Purchases must be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant.

**7. Direct Costs (continued)**

(1) Calculating a Unit Cost for Materials and Supplies

In those instances for which the P's & G's suggest that a unit cost be developed for use as a basis of claiming costs mandated by the State, the materials and supplies component of the unit cost should be expressed as a unit cost of materials and supplies as shown in Table 4 or Table 5:

**Table 4: Calculating a Unit Cost for Materials and Supplies**

| Supplies | Cost Per Unit | Amount of Supplies Used Per Activity | Unit Cost of Supplies Per Activity |
|---|---|---|---|
| Paper | 0.02 | 4 | $0.08 |
| Files | 0.10 | 1 | 0.10 |
| Envelopes | 0.03 | 2 | 0.06 |
| Photocopies | 0.10 | 4 | 0.40 |
| | | | $0.64 |

**Table 5: Calculating a Unit Cost for Materials and Supplies**

| Supplies | Amount of Supplies Used Per Activity | Unit Cost of Supplies Per Activity |
|---|---|---|
| Paper ($10.00 for 500 sheet ream) | 250 Sheets | $5.00 |
| Files ($2.50 for box of 25) | 10 Folders | 1.00 |
| Envelopes ($3.00 for box of 100) | 50 Envelopes | 1.50 |
| Photocopies ($0.05 per copy) | 40 Copies | 2.00 |
| | | $9.50 |

If the number of reimbursable instances is 25, then the unit cost of supplies is $0.38 per reimbursable instance ($9.50 ÷ 25).

d) Contract Services

The cost of contract services is allowable if the claimant lacks the staff resources or necessary expertise, or it is economically feasible to hire a contractor to perform the mandated activity. The claimant must keep documentation on hand to support the name of the contractor, the reason for hiring a contractor, the mandated activities performed, the dates the activities were performed, the number of hours spent performing the mandate, the hourly billing rate, and the total cost. The hourly billing rate must not exceed the rate specified in the Ps & Gs for the mandated program.

**7. Direct Costs (continued)**

The contractor's invoice or statement must include an itemized list of costs for activities performed. A copy of the contract must be included with the submitted claim.

e) Equipment Rental Costs

Equipment purchases and leases (with an option to purchase) are not reimbursable as a direct cost unless specifically allowed by the Ps & Gs for the particular mandate. Equipment rentals used solely for the mandate are reimbursable to the extent that such costs do not exceed the retail purchase price of the equipment plus a finance charge. The claimant must maintain documentation to support the purpose and use of the equipment, the time period for which the equipment was rented, and the total cost of the rental. If the equipment is used for purposes other than reimbursable activities for a specific mandate, only the pro rata portion of the rental costs may be claimed.

f) Fixed Assets

Capital outlay for land, buildings, equipment, furniture, and fixtures may be claimed if the Ps & Gs specify them as allowable. If they are allowable, the Ps & Gs for the program will specify a basis for the reimbursement. If the fixed asset or equipment is also used for purposes other than reimbursable activities for a specific mandate, only the pro rata portion of the purchase price used to implement the reimbursable activities may be claimed.

g) Travel Expenses

Travel expenses are normally reimbursable in accordance with the travel rules and regulations of the local jurisdiction. For some programs, however, the P's & G's may specify certain limitations on expenses, or expenses may be reimbursed only in accordance with the Department of Human Resources travel standards. When claiming travel expenses, the claimant must maintain documentation to support the purpose of the trip, the names and addresses of the persons incurring the expense, the date and time of departure and return, a description of each expense claimed, the cost of transportation, the number of private auto miles traveled, and the cost of tolls and parking. Receipts are required for charges over $10.00.

h) Documentation

It is the responsibility of the claimant to make available to SCO, upon request, documentation in the form of general and subsidiary ledgers, purchase orders, invoices, contracts, canceled warrants, equipment usage records, land deeds, receipts, employee time sheets, agency travel guidelines, inventory records, and other relevant documents to support claimed costs. The type of documentation necessary for each claim may differ with the type of mandate.

## 8. Indirect Costs

Indirect costs are (a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefited without effort disproportionate to the results achieved. Indirect costs can originate in the department performing the mandate or in departments that supply the department performing the mandate with goods, services, and facilities. To be allowable, a cost must be allocable to a particular cost objective. Indirect costs must be distributed to benefiting cost objectives on bases, which produce an equitable result, related to the benefits derived by the mandate.

Previously, the costs of elected officials were considered expenses related to general government and, thus, were unallowable for reimbursement purposes. Recent interpretation has moved in the opposite direction, except for those items of cost that are unallowable in the cost principles set forth in the Office of Management and Budget Circular (OMB) Circular 2 CFR, Chapter I and Chapter II, Part 200 et al., formerly the OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments. A cost that is necessary for proper and efficient administration of a program and is identifiable to that program is eligible for consideration as an allocable indirect cost. Allocable costs for time spent on programs must be supported by time record.

Claimants have the option of using 10% of direct labor as indirect costs or claiming indirect costs through a department's Indirect Cost Rate Proposal (ICRP) for the program, prepared in accordance with the provisions of the OMB Circular 2 CFR, Chapter I and Chapter II, Part 200 et al. An ICRP must be prepared if the claim for indirect costs is in excess of 10% of direct salaries and the ICRP must be submitted with the claim.

a) Fixed 10% Rate Method

Indirect costs may be computed as 10% of direct labor costs, excluding fringe benefits. The use of the 10% rate may benefit small agencies for which it is inefficient to prepare an ICRP.

| Direct Costs Incurred By: | On Behalf of: | |
|---|---|---|
| Auditor | Welfare Administration | Health Department |
| Warrant Writing: | | |
| A. Salary of employee working | $5,000 | $1,000 |
| B. Benefits of above | 800 | 200 |
| C. Cost of paper | 350 | 100 |
| D. First-line supervision (salaries) | 3,000 | 500 |
| E. Indirect cost 10% of A + D | 800 | 150 |
| Total amount charged to benefited departments for warrant writing services | $9,950 | $1,950 |

**8. Indirect Costs (continued)**

| Direct Costs Incurred By: | On Behalf of: | |
|---|---|---|
| Building & Grounds Department | Welfare Administration | Health Department |
| Maintenance of Buildings: | | |
| A. Salary of employees performing maintenance | $1,000 | $500 |
| B. Benefits of above | 200 | 100 |
| C. Cleaning supplies | 250 | 150 |
| D. First-line supervision (salaries) | 500 | 200 |
| E. Indirect cost 10% of A + D | 150 | 70 |
| Total amount charged to benefited departments for building maintenance services | $2,100 | $1,020 |

Any claimant using this method for claiming costs must submit a statement similar to the example above and with supporting data. The cost data required for desk audit purposes are described in the claiming instructions for that mandated program under Salaries and Employee Benefits, Materials and Supplies, Contract Services, Travel Expenses, etc.

b) Indirect Cost Rate Proposal Method

If a claimant elects not to utilize the 10% fixed rate method but wants to claim indirect costs, it must prepare an ICRP for the program. The proposal must follow the provisions of the OMB Circular 2 CFR, Chapter I and Chapter II, Part 200 et al., formerly OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments. The development of the indirect cost rate proposal requires that the indirect cost pool include only those costs which are incurred for a common or joint purpose that benefit more than one cost objective. The indirect cost pool may include only costs that can be shown to provide benefits to the program. In addition, total allocable indirect costs may include only costs that cannot be directly charged to an identifiable cost center (i.e., program).

A method for preparing a departmental indirect cost rate proposal for programs is presented as Table 6. Only this format is acceptable under the SCO reimbursement requirements. If more than one department is involved in the reimbursement program, each department must have its own indirect cost rate proposal for the program.

## 8. Indirect Costs (continued)

**Table 6:**

**INDIRECT COST RATE PROPOSAL**
**PUBLIC DEFENDER'S OFFICE INVESTIGATION PROGRAM**
**FISCAL YEAR 20___-20___**

| (a) Description of Costs | | Total Costs | (b) Excludable Unallowable Costs | (c) Allowable Indirect Costs | (d) Allowable Direct Costs | Identifiable Program Costs: Investigation PC 987.9 | Identifiable Program Costs: All Others |
|---|---|---|---|---|---|---|---|
| Salaries & Benefits | | | | | | | |
| Salaries & Wages | | $ 1,150,000 | $ 50,000 (f) | $ 150,000 | $ 950,000 (f) | $ 100,000 | $ 850,000 |
| Overtime | | 20,000 | 0 | 20,000 | 0 | 0 | 0 |
| Benefits | | 230,000 | 10,000 | 30,000 | 190,000 | 20,000 | 170,000 |
| Total | | $ 1,400,000 | $ 60,000 | $ 200,000 | $ 1,140,000 | $ 120,000 | $ 1,020,000 |
| Services & Supplies | | | | | | | |
| Office Expense | | $ 200,000 | $ 10,000 | $ 20,000 | $ 170,000 | $ 10,000 | $ 160,000 |
| Communications | | 100,000 | 2,000 | 10,000 | 88,000 | 1,000 | 87,000 |
| Transportation | | 120,000 | 5,000 | 0 | 115,000 | 5,000 | 110,000 |
| Special Dept Expense (Contracts) | | 250,000 | 0 | 0 | 250,000 | 0 | 250,000 |
| Other, Pass Through Program | | 800,000 | 800,000 | 0 | 0 | 0 | 0 |
| Total | | $ 1,470,000 | $ 817,000 | $ 30,000 | $ 623,000 | $ 16,000 | $ 607,000 |
| Capital Expenditures | | $ 100,000 | $ 100,000 | | | | |
| Total Budgetary Expenditures | | $ 2,970,000 | $ 977,000 | $ 230,000 | $ 1,763,000 | $ 136,000 | $ 1,627,000 |
| | Distribution Base | | | | | | |
| Cost Plan Costs | | | | | | | |
| Building Use | (Each line item | $ 50,000 | $ 2,000 | $ 6,000 | $ 42,000 | $ 2,000 | $ 40,000 |
| Equipment Use | should be reviewed | 30,000 | 1,000 | 3,000 | 26,000 | 1,000 | 25,000 |
| Data Processing | to see if it benefits | 50,000 | 5,000 | 30,000 | 15,000 | 0 | 15,000 |
| Auditor | the mandate to | 20,000 | 0 | 20,000 | 0 | 0 | 0 |
| Personnel | insure a fair and equitable | 10,000 | 1,000 | 1,000 | 8,000 | 1,000 | 7,000 |
| Roll Forward | distribution.) | 10,000 | 0 | 10,000 | 0 | 0 | 0 |
| Total | | $ 170,000 | (e) $ 9,000 | $ 70,000 | $ 91,000 | $ 4,000 | $ 87,000 |
| Total Allowable Indirect Costs | | | | $ 300,000 (f) | | | |
| Distribution of Allocable Indirect Costs Based on Salaries & Wages (g) | | | $ 15,000 | $ (300,000) | $ 285,000 | $ 30,000 | $ 255,000 |
| Totals | | $ 3,140,000 | $ 1,001,000 | $ 0 | $ 2,139,000 | $ 170,000 | $ 1,969,000 |

*Notes to Table 6 (page 14)

**8. Indirect Costs (continued)**

(1) Notes to Table 6*

Any claimant using this method for claiming costs, must submit a schedule as shown in Table 6, using the same column headings: Description of Costs, Total Costs, Excludable Unallowable Costs (may be combined or separated), Allowable Indirect Costs, and Allowable Direct Costs (which are further allocated to identifiable programs and other). Any supporting data such as invoices, receipts, contacts, documents, etc., must also be submitted.

(a) Description of costs incurred. Examples include: Salaries and Benefits, Services and Supplies, Cost Plan Costs, etc.

(b) Excluded costs are all costs that are unallowable and not allocable according to specific guidelines (the OMB Circular 2 CFR, Chapter I and Chapter II, Part 200 et al. and state laws). Examples of excluded costs: Contributions and donations, cost of amusement; social activities and related incidental costs such as meals, beverages, lodging, rentals, transportation and gratuities; and pass-through revenues to another unit or organization

(c) Allocable indirect costs are costs that are not identifiable to a specific program or cost pool and indirectly benefit all cost pools.

(d) Direct costs are costs that benefit a specific program or cost pool.

(e) Overhead costs are distributed to the department in the cost allocation plan, which was prepared in accordance with the OMB Circular 2 CFR, Chapter I and Chapter II, Part 200 et al. To develop the ICRP, claimants should use the cost allocation plan from the year for which the ICRP is being prepared. Do not include a roll-forward adjustment when the program is in its initial year.

(f) Distribution base for the computation of the indirect cost rate is total direct salaries and wages (S&W).

| | |
|---|---|
| Total Allowable Direct Costs (direct S&W) | $950,000 |
| Excluded Unallowable Costs (direct S&W) | 50,000 |
| Distribution Base | $1,000,000 |

Therefore, the Indirect Cost Rate for the program is:

$$\text{ICRP} = \frac{\text{Allowable Indirect Costs}}{\text{Total Salaries and Wages}} = \frac{\$300{,}000}{\$1{,}000{,}000} = 30.00\%$$

(g) Indirect costs are then distributed at 30% multiplied by the salaries and wages.

## 9. Time Study Guidelines

Two methods are acceptable for documenting employee time charged to mandated cost programs: a) Actual Time Reporting, and b) Time Study. These methods are described below. Application of time study results is restricted. As explained in the Time Study Results section below, the results may be projected forward a maximum of two years or applied retroactively to initial claims, current-year claims, and late-filed claims, provided certain criteria are met.

a) Actual Time Reporting

Each program's P's & G's define reimbursable activities for each mandated cost program. When employees work on multiple activities, a distribution of their salaries or wages must be supported by personnel activity reports or equivalent documentation that must:

(1) Reflect an after-the-fact (contemporaneous) distribution of the actual activity of each employee:

(2) Account for the total activity for which each employee is compensated.

(3) Be prepared at least monthly and must coincide with one or more pay periods.

(4) Be signed by the employee.

Budget estimates or other distribution percentages determined before services are performed do not qualify as support for time distribution.

b) Time Study

In certain cases, a time study may be used to substitute for continuous records of actual time spent on multiple activities and/or programs. An effective time study requires that an activity be a task that is repetitive in nature. Activities that require a varying level of effort are not appropriate for time studies.

(1) Time Study Plan

The claimant must develop a plan before the time study is conducted. The claimant must retain the time study plan for audit purposes. The plan must identify the following:

(a) Time period(s) to be studied – The plan must show that all time periods selected are representative of the fiscal year, and the results can be reasonably projected to approximate actual costs;

(b) Activities and/or programs to be studied – For each mandated program included, the time study must separately identify each reimbursable activity defined in the mandated program's Ps & Gs, which are derived from the program's Statement of Decision. If a reimbursable activity in the Ps & Gs identifies separate and distinct sub-activities, these sub-activities must also be treated as individual activities;

**9. Time Study Guidelines (continued)**

For example, sub-activities (a), (b), and (c) under Reimbursable Activity (B)(1) of the claimant's Domestic Violence Treatment Services: Authorization and Case Management program relate to information to be discussed during victim notification by the probation department and therefore are not separate and distinct activities. It is not necessary to separately study these sub-activities;

(c) Process used to accomplish each reimbursable activity – Use flowcharts or similar analytical tools and/or written desk procedures to describe the process for each activity;

(d) Employee universe – The employee universe used in the time study must include all positions for which salaries and wages are to be allocated by means of the time study;

(e) Employee sample selection methodology – The plan must show that employees selected are representative of the employee universe, and the results can be reasonably projected to approximate actual costs. In addition, the employee sample size should be proportional to the variation in time spent to perform a task. The sample size should be larger for tasks with significant time variations; and

(f) Time increments to be recorded – The time increments used should be sufficient to recognize the number of different activities performed and the dynamics of these responsibilities. Very large increments (such as one hour or more) might be used for employees performing only a few functions that change very slowly over time. Very small increments (a number of minutes) may be needed for employees performing more short-term tasks.

Random-moment sampling is not an acceptable alternative to continuous time records for mandated cost claims. Random moment sampling techniques are most applicable to situations in which employees perform many different types of activities on a variety of programs with small time increments throughout the fiscal year.

(2) Time Study Documentation

Time studies must:

(a) Be supported by time records that are completed contemporaneously;

(b) Report activities on a daily basis;

(c) Be sufficiently detailed to reflect all mandated activities and/or programs performed during a specific time period; and

(d) Coincide with one or more pay periods.

**9. Time Study Guidelines (continued)**

Time records must be signed by the employee (electronic signatures are acceptable) and be supported by corroborating evidence, which validates that the work was actually performed. As with actual time reporting, budget estimates or other distribution percentages determined before services are performed do not qualify as valid time studies

(3) Time Study Results

Claimants must summarize time study results to show how the time study supports the costs claimed for each activity. Any variations from the procedures identified in the original time study plan must be documented and explained. Current-year costs must be used to prepare a time study. Claimants may project time study results to no more than two subsequent fiscal years. A claimant may not apply time study results retroactively.

(a) Annual Reimbursement Claims – Claimants may use time studies to support costs incurred on or after January 1, 2005. Claimants may not use time studies for the period of July 1, 2004, through December 31, 2004, unless (a) the program's Ps & Gs specifically allows time studies; and (b) the time study is prepared based on mandated activity occurring between July 1, 2004, and December 31, 2004.

(b) Initial Reimbursement Claims – When filing an initial claim for new mandated programs, claimants may use time study results for costs incurred on or after January 1, 2005 only. Claimants may not use time studies to support costs incurred before January 1, 2005, unless (a) the program's Ps & Gs specifically allow time studies; and (b) the claimant prepares separate time studies for each fiscal year preceding January 1, 2005, based on mandated activity occurring during those years.

When projecting time study results, the claimant must certify that there have been no significant changes between years in either (a) the requirements of each mandated program activity; or (b) the processes and procedures used to accomplish the activity. For all years, the claimant must maintain documentation that shows the mandated activity was actually performed. Time study results used to support claims are subject to the recordkeeping requirements for those claims.

**10. Offsets Against State-Mandated Claims**

As noted previously, allowable costs are defined as those direct and indirect costs, less applicable credits, considered eligible for reimbursement. When all or part of the costs of a mandated program are specifically reimbursable from local assistance revenue sources (e.g., state, federal, foundation, etc.), only that portion of any increased costs payable from local agency funds is eligible for reimbursement under the provisions of GC section 17561.

**10. Offsets Against State-Mandated Claims (continued)**

a) Example 1:

As illustrated in Table 7, this example shows how the Offset Against a State-mandated claim is determined for claimants receiving block grant revenues not based on a formula allocation. Program costs for each situation equal $100,000.

**Table 7: Offset Against State Mandates, Example 1**

| | Program Costs | Actual Non-Local Agency Funding | State-Mandated Costs | Offset Against State-Mandated Claims | Claimable Mandated Costs |
|---|---|---|---|---|---|
| 1. | $100,000 | $95,000 | $2,500 | $0 | $2,500 |
| 2. | 100,000 | 97,000 | 2,500 | 0 | 2,500 |
| 3. | 100,000 | 98,000 | 2,500 | 500 | 2,000 |
| 4. | 100,000 | 100,000 | 2,500 | 2,500 | 0 |
| 5. | 100,000* | 50,000 | 2,500 | 1,250 | 1,250 |
| 6. | 100,000 | 49,000 | 2,500 | 250 | 2,250 |

* Claimant share is $50,000 of the program costs.

Numbers (1) through (4) in Table 7, show intended funding at 100% from non-local agency sources. Numbers (5) and (6) show cost sharing on a 50/50 basis with the claimant. In numbers (1) through (5), included in the program costs of $100,000 are state-mandated costs of $2,500. The offset against state-mandated claims is the amount of actual non-local agency funding that exceeds the difference between program costs and state-mandated costs. The offset cannot exceed the amount of state-mandated costs.

In (1), non-local revenues were less than expected. Non-local agency funding was not in excess of the difference between program costs and state-mandated costs. As a result, the offset against state-mandated claims is $0 and $2,500 is claimable as mandated costs.

In (4), non-local revenues were fully realized to cover the entire cost of the program, including the state-mandated activity; therefore, the offset against state-mandated claims is $2,500, and the claimable cost is $0.

In (5), the claimant is sharing 50% of the program costs. As non-local revenues of $50,000 were fully realized, the offset against state-mandated claims is $1,250.

If in (6) the non-local matching share is less than the amount expected, for example $49,000, the offset against state-mandated claims is $250. Therefore, the claimable mandated costs are $2,250

**10. Offsets Against State-Mandated Claims (continued)**

b) Example 2:

As illustrated in Table 8, this example shows how the Offset Against State-mandated claims is determined for claimants receiving special project funds based on approved actual costs. Non-local revenues for special projects must be applied proportionately to approve costs.

**Table 8: Offset Against State Mandates, Example 2**

| | Program Costs | Actual Non-Local Agency Funding | State-Mandated Costs | Offset Against State-Mandated Claims | Claimable Mandated Costs |
|---|---|---|---|---|---|
| 1. | $100,000 | $100,000 | $2,500 | $2,500 | $0 |
| 2. | 100,000** | 75,000 | 2,500 | 1,875 | 625 |
| 3. | 100,000 | 60,000 | 1,500 | 125 | 1,375 |

** Claimant share is $25,000 of the program cost.

In (2), the entire program cost was approved. As the non-local agency source covers 75% of the program cost, it also proportionately covered 75% of the $2,500 state-mandated costs, or $1,875. Therefore, the claimable mandated costs are $625, which is ineligible for payment because it is less than $1,001.

If in (3), the non-local agency funding revenues are less that the amount expected because only $60,000 of the $100,000 program costs were determined to be valid by the contracting agency, then a proportionate share of state-mandated costs is likewise reduced to $1,500. The offset against state-mandated claims is 125. Therefore, the claimable mandated costs are $1,375, which exceeds the $1,001 minimum required for payment eligibility.

With respect to local agencies, the offset against state-mandated claims for applicable federal and state local assistance programs includes, but is not limited to, the following funding sources:

c) Federal and State Funding Sources – Governing Authority

**Federal Programs:**

| | |
|---|---|
| CETA, PL 93-203 | Federal-Health – Administration |
| Federal Aid for Construction | Federal-Public Assistance – Administration |
| Federal Aid for Disaster | |

**State Programs:**

| | |
|---|---|
| State Aid for Agriculture | State-Health – Administration |
| State Aid for Construction | State-Public Assistance - Administration |
| State Aid for Corrections | |

## 11. Notice of Claim Adjustment

All claims submitted to SCO are reviewed to determine if the claim was prepared in accordance with the claiming instructions. Claimants will receive a Notice of Claim Adjustment detailing any adjustment made by SCO.

## 12. Audit of Costs

Pursuant to GC section 17558.5(b), SCO may conduct a field review of any claim after it has been submitted to determine if costs are related to the mandate, are reasonable and not excessive, and the claim was prepared in accordance with the SCO's claiming instructions and the Ps & Gs adopted by CSM. If any adjustments are made to a claim, a Notice of Claim Adjustment specifying the claim activity adjusted, the amount adjusted, and the reason for the adjustment will be mailed within 30 days after payment of the claim.

## 13. Source Documents

Costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records, time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification stating, "I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, these documents cannot be substituted for source documents.

## 14. Claim Forms and Instructions

Claim forms provided with the claiming instructions should be duplicated or printed from the SCO website (http://www.sco.ca.gov/ard_mancost.html) and used by the claimant to file reimbursement claims. A claimant may submit computer generated forms in substitution of Form 1 and Form 2, provided that the format of the forms and data fields contained within are identical to the claim forms included with the claiming instructions. SCO will revise the manual and claim forms as necessary.

a) Form 2, Activity Cost Detail

This form is used to segregate the detail costs by claim activity. In some mandates, specific reimbursable activities have been identified for each activity. The expenses reported on this form must be supported by the official financial records of the claimant. All documents used to support the reimbursable activities must be retained by the claimant, unless required to be submitted with the claim, and must be made available to SCO upon request.

**14. Claim Forms and Instructions (continued)**

b) Form 1, Claim Summary

This form is used to summarize direct costs by activity and compute allowable indirect costs for the mandate. The direct costs summarized on this form are derived from Form 2 and are carried forward to Form FAM-27.

c) Form FAM-27, Claim for Payment

This form contains a certification that must be signed by an authorized officer of the entity. All applicable information from Form 1 must be carried forward to this form in order for SCO to process the claim for payment. An original and one copy of the Form FAM-27 are required. Submit a signed original Form FAM-27 and one copy with required documents.

**Please sign the Form FAM-27 in blue ink and attach the copy to the top of the claim package.**

Mandated cost claiming instructions and forms are available online at the SCO's website: **www.sco.ca.gov/ard_mancost.html.**

Please use the following mailing addresses:

If delivered by U.S. Postal Service:

Office of the State Controller
Attn: Local Reimbursements Section
Local Government Programs and
Services Division
P.O. Box 942850
Sacramento, CA 94250

If delivered by other delivery services:

Office of the State Controller
Attn: Local Reimbursements Section
Local Government Programs and
Services Division
3301 C Street, Suite 700
Sacramento, CA 95816

**15. Retention of Claiming Instructions**

For your convenience, the revised claiming instructions in this package have been arranged in alphabetical order by program name. This manual should be retained for future reference, and the forms should be duplicated to meet your filing requirements. Annually, new or revised forms, instructions, and any other information claimants may need to file claims will be placed on the SCO's website: www.sco.ca.gov/ard_mancost.html.

**16. Retention of Claim Records and Supporting Documentation**

Pursuant to GC section 17558.5(a), a reimbursement claim for actual costs filed by a claimant is subject to the initiation of an audit by SCO no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds were appropriated or no payment was made to a claimant for the program for the fiscal year for which the claim was filed, the time for SCO to initiate an audit shall commence to run from the date of initial payment of the claim. In any case an audit will be completed not later than two years after the date that the audit was commenced.

**16. Retention of Claim Records and Supporting Documentation (continued)**

All documents used to support the reimbursable activities must be retained during the period subject to audit. If SCO has initiated an audit during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings. Supporting documents must be made available to SCO on request.

For more information, contact the Local Reimbursements Section by email at LRSLGPSD@sco.ca.gov, by telephone at (916) 324-5729, or by writing to the address above.

## DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On September 10, 2018, I served the:

- **Claimant's Response to the Request for Additional Information filed September 7, 2018**

  *U Visa 918 Form, Victims of Crime: Nonimmigrant Status*, 17-TC-01
  Penal Code Section 679.10; Statutes 2015, Chapter 721 (SB 674)
  City of Claremont, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 10, 2018 at Sacramento, California.

Lorenzo Duran
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 8/23/18

**Claim Number:** 17-TC-01

**Matter:** U Visa 918 Form, Victims of Crime: Nonimmigrant Status

**Claimant:** City of Claremont

**TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:**

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

**Bibi Ameer**, Accounting Manager/Acting Finance Director, *City of Claremont*
270 Harvard Ave, Claremont, CA 91711-0880
Phone: (909) 399-5346
bameer@ci.claremont.ca.us

**Socorro Aquino**, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-7522
SAquino@sco.ca.gov

**Harmeet Barkschat**, *Mandate Resource Services,LLC*
5325 Elkhorn Blvd. #307, Sacramento, CA 95842
Phone: (916) 727-1350
harmeet@calsdrc.com

**Lacey Baysinger**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
lbaysinger@sco.ca.gov

**Cindy Black**, City Clerk, *City of St. Helena*
1480 Main Street, St. Helena, CA 94574
Phone: (707) 968-2742
ctzafopoulos@cityofsthelena.org

**Allan Burdick**,
7525 Myrtle Vista Avenue, Sacramento, CA 95831
Phone: (916) 203-3608
allanburdick@gmail.com

**J. Bradley Burgess**, *MGT of America*

895 La Sierra Drive, Sacramento, CA 95864
Phone: (916)595-2646
Bburgess@mgtamer.com

**Evelyn Calderon-Yee**, Bureau Chief, *State Controller's Office*
Local Government Programs and Services, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-5919
ECalderonYee@sco.ca.gov

**Gwendolyn Carlos**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-0706
gcarlos@sco.ca.gov

**Daniel Carrigg**, Deputy Executive Director/Legislative Director, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8222
Dcarrigg@cacities.org

**Annette Chinn**, *Cost Recovery Systems,Inc.*
**Claimant Representative**
705-2 East Bidwell Street, #294, Folsom, CA 95630
Phone: (916) 939-7901
achinncrs@aol.com

**Carolyn Chu**, Senior Fiscal and Policy Analyst, *Legal Analyst's Office*
925 L Street, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

**Mike Ciszek**, Lieutenant, *City of Claremont*
Police Department, 570 West Bonita Avenue, Claremont, CA 91711
Phone: (909) 399-5403
mciszek@ci.claremont.ca.us

**Michael Coleman**, *Coleman Advisory Services*
2217 Isle Royale Lane, Davis, CA 95616
Phone: (530) 758-3952
coleman@muni1.com

**Anita Dagan**, Manager, Local Reimbursement Section, *State Controller's Office*
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816
Phone: (916) 324-4112
Adagan@sco.ca.gov

**Stacy Daugherty**, Finance Director, *City of Costa Mesa*
PO Box 1200, Costa Mesa, CA 92626-1200
Phone: (714) 754-5243
stacy.daugherty@costamesaca.gov

**Marieta Delfin**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-4320
mdelfin@sco.ca.gov

**Ed Everett**, Lieutenant, *City of Costa Mesa*
Police Department, PO Box 1200, Costa Mesa, CA 92626-1200

Phone: (714) 754-5395
eeverett@costamesaca.gov

**Donna Ferebee**, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
donna.ferebee@dof.ca.gov

**Susan Geanacou**, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
susan.geanacou@dof.ca.gov

**Dillon Gibbons**, Legislative Representative, *California Special Districts Association*
1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
dillong@csda.net

**Heather Halsey**, Executive Director, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
heather.halsey@csm.ca.gov

**Sunny Han**, Project Manager, *City of Huntington Beach*
2000 Main Street, Huntington Beach, CA 92648
Phone: (714) 536-5907
Sunny.han@surfcity-hb.org

**Chris Hill**, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Chris.Hill@dof.ca.gov

**Justyn Howard**, Program Budget Manager, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-1546
justyn.howard@dof.ca.gov

**Ray Hull**, Management Analyst, *City of Costa Mesa*
Finance Department, PO Box 1200, Costa Mesa, CA 92626-1200
Phone: (714) 754-5227
RAY.HULL@costamesaca.gov

**Kevin Hunt**, General Manager, *Central Basin Municipal Water District*
6252 Telegraph Road, Commerce, CA 90040
Phone: (323) 201-5500
kevinh@centralbasin.org

**Edward Jewik**, *County of Los Angeles*
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-8564
ejewik@auditor.lacounty.gov

**Jill Kanemasu**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-9891
jkanemasu@sco.ca.gov

**Anita Kerezsi**, *AK & Company*

2425 Golden Hill Road, Suite 106, Paso Robles, CA 93446
Phone: (805) 239-7994
akcompanysb90@gmail.com

**Lisa Kurokawa**, Bureau Chief for Audits, *State Controller's Office*
Compliance Audits Bureau, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 327-3138
lkurokawa@sco.ca.gov

**Jill Magee**, Program Analyst, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
Jill.Magee@csm.ca.gov

**Michelle Mendoza**, *MAXIMUS*
17310 Red Hill Avenue, Suite 340, Irvine, CA 95403
Phone: (949) 440-0845
michellemendoza@maximus.com

**Meredith Miller**, Director of SB90 Services, *MAXIMUS*
3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670
Phone: (972) 490-9990
meredithcmiller@maximus.com

**Lourdes Morales**, Senior Fiscal and Policy Analyst, *Legal Analyst's Office*
925 L Street, Sacramento, CA 95814
Phone: (916) 319-8320
Lourdes.Morales@LAO.CA.GOV

**Andy Nichols**, *Nichols Consulting*
1857 44th Street, Sacramento, CA 95819
Phone: (916) 455-3939
andy@nichols-consulting.com

**Arthur Palkowitz**, *Artiano Shinoff*
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106
Phone: (619) 232-3122
apalkowitz@as7law.com

**Steven Pavlov**, Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Steven.Pavlov@dof.ca.gov

**Johnnie Pina**, Legislative Policy Analyst, *League of Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8214
jpina@cacities.org

**Adam Pirrie**, Finance Director, *City of Claremont*
207 Harvard Ave, Claremont, CA 91711
Phone: (909) 399-5356
apirrie@ci.claremont.ca.us

**Jai Prasad**, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415-0018
Phone: (909) 386-8854
jai.prasad@atc.sbcounty.gov

**Mark Rewolinski**, *MAXIMUS*
808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (949) 440-0845
markrewolinski@maximus.com

**Theresa Schweitzer**, *City of Newport Beach*
100 Civic Center Drive, Newport Beach, CA 92660
Phone: (949) 644-3140
tschweitzer@newportbeachca.gov

**Camille Shelton**, Chief Legal Counsel, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
camille.shelton@csm.ca.gov

**Carla Shelton**, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 323-3562
carla.shelton@csm.ca.gov

**Jim Spano**, Chief, Mandated Cost Audits Bureau, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-5849
jspano@sco.ca.gov

**Dennis Speciale**, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
DSpeciale@sco.ca.gov

**Joe Stephenshaw**, Director, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
Joe.Stephenshaw@sen.ca.gov

**Derk Symons**, Staff Finance Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Derk.Symons@dof.ca.gov

**Jolene Tollenaar**, *MGT of America*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 243-8913
jolenetollenaar@gmail.com

**Evelyn Tseng**, *City of Newport Beach*
100 Civic Center Drive, Newport Beach, CA 92660
Phone: (949) 644-3127
etseng@newportbeachca.gov

**Brian Uhler**, Principal Fiscal & Policy Analyst, *Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8328
Brian.Uhler@LAO.CA.GOV

**Renee Wellhouse**, *David Wellhouse & Associates, Inc.*
3609 Bradshaw Road, H-382, Sacramento, CA 95927

Phone: (916) 797-4883
dwa-renee@surewest.net

**Jennifer Whiting**, Assistant Legislative Director, *League of California Cities*
1400 K Street, Suite 400, Sacramento , CA 95814
Phone: (916) 658-8249
jwhiting@cacities.org

**Patrick Whitnell**, General Counsel, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8281
pwhitnell@cacities.org

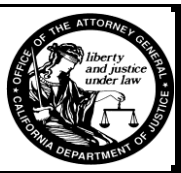
**Elena Wilson**, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: 916-323-3562
elena.wilson@csm.ca.gov

**Hasmik Yaghobyan**, *County of Los Angeles*
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-9653
hyaghobyan@auditor.lacounty.gov

Kamala D. Harris, Attorney General

California Department of Justice
Division of Law Enforcement

Larry J. Wallace, Director




# INFORMATION BULLETIN

| Subject: | No. | Contact for information: |
|---|---|---|
| **New and Existing State and Federal Laws Protecting Immigrant Victims of Crime** | DLE-2015-04 | Larry Wallace, Director, Division of Law Enforcement 916-319-8200 |
| | Date: October 28, 2015 | |

**TO:** All California State and Local Law Enforcement Agencies

This bulletin provides a summary of a new state law that requires agencies that investigate or prosecute criminal matters to assist crime victims without authorized immigration status in applying for a U nonimmigrant visa – a federal immigration visa set aside for victims of crime who have suffered substantial mental or physical abuse because of criminal activity, and who are willing to assist federal, state, and local law enforcement agencies or government officials in the investigation of that criminal activity. California's Immigrant Victims of Crime Equity Act (Senate Bill 674), which takes effect on January 1, 2016, requires state and local law enforcement agencies, prosecutors, and other officials to certify the helpfulness of victims of qualifying crimes on a federal U Nonimmigrant Status Certification (Form I-918 Supplement B), also known as a "U visa certification." **Unlike federal law, which provides certifying state and local agencies and officials with discretion in determining whether to complete the certification, California's new law mandates that state and local agencies and officials submit certifications when certain conditions are met.** U.S. Citizenship and Immigration Services (USCIS) considers these certifications in determining whether to grant a qualifying immigrant a U nonimmigrant visa (U visa).

In addition to providing guidance on the new state law, this bulletin summarizes existing federal law governing U visas, answers relevant questions regarding U visa eligibility, and encourages state and local law enforcement agencies and officials to be vigilant in identifying and supporting immigrant crime victims who may be eligible for U visas. These visas are an important tool for encouraging the cooperation of witnesses, investigating, prosecuting, and convicting criminals, and increasing public safety.

## Federal Law Governing U Visas for Certain Crime Victims

The Victims of Trafficking and Violence Prevention Act (VTVPA) of 2000[1] is a federal law that, among other things, provides temporary immigration benefits to individuals without immigration status who are victims of specified qualifying crimes. Under the VTVPA, an immigrant victim of certain crimes can file a Petition for U Nonimmigrant Status (Form I-918) with USCIS. The U visa provides eligible victims with nonimmigrant status (including victims who are no longer in the United States) the opportunity to be temporarily present in the United States to help law enforcement in the investigation or prosecution of the criminal activity at issue. Under certain

[1] VTVPA, Pub. L. No. 106-386, 114 Stat. 1464-1548 (2000).

circumstances, a person with a U visa may be able to adjust to lawful permanent resident status if USCIS determines that the individual qualifies for that status.

In order to file a Petition for U Nonimmigrant Status (Form I-918), an immigrant victim *must* provide a certification form (Form I-918 Supplement B) from a federal, state, or local law enforcement official certifying that he or she has knowledge of the following:

- The victim has been a victim of qualifying criminal activity;
- The victim possesses information about the qualifying criminal activity; and
- The victim has been, is being or is likely to be helpful to the investigation and/or prosecution of that qualifying criminal activity.

The petitioner is ineligible for a U visa without the certification, which the petitioner must file with his or her U visa petition. The VTVPA was designed both to encourage victims of crime to report crimes and assist in the investigations and prosecutions of those crimes regardless of their immigration status *and* to support law enforcement efforts in investigating and prosecuting crimes committed against immigrant victims.

**New California Law Regulating U Visa Certifications by Law Enforcement—Effective January 1, 2016**

Senate Bill 674 (De León)—the Immigrant Victims of Crime Equity Act (the Act) was signed by Governor Edmund G. Brown Jr. on October 9, 2015. The law adds a new provision to the California Penal Code. **This new law, Penal Code section 679.10, *mandates* that certain state and local agencies and officials complete U visa certifications, upon request, for immigrant crime victims who have been helpful, are being helpful, or are likely to be helpful in the detection, investigation, or prosecution of specified qualifying crimes.**

Significantly, under the Act:

- There is a rebuttable presumption that an immigrant victim is helpful, has been helpful, or is likely to be helpful, if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.
- A certifying official may withdraw a previously granted certification only if the victim refuses to provide information and assistance when reasonably requested.
- In addition, a certifying official must fully complete and sign the U visa certification and include "specific details about the nature of the crime investigated or prosecuted and a detailed description about the victim's helpfulness or likely helpfulness to the detection or investigation or prosecution of the criminal activity."

The Act also requires certifying entities to complete the certification **within 90 days** of the request, except in cases where the applicant is in immigration removal proceedings, in which case the certification must be completed **within 14 days** of the request.

The Act applies to the following California state and local entities and officials:

- State and local law enforcement agencies;
- Prosecutors;
- Judges;
- Agencies with criminal detection or investigative jurisdiction in their respective areas of expertise, including but not limited to child protective services, the Department of Fair Employment and Housing, and the Department of Industrial Relations; and
- Any other authority responsible for the detection or investigation or prosecution of a qualifying crime or criminal activity.

Additional provisions of the Act include:

- Certifying agencies are prohibited from disclosing the immigrant status of a victim or person requesting a U visa certification, except to comply with federal law or legal process, or if authorized by the victim or person requesting the certification.
- A current investigation, the filing of charges, and a prosecution or conviction are not required for the victim to request and obtain the certification from a certifying official.
- Certifying agencies that receive certification requests must report to the Legislature, on or before January 1, 2017, and annually thereafter, the number of victims that requested certifications from the particular agency, the number of certifications signed, and the number of certifications denied.

**Questions and Answers Regarding Eligibility for U Visas**

***1. Who is eligible for a U visa?***

Eligibility for U visas is governed by the VTVPA and determined by USCIS. Under those federal provisions, individuals without authorized immigrant status are eligible to apply for a U visa if they: (1) are victims of specified qualifying crimes, (2) have suffered substantial physical or mental abuse as a result of having been a victim of criminal activity, (3) have specific knowledge and details of a qualifying crime committed within the United States, and (4) are currently assisting, have previously assisted, or are likely to be helpful in the detection, investigation, or prosecution of the qualifying crime.

Victims may apply for a U visa even if they are no longer in the United States. Individuals presently in removal proceedings or with final orders of removal can also apply. Moreover, a parent without authorized immigrant status can petition for their own U visa as an "indirect victim" of the qualifying crime, if their child is: (1) under 21 years of age, (2) the victim of a qualifying crime, and (3) incompetent or incapacitated such that she or he is unable to provide law enforcement with adequate assistance in the investigation or prosecution of the crime. (An immigrant parent can petition for a U visa regardless of his/her child's citizenship status or whether his/her child died as the victim of murder or manslaughter.)

***2. What is a qualifying crime?***

Under the relevant state and federal laws, qualifying crimes include rape, torture, human trafficking, incest, domestic violence, sexual assault, abusive sexual conduct, prostitution, sexual exploitation,

female genital mutilation, being held hostage, peonage, perjury, involuntary servitude, slavery, kidnaping, abduction, unlawful criminal restraint, false imprisonment, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, fraud in foreign labor contracting, stalking, and other related crimes which include any similar activity where the elements of the crime are substantially similar to the above specified offenses.

**The Immigrant Victims of Crime Equity Act, consistent with federal law, states that a qualifying crime includes the attempt, conspiracy, or solicitation to commit any of the specified and other related offenses.**

### *3. Is an arrest, prosecution, or conviction necessary to certify a U visa petition?*

California's Immigrant Victims of Crime Equity Act makes clear that a current investigation, the filing of charges, and a prosecution or conviction are not required to sign the law enforcement certification. Many situations exist where an immigrant victim reports a crime, but an arrest or prosecution cannot take place due to evidentiary or other circumstances. For example, the perpetrator may have fled the jurisdiction, cannot be identified, or has been deported by federal law enforcement officials. In addition, neither a plea agreement nor a dismissal of a criminal case affects a victim's eligibility. Furthermore, a law enforcement certification is valid regardless of whether the crime that is eventually prosecuted is different from the crime that was investigated, as long as the individual is a victim of a qualifying crime and meets the other requirements for U visa eligibility.

There is ***no statute of limitations*** that bars immigrant crime victims from applying for a U visa. Law enforcement can sign a certification at any time, and it can be submitted for a victim in an investigation or case that is already closed.

### *4. Will certifying a U visa petition automatically grant the victim an immigration benefit?*

Federal, state, and local law enforcement agencies cannot legally grant or guarantee an immigrant crime victim a U visa or any other type of immigration status by signing a U visa certification (Form I-918 Supplement B). Instead, USCIS conducts a full review of the victim's petition and a thorough background check of the petitioner before approving or denying the petition. USCIS will also make the determination as to whether the victim has met the "substantial physical or mental abuse" standard on a case-by-case basis during its adjudication of the petition. By signing a certification, the law enforcement official states: (1) under penalty of perjury, that the individual is or has been a victim of one of the qualifying crimes, and (2) the remaining information provided in the certification is true and correct to the best of the certifying official's knowledge. Without a completed U visa certification, victims will not be eligible for a U visa.

## Recommendations and Additional Resources for Law Enforcement

Attorney General Kamala D. Harris is committed to seeking justice for every crime victim in California regardless of the victim's immigration status. Undocumented immigrants are often among the most vulnerable victims of crime across California. Fear of deportation is a significant deterrent to reporting crime for many undocumented immigrants. As such, the Attorney General encourages all agencies and officials subject to California's new law to immediately establish and implement a U visa certification policy and protocol that is consistent with California law and the guidance provided in this law enforcement bulletin.

The **USCIS web site** includes useful information regarding U visa eligibility, qualifying criminal activities, and applying for a U visa. *See* http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status.

The **Form I-918 Supplement B Certification** can be found here: http://www.uscis.gov/i-918.

We look forward to working with you to ensure that California continues to set an example across the nation for building and preserving the relationship of trust between our peace officers and the communities we are sworn to serve, including immigrant communities. California's Immigrant Victims of Crime Equity Act is a positive step in strengthening that relationship.

Sincerely,

LARRY J. WALLACE, Director
Division of Law Enforcement

For KAMALA D. HARRIS
Attorney General

# U and T Visa Law Enforcement Resource Guide

for Federal, State, Local, Tribal and Territorial Law Enforcement, Prosecutors, Judges, and Other Government Agencies

# U and T Visa Resource Guide

## Table of Contents

Introduction ..... 3
U Visa Basics ..... 4
Review and Tips for Form I-918B ..... 8
T Visa Basics ..... 9
Review and Tips for Form I-914B ..... 13
Best Practices for Certifying Agencies ..... 14
Answers to Frequently Asked Questions ..... 15
Other Law Enforcement Tools to Assist in Investigations and Prosecutions ..... 27
Other Forms of Relief for Victims ..... 28
DHS Contact Information ..... 29
Resources ..... 32

# Introduction

As a federal, state, local, tribal or territorial law enforcement officer, prosecutor, judge, or other government official, you play an important role in the application process for U nonimmigrant status (also known as a U visa) for victims of certain crimes and T nonimmigrant status (also known as a T visa) for victims of human trafficking. U and T visas not only help protect victims of crime, but are also key tools for you in your work. Lack of legal immigration status in the United States may be among the reasons for some victims choosing not to come forward to work with law enforcement. Perpetrators and human traffickers also use victims' lack of legal status as leverage to exploit and control them. By stabilizing their status in the United States, immigration relief can be critical to providing victims of crime a greater sense of security that also makes it easier for them to assist you with your law enforcement and prosecutorial efforts.

In order to qualify for the U and T visa, the victim must prove to U.S. Citizenship and Immigration Services (USCIS) that he or she cooperated with law enforcement.[1] USCIS is the federal component of the Department of Homeland Security (DHS) responsible for adjudicating (approving or denying) U and T visa applications. One of the primary ways that a victim may demonstrate cooperation is by submitting a signed statement from law enforcement as part of the application. In the U visa context, this statement is a required part of the petition and is known as USCIS Form I-918, Supplement B, U Nonimmigrant Status Certification (Form I-918B or certification). In the T visa context, this statement is known as USCIS Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim in Trafficking of Persons (Form I-914B or declaration). While not required in the T visa context, the signed declaration provides valuable evidence of the victim's cooperation.

Because these signed statements from law enforcement are such critical pieces of U and T visa applications, victims may approach you to request that you certify their cooperation. You may also encounter victims who are afraid or reluctant to cooperate in a criminal investigation because they lack a lawful immigration status, and who are not aware that they may qualify for a U or T visa.

DHS has created this Resource Guide to inform you and address concerns about the role of law enforcement agencies within these visa programs. This Guide includes information about U and T visa requirements; the I-918B certification and I-914B declaration processes; best practices; answers to important and frequently asked questions from judges, prosecutors, law enforcement agencies, and other officials; where to look for more resources; and contact information for DHS personnel on U and T visa issues.

[1] See 8 CFR 1.1, 1.2, 100.1. Exceptions to the cooperation requirement exist for U and T visa applicants who are under age 18 or who have suffered trauma.

# U Visa Basics

## Why was the U visa created? How does it help law enforcement?

The Victims of Trafficking and Violence Prevention Act (VTVPA) of 2000[2] was enacted to strengthen the ability of law enforcement agencies to investigate and prosecute serious crimes and trafficking in persons, while offering protections to victims of such crimes without the immediate risk of being removed from the country. Congress, in the VTVPA, 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.

## What is the U visa? What are the benefits to the victim?

The U visa is an immigration benefit for victims of certain crimes who meet eligibility requirements.[3]

USCIS may find an individual eligible for a U visa if the victim:

- Is the direct or indirect victim of qualifying criminal activity[4];
- Has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity;
- Has information about the criminal activity;[5] and
- 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.[6]

Additionally, the victim must be admissible to the United States based on a review of his or her criminal history, immigration violations, and other factors. If found inadmissible, an individual may apply for a waiver of inadmissibility for which he or she may be eligible.

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

---

[2] Pub. L. No. 106-386, 114 Stat. 1464-1548 (2000).

[3] http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status. See also INA 101(a)(15)(U).

[4] The criminal activity occurred in the United States or violated U.S. laws.

[5] If under the age of 16 or unable to provide information due to a disability, a parent, guardian, or next friend may possess the information about the criminal activity on the individual's behalf.

[6] If under the age of 16 or unable to provide information due to a disability, a parent, guardian, or next friend may assist on behalf of the individual.

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. These include:

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

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.

## How does USCIS review U visa petitions?

USCIS takes several steps to determine whether a victim is eligible for a U visa. USCIS reviews the entire application, which includes the petition (Form I-918), Form I-918B certification, the victim's affidavit, as well as supporting evidence such as police reports, medical records, photographs, court documents, and witness affidavits. If the applicant is inadmissible due to, for example, prior criminal history, immigration violations, or security concerns, USCIS also reviews any application received for a waiver of inadmissibility. However, some inadmissibilities cannot be waived. As a part of its review of the U visa certification (Form I-918B), USCIS may contact the certifying official to ask if the victim has continued to provide assistance reasonably requested or to request other information. USCIS may also contact the certifying agency if any issues or questions arise during the adjudication based on information provided in the certification.

For all U visa petitioners and their qualifying family members, USCIS conducts a thorough background investigation including a Federal Bureau of Investigation (FBI) fingerprint check and name check. USCIS also reviews the petitioner's immigration records to assess whether any inadmissibility issues exist, such as the petitioner's criminal history, immigration violations, or any security concerns. The results of these checks, as well as any evidence that certifying officials and immigration authorities possess, may be considered when determining eligibility for a U visa. Because qualifying "derivative" family members are subject to the same background checks, it is possible that a derivative's adverse criminal or immigration background could result in a denial of derivative status even when the principal's petition has been approved.

## What is a U visa certification?

In order to be eligible for a U visa, the victim must submit a U visa certification completed by a certifying agency or official. USCIS Form I-918, Supplement B (Form I-918B or certification) 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 for a U visa. 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.

Form I-918B and its instructions are available on the USCIS website at www.uscis.gov with the Form I-918

for the U visa. 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 of Form I-918.

## What kind of information does the U visa certification provide?

The certification, Form-I-918B, is a required piece of evidence to help demonstrate:

- That a qualifying criminal activity has occurred;
- That the victim has information about the criminal activity; and
- That the victim was helpful, is being helpful, or is likely to be helpful in the detection, investigation, prosecution, conviction, or sentencing of criminal activity.

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.

**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.

The decision whether to sign a certification is at the certifying agency's discretion. Each certifying agency should exercise its discretion on a case-by-case basis consistent with applicable U.S. laws and regulations, and the policies and procedures outlined in this guide as well as any internal policies of the certifying agency.

## Which agencies may sign a U visa certification?

Certifying agencies include all authorities responsible for the detection, investigation, prosecution, conviction or sentencing of the qualifying criminal activity, including but not limited to:

- Federal, State Local, Tribal, and Territorial law enforcement agencies;
- Federal, State, Local, Tribal, and Territorial prosecutor's offices;
- Federal, State, Local, Tribal, and Territorial Judges;
- Federal, State, and Local Child and Adult Protective Services;
- Equal Employment Opportunity Commission;
- Federal and State Departments of Labor; and
- Other Federal, State, Local, Tribal, or Territorial government agencies that have criminal, civil, or administrative investigative or prosecutorial authority.

## What does "Helpful" in the detection, investigation, prosecution, conviction, or sentencing mean?

"Helpful" means the victim has been, is being, or is likely to assist law enforcement, prosecutors, judges, or other government officials in the detection, investigation, prosecution, conviction, or sentencing of the qualifying criminal activity of which he or she is a victim. This includes providing assistance when reasonably requested. This also includes an ongoing responsibility on the part of the victim to be helpful. Those who unreasonably refuse to assist after reporting a crime will not be eligible for a U visa. The duty to remain helpful to law enforcement exists even after a U visa is granted, and those victims who unreasonably refuse to provide assistance after the U visa has been granted will not be eligible to obtain lawful permanent residence and may have the visa revoked by USCIS. Certifying agencies should contact and inform USCIS of the victim's unreasonable refusal to provide assistance in an investigation or prosecution: LawEnforcement_UTVAWA.VSC@uscis.dhs.gov.

Law enforcement, prosecutors, judges or government officials can certify a U visa based on past, present, or the likelihood of future helpfulness of a victim. A current investigation, the filing of charges, a prosecution or conviction is not required to sign the law enforcement certification. An instance may occur where the victim has reported criminal activity, but an arrest, prosecution, or conviction cannot take place due to evidentiary or other circumstances. Examples of this include, but are not limited to, when the perpetrator has fled or is otherwise no longer in the jurisdiction, the perpetrator cannot be identified, or the perpetrator has been deported by federal law enforcement officials. There is no statute of limitations on signing the certification – one can be signed for a crime that happened many years ago or recently. A certification may also be submitted for a victim in a closed case. However, the victim must submit a recently signed certification with his or her U visa petition (signed within six months of submission), even if the crime certified did not recently occur.

## What constitutes a qualifying crime?

The following table shows the criminal activities that qualify a victim for the U visa.[7]

| | | |
|---|---|---|
| • Abduction<br>• Abusive Sexual Contact<br>• Blackmail<br>• Domestic Violence<br>• Extortion<br>• False Imprisonment<br>• Felonious Assault<br>• Female Genital Mutilation<br>• Fraud in Foreign Labor Contracting | • Hostage<br>• Incest<br>• Involuntary Servitude<br>• Kidnapping<br>• Manslaughter<br>• Murder<br>• Obstruction of Justice<br>• Peonage<br>• Perjury<br>• Prostitution<br>• Rape | • Sexual Assault<br>• Sexual Exploitation<br>• Slave Trade<br>• Stalking<br>• Torture<br>• Trafficking<br>• Witness Tampering<br>• Unlawful Criminal Restraint<br>• Related Criminal Activities 8 |

[7] These are not specific crimes or citations to a criminal code; various federal, state, and local statutes could fall into these general categories of crime. One exception is "Fraud in Foreign Labor Contracting,"" which is the federal offense defined at 18 USC 1351.
[8] Includes attempt, conspiracy, or solicitation to commit any of the above and other related crimes, as well as any similar activity where the elements of the crime are substantially similar. "Substantially similar" typically refers to a crime detected, investigated or prosecuted by a qualified certifying official that contains the same key elements as a qualifying criminal activity. For example, a simple robbery would not typically be a qualifying criminal activity. However, if the statute cited for the detection, investigation,

# Review and Tips for Completing Form I-918B

The following are important notes and tips on filling out the Form I-918B:

- 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.
- A certifying official's decision to sign a certification is completely discretionary and under the authority of that agency or official. Neither DHS nor any other federal agency has the authority to require or demand that any agency or official sign the certification. There is also no legal obligation to complete and sign Form I-918B.
- The Form I-918B should be completed by the certifying agency or official (and not the victim, or the victim's advocate or attorney).
- By signing a certification, the certifying agency or official attests that the information is true and correct to the best of the certifying official's knowledge.
- The head of the agency has the authority to sign certifications or to delegate authority to other agency officials in a supervisory role to sign certifications. You should only sign the certification if your agency has given you this authority.
- If a certifying agency has a written delegation of authority, provide a copy to USCIS to keep on file by emailing it to LawEnforcement_UTVAWA.VSC@USCIS.dhs.gov.
- Federal, state, local, tribal, or territorial judges may sign U visa certifications. Delegation of authority is not applicable to or required of certifications by judges.
- Return the signed Form I-918B to the victim (or the victim's attorney, representative, etc.). The certifying official should not send the signed certification separately to USCIS. The victim is required to send the original signed certification form along with his or her complete U visa petition to USCIS.
- Be prompt in providing the signed certification to the victim or the victim's attorney or representative. USCIS must receive the U visa petition, which includes the Form I-918B, within six (6) months of the date the Form I-918B was signed.
- If the certifying official is providing additional documents (e.g., a copy of the police report or court order, or judicial findings, additional statements, photos, etc.) along with the certification or if more space is needed to fill out any of the information on the form, the official should provide that additional information as advised by the form instructions.
- When completing the Form I-918B, certifying officials are encouraged to check the boxes for all qualifying criminal activities detected based on the facts of the case at the time of certification. Certifying officials should not limit the boxes that are checked to the criminal activities that the agency has decided to investigate or prosecute and should check all qualifying criminal activities present in the case.
- 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.
- 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.

---

or prosecution is armed robbery, this may be a qualifying criminal activity. In most jurisdictions, armed robbery contains the elements of felonious assault as delineated in the federal criminal statutes, therefore armed robbery may be "substantially similar" to the qualifying crime of felonious assault.

# T Visa Basics

## Why was the T visa created? How does it help law enforcement?

The Victims of Trafficking and Violence Prevention Act (VTVPA) of 2000[9] was enacted to strengthen the ability of law enforcement agencies to investigate and prosecute serious crimes and trafficking in persons, while offering protections to victims of such crimes without the immediate risk of being removed from the country. Congress, in the VTVPA, created the T nonimmigrant status ("T visa") program out of recognition that human trafficking victims without legal status may otherwise be reluctant to help in the investigation or prosecution of this type of criminal activity. 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. Accordingly, under this law, Congress sought not only to prosecute perpetrators of crimes committed against immigrants, but also to strengthen relations between law enforcement and immigrant communities.

## What is the T visa? What are the benefits to the victim?

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

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

- Is or was a victim of a severe form of trafficking in persons (which may include sex or labor trafficking), as defined by federal law;[10]
- 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;
- Has complied with any reasonable request from a law enforcement agency for assistance in the investigation or prosecution of human trafficking;[11] and
- Would suffer extreme hardship involving unusual and severe harm if removed from the United States.[12]

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.

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

---

[9] Pub. L. No. 106-386, 114 Stat. 1464-1548 (2000).

[10] "Sex trafficking" is defined as "the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act." 22 U.S.C. § 7102(10).

[11] Special exceptions are made for trafficking victims who are under 18, or those who are unable to cooperate due to physical or psychological trauma.

[12] http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status. See also INA 101(a)(15)(T).

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. These are:

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

While in the United States, the victim has an ongoing duty to cooperate with law enforcement's reasonable requests for assistance in the investigation or prosecution of human trafficking.

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.

## How does USCIS Review T visa applications?

USCIS takes several steps to determine whether a victim is eligible for a T visa. USCIS reviews the victim's entire application, which includes the Form I-914 as well as the Form I-914B or other evidence of the victim's cooperation, the victim's affidavit, and supporting evidence. Supporting evidence may include court documents, witness affidavits, medical reports, and any other credible evidence to show that the victim is eligible for a T visa. If the applicant is inadmissible, USCIS also considers all evidence relevant to any potential waivers of inadmissibility.

For all T visa applicants and their qualifying family members, USCIS conducts a thorough background investigation, including a Federal Bureau of Investigation (FBI) fingerprint check and name check. USCIS will also review the applicant's immigration records to assess whether any inadmissibility issues exist, such as criminal history, immigration violations, or security concerns. Any evidence that law enforcement and immigration authorities possess may be used in determining eligibility for a T visa. USCIS may contact the certifying law enforcement agency if there are any issues or questions that arise during the adjudication based on information provided in the law enforcement declaration. Because qualifying family members (derivatives) are subject to the same criminal background review, fingerprint checks, and immigration status checks as the principal victim applicant, it is possible that a derivative's adverse criminal or immigration background would result in a denial of derivative status even when the principal has been approved.

## What Is a T visa declaration?

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

declaration when reviewing the victim's application.

## What kind of information does the T visa declaration provide?

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]

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.** USCIS also conducts a full background check and, in considering each T visa application and the applicant's credibility, examines the totality of the evidence and the circumstances of each case.

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, and the policies and procedures outlined in this Guide, as well as internal policies of the certifying agency.

If the T visa applicant does not include a law enforcement declaration, the applicant must present credible evidence that he or she meets the cooperation requirement. The applicant must include an original personal statement that indicates the reason the law enforcement declaration doesn't exist or is unavailable and whether similar records documenting any assistance provided by the applicant are available. The statement or evidence should demonstrate that good faith attempts were made to obtain the law enforcement declaration, including describing the efforts the applicant undertook. USCIS will assess the evidence presented to determine whether the applicant satisfies the cooperation requirement.

## Which agencies may sign a T visa declaration?

Certifying agencies include all authorities responsible for the detection, investigation, prosecution, conviction or sentencing of human trafficking, including but not limited to:

- Federal, State Local, Tribal, and Territorial law enforcement agencies;
- Federal, State, Local, Tribal, and Territorial prosecutors' offices;
- Federal, State, Local, Tribal, and Territorial Judges;
- Federal and State Departments of Labor; and
- Other Federal, State, Local, Tribal, or Territorial government agencies that have criminal, civil, or administrative investigative or prosecutorial authority related to human trafficking.

[13] Special exceptions are made for trafficking victims who are under 18, or those who are unable to cooperate due to physical or psychological trauma.

## Who is a victim of severe forms of trafficking in persons?

A victim of severe forms of trafficking in persons is an individual who is a victim of either:

- Sex Trafficking, which is defined as:
  - the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act,
  - or in which the person induced by any means to perform such act has not attained 18 years of age; [14] or
- Labor Trafficking, which is defined as:
  - 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.[15]

State, local, territorial, and tribal law enforcement officers can play a key role in recognizing potential victims of human trafficking. **If you have identified a potential victim of trafficking, you should contact U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations, which investigates incidents of human trafficking, as soon as possible either through your local ICE office or through the national tipline at 1-866-347-2423 (1-866-DHS-2-ICE).** Specially trained federal agents may be dispatched to make sure the victim is safe and secure, as well as provide the victim with immediate services until longer term relief can be found.

## What does "reasonable request for assistance" mean?

Whether a particular law enforcement request to a victim for assistance in the investigation or prosecution of human trafficking is "reasonable" depends on the totality of the circumstances. USCIS is responsible for making this determination. In determining "reasonableness" of the request, USCIS will consider certain factors such as, general law enforcement and prosecutorial practices; the nature of the victimization; and the specific circumstances of the victim, including fear, severe traumatization, and the age and maturity of young victims.

There are certain times when a victim is not required to cooperate with requests for assistance: (1) if the victim is under the age of 18, or (2) if the victim has experienced physical or psychological trauma that prevents him or her from complying with a reasonable request.

If the T visa applicant does not include a law enforcement declaration, the applicant must present credible evidence that he or she meets the cooperation requirement. The applicant must include an original personal statement that indicates the reason the law enforcement declaration does not exist or is unavailable and whether similar records documenting any assistance provided by the applicant are available. The statement or evidence should demonstrate that good-faith attempts were made to obtain the law enforcement declaration, including describing the efforts the applicant undertook. USCIS will assess the evidence presented to determine whether the applicant satisfies the cooperation requirement.

[14] 22 U.S.C. § 7102(10).
[15] 22 U.S.C. § 7102(9).

# Review and Tips for Completing Form I-914B

The following are important notes and tips on filling out the Form I-914B:

- USCIS has the sole authority to grant or deny a T visa. The declaration does not guarantee that the T visa will be approved by USCIS.
- An agency's decision to sign a declaration is completely discretionary and under the authority of that agency or official. Neither DHS nor any other federal agency has the authority to require or demand that any law enforcement agency sign the declaration. There is also no legal obligation to complete and sign Form I-914B.
- The Form I-914B should be completed by the law enforcement agency or official (and not the victim or the victim's advocate or attorney).
- By signing a declaration, the law enforcement agency attests that the information is true and correct to the best of the official's knowledge.
- The head of the agency has the authority to sign declarations or to delegate authority to other agency officials in a supervisory role to sign declarations. You should only sign the declaration if your agency has given you this authority.
- If a certifying agency has a written delegation of authority, provide a copy to USCIS to keep on file by emailing it to LawEnforcement_UTVAWA.VSC@uscis.dhs.gov
- Federal, state, local, tribal, or territorial judges have direct authority to sign T visa declarations. Delegation of authority is not applicable to or required of declarations by judges.
- Return the signed Form I-914B to the victim (or the victim's attorney, representative, etc.). The law enforcement agency should not send the signed declaration separately to USCIS. The victim will send the original signed declaration form along with his or her complete T visa application to USCIS.
- If the law enforcement official is providing additional documents (e.g., a copy of the police report, additional statements, photos) along with the declaration or if more space is needed to fill out any of the information on the form, law enforcement should indicate on Form I-914B a note of "see attachment" or "see addendum." Each additional page should be provided on agency letterhead.
- The official must document on Form I-914B the cooperation of the victim and whether the victim refused to comply with requests at any time throughout the investigation or prosecution.
- The declaration form must contain an original signature. That signature must either be typed or printed legibly in a color other than black ink for verification purposes. Photocopies, faxes, or scans of the declaration form cannot be accepted by USCIS as an official declaration.
- The victim has an ongoing duty to cooperate with law enforcement even after they receive the T visa. If a victim stops cooperating, you can contact USCIS to withdraw or disavow your certification.

# Best Practices for Agencies Signing Certifications and Declarations

Across the United States, law enforcement agencies, officials, and judges have taken different procedural approaches to signing U visa certifications and T visa declarations. Some examples of how various agencies or officials educate their officials about U visa certifications and T visa declarations and how they designate a certifier or certifiers in their agencies include:

- Distributing department policy or a general order on the process and use of the U visa certification or T visa declaration;
- Distributing a letter or memorandum from the Chief or Sheriff to the agency's designee in charge of signing U visa certifications or T visa declarations designating a process and authority to certify;
- Designating the head of the Victim Witness Assistance Program as the certifier;
- Sending written notification, via email or other method, from the Chief or Sheriff to the entire department explaining the purpose of the U or T visa, the certification/declaration process, and who is/are designated as the certifier(s); and
- Assigning the Investigations Bureau Chief as the certifier to delegate an officer or supervisor to review requests made by both law enforcement officers and the community and make a recommendation on the certification to the Bureau Chief.

This Resource Guide can be distributed for informational and training purposes. Certifying agencies are not required to have an internal policy or procedure before they can sign U visa certifications or T visa declarations. DHS encourages certifying agencies to implement policies that accurately reflect and conform with the statute, regulations and DHS policies and with the information contained in this and other publications issued by USCIS and DHS on the U visa and T visa programs. If a policy exists, the certifying agency is encouraged to send a copy to the Vermont Service Center of USCIS to keep on file to LawEnforcement_UTVAWA.VSC@uscis.dhs.gov.

# Answers to Frequently Asked Questions for U Visa Certifications (Form I-918B) and T Visa Declarations (Form I-914B)

For several years, DHS has been providing training and holding external stakeholder events and outreach, as well as working with law enforcement, judges, and other officials on U visa certifications and T visa declarations. As a result, DHS has developed this list of answers to frequently asked questions grouped by topic. In addition, law enforcement agencies may request additional training and information by emailing USCIS at: T_U_VAWATraining@uscis.dhs.gov.

## Questions Regarding the Certification and Declaration Process

### Which law enforcement agencies are eligible to sign certifications or declarations?

A federal, state, local, tribal, or territorial law enforcement agency, prosecutor, judge, or other authority that has the responsibility for the detection, investigation, prosecution, conviction or sentencing of a qualifying crime or criminal activity or human trafficking is eligible to sign Form I-918B or Form I-914B. This includes agencies with investigative jurisdiction in their respective areas of expertise, including but not limited to: child and adult protective services, the Equal Employment Opportunity Commission (EEOC), and Federal and State Departments of Labor (DOL). Law enforcement agencies that can provide T visa declarations include components of the Department of Justice (United States Attorney's Offices, the Civil Rights and Criminal Divisions, the Federal Bureau of Investigation (FBI), and the U.S. Marshals Service), components of the Department of Homeland Security (U.S. Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP)), the Department of Labor, and the Diplomatic Security Service of the Department of State.

In cases where the information provided by the victim led to the detection of criminal activity, a certifying agency may sign a certification. In these cases it does not matter if another agency will be the one to determine whether to pursue a criminal investigation or prosecution. In cases where the police investigated the crime and prosecutors are now prosecuting the case, both police and prosecutors may sign a certification. The authority of the police to sign a certification does not end when the case is referred for prosecution.

### Who in the certifying agency can sign Form I-918B or Form I-914B?

Form I-918B: A certifying official(s) can sign Form I-918B. The U visa regulation defines a certifying official as a judge or "[t]he head of the certifying agency, or any person(s) in a supervisory role who has been specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications on behalf of that agency." 8 C.F.R. § 214.14(a)(3). Although not required with each certification, it is helpful to include a letter showing the designation of the signing official(s). The letter would be signed by the agency head and would reflect that person with a particular rank or title within the agency is to be the signing official(s).
Form I-914B: A supervising official of a Federal, state or local law enforcement agency that has the responsibility and authority for the detection, investigation, or prosecution of severe forms of trafficking in persons or other related activity may sign Form I-914B.

**Which Officials Meet the Definition of a Judge For U Visa Certification Purposes?**

Any official with delegated authority from a federal, state, local, tribal or territorial court to decide cases including but not limited to: administrative law judges, commissioners, magistrates, aldermen, judicial referees, surrogates, masters, and chancellors.

**Is my agency required to create a policy for reviewing and signing Form I-918B and Form I-914B? Is there a template policy I may refer to in creating my agency's policy?**

No. A law enforcement agency is not required under federal regulations to create a policy to review and sign Form I-918B or Form I-914B; however, many agencies have found this to be helpful. There is no federal template for creating an agency policy; however, you may find helpful information among similarly-situated federal, state, and local law enforcement agencies.

**I am a designated official, but my agency and/or I have never signed a Form I-918B/I-914B. Should I notify USCIS that I will be signing the form or is there a training I should go through before signing the certification/declaration?**

You are not required to submit any information to USCIS in advance or attend a training in order to sign Form I-918, Supplement B or Form I-914, Supplement B. However, if you would like to notify USCIS that you are the designated official, you may contact the Vermont Service Center directly at LawEnforcement_UTVAWA.VSC@uscis.dhs.gov. You may pose questions to USCIS or provide notification that you are the head of your agency and/or the designated official. Also, USCIS provides webinar trainings for law enforcement officials. You may contact T_U_VAWATraining@uscis.dhs.gov to find out information on the next webinar for law enforcement officials.

**If I sign a certification or declaration, does the victim automatically get a U visa, T visa or lawful immigration status?**

No. There are many additional eligibility requirements that USCIS evaluates based on a victim's U visa petition or T visa application, depending on which visa the victim is seeking (see above sections.) Upon receiving a U visa petition, including Form I-918B, or T visa application, USCIS will conduct a full review of all evidence and a thorough background check of the victim before approving or denying the petition or application. The background check will include an FBI fingerprint check, name and date of birth (DOB) check, and a review of immigration inadmissibility issues, including security-based and criminal inadmissibility grounds.

A victim may be found inadmissible if the victim does not meet required criteria in the Immigration and Nationality Act to gain admission to or lawful immigration status in the United States. Victims may seek a waiver of inadmissibility, which USCIS has discretion to grant. Waivers are considered based on the totality of the evidence in the case and the results of the background check. USCIS may also contact the certifying official for further information if necessary.

Note that, independent of the T and U visa processes, law enforcement agencies may seek "Continued Presence" for trafficking victims. Continued Presence is a form of temporary immigration relief that may be granted by ICE's Homeland Security Investigations, Law Enforcement Parole Unit. Continued

Presence enables the victim to work legally and remain in the United States without accruing unlawful presence. State or local law enforcement officials who identify a victim of human trafficking who is a potential witness should coordinate with their federal law enforcement partners to submit a request for Continued Presence with their local ICE office for a particular individual. Even if the victim may ultimately apply for and be granted a T or U visa, Continued Presence may provide greater stability to the victim before the petition or application is submitted or while it is pending. Please see more information about Continued Presence in this guide under the Other Protections for Victims section.

**Am I legally required to sign this declaration or certification?**

No. A law enforcement agency is under no legal obligation to complete a declaration or certification. Signing is at the discretion of each law enforcement agency, in accordance with that agency's policy. However, it is important to note that:

- Without a certification, a U visa petition will be denied.
- The declaration is not required for a T visa, but it is an important piece of evidence submitted by the applicant.[16]

**Will my certifying agency be liable for any future conduct of someone who is granted a U or T visa? What if I signed a certification or declaration for someone who later commits a crime?**

No. A certifying agency/official cannot be held liable for the future actions of a victim for whom the agency signed a certification or declaration or to whom DHS granted a U or T visa. The U visa certification simply addresses whether the petitioner was a victim of a qualifying crime, possessed information relating to the crime, and was helpful in the detection, investigation, prosecution, conviction, or sentencing of that crime. The T visa declaration simply addresses whether the victim was a victim of human trafficking and has complied with all reasonable requests for assistance. The certification and declaration do not guarantee the future conduct of the victim or grant a U or T visa. USCIS is the only agency that can grant a U or T visa. If a victim is granted a U or T visa and is later arrested or commits immigration violations, federal immigration authorities will respond to those issues. If a certifying agency or official later discovers information regarding the victim, crime, or certification that the agency believes USCIS should be aware of, or if the agency or official wishes to withdraw the certification, the agency or official should contact USCIS by emailing the Vermont Service Center at LawEnforcement_UTVAWA.VSC@uscis.dhs.gov.

**Who decides which benefit to seek, a U or T visa?**

The victim or victim's advocate or attorney should make that decision and indicate the appropriate certification or declaration for law enforcement to sign. It is possible that an individual may qualify for both a U and a T visa.

---

16 http://www.uscis.gov/sites/default/files/USCIS/Resources/Humanitarian%20Based%20Benefits%20and%20Resources/TU_QAf_orLawEnforcement.pdf

## Helpfulness and Cooperation of the Victim:

**A victim is requesting Form I-918B or Form I-914B, but I am unsure whether he or she meets the helpfulness requirement or the compliance with reasonable requests requirement. May I sign this certification or declaration?**

Yes. Both the I-918B and the I-914B provide an opportunity for law enforcement to provide information to USCIS about the extent of the victim's assistance in the detection, investigation, prosecution, conviction, or sentencing of criminal activity. You may complete the form including all information you find relevant about the victim's assistance. USCIS will ultimately determine whether the victim meets these requirements.

- Form I-918B asks whether the victim possesses information concerning the criminal activity; was, is, or is likely to be helpful in the investigation and/or prosecution of the criminal activity; was asked to provide further assistance; and has unreasonably refused to provide assistance. You may select "yes" or "no" to these questions and further explain your answers.
- Form I-914B asks the certifying officer to provide information about the victim's cooperation and includes several options to select regarding the victim's cooperation with law enforcement.

**What constitutes "helpfulness" or "enough cooperation" for a U visa certification?**

USCIS regulation requires that the U petitioner has been, is being, or is likely to be helpful in the detection, investigation, prosecution, conviction, or sentencing of the criminal activity. This means that since the initiation of cooperation, the victim has not unreasonably refused to cooperate or failed to provide information and assistance reasonably requested by law enforcement or prosecution in connection with a criminal investigation or prosecution.

USCIS will not provide a U visa to those petitioners who, after initially cooperating with the certifying official, refuse to provide continuing assistance when reasonably requested. USCIS also will not approve the petitions of those who are culpable for the qualifying criminal activity.

**What constitutes "complying with any reasonable request" for a T visa declaration?**

USCIS regulations require that the victim of trafficking comply with reasonable requests from law enforcement officials for assistance in the investigation or prosecution of the acts of trafficking in persons. To determine whether the request from law enforcement is reasonable, USCIS takes into account the totality of the circumstances, such as general law enforcement and prosecutorial practices; the nature of the victimization; and the specific circumstances of the victim, including fear, severe traumatization, and the age and maturity of young victims.

## Law Enforcement Certification Authority and Timing:

**At what stage in the criminal case can I sign a certification?**

There is no required time when you may or may not sign a certification. It is possible to sign a certification at any stage in the case, including at the point of detection, during an investigation, when the prosecutor initiates a prosecution, before a trial, whether or not the victim is needed to testify, and

after the case is concluded.

You may sign a certification regardless of the outcome of the qualifying criminal case, including in the following instances:

- the prosecutor decided not to prosecute;
- the grand jury did not issue an indictment;
- the case was dismissed by the prosecutor or a judge;
- a case brought by the EEOC or DOL resulted in a judgment, settlement, or dismissal;
- a judge issued a protection order or custody ruling;
- a child abuse case was settled;
- the defendant entered a plea, whether or not the plea was to an offense that is a qualifying criminal activity; and
- the defendant was found not guilty.

**If an investigation or case is closed, may law enforcement still complete Form I-918B or Form I-914B? Is there a statute of limitations?**

Certifying officials may complete Form I-918B or Form I-914B for an investigation or prosecution that is closed. There is no statute of limitations regarding the time frame in which the criminal activity must have occurred. Federal legislation specifically provides that a victim may be eligible for a U visa based on having been helpful *in the past* to the detection, investigation, prosecution, conviction, or sentencing of criminal activity. A crime victim may be eligible to receive U visa certification when, for example, the case is closed because the perpetrator could not be identified; a warrant was issued for the perpetrator but no arrest could be made due to the perpetrator fleeing the jurisdiction or fleeing the United States, or has been deported; before or after the case has been referred to prosecutors, as well as before or after trial and whether or not the prosecution resulted in a conviction. A trafficking victim could be eligible to receive a T visa declaration when a case is closed for similar reasons. The petitioner must still meet all the eligibility requirements for a U or T visa to be approved.

**Does the victim have to testify to be eligible for certification or declaration?**

No. As mentioned above, there is no requirement that an arrest, prosecution, or conviction occur for someone to be eligible for a U or T visa. While there is no requirement for the victim to testify at a trial to be eligible for a U or T visa, if the victim is requested to testify, he or she cannot unreasonably refuse to cooperate with the certifying law enforcement agency. If the victim unreasonably refuses to testify, the agency or official should notify USCIS and may withdraw the previously signed Form I-918B or Form I-914B.

**What if the victim or witness has been detained or ordered removed for an immigration violation?**

Individuals currently in removal proceedings or with final orders of removal may still apply for a U or T visa. A petitioner for U nonimmigrant status or an applicant for T nonimmigrant status has administrative remedies and is not prejudiced by completion of removal proceedings. Specifically, a victim who is the subject of a final order of removal, deportation, or exclusion may still file a petition or application for U or T nonimmigrant status directly with USCIS. If a victim is granted U or T nonimmigrant status prior to, or after, removal, the regulations provide a procedure whereby the victim may remain in or return to the United States. To avoid deterring individuals from reporting crimes, ICE

officers, special agents, and attorneys are expected to exercise all appropriate discretion on a case-by-case basis when making detention and enforcement decisions in the cases of victims of crime, witnesses to crime, and individuals pursuing legitimate civil rights complaints. Particular attention is paid to victims of domestic violence, human trafficking, sexual assault, or other serious crimes, and witnesses involved in pending criminal investigations or prosecutions. It is common for perpetrators to report immigrant crime victims and witnesses to immigration enforcement officials to gain advantage in a civil or family law case and/or to avoid prosecution in a criminal case. Congress created the U visa as a tool to counter such efforts by perpetrators.[17]

If a judge, law enforcement official, prosecutor, or other certifying official is aware of a victim or witness against whom a detainer has been lodged, who has been detained, who has been placed in removal proceedings for an immigration violation, or who has been ordered removed, the official should promptly contact his or her local ICE Enforcement and Removal Operations (ERO) contact or the local Office of the Chief Counsel to make ICE aware of the situation. Specifically with regard to a lodged detainer, the law enforcement official may notify the ICE Law Enforcement Support Center at (802) 872-6020 if the individual may be the victim of a crime or if the officials want this individual to remain in the United States for prosecution or other law enforcement purposes, including acting as a witness. If a victim is scheduled to appear in court as a witness in a criminal or civil case, as a party in a protective order case or as a parent in a case involving the victim's children, judges and other certifying officials may contact the Law Enforcement Support Center to arrange for ICE officials to bring the victim to court or to facilitate participation in the court hearing electronically.[18]

**Can I complete a U visa certification for a victim who is no longer in the United States?**

Yes. While the criminal activity must have occurred in the United States, its territories, or possessions, or have violated U.S. law, victims do not need to be present in the U.S. in order to be eligible for a U visa and may apply from outside the United States.

**Can I complete a T visa declaration for a victim who is no longer in the United States?**

Yes. You may note, however, that one requirement of the T visa petition is that the victim be in the United States on account of the severe form of human trafficking. USCIS, not the law enforcement agency, determines whether the victim meets this physical presence requirement. Note that human trafficking victims who have left the United States may be eligible for a U visa because trafficking is a qualifying criminal activity. The decision whether to seek a T or U visa should be made by the victim, or the victim's advocate or attorney.[19]

**Can I still certify if the perpetrator is no longer in the jurisdiction or prosecution is unlikely for some reason?**

---

[17] VTVPA, Pub. L. No. 106-386, §§ 1502(a)(3), 1512(a)(2)(B), 114 Stat. 1464-1548 (2000).

[18] *See* U.S. Immigration and Customs Enforcement, 11064.1: Facilitating Parental Interests in the Course of Civil Immigration Enforcement Activities (Aug. 23, 2013)(hereinafter "ICE Parental Directive")
available at: https://www.ice.gov/doclib/detention-reform/pdf/parental_interest_directive_signed.pdf and
U.S. igration and Customs Enforcement, *FAQs on the Parental Interests Directive*, available at:
https://www.ice.gov/about/offices/enforcement-removal-operations/parental-directive-faq.htm.

Yes. There is no statutory or regulatory requirement that an arrest, prosecution, or conviction occur for someone to apply for a U or T visa. Instances may occur where the perpetrator has fled the jurisdiction, left the United States, or been arrested for unrelated offenses by another agency in another jurisdiction. An arrest, prosecution, or conviction may not be possible in these situations. A U visa petitioner will still have to meet the helpfulness requirement by reasonably assisting the certifying law enforcement agency, and will also have to meet all other eligibility requirements in order to qualify for a U visa. A T visa applicant will still have to comply with all reasonable requests for assistance.

**Can a victim's petition still be approved if the defendant is acquitted or accepted a plea to a lesser charge, accepted a plea to an offense that is not qualifying criminal activity, or if the case was dismissed?**

Yes. As mentioned above, a conviction is not required for someone to be eligible for a U or T visa. Plea agreements and dismissals do not negatively impact the victim's eligibility. As long as the victim has been helpful in the detection, investigation, prosecution, conviction, or sentencing of the qualifying criminal activity and meets all other eligibility requirements, the victim may petition for a U visa. In the case of a T visa, as long as the individual has been subject to human trafficking and has complied with reasonable requests for assistance, plea agreements and dismissals do not negatively impact the victim's eligibility. If the victim unreasonably refuses to assist the investigation or prosecution and harms the criminal case, this will negatively impact the victim's ability to receive an approval. The certifying law enforcement agency should notify USCIS if the victim has unreasonably refused to cooperate in the investigation or prosecution of the crime.

**If a victim reports a crime that does not require investigation or cannot be investigated by my agency, because, for example, the victim cannot identify the perpetrator or the perpetrator is deported or fled the jurisdiction, may I certify that the person was helpful?**

Yes. The law enforcement agency may sign Form I-918B or I-914B if the victim was helpful in the detection of criminal activity. Each law enforcement agency may determine its own policy on reviewing and signing Form I-918B or Form I-914B. USCIS will review each petition or application on a case-by-case basis to determine whether the victim meets all eligibility requirements, including whether the person is a victim of a qualifying crime or a victim of a severe form of trafficking and whether the person was helpful or complied with reasonable requests for assistance.

**What if the victim stops cooperating after I sign his/her certification or declaration?**

At its discretion, a certifying agency may withdraw or disavow a Form I-918B or Form I-914B at any time if a victim stops cooperating. When this occurs, the victim's petition or application will be denied, and all derivative family member applications associated with the original application or petition will also be denied.

To withdraw or disavow a certification, the certifying agency must notify the USCIS Vermont Service Center in writing or via email. Written notification regarding withdrawal or disavowal should include:

- The agency's name and contact information (if not included in the letterhead);
- The name and date of birth of the individual certified;
- The name of the individual who signed the certification and the date it was signed;
- The reason the agency is withdrawing/disavowing the certification, including information

describing how the victim's refusal to cooperate in the case is unreasonable;
- The signature and title of the official who is withdrawing/disavowing the certification; and
- A copy of the certification the agency signed (if a copy was retained by the agency).

The letter should be either scanned and emailed to the Vermont Service Center at LawEnforcement_UTVAWA.vsc@uscis.dhs.gov, or mailed to:
USCIS-Vermont Service Center
ATTN: VAWA, T, and U Section
75 Lower Welden Street
St. Albans, VT 05479.

**U Visa Specific:**

**For a U visa, if one crime is initially detected or investigated but a different crime is eventually prosecuted, does that have an impact on the certification?**

A certification is valid regardless of whether the initial criminal activity detected or investigated is different from the crime that is eventually prosecuted. As long as the person is a victim of a qualifying criminal activity, that person may be eligible for a U visa. Examples include:

- An initial investigation of rape eventually leads to a charge and prosecution of sexual assault. Both rape and sexual assault are qualifying crimes.
- An initial investigation of embezzlement leads to a charge and prosecution of extortion. While embezzlement is not a qualifying crime, the investigation eventually led to a charge of extortion, which is a qualifying crime. If the person assisting in the investigation or prosecution is a victim of extortion, that person may qualify for a U visa.
- In the process of investigating drug trafficking allegations, police determine that the drug trafficker's wife is a victim of domestic violence. The victim reported the domestic abuse. The state brings a prosecution against the husband for drug offenses but not domestic violence crimes. The wife is cooperating in the drug prosecution. Law enforcement may complete a Form I-918B certification for reporting the domestic abuse case that is not being prosecuted.
- An initial investigation of Fraud in Foreign Labor Contracting leads to a charge and prosecution of obstruction of justice.

Form I-918B certifications may also be submitted for criminal activities similar to the list of qualifying criminal offenses. Examples include:

- An investigation or prosecution into a charge of video voyeurism may fall under the qualifying crime of sexual exploitation. This may be determined by state or local criminal law and the facts and evidence in that specific case. Please note that while video voyeurism is not specifically listed as a qualifying crime, it may be considered a type of sexual exploitation, which is a qualifying crime. The victim would need to show how these crimes are related and present this evidence to USCIS, along with the Form I-918B certification form signed by a certifying law enforcement agency.
- An investigation or prosecution of child abuse or elder abuse may fall under the qualifying criminal activity of domestic violence. This occurs under the state domestic violence protection order statute or criminal domestic violence statute when the abuse experienced by the child, disabled adult, or senior meets the statutory elements of domestic violence. When the perpetrator/victim relationship is covered by the state protection order statute or criminal

domestic violence laws, the child, dependent adult, or elder abuse is considered domestic violence under state law. When this occurs, child, elder and dependent adult abuse cases may be considered a form of domestic violence.

- An investigation or prosecution of dating violence may fall under the qualifying criminal activity of domestic violence or stalking. When a state's domestic violence statute includes dating violence, then dating violence may be considered a form of domestic violence, a qualifying criminal activity. Similarly, stalking can be a part of the pattern of abuse co-occurring with dating violence. When the facts and evidence in the specific case meet the definition of stalking under state criminal laws or under a state's stalking protection order statute, dating violence may be considered stalking which is a qualifying criminal activity.

A victim would need to show how these crimes are related and present this evidence to USCIS, along with the Form I-918B certification signed by a certifying agency or official.

**A victim has approached me to request certification of Form I-918B for a crime not listed on the form. How may I fill out Form I-918B in this circumstance?**

A law enforcement official may sign Form I-918B to indicate a person's helpfulness in the detection, investigation, prosecution, conviction, or sentencing of criminal activity. Each jurisdiction uses different terms for criminal activity. Also, each jurisdiction's crime definitions may include slightly different elements. Form I-918B requests the official to list statutory citations for the criminal activity. The official should provide those citations and may also provide information about the elements of the criminal activity and how it involves or is similar to the statutory list of criminal activity for the U visa.

**Who would qualify to file for a U visa as an indirect victim?**

Under certain circumstances, an indirect victim of a qualifying criminal activity may file as the principal applicant in a U visa petition. These circumstances include:

- In the case of murder, manslaughter, incompetent or incapacitated victims (which include children under 21 years of age):
    - Spouses; and
    - Children under 21 years of age at the time of filing.
- If the victim of the criminal activity is under 21 years of age at the time the qualifying criminal activity occurred:
    - Parents; and
    - Unmarried siblings under 18 years of age at the time of the qualifying criminal activity.

In the case of witness tampering, obstruction of justice or perjury, a victim can demonstrate that he or she has been directly or proximately harmed by one of these criminal activities if he or she can show that there are reasonable grounds to conclude that the perpetrator principally committed the offense as a means to avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring him or her to justice for other criminal activity, or to further his or her abuse, exploitation of, or control over the immigrant through manipulation of the legal system.

**If the victim is a child, why would a non-citizen parent ask for a Form I-918B certification stating that the parent was the victim?**

In many cases where a child is the victim of criminal activity, the child may not be able to provide law

enforcement with adequate assistance. This may be due to the child's age or trauma suffered, among various other reasons. Parents of a child victim play a crucial role in detecting and reporting criminal activity, providing information and assisting certifying officials in the detection, investigation, prosecution, conviction, or sentencing of the crime committed against the child. Recognizing this, an alien parent can apply for a U visa seeking to be recognized as an "indirect victim" if the principal victim is a child under 21 years of age and is incompetent or incapacitated to provide assistance to certifying officials in the detection, investigation, prosecution, conviction, or sentencing of the criminal activity committed against the child or if the child is deceased due to murder or manslaughter. The immigration status of the child victim is not relevant to this determination; Form I-918B can be submitted for an alien parent whether or not the child is a U.S. citizen or a non-citizen. The parent(s), in order to qualify as an "indirect victim," must meet the remaining eligibility requirements for a U visa to receive an approval. Therefore, the "indirect victim" parent(s) must have information about the criminal activity, and must have been or be currently helpful, or must be willing to be helpful, to certifying officials in the detection, investigation, prosecution, conviction, or sentencing of the criminal activity and the criminal activity must have occurred in the United States or violated U.S. law. The parent(s) must also demonstrate that he, she, or they suffered substantial physical or mental abuse as a result of the criminal activity and will be subject to the standard background checks (FBI fingerprint and name/DOB check) and immigration records review as well.

**What constitutes "possesses information" for U visa petitioners?**

To be eligible for a U visa, the victim of the criminal activity must possess credible and reliable information establishing that the victim has knowledge of the details of the criminal activity or events leading up to the criminal activity, including specific facts about the crime/victimization leading the certifying agency or official to determine that the victim has assisted, is assisting, or is likely to provide assistance in the detection, investigation, prosecution, conviction, or sentencing of the criminal activity. If the victim was under 16 years of age or incompetent or incapacitated at the time the qualifying criminal activity occurred, a parent, guardian, or next friend may possess the information. A "next friend" is defined as a person who acts for the benefit of an alien who is under 16 or incompetent or incapacitated. The next friend is someone dedicated to the best interests of a victim who cannot appear on his or her own behalf because of inaccessibility, mental incompetence, or other disability. A next friend cannot be a party to a legal proceeding involving the victim and cannot be a court appointed guardian. A next friend also does not qualify for a U visa or any immigration benefit simply by acting as a next friend for the victim, but he or she may possess information about the criminal activity and may provide the required assistance. It is important to note that both "direct" and "indirect" victims can qualify to petition for U visas. Although they were not the direct victim of the criminal activity, indirect victims may possess information that is helpful to the detection, investigation, prosecution, investigation, conviction, or sentencing of criminal activity.

**Who determines if the "substantial physical or mental abuse" requirement has been met for the U Visa?**

USCIS will make the determination as to whether the victim has met the "substantial physical or mental abuse" standard on a case-by-case basis during its adjudication of the U visa petition. Certifying agencies and officials do not make this determination. Certifying agencies and officials may, however, provide any information they deem relevant regarding injuries or abuse on the Form I-918B. The Form I-918B asks the certifying official to provide information about any injuries the agency or official knows about, has

documented, or has made findings about. If the certifying agency or official has documentary evidence of injuries to the victim, the severity of the perpetrator's conduct, or the emotional impact on the victim's mental health as affected by the criminal activity, it is helpful to attach any relevant evidence of these facts, such as, photographs, police reports, findings, or court orders. While USCIS will consider any evidence of substantial physical or mental abuse provided by law enforcement, the U visa petitioner has the burden of proving the substantial physical or emotional abuse.

Factors that USCIS uses to make this determination are:

- the nature of the injury inflicted;
- the severity of the perpetrator's conduct;
- the severity of the harm suffered;
- the duration of the infliction of the harm; and
- the extent to which there is permanent or serious harm to the appearance, health, or physical or mental soundness of the victim.

The existence of one or more of these factors does not automatically signify that the abuse suffered was substantial.

**USCIS Processing:**

**What do I do with a completed certification or declaration?**

Once the certifying official completes and signs the Form I-918B or Form I-914B, the original should be given to the victim or the victim's legal representative or advocate, so that it can be added to the original U visa petition or T visa application packet before submission to USCIS. Please also note that only a law enforcement official, prosecutor, judge, or other government official authorized to sign certifications/declarations may complete and sign the Form I-918B or Form I-914B. The victim or the victim's attorney or advocate may not sign the Form I-918B or Form I-914B.

**I already signed Form I-918B or Form I-914B, but the victim has returned asking for another newly signed form. Why is this happening?**

This may occur for two reasons. An application or petition must be submitted within six months after Form I-918B certification has been signed by law enforcement. If the Form I-918B expired before the petitioner was able to file the petition with USCIS, the victim would require a new form in order to properly file the U visa petition.

Also, a victim who has an approved U or T visa may become eligible and apply for lawful permanent resident status (i.e. a green card). To be eligible for adjustment of status, U visa holders cannot unreasonably refuse to provide assistance to an official or law enforcement agency, and T visa holders must continue to cooperate with reasonable requests from law enforcement. As evidence, the victim may request the law enforcement official to provide a newly signed Form I-918B, or Form I-914B or a signed document from the official or law enforcement agency.

**Is there an "expiration date" on the Form I-918B or Form I-914B?**

Form I-918B expires six months after the certifying official signs the form. USCIS must receive the

properly filed U visa petition including the Form I-918B within six months of the date on the Form I-918B. There is no expiration date for the Form I-914B.

**What are the safeguards for protecting the U and T visa program against fraud?**

USCIS recognizes that certifying agencies and officials may be in the best position to determine if a qualifying crime has taken place. If, in the normal course of duties, a certifying official or agency has determined that a qualifying criminal activity has taken place, the victim possessed information related to the criminal activity, and the victim has been helpful, law enforcement may sign the U visa certification. Whether a certifying agency or official signs the certification is under the authority of the agency or official. The certification also acts as a check against fraud and abuse, as the certification is required in order to be eligible for a U visa.

USCIS takes fraud and abuse of the U and T visa programs seriously. If USCIS suspects fraud in a U visa petition or T visa application, USCIS may request further evidence from the petitioner and may also reach out to the certifying official or agency for further information. USCIS also has a dedicated unit with the sole purpose of targeting and identifying fraudulent immigration applications. The Fraud Detection and National Security (FDNS) unit of USCIS conducts investigations of cases that appear fraudulent and works with other Federal, State, and local law enforcement agencies when fraud or abuse is discovered.

As an additional check against fraud, a U visa recipient cannot obtain a green card unless the victim proves that he or she cooperated, when requested, with law enforcement or prosecutors. In order to obtain a green card, if the U visa victim did not cooperate, he or she must prove to DHS' satisfaction that his or her refusal to cooperate was not unreasonable. A T visa recipient cannot obtain a green card unless he or she continues to comply with law enforcement's reasonable requests for assistance and has maintained good moral character since issuance of the T visa.

**Will USCIS approve a victim with a criminal history?**

USCIS may deny a U visa petition or T visa application for a variety of reasons including the victim's criminal history. Denials may occur in cases where a victim has multiple arrests or convictions, or has a serious or violent criminal arrest record. USCIS may also deny a petition if the victim was complicit or culpable in the qualifying criminal activity of which he or she claims to be a victim. USCIS conducts background and security checks (FBI fingerprint check, name/date of birth check, and a check of immigration records) on U visa petitioners and T visa applicants and reviews all available information concerning arrests, immigration violations, and security issues before making a final decision. The fact that a victim has a criminal history does not automatically preclude approval of U or T nonimmigrant status. Each petition or application is evaluated on a case-by-case basis, and USCIS takes into account whether any criminal behavior was related to the victimization. If the certifying official believes USCIS should know something particular about a victim's criminal history, that information can be cited on the certification or with an attached report or statement detailing the victim's criminal history with that law enforcement agency or his or her involvement in the crime.

# Other Law Enforcement Tools to Assist in Investigations and Prosecutions

There are two significant tools law enforcement agencies can use to benefit immigrant victims who may not qualify for a T or U visa, but who may need a means of temporarily being in the United States lawfully during the course of an investigation. These tools include Continued Presence and Significant Public Benefit Parole.

## Continued Presence

Continued Presence (CP) is a form of temporary immigration relief available to individuals who are identified by law enforcement as victims of human trafficking and who are potential witnesses in an investigation or prosecution. CP is authorized by ICE Homeland Security Investigations (HSI) Parole and Law Enforcement Program Unit and *can only be sponsored by a federal law enforcement agent*. **An application for CP should be initiated immediately upon identification of a victim of human trafficking.** CP allows victims of human trafficking to remain in the United States during an ongoing investigation into human trafficking- related crimes committed against them. CP is initially granted for one year and may be renewed in one-year increments. Recipients of CP also receive work authorization and social service benefits through the Department of Health and Human Services Office of Refugee Resettlement, which provides a sense of stability and protection. These conditions improve victim cooperation with law enforcement, which leads to more successful prosecutions and the potential to identify and rescue more victims.

CP is available to all trafficking victims, even if a human trafficking violation is not charged, if charges are never brought, or the victim is not cooperating in a law enforcement investigation. However, once an investigation has ended and a decision not to prosecute has been made, CP is no longer appropriate.

State, local, tribal, and territorial law enforcement officials who would like to request CP for human trafficking victims are encouraged to work with the local HSI office in their area. In addition, Victim Assistance Coordinators can assist law enforcement officials in obtaining referrals to non-governmental victim services providers who can offer a variety of services to assist crime victims, such as immigration legal assistance, crisis intervention, counseling, medical care, housing, job skills training, and case management.

## Significant Public Benefit Parole

Significant Public Benefit Parole (SPBP) may be utilized as a means of permitting an individual outside of the U.S. to enter the U.S. temporarily to serve as a witness, defendant, or cooperating source, and if necessary in extremely limited cases, the individual's immediate family members. It must be emphasized that SPBP will only be granted for the minimum period required to accomplish the requested purpose, for example, if a trial is 3 months long, parole will be granted for 3 months. SPBP is a temporary measure used on a case by case basis to allow an individual who is otherwise inadmissible to enter the United States.

# Other Forms of Legal Status for Immigrant Victims

Federal law provides additional options for immigration status to victims and witnesses of crime who may or may not be eligible for a T or U visa, including status under the Violence Against Women Act (VAWA) and Special Immigrant Juvenile Status (SIJS):

## VAWA

Recognizing that immigrant victims of domestic violence may remain in an abusive relationship when their immigration status is tied to their abuser, the Violence Against Women Act of 1994 (VAWA) created a self-petitioning process that removes control from the abuser and allows the victim to submit his or her own petition for permanent residence without the abuser's knowledge or consent. Those eligible for VAWA protection include the abused spouse or former spouse of a U.S. citizen or Lawful Permanent Resident, the abused child or step-child of a U.S. citizen or lawful permanent resident, or the abused parent of a U.S. citizen. VAWA immigration relief applies equally to women and men. To file for VAWA immigration relief, the self-petitioner must send a completed Form I-360 (Petition for Amerasian, Widow(er), or Special Immigrant) along with corroborating evidence to USCIS. A law enforcement certification is not needed in these cases.

## Special Immigrant Juvenile Status

Some children present in the United States without legal immigration status may be in need of humanitarian protection because they have been abused, abandoned, or neglected by a parent. The abuse may have occurred in the United States or prior to the child's arrival in the United States. Special Immigrant Juvenile (SIJ) status is an immigration classification that may allow vulnerable children to immediately apply for Lawful Permanent Resident status. To be eligible for SIJ, a child must:

- be unmarried, under 21 years of age at the time of filing Form I-360 with USCIS;
- be physically present in the United States; and
- have an order from a state court with jurisdiction over the child that: (1) declares the child is a dependent of the court/dependent on the court, or legally commits or places the child under the custody of either a state agency or department or an individual or entity appointed by a juvenile court; (2) declares reunification with one or both of the child's parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law; and (3)finds it would not be in the child's best interest to be returned to his or her country of origin.

# DHS Contact Information

## USCIS Contacts

| *Type of Information/Inquiry* | *Where to go/Who to contact* |
|---|---|
| For more information about the U and T visa programs and law enforcement certifications and declarations: | www.uscis.gov<br>www.uscis.gov/humantrafficking |
| To ask a question about a specific case or to rescind a signed certification or declaration: | The question or rescind letter should be scanned and emailed to the Vermont Service Center at:<br><br>LawEnforcement_UTVAWA.VSC@uscis.dhs.gov.<br>*Please note that this e-mail address is for law enforcement personnel only. Any e-mail sent by any person or entity that is not law enforcement to this specific e-mail address will not be answered.*<br>or mailed to:<br>USCIS-Vermont Service Center<br>Attn: VAWA,T, & U Section<br>75 Lower Welden Street<br>St. Albans, VT 05479 |
| To request T or U visa training for your agency: | T_U_VAWATraining@uscis.dhs.gov |
| To ask specific policy questions about T and U visa certifications: | Call (202) 272-1470 |
| Representatives may submit an inquiry regarding a specific case by emailing: | hotlinefollowupI918I914.vsc@uscis.dhs.gov |

## Citizenship and Immigration Services Ombudsman

The Office of the Citizenship and Immigration Services Ombudsman (Ombudsman) is dedicated to improving the quality of citizenship and immigration services delivered to the public by providing individual case assistance, as well as making recommendations to improve the administration of immigration benefits by USCIS. Created by section 452 of the Homeland Security Act of 2002, the Ombudsman is an impartial and confidential resource that is independent of USCIS. Customers can request case assistance by visiting the website listed below. The Ombudsman's Office also has a duty officer available Monday-Friday between 11 a.m. and 3 p.m. to answer emails and phone calls for those who are unable to file through the online process.

| *Type of Information/Inquiry* | *Where to go/Who to contact* |
|---|---|
| For more information about the CIS Ombudsman and protections for victims: | www.dhs.gov/cisombudsman |
| To refer U visa petitioners or T visa applicants who are experiencing problems that have not been able to be resolved through DHS customer assistance avenues: | http://cisomb.dhs.gov/oca/form7001.aspx |

| | |
|---|---|
| To request telephonic case assistance: | Toll Free: (855) 882-8100<br>Phone: (202) 357-8100 |
| To share specific policy concerns about T and U visa certifications or request information about a pending request for assistance: | cisombudsman@dhs.gov |

## U.S. Immigration and Customs Enforcement (ICE)

If a law enforcement official is aware of a victim of human trafficking, the official should promptly contact his or her local ICE Homeland Security Investigations (HSI) office. If a law enforcement official is aware of a victim or witness against whom a detainer has been lodged, who has been detained, who has been placed in removal proceedings for an immigration violation, or who has been ordered removed, the official should promptly contact his or her local ICE Enforcement and Removal Operations (ERO) contact or the local Office of the Principal Legal Advisor (OPLA) to make ICE aware of the situation.

| ***Type of Information/Inquiry*** | ***Where to go/Who to contact*** |
|---|---|
| To contact your local ICE HSI office: | http://www.ice.gov/contact/hsi/ |
| To contact your local ICE ERO office: | http://www.ice.gov/contact/ero/ |
| To contact your local ICE OPLA office: | http://www.ice.gov/contact/opla/ |
| Specifically with regard to a lodged detainer, the law enforcement official should notify the ICE Law Enforcement Support Center: | Phone: (802) 872-6050<br>LESC Computer Services Division<br>188 Harvest Lane<br>Williston, Vermont 05495<br>https://www.ice.gov/contact/lesc |

## Office for Civil Rights and Civil Liberties

| ***Type of Information/Inquiry*** | ***Where to go/Who to contact*** |
|---|---|
| To refer individuals who would like to file a complaint concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, by employees and officials of the Department of Homeland Security: | By Mail:<br>Office for Civil Rights and Civil Liberties<br>U.S. Department of Homeland Security Building 410, Mail Stop #0190<br>Washington, D.C. 20528<br><br>By Phone or Email:<br>Phone: (202) 401-1474<br>Toll Free: (866) 644-8360<br>TTY: (202) 401-0470<br>Toll Free TTY: (866) 644-8361<br>Fax: (202) 401-4708<br>E-mail: crcl@dhs.gov |

| | |
|---|---|
| To report a violation of T visa, U visa, or VAWA relief confidentiality protections by a federal employee (*see* 8 U.S.C. § 1367(a)(2)). | By Mail:<br>Office for Civil Rights and Civil Liberties<br>U.S. Department of Homeland Security Building 410, Mail Stop #0190<br>Washington, D.C. 20528<br><br>By Phone or Email:<br>Phone: (202) 401-1474<br>Toll Free: (866) 644-8360<br>TTY: (202) 401-0470<br>Toll Free TTY: (866) 644-8361<br>Fax: (202) 401-4708<br>crcl@dhs.gov<br>VAWA@hq.dhs.gov |

## Office for State and Local Law Enforcement

On the recommendation of the 9/11 Commission, Congress created the Office for State and Local Law Enforcement (OSLLE) in 2007 to serve as the liaison between the Department of Homeland Security and non-Federal law enforcement agencies across the country. The primary mission of OSLLE is to lead the coordination of DHS-wide policies related to state, local, tribal, and territorial law enforcement's role in preventing, preparing for, protecting against, and responding to natural disasters, acts of terrorism, and other man-made disaster within the United States. For more information about DHS coordination with federal, state, local, tribal, and territorial law enforcement, please contact the DHS Office for State and Local Law Enforcement.

Phone: (202) 282-9545
Email: OSLLE@hq.dhs.gov

# Further Resources

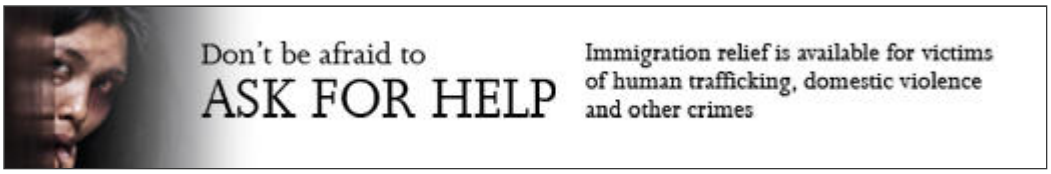
| Links and Information for T & U Nonimmigrant Status Resources | |
|---|---|
| **Victims of Human Trafficking -T Nonimmigrant Status Information:** | Victims of Human Trafficking: T Nonimmigrant Status |
| **Victims of Criminal Activity - U Nonimmigrant Status Information:** | Victims of Criminal Activity: U Nonimmigrant Status |
| **Information Guides**: | ICE Toolkit for Prosecutors<br><br>DHS Council on Combating Violence Against Women Resource Guide |
| **Poster**: | Don't Be Afraid To Ask For Help |
| **Brochures:** | Immigration Options for Victims of Crime<br><br>Information for Law Enforcement Officials (PDF)<br><br>Pamphlet on victim support (PDF) for law enforcement, first responders, and healthcare professionals<br><br>Pamphlet on victim support for judges (PDF)<br><br>Brochure on T visa, U visa and VAWA (PDF)<br><br>Brochure on Continued Presence (PDF)<br><br>Pamphlet on the Legal Rights Available to Immigrant Victims of Domestic Violence in the United States and Facts About Immigrating on a Marriage-Based Visa |
| **Video**: | Video on the U and T visa and other immigration relief process and paperwork for law enforcement<br><br>Video on the T Nonimmigrant Status - Immigration Relief for Victims of Human Trafficking<br><br>Human Trafficking 101 – DHS Blue Campaign |

| | |
|---|---|
| | Roll-Call Video (Part 1) featuring law enforcement experts explaining human trafficking<br><br>Roll-Call Video (Part 2) featuring law enforcement experts explaining immigration relief<br><br>The DHS Federal Law Enforcement Training Center (FLETC) offers a web-based human trafficking training course which teaches law enforcement officers how to recognize human trafficking during routine duties, protect victims, and initiate human trafficking investigations. |
| **Non-Governmental Organization Support** | Anti-human trafficking task forces comprise federal, state, local, county, and tribal law enforcement and prosecutors, as well as non-governmental organizations (NGOs) providing victim services. To find out whether there is a task force in your area, visit the Bureau of Justice Assistance, Anti-Human Trafficking Task Force Initiative Web page. |

U.S. Citizenship and Immigration Services

# Victims of Criminal Activity: U Nonimmigrant Status

Versión en español




The 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. Congress created the U nonimmigrant visa with the passage of the Victims of Trafficking and Violence Protection Act (including the Battered Immigrant Women's Protection Act) in October 2000. The legislation was intended to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of aliens and other crimes, while also protecting victims of crimes who have suffered substantial mental or physical abuse due to the crime and are willing to help law enforcement authorities in the investigation or prosecution of the criminal activity. The legislation also helps law enforcement agencies to better serve victims of crimes.

To learn about updates to the program, visit our U Nonimmigrant Status Program Updates page.

- U Nonimmigrant Eligibility
- Qualifying Criminal Activities
- Applying for U Nonimmigrant Status (U Visa)
- Filing for Qualifying Family Members
- Fees to File U Nonimmigrant Status Applications U Visa Extensions
- U Visa Extensions
- U Visa Cap
- Applying for a Green Card
- Resources for Victims of Human Trafficking & Other Crimes

Last Reviewed/Updated: 06/12/2018