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*Commission on
State Mandates*

December 4, 2018

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

**Comments to Commissions Draft Proposed Decision and Parameters and Guidelines:
Test Claim U Visa 918 Form, Victims of Crime: Nonimmigrant Status, 17-TC-01**

Dear Ms. Halsey,

Please accept the City of Claremont's comments and recommended changes to the Commission's Draft Proposed Decision and Parameters and Guidelines.

We concur with most of the staff's changes to the Parameters and Guidelines, but request the following:

On-Going Activity B. 1. b. (paragraph 2)

"If the crime alleged is based on past criminal activity previously reported and investigated or prosecuted by the certifying entity and the case is closed, reimbursement for this activity includes time to determine what relevant records exist (research), locate, obtain, and review of any record of the alleged crime..."

As declared by Lieutenant Ciszek, a necessary and sometimes time-consuming step for law enforcement to comply with this mandate is to determine what records exist (research) and to locate pertinent agency records to make the determinations required by the subject U Visa statutes. As pointed out in the staff analysis, there is no statute of limitation on how long a victim has to make the request and sometimes the case is quite old and the records not readily accessible.

Often a local agency will have to not only look for and pull the old reports, but may also have to locate audio and/or video recordings of the interviews conducted with victim(s) during the investigation to determine their helpfulness. This duty to locate pertinent existing records is often delegated to other employees of the department, such as records or evidence staff, who then provide the material to the certifying official to make the determinations as required.

Because a record cannot be reviewed until it is identified, located, and obtained, we request this wording be added to the Parameters to provide greater clarity to all parties.

On-Going Activity B. 1. c. (paragraph 1)

“When it is determined that the ~~victim-requesting party~~ 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, the certifying official shall fully complete *(including attaching all relevant reports and findings if they exist)* 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.”

This is required and the language is consistent with Commission staff language on page 24 of their analysis.

On-Going Activity B. 1. c. (paragraph 2)

“To the extent that the certifying entity that receives a U Visa request has a record of the qualifying criminal activity identified by the victim or victim’s family member, which was prepared in the normal course of the certifying entity’s ~~law enforcement~~ duties, reimbursement for this activity includes *time to determine what relevant records exist (research), locate, obtain, and* review of any record to complete the Form I-918 Supplement B certification.”

We also recommend striking out “law enforcement” as there are other types of certifying who may have to review their own types of records – such as court documents.

Finally, based upon Lieutenant Ciszek’s attached declaration, we believe the activity originally requested under activity d. is a reasonably necessary step in the final processing of the U Visa forms. Therefore, we request reinstatement of the activity d. for “Police Chief/Certifying Official to review, approve, and authorize the release of the U Visa forms.”

Respectfully submitted,



Annette Chinn
Consultant Representative for the
City of Claremont

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 a necessary and sometimes time-consuming step for law enforcement to comply with this mandate is to determine what relevant records exist, then search for, locate, copy and provide the records to the certifying official to make the determinations. The relevant records often include old audio and/or video recordings of the interviews conducted with victim(s) and these records are often obtained by records/evidence staff and then provided to the person charged with reviewing the documents to make the determination.

In addition, though the Police Chief is the "certifying official", the Detective Bureau Lieutenant was the supervisor designated by the Chief to complete the City's U Visa requests. However, before the completed forms are released, the Police Chief is informed of the Lieutenant's determination. On occasion, the Chief has requested to review and inspect those forms for a final review and approval.

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 4th day of December, 2018 in Claremont, California.



Michael Ciszek
Lieutenant
Claremont Police Department

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.

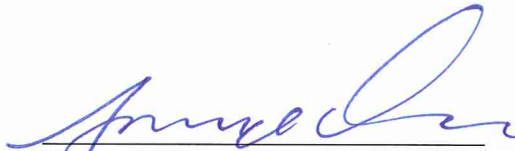
On December 6, 2018, I served the:

- **Claimant's Comments on the Draft Proposed Decision and Proposed Parameters and Guidelines filed December 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 December 6, 2018 at Sacramento, California.



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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 11/19/18

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.)

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