

Public Comment on CPD's T Visa and U Visa Nonimmigrant Status Certification (Special Order S02-06)

The Chicago Police Department (CPD) can certify whether an undocumented immigrant is a crime victim cooperating with law enforcement for the immigrant's application for legal status (T and U visas). Recent news reports found that CPD denied undocumented immigrants certifications at higher rates than police in Los Angeles and New York. CPD's disorganized draft policy on certifications for T and U visas (Special Order S02-06) does little to address this problem and fails to follow federal and Illinois immigration law and guidance. CPD must rewrite the policy and address the following critical issues:

- Before issuing a policy on certifications for T and U visas, CPD must *first* engage and listen to community, immigrant, and worker's rights groups and advocates, and apply their recommendations to the policy.
- CPD's policy must take a trauma-informed approach. The policy must recognize that undocumented immigrants who are crime victims often distrust law enforcement and fear arrest and deportation for themselves and their families. They may also be homeless and need medical care and significant social and psychological support.
- CPD's policy must acknowledge that several City of Chicago departments and agencies *other than CPD* can also provide certifications for T and U visas. These include the Office of Labor Standards, the Chicago Housing Authority, and the Chicago Commission on Human Rights.
- CPD's policy must follow state law. Specifically, the policy must follow the Illinois Voices of Immigrant Communities Empowering Survivors Act, 5 ILCS 825/10(d), which requires a "rebuttable presumption that a victim is helpful, has been helpful to the detection or investigation or prosecution" of the crime, "if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement."
- CPD's policy must follow and reference federal and Illinois guidance, including the Department of Homeland Security's *T Visa Law Enforcement Resource Guide* and *U Visa Law Enforcement Resource Guide*, and the Illinois Attorney General's *Illinois Laws Governing Law Enforcement Interactions with Immigrant Communities*.
- CPD's policy designates a supervisor in the Vice Section, Bureau of Counterterrorism, as the certifying official for T visas. Certifying officials should include other divisions of CPD and other City departments or agencies because not all trafficking involves sex trafficking.
- The policy's discussion of qualifying crimes for U visas has only two examples of violent crimes (felonious assault and rape), even though federal law lists 23 other qualifying crimes and allows for equivalent crimes under state or local law, including non-violent crimes like forced labor. The policy also fails to include attempts, conspiracy, or solicitation to commit these crimes.
- CPD's policy must specify how CPD will request extensions of time for certifications and how it will obtain written agreement for those extensions.
- CPD's policy must specify the appeal process for denials of certifications for T and U visas, including that the person or their representative may submit a written argument and documents to support their appeal.
- CPD must track and keep data on all requests, denials, and appeals for certifications for T and U visas, and make this information publically available.