

SPECIAL DIRECTIVE 19-09

TO: ALL DEPUTY DISTRICT ATTORNEY PERSONNEL

FROM:  JOSEPH P. ESPOSITO
Chief Deputy District Attorney

SUBJECT: U VISA CERTIFICATION REQUESTS – REVISIONS TO LEGAL
POLICIES MANUAL § 24.16; NEW PROCESSING TIME
REQUIREMENTS PURSUANT TO ASSEMBLY BILL 917

DATE: DECEMBER 17, 2019

This Special Directive (SD) addresses the changes to the U visa and T visa certification request processing times contained in Penal Code §§ 679.10 and 679.11 that the Office must adhere to beginning January 1, 2020. Assembly Bill 917 shortened the time period a certifying entity is required to process a U visa certification from 90 days to 30 days, or from 14 days to seven days if the petitioner is in removal proceedings. The processing time requirements for the certification of a T visa request shall be the same as those for a U visa request. This SD supersedes SD 16-11 to the extent that it is inconsistent with these changes.

Paragraphs four and five of Legal Policies Manual (LPM) § 24.16 are amended, as indicated in bold, to read as follows:

Processing Requests for Certification of U Visa Documents

A deputy who receives a request for U visa certification shall immediately notify his or her Head Deputy or Deputy-in-Charge (DIC) and forward the original request to his or her Bureau Director. The Head Deputy or DIC shall designate a deputy to review the case file and any other relevant information, such as law enforcement reports and court records, and, within **21 days** of receiving the certification request, or within **three days**, if the requestor is in removal proceedings, the handling deputy shall prepare and submit a memorandum to the Bureau Director, through his or her Head Deputy or DIC. Pursuant to Penal Code § 679.10, a certifying entity is required to process a U visa certification request **within 30 days**, unless the petitioner is in removal proceedings, in which case the certification must be processed within **seven days of the first business day following the day the request is received**. The memorandum shall include all the following information, if available:

- The name and date of birth of the victim, and any known alternate names and dates of birth indicated in police reports, the case file, PIMS, and Bureau of Victim Services (BVS) records;
- A summary of the facts of the case, including the victim's role and any injuries, including mental abuse, sustained by the victim;

- Whether any request for information or assistance from the victim has been made by the Office or at the direction of the Office;
- Facts supporting the victim's helpfulness, or lack thereof, to the detection, investigation, or prosecution of qualifying criminal activity;
- A statement from the BVS as to whether an advocate was assigned to the victim and whether the BVS advocate possesses any additional information regarding the victim's helpfulness;
- The original charges filed;
- The charges upon which the defendant was ultimately convicted;
- The stage of the proceedings during which the conviction occurred;
- The sentence imposed;
- Whether the petitioner is in removal proceedings (if known).

If the U visa request is initially received by a Bureau Director, he or she shall forward a copy to the Head Deputy or DIC of the office where the prosecution took place, noting whether the petitioner is in removal proceedings (if known). **The same procedure shall then be followed as described above.**

Paragraph nine of LPM § 24.16 is amended, as indicated in bold, to read as follows:

Request for Updated Certification

The Office may receive a request for an updated certification, even after a request for certification has already been granted, submitted by a victim who failed to deliver his or her application to the USCIS in a timely manner, or by a recipient of a U visa who is filing for permanent resident status. **In these instances, the same procedures described above shall be followed.** The supplemental memorandum shall include the following information:

- Whether any additional requests for information or assistance from the victim have been made by or at the direction of the Office since the date of the original memorandum;
- Any additional facts supporting the victim's helpfulness, or lack thereof, to the detection, investigation, or prosecution of qualifying criminal activity since the date of the original memorandum;
- Any additional statements from the BVS as to whether an advocate was assigned to the victim and whether the BVS advocate possesses any additional information regarding the victim's helpfulness;
- Any changes in the status of the original case since the date of the original memorandum.

In all other respects, LPM § 24.16 remains unchanged.

mr