

SPECIAL DIRECTIVE 20-05

TO: ALL DEPUTY DISTRICT ATTORNEYS

FROM:  JOSEPH P. ESPOSITO
Chief Deputy District Attorney

SUBJECT: CONFIDENTIALITY OF SEALED JUVENILE RECORDS WHEN
ACCESSED IN ORDER TO PROCESS U VISA AND T VISA
CERTIFICATION

DATE: OCTOBER 26, 2020

This Special Directive amends Legal Policies Manual § 24.16 in response to changes to Welfare and Institutions Code §§ 781(D)(iii)(II) and 786(g)(1)(M). Effective **January 1, 2021**, judges or prosecutors will be allowed to access juvenile records that have been sealed pursuant to these code sections “for the limited purpose of processing a request of a victim or victim’s family member to certify victim helpfulness” for U visa and T visa purposes. Access is limited to certifying victim helpfulness. Any information a judge or prosecutor obtains from a sealed juvenile record cannot be shared with any other agency or individual except as necessary to certify victim helpfulness on a form provided by the federal government. Under no circumstances shall information obtained from a sealed juvenile record be used to support the imposition of penalties, detention, or other sanctions upon an individual.

The fourth paragraph of Legal Policies Manual § 24.16 is hereby amended 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. **If the handling deputy is required to review sealed juvenile records in order to prepare the memorandum, all information contained within the sealed juvenile records is confidential and may not be shared with any outside agency or individual.** 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).

In all other respects, Legal Policies Manual § 24.16 remains unchanged.

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