



T Visas Protect Victims of Human Trafficking And Strengthen Community Relationships

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With support from the Ford Foundation, PERF conducted an examination of how police agencies can facilitate the use of T Visas to prosecute human trafficking cases, protect immigrant victims of crime, and build relationships of trust with community members. This article details that research and examines how some police departments are incorporating T Visa declarations into their broader efforts to combat human trafficking and conduct community outreach.

Introduction

Human trafficking is an epidemic that is plaguing jurisdictions across the United States. In 2017, the National Human Trafficking Hotline identified 8,759 human trafficking cases with 10,615 individual victims. A majority of these victims were adult women of Latino ethnicity.³

In cases of international trafficking, traffickers bring victims from other countries across U.S. borders for the purposes of forced labor or sexual exploitation. The U.S. State Department estimates that between 14,500 and 17,500 people are trafficked into the United States each year.⁴ Immigrants may also fall victim to domestic trafficking after they enter the United States. In such cases, the individual's entry into the United States is not related to trafficking, but he or she becomes a victim of human trafficking when a trafficker exploits them for sex or labor.

Immigrants often are especially vulnerable to victimization because traffickers take advantage of their language barriers, immigration status, limited education, and/or lack of knowledge of U.S. labor protections. Combatting the human trafficking of immigrant victims is challenging for many law enforcement agencies.⁵ According to some law enforcement officials, many cases go unreported because victims fear that if they come forward, they will be deported.

What Is Human Trafficking?

Human trafficking is a form of modern-day slavery in which an individual is forced to engage in some type of labor or commercial sex act through force, fraud, or coercion.¹ Although a majority of victims are trafficked in large cities near U.S. borders or major ports, law enforcement officials across the United States may encounter instances of human trafficking.²

1. Department of Homeland Security. *What Is Human Trafficking?* <https://www.dhs.gov/blue-campaign/what-human-trafficking>

2. National Human Trafficking Hotline. *Ranking of the 100 Most Populous U.S. Cities.* <https://humantraffickinghotline.org/sites/default/files/100%20Most%20Populous%20Cities%20Report.pdf>

3. Polaris. *Growing Awareness, Growing Impact: 2017 Statistics from the National Human Trafficking Hotline and BeFree Textline.* <http://polarisproject.org/sites/default/files/2017NHThStats%20%281%29.pdf>

4. Pei, L. "Little-known visa for trafficking victims is chronically underused." *Cronkite News.* <http://cronkitenewsonline.com/2013/12/little-known-cumbersome-visa-for-trafficking-victims-is-chronically-underused/index.html>

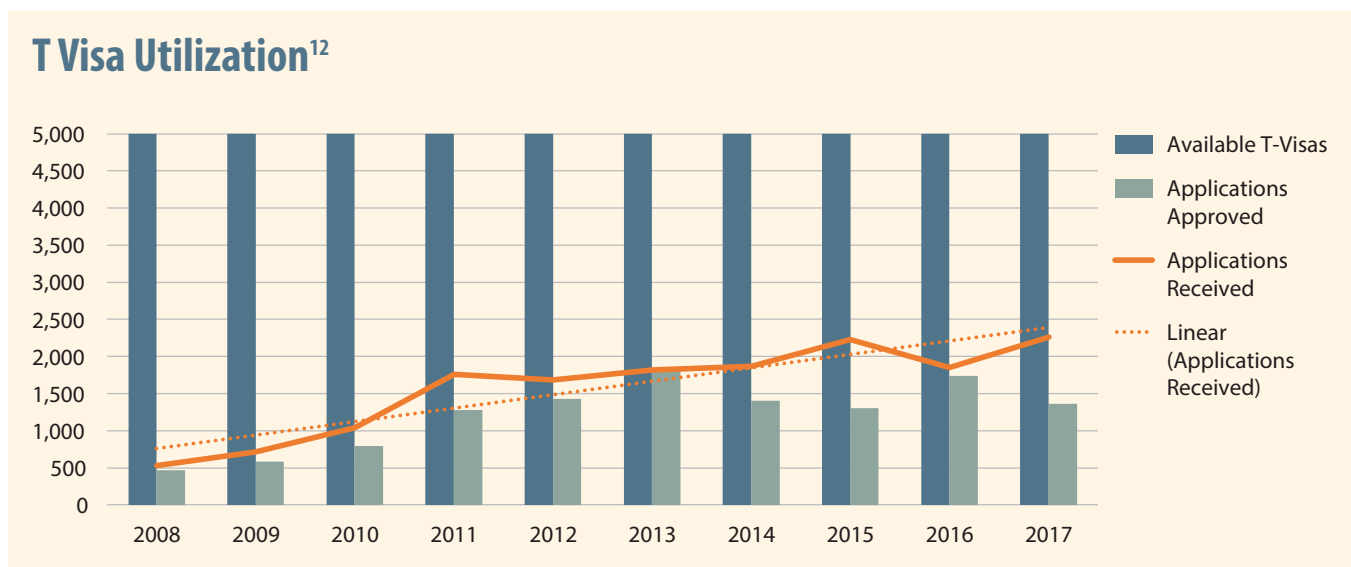
5. ACLU. *Human Trafficking: Modern Enslavement of Immigrant Women in the United States.* <https://www.aclu.org/other/human-trafficking-modern-enslavement-immigrant-women-united-states>

One resource that encourages reporting among immigrant victims of human trafficking is the T Visa.⁶

This type of specialized visa provides relief to immigrant victims of human trafficking by allowing them to stay in the United States, provided that they help law enforcement officials prosecute human traffickers.⁷ When an immigrant applies for a T Visa, local police can declare to federal authorities that the applicant was a victim of human trafficking and aided the police in the investigation or prosecution of human traffickers.⁸ Signing declarations for T Visas can be an effective way for local police to protect immigrant victims of crime, investigate and prosecute human traffickers, and build trust among immigrant communities.

Despite the utility of T Visas, they remain widely underutilized. There is a limit of 5,000 T Visas available to victims of human trafficking each year. In recent years, the Department of Homeland Security has received approximately 2,000 applications per year, and has approved approximately 1,500 per year (see chart below). In the first two quarters of the 2018 fiscal year, there have been 828 applications received; 324 have been approved; and others are pending.

In comparison, the more publicized U Visa program, which is available to human trafficking victims and immigrants who have been victims of a much wider range of crimes, is overrun with applications.⁹ The U.S. Citizenship and Immigration Services agency can authorize up to 10,000 U Visas per year, but the number of applicants far exceeds this figure. Because of this backlog, victims in the U Visa process sometimes wait several years before receiving a visa.¹⁰ Trafficking victims applying for T Visas, however, typically receive T Visas within a year of filing.¹¹ Shifting some focus to the T Visa for certain trafficking cases, when appropriate, could alleviate some of the backlog in the U Visa process and provide quicker relief to trafficking victims.



6. The official term for the T Visa is T nonimmigrant status

7. Department of Homeland Security. *Victims of Human Trafficking: T Nonimmigrant status*. <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status>

8. Department of Homeland Security, *U and T Visa Law Enforcement Resource Guide*. https://www.dhs.gov/sites/default/files/publications/U-and-T-Visa-Law-Enforcement-Resource%20Guide_1.4.16.pdf

9. U Visas are a discretionary form of relief that the federal government can offer to victims of certain types of crimes, when the victims have been helpful, or are likely to be helpful, in the detection, investigation, or prosecution of criminal activity. For more information on U Visas, see PERF, *U Visas and the Role of Local Police in Preventing and Investigating Crimes Against Immigrants*. http://www.policeforum.org/assets/docs/Subject_to_Debate/Debate2017/debate_2017_junaug.pdf

10. As of July 31, 2018, the average processing time to U Visas was 40.2 months, while the average processing time for T Visas was 11 months.

11. U.S. Citizenship and Immigration Services, "Historical National Average Processing Time for All USCIS Offices," <https://egov.uscis.gov/processing-times/historic-pt>

12. Department of Homeland Security. *Number of Form- I-914, Application for T Nonimmigrant Status by Fiscal Year, Quarter, and Case Status 2008-2017*. https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I914t_visastatistics_fy2017_qtr4.pdf

Differences Between Immigration Relief Programs

U Visas:

- Grant immigration relief to victims of a wide range of crimes,¹³ including human trafficking.
- Require police certification of the applicant's cooperation with law enforcement in the detection, investigation, and prosecution of crimes.
- Applicant may be in the United States for any reason.
- Number of yearly applicants exceeds the maximum number of U Visas authorized, so wait time can last several years.

T Visas:

- Available only to victims of human trafficking.
- Applicant must be in the United States "on account of"¹⁴ trafficking.¹⁵
- Does not require law enforcement to issue a declaration of cooperation (although such declarations strengthen applications).
- No backlog, so applications are often processed much faster than U Visa applications.¹⁶

Why Is the T Visa Underutilized?

- **Mistaken fear of liability.** Some police agencies may be concerned that providing a declaration for a T Visa could put them at risk of liability if the applicant remains in the country and commits a serious crime. Signing a declaration, however, does not grant immigration relief or legal status to the applicant. Federal officials at the U.S. Citizenship and Immigration Services agency are the sole arbiters of application status, and local police are not liable for a victim's future conduct.¹⁷
- **Limited understanding of the role of local police.** Officers who serve local municipalities may view the T Visa program as a federal responsibility. Contrary to these beliefs, local police play an important role in the T Visa application process. Providing declarations for T Visas can encourage victims to come forward and assist police with the investigation and prosecution of human traffickers.¹⁸ Participating in the T Visa program allows local police to protect victims of human trafficking and build trust with immigrant communities.
- **Restrictive requirements.** The eligibility requirements for T Visas are much narrower in scope compared to other immigration relief programs, such as the U Visa.
- **Lack of awareness in identifying victims of human trafficking.** Human trafficking can be difficult to identify because cases often resemble other crimes, such as domestic violence or sexual assault. It is important that officers understand how to distinguish human trafficking from other crimes, so that they can direct eligible victims to the T Visa process. The Blue Campaign, run by the Department of Homeland Security, provides a web-based interactive training course for law enforcement agencies that focuses on how to identify victims of human trafficking.¹⁹

13. The full list of U visa criminal activities includes: abduction, abusive sexual contact, blackmail, domestic violence, extortion, false imprisonment, female genital mutilation, felonious assault, fraud in foreign labor contracting, hostage, incest, involuntary servitude, kidnapping, manslaughter, murder, obstruction of justice, peonage, perjury, prostitution, rape, sexual assault, sexual exploitation, slave trade, stalking, torture, trafficking, witness tampering, unlawful criminal restraint, or any similar activity in violation of federal, state, or local criminal law in which the elements are substantially similar to the above mentioned crimes. The list also includes the attempt, conspiracy, or solicitation to commit any of the listed activities.

14. Victims are determined to be in the United States "on account of" trafficking if they "(1) Are present because they are being held in some sort of severe form of trafficking in persons situation; (2) were recently liberated from a severe form of trafficking in persons; or (3) were subject to severe forms of trafficking in persons at some point in the past and remain present in the United States for reasons directly related." Federal Register, Vol.67, No. 21. January 31, 2002. Page 4787.

15. Department of Homeland Security. *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#Qualifying%20Criminal%20Activities>

16. Immigration Solutions. *Differences between T Visa and U Visa*. <http://www.immsolutionsllc.com/immigration/visas-victims-crimes-abuse/t-visa>

17. Department of Homeland Security. *Information for Law Enforcement Agencies and Judges*. <https://www.uscis.gov/tools/resources/information-law-enforcement-agencies-and-judges>

18. Department of Homeland Security. *U and T Visa Law Enforcement Resource Guide*. https://www.dhs.gov/sites/default/files/publications/U-and-T-Visa-Law-Enforcement-Resource%20Guide_1.4.16.pdf

19. Federal Law Enforcement Training Centers. *Human Trafficking Training Program*. <https://www.fletc.gov/human-trafficking-training-program>

What Are T Visas and How Do They Work?

The T Visa was created in 2000 when Congress passed the Victims of Trafficking and Violence Protection Act (VTVPA).²⁰ T Visas were established to encourage police to improve services for immigrant victims of trafficking and to prosecute crimes committed against immigrants.²¹ The legislation expands law enforcement agencies' ability to investigate cases of human trafficking while offering immigration relief to victims and qualifying family members.²²

To qualify for a T Visa, a victim of trafficking must demonstrate to United States Citizenship and Immigration Services (USCIS) that he or she assisted a law enforcement agency in the investigation or prosecution of human trafficking. To meet this requirement, victims may ask police to provide a statement as evidentiary support of their cooperation. This statement, or declaration, is known as USCIS Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim in Trafficking of Persons.²³

With a T Visa status, an individual may remain in the United States to assist police with the investigation or prosecution of human traffickers. *T Visas grant protection from deportation for four years and can serve as a pathway to Permanent Resident status (i.e., "green card" status).* T Visa holders may apply for Permanent Residence status three years after the T Visa is granted, or at the conclusion of a criminal case.²⁴

Holders of T Visas are also granted other benefits, including:

- Ability to work in the United States (i.e., Employment Authorization Document), and
- Eligibility for federal and state services (e.g., housing, medical screenings, financial assistance).²⁵

T Visa Eligibility Requirements

According to USCIS, to qualify for T nonimmigrant status, an applicant must:

1. Be or have been a victim of severe trafficking in persons.

Severe trafficking in persons is defined as:

- 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."²⁶

20. Department of Homeland Security. *Victims of Human Trafficking: T Nonimmigrant Status*. <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status>

21. *Victims of Trafficking and Violence Protection Act of 2000*. Public Law 106-386 [H.R. 3244], October 28, 2000. <https://www.state.gov/documents/organization/10492.pdf>

22. Department of Homeland Security. *Victims of Human Trafficking: T Nonimmigrant Status*. <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status>

23. Department of Homeland Security. *Form I-914, Supplement B*. <https://www.uscis.gov/sites/default/files/files/form/i-914supb.pdf>

24. Department of Homeland Security. *Victims of Human Trafficking: T Nonimmigrant Status*. <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status>

25. U.S. Department of Health and Human Services, Office of Refugee Resettlement. *Fact Sheet: Victim Assistance*. <https://www.acf.hhs.gov/orr/resource/fact-sheet-victim-assistance-english>

26. Legal Information Institute. *22 U.S. Code § 7102 – Definitions*. <https://www.law.cornell.edu/uscode/text/22/7102>

2. Be physically present in the United States, or at a port of entry, on account of trafficking.²⁷

Because human trafficking is a qualifying criminal activity under the U Visa as well as the T Visa, it is important to determine which crime victims can prove that their presence in the U.S. is “on account of” human trafficking, and are therefore eligible for a T Visa in addition to being U Visa-eligible.²⁸

A victim is physically present on account of human trafficking if he or she:

- Is present because he or she is currently being subjected to a severe form of trafficking in persons;
- Was liberated from a severe form of trafficking in persons by an law enforcement agency (LEA);
- Escaped a severe form of trafficking in persons before an LEA was involved, but never departed the U.S.;
- Was subject to a severe form of trafficking in persons at some point in the past and whose continuing presence in the United States is directly related to the original trafficking in persons; or
- Is present on account of the individual having been allowed entry into the United States for participation in investigative or judicial processes associated with an act or perpetrator of trafficking.²⁹

3. Comply with any reasonable request from a law enforcement agency for assistance in the investigation or prosecution of human trafficking.³⁰

USCIS is responsible for evaluating the reasonableness of law enforcement agencies’ requests for assistance. Federal officials consider “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.”³¹ This determination is based on the totality of the circumstances.³²

Understanding “Continued Presence” and Its Relationship to T Visas

Continued Presence (CP) is a temporary form of immigration relief provided to victims of human trafficking, which can be requested only by federal law enforcement agencies on a victim’s behalf.³³ It is a tool for protecting victims of human trafficking who can assist in detecting, investigating, and prosecuting cases. An application for CP can be submitted as soon as a human trafficking victim is identified, regardless of whether the individual has already assisted with an investigation.

Unlike the T Visa, protection under CP lasts only for one year, and must be renewed in yearlong increments as long as the victim is still considered a viable witness

for an active case. *Unlike the T Visa, CP status provides only limited protection for victims with no path towards lawful permanent residency.* Therefore, the T Visa provides better long-term protection and benefits to victims.

Continued Presence provides early protection for crime victims and gives the victim time to prepare and file a T visa application. Victims may apply to receive a T Visa after CP expires, or may apply for a T Visa while under the protection of CP.

Additional information can be found through the U.S. Immigration and Customs Enforcement’s guide on Continued Presence.³⁴

27. Including American Samoa and the Commonwealth of the Northern Mariana Islands.

28. Victims eligible for a T Visa may also apply for a U Visa.

29. 8 CFR §214.11(g)(1)(2017)

30. This requirement does not apply to applicants under the age of 18, or to victims that cannot cooperate due to physical or psychological harm.

31. Department of Homeland Security. *U and T Visa Law Enforcement Resource Guide*. https://www.dhs.gov/sites/default/files/publications/U-and-T-Visa-Law-Enforcement-Resource%20Guide_1.4.16.pdf

32. *Ibid.*, page 12

33. When local and state police officials identify a victim of human trafficking who may be eligible for CP, they should coordinate with federal law enforcement officials to submit a CP application.

34. Department of Homeland Security. *Continued Presence: Temporary Immigration Status for Victims of Human Trafficking*. <https://www.ice.gov/doclib/human-trafficking/pdf/continued-presence.pdf>

4. Demonstrate that he or she would suffer extreme hardship involving severe and unusual harm if removed from the United States.

To gain approval of a T visa, trafficking victims must prove that their removal from the U.S. would cause them extreme hardship. The victim is responsible for proving this to USCIS, and it is not a required part of the law enforcement declaration. Evidence of extreme hardship may include the physical and psychological trauma caused by the trafficking, loss of access to U.S. courts and the criminal justice system, and the likelihood of retaliation or re-victimization by the trafficker.

The Role of Local Police Agencies in the T Visa Process

When individuals apply for a T Visa, they may ask local police to sign a declaration (Form I-914 Supplement B)³⁵ explaining how they have assisted law enforcement. Police can provide a declaration if the applicant has aided them in the past, is currently working with police, or is likely to assist in the investigation or prosecution of the crime of which they are a victim. Although Form I-914 is not required to be submitted with an application, it can serve as compelling evidence and strengthens the applicant's case.³⁶

The role of local police in the T Visa program is limited to this declaration. It is important to note that USCIS has sole authority in determining whether to grant or deny a T Visa application. Providing a declaration does not make local police liable for the victim's future behavior.³⁷

The decision to provide a declaration is at the discretion of the police agency. Police departments do not have a legal obligation to complete the I-914 Supplement B. Police also have the authority to withdraw a declaration for any reason after it has been submitted by contacting USCIS.³⁸

How are T Visas Relevant for Local Police?

T Visa declarations by local police agencies, in addition to helping facilitate the prosecution of human trafficking cases, can be a valuable tool for building trust with immigrant communities. Publicizing the availability of T Visas can demonstrate a police department's commitment to protecting all community members.

However, T Visas are only helpful as a tool for community engagement if residents are aware of their existence and purpose. Police agencies, therefore, should partner with community organizations, local nonprofits, and other local government agencies to promote awareness of T Visas.

When Can Police Provide a Declaration?

The guidelines dictating *when* police can sign T Visa declarations are broad, allowing police to assist human trafficking victims at any stage of a case.³⁹ Police can provide a declaration "even if there is no arrest, no charges filed, no formal investigation, no prosecution, no conviction, or even if the case is closed."⁴⁰

The timeline for providing a declaration is also nonrestrictive. A victim may be eligible for a T Visa regardless of when the crime occurred. Police may sign a declaration for cases that occurred years ago, provided the victim was cooperating with law enforcement.⁴¹

35. Form I-914 Supplement B is available through the United States Citizenship and Immigration Services website at <https://www.uscis.gov/sites/default/files/files/form/i-914supb.pdf>

36. Department of Homeland Security. *Information for Law Enforcement Agencies and Judges*. <https://www.uscis.gov/tools/resources/information-law-enforcement-agencies-and-judges>

37. *Ibid.*

38. *Ibid.*

39. Department of Homeland Security. *U and T Visa Law Enforcement Resource Guide*. https://www.dhs.gov/sites/default/files/publications/U-and-T-Visa-Law-Enforcement-Resource%20Guide_1.4.16.pdf. Page 18

40. Department of Homeland Security. *Information for Law Enforcement Agencies and Judges*. <https://www.uscis.gov/tools/resources/information-law-enforcement-agencies-and-judges>

41. *Ibid.*

Resources

There are resources available to aid local police departments in combatting human trafficking. The following resources educate officers about identifying signs of human trafficking and provide guidance on federal immigration relief programs:

The Blue Campaign: Sponsored by Homeland Security Investigations (HSI), the Blue Campaign is a federal government effort to raise awareness about the types of human trafficking and how to identify victims of these crimes. This campaign offers short videos as well as a training program geared to law enforcement agencies.⁴² Roll call videos for law enforcement on U Visa certification and T Visa endorsement are also available.⁴³

The Department of Homeland Security U and T Visa Law Enforcement Guide is a comprehensive resource for departments looking to implement policies on U and T Visa declarations.⁴⁴

HSI's Immigration Relief Information for Law Enforcement Officials provides guidance on the difference between U Visas, T Visas, and Continued Presence.⁴⁵

The COPS Office in the U.S. Department of Justice has a list of resources and indicators of labor trafficking for law enforcement officials.⁴⁶

For questions on local police use of T Visas, please contact Research Associate Madeline Sloan at msloan@policeforum.org, or Jessica Toliver, PERF's Director of Technical Assistance, at jtoliver@policeforum.org.

42. Department of Homeland Security. *Blue Campaign: One Voice. One Mission. End Human Trafficking*. www.dhs.gov/blue-campaign/share-resources

43. Department of Homeland Security. *DHS Roll Call Video on U Visa Certification and T Visa Endorsement*. Retrieved from <http://niwaplibrary.wcl.american.edu/2014/04/dhs-roll-call-videos/>

44. Department of Homeland Security, *U and T Visa Law Enforcement Resource Guide*. https://www.dhs.gov/sites/default/files/publications/U-and-T-Visa-Law-Enforcement-Resource%20Guide_1.4.16.pdf

45. Department of Homeland Security. *Information for Law Enforcement Officials: Immigration Relief for Victims of Human Trafficking and Other Crimes*. <https://www.dhs.gov/xlibrary/assets/blue-campaign/ht-information-for-law-enforcement-officials-immigration-relief-for-victims-of-human-trafficking.pdf>

46. U.S. Department of Justice, COPS Office. *The Intersection of Local Law Enforcement and Labor Trafficking*. https://cops.usdoj.gov/dispatch/01-2018/Local_Law_Enforcement_and_Labor_Trafficking.html