



**OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS**

**KWAME RAOUL**  
ATTORNEY GENERAL

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**SENT VIA EMAIL**

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**Re: Findings in VOICES Act Investigation of Joliet Police Department**

Dear Chief Evans and City Manager Beatty:

The Illinois Attorney General's Office ("OAG") has concluded its investigation into allegations that the Joliet Police Department ("JPD" or "the Department") has failed to comply with the Voices of Immigrant Communities Empowering Survivors ("VOICES") Act, 5 ILCS 825/1 *et seq.* Specifically, OAG received complaints alleging that JPD failed to timely respond to or improperly denied U-visa certification requests and appeals. OAG initiated this investigation on December 9, 2022, pursuant to 5 ILCS 825/30. Thank you for your cooperation in this investigation and your expressed willingness to voluntarily address OAG's findings. Please note

that this VOICES Act investigation is separate from OAG’s ongoing investigation of whether JPD engages in a “pattern or practice” of unconstitutional or unlawful policing.<sup>1</sup>

As detailed below, OAG concludes that we have reasonable cause to believe that JPD violated the VOICES Act. OAG is encouraged, however, by the significant progress JPD has made toward compliance with the Act over the course of the past year. This letter outlines the legal authority and background of OAG’s VOICES Act investigation, details our findings—both as to JPD’s shortcomings and its more recent improvements in these areas—and identifies certain remedial steps that remain to be taken by the Department. These remedial steps, which relate to JPD’s VOICES Act policies, procedures, and practices, are necessary to address past violations and ensure future compliance with the Act. OAG looks forward to collaborating with JPD in memorializing and implementing these remedial measures.

## **I. Statute and Legal Authority**

Promoting public safety requires assistance and cooperation from the community so law enforcement can gather the information necessary to solve and deter crimes. Building this trust is particularly crucial in immigrant communities where community members may be reluctant to engage with their local police department if they are fearful that such contact could result in deportation for themselves, their family, or their neighbors. Public safety suffers when violent crimes go unreported or witnesses withhold information from law enforcement.<sup>2</sup>

Accordingly, federal law affords immigrant survivors of violent crimes and human trafficking the opportunity to apply for temporary humanitarian immigration relief—in the form of a U- or T-visa<sup>3</sup>—if, among other requirements, they cooperate with reasonable requests for assistance from law enforcement in investigating or prosecuting those crimes. As a prerequisite to applying for a U-visa, an immigrant crime victim must obtain a certification from the agency that investigated or prosecuted the crime confirming that he or she is the direct or indirect victim<sup>4</sup> of a qualifying crime<sup>5</sup> and attesting to his or her past, present, or likely future helpfulness in that

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<sup>1</sup> OAG’s “pattern or practice” investigation is being conducted pursuant to OAG’s authority under the Attorney General Act, 15 ILCS 205/4 and 205/10; the Illinois Human Rights Act, 775 ILCS 5/1 *et seq.*; and the Civil and Equal Rights Enforcement Act, 15 ILCS 210/1, *et seq.*

<sup>2</sup> See Min Xie & Eric P. Baumer, *Neighborhood Immigrant Concentration and Violent Crime Reporting to the Police: A Multilevel Analysis of Data from the National Crime Victimization Survey*, 57 CRIMINOLOGY 2 (May 2019) (observing much lower rates of violence reporting in newer immigrant communities).

<sup>3</sup> Also known as U nonimmigrant status or T nonimmigrant status.

<sup>4</sup> Federal regulations provide that “the alien spouse, children under 21 years of age and, if the direct victim is under 21 years of age, parents and unmarried siblings under 18 years of age, will be considered *victims of qualifying criminal activity* where the direct victim is deceased due to murder or manslaughter, or is incompetent or incapacitated, and therefore unable to provide information concerning the criminal activity or be helpful in the investigation or prosecution of the criminal activity.” 8 C.F.R. § 214.14(a)(14)(i) (emphasis added). Such individuals are known as “indirect victims.”

<sup>5</sup> Qualifying crimes for a U-visa include any of the following (or any similar activity in violation of federal, state, or local criminal law): “rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; stalking; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; fraud in foreign labor contracting (as defined in section 1351 of title 18); or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes.” 8 U.S.C. § 1101(a)(15)(U)(iii).

process.<sup>6</sup> Most immigrant trafficking victims applying for a T-visa are likewise required to demonstrate cooperation with law enforcement.<sup>7</sup> Although a law enforcement certification form is not strictly required for a T-visa, it serves as useful evidence of certain eligibility criteria. Obtaining a signed U- or T-visa certification from a certifying agency does not guarantee eligibility for a U- or T-visa—decisions regarding visa eligibility are made solely by federal immigration authorities (U.S. Citizenship & Immigration Services or “USCIS”).

The VOICES Act specifies the procedures that law enforcement and all other certifying agencies in Illinois must follow upon receiving a request for completion of a U- or T-visa certification form. The purpose of the VOICES Act—together with the Illinois TRUST Act (“TRUST Act”), 5 ILCS 805/1 *et seq.*, which generally prohibits local law enforcement from participating in federal immigration enforcement—is to build trust within immigrant communities and to encourage immigrant crime victims to report crimes and cooperate with law enforcement without fear of deportation. In 2021, the Way Forward Act expanded the protections afforded to immigrants under the VOICES and TRUST Acts and imposed new annual data collection and reporting requirements on all Illinois law enforcement agencies to ensure compliance with both Acts.<sup>8</sup>

The VOICES Act expressly grants investigative and enforcement authority to OAG.<sup>9</sup> To facilitate compliance with the VOICES Act and its counterpart, the TRUST Act, OAG has issued detailed guidance regarding law enforcement interactions with immigrant communities. This guidance, most recently updated in December 2021, can be found on OAG’s website.<sup>10</sup>

## **II. History of Investigation**

Between September 2021 and March 2023, OAG received several complaints alleging VOICES Act violations by JPD. Most of these complaints alleged that JPD failed to timely respond to requests for U-visa certifications, sometimes for months. Multiple complaints cited U-visa certification requests that had been pending for close to a year; the VOICES Act requires that certifying agencies respond within 90 business days. Some complaints alleged that JPD improperly denied U-visa certification requests, and one complaint alleged that the Department impermissibly refused to consider an appeal after denying a certification request.

On December 9, 2022, OAG initiated an investigation into JPD’s compliance with the VOICES Act by sending a letter which requested information relating to these concerns. On February 23, 2023, JPD produced information and documents responsive to OAG’s request. These

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<sup>6</sup> See *id.* § 1101(a)(15)(U)(i)(III); *id.* § 1184(p)(1).

<sup>7</sup> See *id.* § 1101(a)(15)(T)(i)(III); 8 C.F.R. § 214.11(b)(3). Minors and those who are unable to cooperate due to physical or psychological trauma are exempt or excepted from this cooperation requirement. See 8 U.S.C. § 1101(a)(15)(T)(i)(III)(cc); 8 C.F.R. § 214.11(b)(3)(i)-(ii).

<sup>8</sup> See 5 ILCS 805/25; 5 ILCS 825/20. See OAG’s website for additional information on required reporting: <https://illinoisattorneygeneral.gov/Safer-Communities/Resources-for-Law-Enforcement/Law-Enforcement-And-Immigration/>.

<sup>9</sup> 5 ILCS 825/30.

<sup>10</sup> See Office of the Illinois Attorney General, *OAG Guidance: Illinois Laws Governing Law Enforcement Interactions With Immigrant Communities* (Dec. 2021), available at <https://illinoisattorneygeneral.gov/rights/ImmigrationLawGuidancetoLawEnforcement.pdf>.

included written responses to the questions posed by OAG, a copy of JPD’s Training Bulletin No. 10-002 on U-visa eligibility and certification requirements, and documents relating to certain certification requests about which OAG sought additional information.

OAG also reviewed JPD’s required annual Way Forward Act reports for 2022 (the “2022 JPD Report”) and 2023 (the “2023 JPD Report”), which include data on every U- or T-visa certification request received by JPD during those calendar years. The 2022 JPD Report included data for 24 U- or T-visa requests, including the date of submission, the date of response from JPD, and whether the request was granted or denied. For each request, the 2022 JPD Report specified whether it was an initial certification request, an appeal of a prior denial, or a request for reissuance of a prior-issued certification (“a request for recertification”). In total, the 24 requests for which JPD submitted data for the 2022 reporting year included 14 initial requests, five appeals, and five requests for recertification. The 2023 JPD Report included data on 47 U- or T-visa certification requests. Of those, four were requests originally received by JPD in 2022. For the 2023 reporting year, JPD did not identify which requests, if any, were appeals of prior denials or requests for recertification as opposed to initial certification requests (and OAG did not ask JPD to provide such information).

OAG provided a draft copy of these findings to JPD via email on May 22, 2024. At a May 29, 2024 meeting (the “May 29 meeting”), representatives from OAG and JPD reviewed the draft findings in detail, discussed related remedial measures already taken by JPD, and agreed in principle to enter into an Assurance of Voluntary Compliance addressing the remaining recommendations identified by OAG in the Remedial Measures section herein. This updated findings letter includes references to the May 29 meeting and subsequent correspondence between OAG and JPD.

### **III. Factual Findings and Analysis**

Although JPD appears to have taken significant steps toward addressing these issues in 2023, OAG finds reasonable cause to believe that JPD repeatedly violated the VOICES Act in 2022 by (1) failing to timely respond both to original U-visa certification requests and to requests for reissuance of prior certifications; (2) issuing improper denials of U-visa certification requests, including denials based on insufficient evidence of a victim’s helpfulness to law enforcement; and (3) impermissibly refusing to consider appeals from denials of certification requests in the absence of new information.

OAG recognizes that JPD has taken several important initial actions to begin to bring the Department into compliance with the VOICES Act. First, JPD has designated and provided relevant training for several certifying officials within the Department, as required by the Act.<sup>11</sup> JPD officials have requested additional training on U- and T-visa certification directly from USCIS, but stated that USCIS has yet to respond to that request. JPD also has created a webpage to share information about its U- and T-visa certification process with the public.<sup>12</sup> When issuing a denial of a certification request, JPD provides a written notice explaining the rationale for the

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<sup>11</sup> See 5 ILCS 825/10(a); 5 ILCS 825/25.

<sup>12</sup> See 5 ILCS 825/10(a)(2); Joliet Police Department, *U-Visa & T-visa Information* (last visited on Mar. 27, 2024), <https://www.joliet.gov/government/departments/police-department/resources/u-visa-t-visa-information>.

denial. Finally, JPD maintains records sufficient to satisfy Way Forward Act reporting obligations. JPD's efforts in these areas appear to be paying off. Not only has OAG received no additional complaints regarding JPD's compliance with the VOICES Act over the past year, but the data from the 2023 JPD Report also indicate that JPD timely responded to 100% of the U- or T-visa certification requests received during the 2023 calendar year. In order to reinforce and support JPD's ongoing efforts to improve VOICES Act compliance, OAG addresses in greater detail below each of the significant deficiencies found during the course of this investigation and concludes by detailing additional remedial steps necessary to ensure future compliance with the Act.

**a. Failures to respond to U-visa certification requests within the mandated 90 business days**

The VOICES Act sets forth specific deadlines for certifying agencies to respond to U- and T- visa certification requests. Generally, the statute requires all certifying agencies to complete and return a U- or T-visa certification form for a victim of qualifying criminal activity within 90 business days of receiving the request (“the 90-business-day deadline”).<sup>13</sup> The 90-business-day deadline is expedited to 21 business days in three circumstances:

- (1) if the requester is in federal immigration removal proceedings or detained;
- (2) if the children, parents, or siblings of the requester would reach an age before the 90-business-day deadline that would make them ineligible for certain benefits under federal law (if they would reach that age within the 21-business-day period, then the certifying official has just 5 business days to complete and provide the certification form to the requester); or
- (3) if the person seeking recertification has a deadline to respond to a request for evidence from USCIS.<sup>14</sup>

The 90-business-day deadline can be extended only upon written agreement by the requester or requester's representative.<sup>15</sup> Requests to expedite must be made in writing by the requester.<sup>16</sup> The VOICES Act additionally provides that “[a] certifying official who issued an initial certification form shall complete and reissue a certification form within 90 business days of receiving a request from a victim to reissue.”<sup>17</sup>

Although, as previously mentioned, JPD significantly improved its response times for requests received in 2023, OAG's review of records indicates that JPD frequently failed to meet the required deadlines for initial certification requests and requests for recertification received

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<sup>13</sup> 5 ILCS 825/10(d). In calculating the number of business days between the date of receipt of a certification request and the response date, OAG excludes weekends and the following state holidays: New Year's Day, Martin Luther King Day, Lincoln's Birthday, Washington's Birthday (President's Day), Memorial Day, Juneteenth, Independence Day, Labor Day, Columbus Day, General Election Day (if applicable), Veteran's Day, Thanksgiving and the day after Thanksgiving, and Christmas.

<sup>14</sup> 5 ILCS 825/10(d)(1)-(3).

<sup>15</sup> 5 ILCS 825/10(d)(4).

<sup>16</sup> 5 ILCS 825/10(d).

<sup>17</sup> 5 ILCS 825/10(e). This deadline is shortened to 21 business days “[i]f the victim seeking recertification has a deadline to respond to a request for evidence from United States Citizenship and Immigration Services.” *Id.*

from 2021 through 2022. Of the 23 requests<sup>18</sup> received by JPD between July 15, 2021 and October 17, 2022, JPD’s records show that it failed to timely respond in 14 instances—more than half of the requests.<sup>19</sup> See Appendices A and B. This included six cases in which JPD did not respond to the request for more than 250 business days—taking over a full calendar year to respond.

In its response to OAG’s Request for Information, JPD stated that staffing issues and difficulty accessing older Department records delayed responses to U-visa certification requests in certain instances. The VOICES Act provides for an extension beyond the regular 90-business-day deadline only by written agreement from the requester. JPD did not provide any evidence of written agreements to extend deadlines in any of these matters. JPD appears to have failed to timely respond in at least four of the five of the U-visa certification files requested and reviewed by OAG.<sup>20</sup>

Failures to timely respond to certification requests can harm crime victims and reduce community trust in law enforcement. Because obtaining a signed certification form is a prerequisite to filing a U-visa application, undue delays in the certification process can unnecessarily prolong a crime victim’s wait for humanitarian immigration relief. U-visa applicants, in particular, already must contend with extremely long application processing times. Currently, the time between submission of a U-visa application and issuance of a final decision has ballooned to approximately seven years.<sup>21</sup> And the growing backlog of applications pending before USCIS suggests that wait times will only continue to increase in the future.<sup>22</sup> In light of this reality, a six-month delay in the issuance of a U-visa certification has the potential to translate into a significantly longer delay when it comes to how long an eligible immigrant crime victim will have to wait for a decision on his or her application and—if that application is successful—for legal immigration status.

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<sup>18</sup> Excluding requests specifically denoted as appeals in the 2022 JPD report. Because the 2023 JPD Report does not identify which requests, if any, were appeals of prior denials, all requests listed in the 2023 JPD Report are presumed to be initial certification requests or requests for recertification for purposes of determining compliance with VOICES Act deadlines.

<sup>19</sup> As reported in the 2022 and 2023 JPD Reports, which includes some data on requests received by JPD in 2021.

<sup>20</sup> The receipt and response dates for the four files OAG found to be untimely are as follows: U-visa certification request stamped as received by JPD on 8/06/2021, issued (granted) 2/22/2023; U-visa certification request stamped as received by JPD on 7/15/2021, denied 2/21/2023; U-visa certification request stamped as received by JPD on 11/18/2021, denied 2/16/2023; U-visa certification request allegedly sent to JPD in July 2020, denied 12/28/2021.

<sup>21</sup> Although USCIS no longer shares the average processing time for a final decision on a U-visa application, the agency’s website indicates that it is still processing applications filed on or before July 31, 2016. See U.S. Citizenship & Immigration Services, *I-918, Petition for U Nonimmigrant Status* (last visited Mar. 27, 2024), <https://www.uscis.gov/I-918> (“As of June 20, 2023, USCIS has met the fiscal year 2023 statutory cap of 10,000 individuals who can be issued U-1 nonimmigrant visas or granted U-1 nonimmigrant status per fiscal year. . . . When the new fiscal year begins on October 1, 2023, USCIS will resume approving principal petitions for U-1 nonimmigrant status starting with petitions filed on or before July 31, 2016, prioritizing the oldest petitions.”).

<sup>22</sup> Between September 30, 2019 and September 30, 2023, the number of principal U-visa applications pending before USCIS increased by over 55,000, from 151,758 to 207,133. See U.S. Citizenship & Immigration Services, *Form I-918, Petition for U Nonimmigrant Status, by Fiscal Year, Quarter, and Case Status and Form I-918, Petition for U Nonimmigrant Status, Bona Fide Determination Review (Fiscal Year 2023, Quarter 4)* (Jan. 11, 2024), available at [https://www.uscis.gov/sites/default/files/document/data/i918u\\_visastatistics\\_fy2023\\_q4.pdf](https://www.uscis.gov/sites/default/files/document/data/i918u_visastatistics_fy2023_q4.pdf).

## **b. Improper denials of U-visa certification requests**

The VOICES Act permits certifying agencies to deny U- and T-visa certification requests only in limited specified circumstances. Under the Act, upon submission of a certification request “to the certifying official for any certifying agency that detected, investigated, or prosecuted the criminal activity upon which the request is based,”<sup>23</sup> the “certifying official *shall* complete the certification form *for any victim of qualifying criminal activity*.”<sup>24</sup> In other words, in Illinois, a certifying agency may not deny a U- or T-visa certification request based on criminal activity detected, investigated, or prosecuted by that agency unless it cannot determine (1) that qualifying criminal activity occurred or (2) that the applicant is a victim of such qualifying criminal activity.

The VOICES Act additionally provides that any denial of a U- or T-visa certification request must be accompanied by “written notice . . . explaining why the *available evidence does not support a finding that the person is a victim of qualifying criminal activity*.”<sup>25</sup> A certifying agency may therefore properly deny a U-visa certification request only if it determines—and explains in writing—that the crime at issue does not constitute “qualifying criminal activity” as defined by the Act,<sup>26</sup> that the requester was not a “victim” of such activity, or that the qualifying criminal activity was not “detected, investigated, or prosecuted” by the agency for another reason (for example, if the crime occurred outside the agency’s jurisdiction *and* was not reported to or otherwise detected or investigated by the agency).<sup>27</sup> On the other hand, a victim’s failure to meet the other federal requirements for a U- or T-visa—to include the general requirement that the victim be helpful to law enforcement in the investigation or prosecution of the qualifying crime—is not a valid ground for denying a certification request.

Finally, the Act requires all certifying officials to apply a rebuttable presumption of helpfulness when completing a certification request.<sup>28</sup> Accordingly, a certifying official must (1) complete a certification request for any victim of qualifying criminal activity as explained above, and (2) in doing so, must assume “that a victim is helpful, has been helpful, or is likely to be helpful to the detection or investigation or prosecution” of the qualifying criminal activity at issue “if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.”<sup>29</sup> Beyond that, the VOICES Act does not limit the manner in which a certifying official may describe whether a victim “has cooperated or been helpful to the agency,” nor does it restrict a certifying agency’s ability to share any additional information believed to be “relevant to

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<sup>23</sup> 5 ILCS 825/10(b).

<sup>24</sup> 5 ILCS 825/10(d) (emphasis added). For purposes of the VOICES Act, “victim of qualifying criminal activity” “means a person described in Section 1101(a)(15)(U)(i)(I) of Title 8 of the United States Code, in the definition of ‘victim of a severe form of trafficking’ in Section 7102(14) of Title 22 of the United States Code, or in any implementing federal regulations, supplementary information, guidance, and instructions.” 5 ILCS 825/5.

<sup>25</sup> 5 ILCS 825/11(a) (emphasis added).

<sup>26</sup> “Qualifying criminal activity” means any activity, regardless of the stage of detection, investigation, or prosecution, designated in Section 1101(a)(15)(U)(iii) of Title 8 of the United States Code, any implementing federal regulations, supplementary information, guidance, and instructions. 5 ILCS 825/5.

<sup>27</sup> The fact that a crime occurred outside the certifying agency’s jurisdiction does not necessarily mean that it was not “detected” or “investigated” by the certifying agency if that crime was originally reported to or otherwise detected or investigated by that agency.

<sup>28</sup> See 5 ILCS 825/10(d).

<sup>29</sup> *Id.*



a federal immigration officer’s adjudication of a U or T visa application.”<sup>30</sup> For example, if a certifying official determines that a victim of qualifying criminal activity *has* refused to provide information reasonably requested by law enforcement (therefore defeating the rebuttable presumption of helpfulness), the VOICES Act still requires the certifying official to complete the requested certification form. However, in that instance, the certifying official may describe that victim’s refusal to cooperate.

Upon a review of records, OAG concludes that JPD improperly denied certification requests for reasons not permitted by the VOICES Act. Of the five U-visa certification files requested and reviewed by OAG, JPD ultimately declined to complete a certification in four of them. JPD provided the required written explanation for each of these denials to the requester, although it did so belatedly. As detailed below, after reviewing these explanations, OAG finds reason to conclude that JPD’s denials were based on improper reasons in three of the four denials reviewed: the VOICES Act does not permit denials based on the Department’s assessment of a victim’s lack of helpfulness, nor does it permit a denial on the grounds that, after an initial report and investigation, the Department ultimately transferred the case to a neighboring jurisdiction.

In two of the five files reviewed by OAG, JPD denied the certification requests based on the certifying official’s conclusion that the victim had not been helpful to authorities in the investigation or prosecution of the qualifying crime. That is not a valid basis for denial under the VOICES Act.

As explained above, in the absence of evidence that a victim failed to cooperate with reasonable requests for assistance from law enforcement, a certifying official must apply the rebuttable presumption of helpfulness.<sup>31</sup> And in cases in which the evidence does in fact demonstrate that the victim of a qualifying crime was not helpful to law enforcement, the VOICES Act nonetheless requires a certifying agency to timely complete a certification form. In such cases, in filling out the form, the certifying official may simply check “no” in response to the relevant question(s) about the victim’s helpfulness to law enforcement and provide details about the victim’s failure to cooperate in the space provided for explanation.<sup>32</sup> Instead of following this procedure, JPD impermissibly denied the certification requests at issue on the ground that the applicants failed to meet the helpfulness requirement for U-visa eligibility.

It is important to distinguish between the completion of a certification by a certifying agency, like JPD, and the ultimate determination of U- or T-visa eligibility by federal immigration authorities. Federal immigration authorities—not certifying agencies, like JPD—are ultimately responsible for determining whether an applicant meets U- or T-visa eligibility criteria.<sup>33</sup> Law

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<sup>30</sup> 5 ILCS 825/10(f). Furthermore, “[i]f, after completion of a certification form, the certifying official later determines the person was not the victim of qualifying criminal activity or the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity . . . the certifying official may notify United States Citizenship and Immigration Services in writing.” *Id.*

<sup>31</sup> See 5 ILCS 825/10(d).

<sup>32</sup> See, e.g., USCIS Form I-918, Supplement B, *U Nonimmigrant Status Certification*, at 3, available at <https://www.uscis.gov/sites/default/files/document/forms/i-918.pdf>.

<sup>33</sup> See U.S. Department of Homeland Security, *U Visa Law Enforcement Resource Guide* 10 (2022), available at [https://www.dhs.gov/sites/default/files/2022-05/U-Visa-Law-Enforcement-Resource-Guide-2022\\_1.pdf](https://www.dhs.gov/sites/default/files/2022-05/U-Visa-Law-Enforcement-Resource-Guide-2022_1.pdf) (explaining



enforcement certification forms provide information that can help federal immigration authorities make this determination with respect to certain eligibility requirements, but do not purport to address all U- and T-visa eligibility criteria.<sup>34</sup>

We note here that JPD appears to have an internal certification request screening process that requires not only a written explanation of the reasons for granting or denying a request, but also independent review by two additional certifying officials. OAG commends JPD for developing this process and for requiring review by more than one certifying official. As currently written, however, the Department's internal screening template incorrectly suggests that a victim's lack of helpfulness or failure to possess information about the crime at issue are valid reasons for denying a certification request. This must be corrected to prevent additional improper certification request denials.

In another file reviewed by OAG, JPD appears to have violated the VOICES Act by constructively denying a certification request by a victim of a qualifying crime reported to and initially investigated by JPD, because the Department ultimately transferred the case to a neighboring jurisdiction. That is not a valid basis for failing to provide a certification. As previously noted, the Act allows for submission of a certification request to “any certifying agency that *detected, investigated, or prosecuted* the criminal activity upon which the request is based”<sup>35</sup> and requires completion of all such certification requests for victims of qualifying criminal activity.<sup>36</sup> The U.S. Department of Homeland Security's 2022 U Visa Law Enforcement Resource Guide specifically states that “the criminal activity does not need to have occurred within the jurisdiction” of the certifying agency.<sup>37</sup> In this case, instead of completing the certification form as required by the VOICES Act, JPD referred the requester to the neighboring jurisdiction for fulfillment of the certification request.

With respect to the fourth and final certification denial reviewed by OAG, we conclude that JPD properly based the denial on the certifying official's determination that the underlying crime was not qualifying criminal activity. As discussed below, however, JPD nonetheless violated the VOICES Act in that case by refusing to accept an appeal as required by the Act.

### **c. Impermissible refusals to consider appeals from denials of U-visa certification requests**

The VOICES Act imposes three requirements on certifying agencies with respect to appeals. First, upon issuing a denial of a U- or T-visa certification request, the certifying official must provide contact information should the requester wish to appeal the denial.<sup>38</sup> Second,

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that certifying agencies are not responsible for determining visa eligibility) (hereinafter “*U Visa Law Enforcement Resource Guide*”).

<sup>34</sup> *See id.* at 3.

<sup>35</sup> 5 ILCS 825/10(b) (emphasis added).

<sup>36</sup> 5 ILCS 825/10(d) (“a certifying official *shall* complete the certification form for any victim of qualifying criminal activity”) (emphasis added).

<sup>37</sup> *U Visa Law Enforcement Resource Guide* at 13.

<sup>38</sup> 5 ILCS 825/11(a).

certifying agencies “shall accept all appeals.” And, third, certifying agencies “must respond to all appeals within 30 business days.”<sup>39</sup>

JPD violated these requirements at least once in 2022 by refusing to accept an appeal from a prior denial of a U-visa certification request.<sup>40</sup> This appeal, styled as a “Request to Reconsider Decision,” was stamped as received by JPD on March 28, 2022. JPD failed to comply with the 30-business day deadline imposed by the VOICES Act, issuing its response 53 business days after receiving the appeal. On June 10, 2022, one of the certifying officials for JPD sent the requester a letter that stated in part: “I regret to inform you that the Joliet Police Department does not offer an appeal or reconsideration unless new information is received which could likely influence a change to the initial decision.” In light of the VOICES Act requirement that certifying agencies in Illinois accept all appeals from U- or T-visa certification request denials, JPD’s refusal to consider appeals in the absence of new information is inconsistent with state law.

We note here that JPD has made efforts to seek additional guidance on how to handle these appeals. JPD contacted OAG by email on August 11, 2021 for guidance on handling appeals from denials of U-visa certification requests.<sup>41</sup> JPD also contacted USCIS in February 2022 to inquire into the possibility of receiving additional training on U- and T-visa certifications, to include training on appeals, but USCIS responded that it “does not have anything in place for this scenario.”<sup>42</sup> Neither the VOICES Act nor federal law prescribes a specific procedure that certifying agencies must follow in reviewing or deciding an appeal from a denial of a U- or T-visa certification request. The VOICES Act simply requires that all appeals be accepted and reviewed within the statutory timeframe. Recognizing that each law enforcement agency has the discretion to design its own appeals process under federal and state law, OAG encourages JPD to consider adopting the best practices outlined below in the Remedial Measures section of this report.

#### **IV. Remedial Measures**

The following remedial steps are necessary for JPD to address the findings above and ensure JPD’s future compliance with the VOICES Act with respect to the Department’s U- and T-visa certification process and procedures.

UPDATE: As previously noted, the discussion of these remedial measures during the May 29 meeting included identification of the measures JPD already has taken and an agreement to address the remaining measures identified below through an Assurance of Voluntary Compliance.

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<sup>39</sup> *Id.* Despite these appeal requirements, the VOICES Act specifies that victims need not “file an administrative appeal or otherwise exhaust administrative remedies with a certifying official or agency . . . before filing a mandamus action or seeking other equitable relief in circuit court for a completed certification form” required under section 10 of the Act. 5 ILCS 825/11(b).

<sup>40</sup> Although the data in the 2022 JPD Report is anonymized, the 2022 JPD Report appears to include this case as one of five appeals from prior U- or T-visa certification request denials that the Department “denied” during 2022. If, as appears to be the case here, JPD did not in fact review and deny the other four appeals, but instead refused to consider them, it also violated the VOICES Act in those four cases.

<sup>41</sup> See Aug. 11, 2021 email from JPD Sgt. Raul Alvarez to OAG.

<sup>42</sup> Feb. 11, 2022 and Feb. 22, 2022 emails between JPD Sgt. Raul Alvarez and USCIS.

**1. Identify and correct all improper denials of certification requests or appeals issued by JPD:** The City of Joliet and the Department should create an independent process to review all denials of certification requests and appeals issued between August 2, 2021 and the present for compliance with the VOICES Act. For all certification requests determined to have been improperly denied, JPD should contact the requesters, permit them to submit a new certification request, and complete the certification in a timely manner. For all appeals determined to have been improperly rejected for failure to include new information, JPD should contact the requesters, permit them to submit a new appeal, and issue a decision on the appeal in a timely manner.

**2. Ensure that JPD responds to U-visa certification requests within the mandated deadlines:**

**a. Train staff to promptly process certification requests:** To ensure compliance with all relevant VOICES Act deadlines, JPD must inform its certifying officials, officers, and administrative staff of the relevant statutory deadlines and provide them with training on how to promptly process and track U- and T-visa certification requests in accordance with those deadlines.

**b. Create or maintain a system for tracking deadlines and hold officials accountable for missing deadlines:** The 2023 JPD Report reflects marked improvements in this area, suggesting that JPD may have already implemented such a system. JPD should create or maintain an internal deadline tracking system to ensure compliance with relevant VOICES Act deadlines for all requests for certification, request for reissuance of certifications, and appeals. JPD should also create or maintain accountability measures for identifying and addressing failures to meet the statutory deadlines under the VOICES Act.

UPDATE: As discussed during the May 29 meeting, since the initiation of this investigation, JPD has made changes to the personnel responsible for overseeing the U- and T-visa certification process and implemented a system for tracking VOICES Act deadlines.

**3. Revise and update internal training bulletin:** JPD's internal training bulletin on U-visa certifications, which was issued on October 22, 2010, does not appear to have been updated since the VOICES Act took effect in 2019. JPD should update its training bulletin in accordance with the below requirements. As technical assistance, OAG is providing JPD with a sample training bulletin that meets these requirements, along with a letter that discusses recommended changes in more detail.

**a.** The training bulletin should include basic information on T-visas and the Department's obligations under the VOICES Act. This information should include: (1) the relevant deadlines for completion of certification requests and appeals, (2) an explanation of the narrow circumstances under which the VOICES Act permits the denial of a certification request, (3) an overview of the Act's rebuttable

presumption of helpfulness, and (4) an outline of JPD’s internal certification review process.

- b. The training bulletin should be further revised to avoid confusion between the criteria for U- and T-visa eligibility—which is determined by USCIS—and the criteria for U- and T-visa certification eligibility pursuant to the VOICES Act.

UPDATE: OAG provided the above-described sample training bulletin to JPD via email on May 22, 2024. During the May 29 meeting, JPD provided to OAG a draft of a revised training bulletin, based on OAG’s sample. OAG reviewed JPD’s draft revised training bulletin and provided a redlined version to JPD via email on June 4, 2024. JPD further revised its draft training bulletin according to OAG’s recommendations and published and distributed the final version on July 10, 2024.

4. **Revise internal certification request screening template:** To avoid improper denials of certification requests, JPD should revise its internal screening template and any other internal procedures that govern certification requests. Specifically, to prevent certifying officials from confusing the criteria for U- and T-visa eligibility and the VOICES Act criteria for U- and T-visa *certification* eligibility, JPD should revise its screening template to reflect that the only valid reasons for denying a certification request under state law are: (1) the victim was not a victim of qualifying criminal activity or (2) the criminal activity was not detected, investigated, prosecuted by JPD. As previously noted, details regarding a victim’s lack of information about the crime or failure to cooperate in the investigation of that crime are not a valid reason to deny a certification request. These details should instead be included in the relevant explanation sections on the certification form.

UPDATE: During the May 29 meeting, JPD accepted OAG’s offer of technical assistance, in the form of a redlined internal screening template. OAG provided the redlined version to JPD via email on June 4, 2024. As of July 29, 2024, JPD had revised its internal screening template according to OAG’s recommendations.

5. **Develop an appeal review process that involves, at a minimum, review by a certifying official who had no part in the original denial:** To ensure that every appeal from a denial of a U- or T-visa certification request receives proper consideration and to minimize improper denials of certification requests, as a best practice, OAG recommends requiring independent review of all appeals by at least one certifying official who played no role in the original decision. After this review, JPD should affirm or deny the original decision in writing, providing a response to the requester within the mandated 30-business day period.
6. **Update public webpage to include required contact information for submitting an appeal:** JPD must update its U- and T-visa Information webpage to include contact information for requesters who wish to appeal a U- or T-visa certification denial, in accordance with the VOICES Act.<sup>43</sup>

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<sup>43</sup> OAG appreciates JPD’s effort to include a link to instructions for obtaining a translation of its webpage on the U- and T-visa certification process. Those instructions are provided exclusively in English. JPD should consider

UPDATE: Prior to the May 29 meeting, JPD updated its public-facing U- and T-visa webpage to include the above-described contact information. On June 4, 2024, OAG made a small number of additional, minor webpage-related recommendations to JPD via email.

- 7. Improve required training through partnerships with community-based organizations and additional written training materials:** The VOICES Act requires all certifying agencies to arrange for regular training for certifying officials.<sup>44</sup> JPD can help ensure future compliance with the VOICES Act by developing high-quality trainings for certifying officials and requiring them to attend annually. OAG recommends that JPD:
- a. Create training partnerships with local community-based organizations that have experience providing services to immigrant crime victims, including legal aid organizations and other immigration legal service providers. Such organizations have extensive practical experience with the U- and T-visa certification and application process and may also serve as a helpful resource for training on best practices for interacting with immigrant survivors.
  - b. Provide all certifying officials with additional written training materials, including the most recent versions of the U.S. Department of Homeland Security’s U and T Visa Law Enforcement Resource Guides.<sup>45</sup> Because these guides to the U- and T-visa certification process are intended for a nationwide audience, they lack information about the additional state-level certification requirements imposed by the VOICES Act. Nonetheless, they provide helpful explanations about who qualifies as a victim for purposes of a U- or T-visa and how to determine whether a given crime may be considered a “qualifying criminal activity.” A better understanding of the information provided in these guides—in combination with additional VOICES-Act-specific training and information—will help JPD to reduce the number of improper certification denials issued by the Department.

## V. Conclusion

Although the Joliet Police Department has taken initial steps toward VOICES Act compliance in several areas—and, in particular, has shown marked improvement in certification request response times over the past year—this investigation has revealed three areas in which JPD repeatedly failed to meet its VOICES Act obligations. First, JPD frequently failed to respond to U-visa certification requests within the time frames mandated by the Act, at least until early 2023. Second, JPD has issued denials of U-visa certification requests that are inconsistent with its obligations under the Act. And third, JPD has impermissibly refused to consider appeals from

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including translation instructions in Spanish, in light of Joliet’s significant Spanish-speaking population, and any other languages commonly spoken in the Joliet community.

<sup>44</sup> 5 ILCS 825/25.

<sup>45</sup> The 2022 versions of these guides may be found here: <https://www.dhs.gov/publication/u-visa-law-enforcement-certification-resource-guide>. Additional law enforcement resources created by USCIS may be found here: <https://www.uscis.gov/tools/information-for-certifying-officials-law-enforcement-judges-and-other-agencies>.

denials of certification requests in the absence of new information. Non-compliance with the VOICES Act can create barriers to humanitarian immigration relief for qualified individuals, exacerbating long wait times and causing undue stress and uncertainty for vulnerable crime victims. We appreciate the ongoing progress JPD has made toward compliance with the VOICES Act, both prior to and following the May 29 meeting, and we look forward to further collaborating with JPD with respect to its implementation of the remaining remedial measures detailed above and memorialized in the forthcoming Assurance of Voluntary Compliance.

Respectfully,

KWAME RAOUL  
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## Appendix A – JPD 2022 Report: Requests for Certification and Response Dates

Request and response dates provided by JPD. Based on these dates, OAG calculated the business days between request and response. Shaded entries are those for which the response took more than 90 business days (for an initial request or request for recertification) or more than 30 business days (for an appeal), in violation of the VOICES Act.

Request Date	Response Date	Business Days Between Request and Response	Request Type <sup>46</sup>
3/18/2021	2/9/2022	223	Appeal
7/15/2021	2/21/2023	394	Initial Request
8/6/2021	2/22/2023	379	Initial Request
9/3/2021	2/9/2022	105	Appeal
11/2/2021	12/19/2022	277	Request for Recertification
11/16/2021	2/10/2022	57	Request for Recertification
11/18/2021	2/16/2023	305	Initial Request
12/7/2021	12/19/2022	255	Request for Recertification
1/6/2022	2/10/2022	24	Appeal
2/10/2022	2/28/2023	257	Initial Request
3/25/2022	8/31/2022	110	Initial Request
3/28/2022	6/10/2022	53	Appeal
5/26/2022	7/18/2022	34	Request for Recertification

<sup>46</sup> Requests not characterized in the 2022 JPD Report as appeals or requests for recertification are presumed to be initial requests for certification.



<b>Request Date</b>	<b>Response Date</b>	<b>Business Days Between Request and Response</b>	<b>Request Type</b>
6/11/2022	6/11/2022	0	Appeal
6/29/2022	2/27/2023	161	Initial Request
6/29/2022	2/27/2023	161	Initial Request
7/6/2022	9/12/2022	47	Initial Request
7/7/2022	8/17/2022	29	Initial Request
7/19/2022	8/17/2022	21	Initial Request
7/25/2022	9/12/2022	34	Initial Request
8/22/2022	2/27/2023	124	Initial Request
9/29/2022	12/19/2022	52	Request for Recertification
10/17/2022	2/28/2023	87	Initial Request
10/17/2022	2/28/2023	87	Initial Request

**Appendix B – JPD 2023 Report: Requests for Certification and Response Dates**

Request and response dates provided by JPD. Based on these dates, OAG calculated the business days between request and response. Shaded entries are those for which the response took more than 90 business days, in violation of the VOICES Act. For the 2023 reporting year, JPD did not identify which requests, if any, were appeals of prior denials or requests for recertification as opposed to initial certification requests.

<b>Request Date</b>	<b>Response Date</b>	<b>Business Days Between Request and Response</b>
8/8/2022	2/28/2023	135
8/25/2022	5/17/2023	178
9/12/2022	3/15/2023	122
9/29/2022	3/17/2023	111
1/24/2023	3/13/2023	32
3/1/2023	3/27/2023	18
3/7/2023	3/15/2023	6
3/8/2023	3/13/2023	3
3/9/2023	3/15/2023	4
3/9/2023	3/15/2023	4
3/9/2023	3/15/2023	4
3/13/2023	3/27/2023	10
3/28/2023	5/22/2023	39
4/3/2023	5/17/2023	32
4/4/2023	5/22/2023	34

<b>Request Date</b>	<b>Response Date</b>	<b>Business Days Between Request and Response</b>
4/6/2023	5/17/2023	29
4/21/2023	5/22/2023	21
4/24/2023	5/18/2023	18
4/24/2023	5/22/2023	20
5/3/2023	5/18/2023	11
5/4/2023	5/18/2023	10
5/15/2023	5/17/2023	2
5/15/2023	5/18/2023	3
5/17/2023	5/22/2023	3
6/9/2023	6/19/2023	5
6/20/2023	6/27/2023	5
6/22/2023	6/27/2023	3
8/15/2023	8/18/2023	3
8/15/2023	8/18/2023	3
8/18/2023	8/30/2023	8
8/21/2023	8/29/2023	6
8/28/2023	9/11/2023	9
8/28/2023	9/11/2023	9

<b>Request Date</b>	<b>Response Date</b>	<b>Business Days Between Request and Response</b>
9/7/2023	10/3/2023	18
9/26/2023	10/3/2023	5
10/2/2023	10/11/2023	6
10/10/2023	10/11/2023	1
10/12/2023	10/20/2023	6
10/16/2023	10/20/2023	4
10/20/2023	11/1/2023	8
10/27/2023	11/1/2023	3
10/30/2023	11/2/2023	3
11/6/2023	11/14/2023	5
11/8/2023	11/16/2023	5
11/16/2023	11/30/2023	8
11/16/2023	11/22/2023	4
12/11/2023	12/13/2023	2