

NEW YORK CITY POLICE DEPARTMENT

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Police Department is proposing a new rule regarding requests for U Visa certifications, the processing of such requests, and the appeals process for denied requests.

When and where is the Hearing? The Police Department will hold a public hearing on the proposed rule. The public hearing will take place at 10:30 AM on January 12, 2016. The hearing will be in the Police Department's auditorium located at One Police Plaza, First Floor, New York, New York 10038.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the Police Department through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to nycrules@nypd.org.
- **Mail.** You can mail written comments to the Police Department City of New York, Commanding Officer, Legal Bureau, One Police Plaza, Room 1406, New York, New York 10038.
- **Fax.** You can fax written comments to the Police Department, Commanding Officer, Legal Bureau, at 646-610-8377.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling 646-610-5400, or you can sign up in the hearing room before the hearing begins on January 12, 2016. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by January 12, 2016.

Do you need assistance to participate in the Hearing? You must tell the Commanding Officer of the Legal Bureau if you need a reasonable accommodation of a disability at the Hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 646-610-5400. You must tell us by January 8, 2016.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, a transcript of the hearing and copies of the written comments will be available to the public at the Legal Bureau.

What authorizes the Police Department to make this rule? Sections 1043 and 435 of the New York City Charter authorize the Police Department to make this proposed rule. This proposed rule was not included in the Police Department's regulatory agenda for this Fiscal Year because it was not contemplated when the Police Department published the agenda.

Where can I find the Police Department's rules? The Police Department's rules are in Title 38 of the Rules of the City of New York.

What rules govern the rulemaking process? The Police Department must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose of Proposed Rule

In 2000, Congress passed the Victims of Trafficking and Violence Prevention Act to encourage victims regardless of immigration status to report crimes and contribute to investigations and prosecutions and to support law enforcement efforts to investigate and prosecute crimes committed against immigrant victims. The law authorized U nonimmigrant status ("U visa"), which can be sought by immigrant victims of certain crimes who previously assisted, are currently assisting, or are likely to be helpful to law enforcement in the investigation or prosecution of the crime. The U visa is issued by the United States Citizenship and Immigration Services ("USCIS"), and once granted it provides these victims with temporary nonimmigrant status so that they can remain in the United States while assisting law enforcement.

To be eligible for a U visa, immigrant victims must satisfy several federal statutory requirements, which include a completed law enforcement certification (USCIS Form I-918, Supplement B). Under the law, local law enforcement agencies, such as the New York City Police Department ("NYPD"), have the discretion to approve or deny a certification. The NYPD is committed to serving all communities in the City of New York, especially those vulnerable to victimization, and recognizes the value of completing certifications and supporting immigrant victims of crime who are helpful in investigations or prosecutions. However, USCIS has sole authority to grant immigration benefits, including the U visa. Therefore, an approved and completed certification by the NYPD does not guarantee a U visa or any legal immigration status.

The NYPD is proposing the following rule to inform the public about the NYPD's U visa certification process. The rule:

- Directs the manner by which applicants may request U visa certifications,
- Provides a timetable within which the NYPD will process such requests, and
- Specifies the appeals process for denials of such requests.

New material is underlined

[Deleted material is in brackets.]

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section one. Title 38 of the Rules of the City of New York is amended to add a new Chapter 22 to read as follows:

CHAPTER 22

REQUESTING U VISA CERTIFICATIONS

§22-01 Definitions

“Applicant” means a person who requests a U visa certification.

“Department” means the New York City Police Department.

“Qualifying crime” means the categories of crimes prescribed by 8 U.S.C. § 1101(a)(15)(U)(iii) and 8 C.F.R. § 214.14(a)(9).

“U visa” means U nonimmigrant status as designated by United States Citizenship and Immigration Services (USCIS).

“U visa certification” means USCIS Form I-918, Supplement B, U Nonimmigrant Status Certification, a document that the Department may, at its discretion, complete for eligible victims of qualifying crimes who are petitioning USCIS for a U visa.

§22-02 Request for U visa certification

- (a) Letter required. An applicant requesting a U visa certification from the Department must submit a letter in accordance with the requirements of this section. The applicant must type or clearly print the letter.
- (b) Required information. The letter must:
- (1) Provide the applicant’s full name (including any middle names and other names, such as maiden names or nicknames), date of birth, gender, phone number, and address;
 - (2) Describe the qualifying crime(s), including the date(s) and location(s) of the occurrence(s);
 - (3) Specify how the applicant has assisted, is assisting, or is likely to be helpful to the Department in the investigation or prosecution of the qualifying crime(s); and
 - (4) Designate a return mailing address directing where the Department may send written correspondence related to the request.
- (c) Submission. The applicant must submit the letter by mail to the Department’s designated U visa office, as prescribed on the Department’s website.

§22-03 Department Response and Appeals

- (a) Department response. Within 45 days of receiving a request for U visa certification, the Department will notify the applicant, in a letter sent to the applicant’s designated return mailing address, that: (1) the request is approved or denied, or (2) the request requires

more than 45 days of review. If the request is denied, the Department will also notify the applicant of the basis for the denial and the process for appealing the denial ("Department denial letter"). If the request requires more than 45 days of review, the Department will also provide a reasonable estimate of when a determination will be made.

(b) Appeals.

- (1) Within 90 days of the date of the Department denial letter, an applicant appealing a denial of a request for a U visa certification must mail a typed or clearly printed letter to the Department's designated U visa appeals office as specified by the Department denial letter. The applicant's letter must state the basis for appeal and include with the letter a copy of the Department denial letter.
- (2) Within 90 days of receiving an applicant's letter appealing a denial, the Department will send a letter to the applicant's designated return mailing address notifying the applicant that the appeal:
 - (i) is rejected and the initial denial is upheld; or
 - (ii) is granted and the Department will issue a U visa certification; or
 - (iii) requires more than 90 days to review, in which case the Department will also provide a reasonable estimate of when a determination will be made.

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Certifications for "U" Visa Status

REFERENCE NUMBER: NYPD-7

RULEMAKING AGENCY: NYPD

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro
Mayor's Office of Operations

October 22, 2015
Date

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Certifications for “U” Visa Status

REFERENCE NUMBER: 2015 RG 058

RULEMAKING AGENCY: New York City Police Department

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: October 21, 2015