



# **WEBINAR SERIES ON ROUTES TO IMMIGRATION STATUS FOR NON-CITIZEN CRIME SURVIVORS**

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# **WEBINAR SERIES-PART 3**



## **INTERMEDIATE U VISA Complicated Issues in Preparing and Filing a U Visa**

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# GOALS



As a result of this webinar, you will be able to better:

1. Selected evidentiary issues and procedural steps of your U visa
2. Help U visa derivatives
3. Address your client's safety issues and concerns

# Policy and Procedural Updates

# VSC Case Inquiry

- Can be done via email or phone for represented cases
- Response times
  - VAWA Hotline phone: 5-7 days
  - Email Hotlines: up to 14 days
  - Mail (usually for pro se applicants): can be 6 months.
- Use one method to contact them (email recommended)
- Importance of Subject lines

# PROCEDURAL ISSUES

- Change of Address
  - Send to VSC directly. If represented, contact hotline. If applicant pro se or if representation ends, file AR-11 to VSC
  
- New Appeal Process
  - Appeals are still mailed to VSC but forwarded within 2 days to AAO.
  - Where to file supplemental briefs?

# ADJUDICATION TRENDS

## □ Numbers

- Approx, 140,000 applications pending (principals and derivatives)
- Waitlisted 24,000 (principals & derivatives) of those
- USCIS U visa data sets

## □ New Model in U visa issuance

- Issuance of U visas throughout  $\frac{3}{4}$  of fiscal year so that initial adjudication fo I-918s can be done throughout

## □ Date Range for New U visas

- approximately May 2013 to about February 2014

# NSC- Nebraska Service Center

- Oldest cases transferred
  - 3K principal cases (11K including derivatives)
  - Expect another transfer this fiscal year
  
- Logistic issues
  - Envelopes/RFE response
  
- Customer Service
  - For now, Customer service inquiries should still go through VSC



# PAROLE POLICY

- CIS Ombuds recommendation to establish parole policy for those on the U visa waitlist
- Recommendation accepted by USCIS in 2016, but no formal policy or process out yet.
- Become familiar with existing Humanitarian Parole Policies and Procedures

# Common issues in framing a U visa case

# AVOIDING RFEs

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- ❑ **Check for credibility issues**
- ❑ **Pre-emptive action**
  - ❑ Any discrepancies at all?
    - ❑ Among documents you are supplying
      - ❑ Tax returns, addresses, dates
  - ❑ If yes, explain up front
    - ❑ If there was confusion, why
    - ❑ If not “material” why not material

# AVOIDING RFEs

- If your client mentions accessing a system, you **MUST** either supply documents from that system or explain why you don't have them
  - ▣ If exist but not helpful, explain why not helpful (i.e., applicant too afraid to reveal crime)
  - ▣ If don't exist, provide what you can and explain why credible
  - ▣ “Credible evidence” is standard but “best evidence” is what's most credible

# Complicated crime/certification issues

- Framing criminal activity
  - If not listed at all in certification or police reports?
  - If lists non-qualifying crime that falls in existing category?
  - If there are discrepancies (police reports, charging documents, certification?)
  
- Category v. “any similar activity”

# Who is the victim?

## Direct Victims

- Direct victims – victim “directly and proximately harmed by qualifying criminal activity” (e.g. DV)
- “Bystanders”- suffered unusually direct injury as a result of the criminal activity (eg. Murder witness)

# Indirect Victims

When direct victim died because of murder or manslaughter or the direct victim is **incompetent, incapacitated**

- USCIS will consider age at time criminal activity occurred

Indirect victims can be:

- Spouses
- Unmarried children under 21
- If victim is under 21, parents and unmarried siblings under 18
  - (eg. Minor daughter victim of sexual abuse)

# HOW WOULD YOU FILE?

Stephen is 13 years old USC citizen and lives with his aunt and uncle. One day, he was assaulted by his Uncle George. Stephen's aunt, Lucinda walks in and sees what's going on and tries to pull George away from Stephen. In the process she is knocked to the ground, causing her to have a concussion. Lucinda calls the police, separates from George and helps in the investigation of the case.

- How would this change if Stephen did not have papers?
- How would this change if Lucinda were his mother?



# Screening for Inadmissibility

- Prior encounters with ICE
  - Prior orders of removal
  - Severe prior immigration violations
- Encounters with the criminal system
  - Arrests
  - Charges
  - Convictions of certain crimes (aggravated felonies)
- Encounters with Department of Transportation
  - Using false papers to obtain license
  - Attempting to use false papers to obtain drivers license
  - Renewing license with REAL identity after obtaining immigration relief

# INADMISSIBILITY ISSUES

- USCIS does not want a new I-192 if there are inadmissibility issues that arise AFTER the U grant except as it relates to traveling abroad and triggering ULP.
- What about unidentified inadmissibility at U filing?
- What about inadmissibility issues that arise if an applicant is on the waitlist?

# Working with Derivatives

# ADVISALS...IN WRITING



- Ethical concerns
- Criminal activity
- Leaving the country
- About to “age out”
- Falling in love
- Others?

# CHALLENGING DERIVATIVES ISSUES

- Passports
  - Custody issues
  - Fingerprints
- Criminal issues
- Your consular derivative shows up at your office!
- “Kids” having babies

# Enhancements to Safety Planning

# SAFETY PLANING



- Emergency Contact Sheet
- Client should know/memorize their A#
- Safeguard important paperwork
- Medical and Financial Information

# SAFETY PLANING-CONT.

- Attorney should have their attorney's and/or advocate's name and contact information on their person
- Clients may need to decide who could take care of their children (long or short term)
  - Guardianship?
- Become informed about the process and the players
- Share Know Your Rights Materials



# IMPORTANT INFORMATION TO PRINT BEHIND YOUR BUSINESS CARD

I am a victim of domestic violence/sexual assault. I am working with my advocate \_\_\_\_\_(phone number and my attorney \_\_\_\_\_  
(phone number).

Please do not ask me questions and call them instead.

My children are \_\_\_\_\_ ( alone, I am a single mother, I  
need to pick them up from day care daily,  
etc)\_\_\_\_\_

My (or my children's medical needs  
are \_\_\_\_\_

OTHER IMPORTANT INFORMATION \_\_\_\_\_  
\_\_\_\_\_

# ONE-ON-ONE ADVOCACY

- Be pro-active; identify internal challenges
  - Develop internal protocols to respond effectively to clients at risk of detention and removal including authorization release of portions of her file
  - Provide a business card with a direct number
  - Train your staff answering ICE calls
  - Keep “positive equities” on file
    - Medical issues for kids and self including trauma counseling
    - Records to sustain potential immigration remedies
      - Pictures, police reports, no contact orders, G-28, signed I-246, birth certificate, notice of receipt (Form I-707), FOIA, etc.

# RESOURCES



Website: [www.asistahelp.org](http://www.asistahelp.org)

Questions or technical assistance?

Questions@asistahelp.org

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