



Open “Case Rounds” Basic Q & A on U Visas & VAWA Self-Petitions

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This project is supported by Grant No. 2015-TA-AX-K049 awarded by the United States Department of Justice, Office on Violence Against Women. The opinions, findings, and recommendations expressed in this document are those of the author(s) and do not necessarily reflect the views of the United States Department of Justice, Office on Violence Against Women.

Goals

- Identify problems that arise with basic elements in VAWA and U visa cases
- Discuss questions that you are encountering in your cases
- Strategize about best practices in framing VAWA and U visa cases.

Hypo

Alia is an undocumented survivor living in your area.

She says she is married to Ivan, who is physically abusive.

What is Alia eligible for?

- What would make her eligible for VAWA?
- What would make her eligible for a U?

VAWA

Hypo continued

- Alia says that her husband is a Legal Permanent Resident but doesn't know how she could prove his status. What could you use?

Create POLL:

- Statements from her how she knows he is an LPR
- Supporting statements from others
- Ask civil court to require document production or make findings
- Ask USCIS to electronically verify his his status
- All of the above
- Others

Other VAWA eligibility issues

- Legal marriage or exceptions
- Proving battery/extreme cruelty
 - What non-physical abuse works and how do you document it?

Partnership model

- With whom do you partner?
- What roles may/should DV/SA advocates play?
- Avoiding privilege piercing while ensuring holistic approach

The obstacles we see

- Good faith marriage & residence
- Declarations = detailed facts
 - Not opinions, not summaries
 - Idiosyncratic, chronology
- Best evidence and “any credible evidence”
 - Anticipate and address problems at the outset
 - Use the civil court system if you are in it

Adjustment & Natz flags for VAWA

- How related to good moral character?
- What inadmissibility grounds would be most problematic?
- What problems can be overcome?

Derivative concerns

- What are you seeing?
 - When should they file their own?
 - Anyone done the 21 – 25 category?
 - Abuse by sons or daughters?

- Age-outs?
 - CSPA & 204(a)(1)(D)
 - Parole?

Alia's case continued

Alia was convicted of shoplifting in 2016 because her husband controlled all the resources in the house and she needed clothes for the baby. Is this going to be a problem for a VAWA self-petition?

Poll:

- Yes
- No
- Maybe

And, for extra credit. . .

- Alia first entered the U.S. in 2011 because her son's father was abusive to her. She encountered immigration officials at the border and they gave her a piece of paper. Ivan later learned she had a court date in Immigration Court but she didn't need to go because he would take care of it
- Two years ago, Ivan took the family to Mexico on vacation and left them there, telling them they could not get back in without his help
- Alia and her son came back in without permission. What problems do you see?
- Any way to fix them?

What if Alia has the old order and never left?

- What must she do before she can adjust?

Alia and the U visa

Hypo

- Alia was at the house of a family member and saw one of her uncles physically assaulting her USC child. She got in the middle of them to stop it and she was pushed to the ground.
- How would you frame this case?

- Alia as indirect victim
- Alia as direct victim (bystander)
- Alia as direct victim

Victim definition

- Who is an indirect victim?
- Bystanders are really direct victims
 - Proximate
 - Harm

Other U basic eligibility issues?

- Showing harm
- Inadmissibility waivers
- Certifications

Showing harm

- Harm proof
 - What we see from you = not detailed facts (like VAWA declaration problems)
 - What we see from them = not understanding DV/SA/trauma context

Inadmissibility waivers

- Not identifying all grounds specifically
 - Cite statute, cite (d)(14) and use sample legal arguments
- CIS discretion problems

Certifications (that you actually get)

- VSC seems to be calling some LEOs to confirm helpfulness
- Not an obviously qualifying crime
 - Framing your crime in a “category”

Problems getting certifications

- Do they have an official position that creates impediments?
- If not, who is asking them?
 - Who is the best (trusted) messenger?
 - Who is training them/meeting with them?
 - Are you involved in local coordinated community councils and the like?

Your suggestions for each other?

- What has worked for you in getting certifications?

What do you want to discuss in more detail?

ASISTA Resources

- www.asistahelp.org
- gail@asistahelp.org
- cecilia@asistahelp.org
- questions@asistahelp.org
- Register your organization here:
<https://asista.z2systems.com/np/clients/asista/survey.jsp?surveyId=4&>

