



OPEN “CASE ROUNDS” INTERMEDIATE AND ADVANCED Q & A ON U VISAS & VAWA SELF-PETITIONS

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 complex problems that arise 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.



VAWA Self-Petitions

Hypo

- Alia is married to Ivan, a LPR. Ivan had previously filed an I-130 family petition for Alia with a priority date of December 15, 2010. While this application was approved, Ivan didn't let her continue with the application for a green card. She now wants to file an I-360 but doesn't have proof of his residency.

- Poll: Can she now file a VAWA one-step?
 - Yes
 - No
 - No idea what you mean

Recapture Permitted

State Department Monthly Visa Bulletin

Family-Sponsored	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
F1	22DEC10	22DEC10	22DEC10	15JAN96	15SEP06
F2A	08SEP15	08SEP15	08SEP15	22AUG15	08SEP15
F2B	01NOV10	01NOV10	01NOV10	01JUN96	01NOV06
F3	08JUL05	08JUL05	08JUL05	22MAR95	15DEC94
F4	08MAY04	08MAY04	22SEP03	01AUG97	15FEB94

Visa Bulletin For July 2017

Proving Status of Abuser

- Primary Evidence

- Secondary
 - Declarations
 - Supporting Letters
 - Copy of previous immigration documents

- USCIS can electronically verify
 - 8 CFR 204.1(g)(2) and (g)(3).

Abused Child

Sebastian is currently 21 years old and was physically and emotionally abused by his USC step-father throughout his teenage years until the time of his step-father's death in November 2016.

- Poll: Is Sebastian eligible to file a VAWA self-petition?
 - No-he has aged out
 - No—protection in the event of death only applies to spouses not children
 - No-both reasons
 - Yes

Authority

- Special protections for abused child applicants between the ages of 21 and 25
 - Abuse has to be “ONE CENTRAL REASON” for the delay

 - What about CSPA?

- Special protections in case of death of abuser
 - Apply to spouses and children of USC abusers
 - NOT in cases where abuser was LPR.

VAWA self-petitions

Your client Sandra is approaching the 2 year anniversary of her divorce from her abusive LPR husband in a week.

Poll: What would you include in skeletal I-360 to make sure her ability to file is preserved?

- Declaration, Statement from joint account, supporting affidavits, police report, fingerprint clearance
- Police report, copy of their lease, fingerprint clearance, birth certificate of daughter
- I-360, police report, birth certificate of daughter,
- I-360 only
- Other

Inadmissibility

- Inez married Cris, a USC, in Honduras in December 2015. Cris said he'd file papers for her but it'd be easier if she should come to the US.
- She entered in August 2016 and provided a fake name and DOB to the CBP officer and also stated she was born in Costa Rica rather than Honduras. She was released, and given a Notice to Appear.
- The relationship turned physically abusive, and Inez later missed her hearing because Cris withheld the papers.
- What are your concerns? How do you address them?



Your VAWA Questions?



U visas

Incomplete information

- Sofia was a stalking victim. You just received the certification and her daughter Emilia is going to turn 21 next week. She tells you that in 2012 she entered the U.S, spoke to some officers and got some papers. But she doesn't recall exactly what happened.

Poll: What do you do?

- Fill out the I-918 and supplement the file once you have complete information, but hold off filing the I-192 until have all the information.
- Fill out both a I-918 and I-192 assuming worst case scenarios (e.g. Expedited removal, in absentia, etc)
- Wait to file until you have all the information.

Who is the victim?

- Julia was a minor USC victim of sexual assault. Both of her parents were helpful in the investigation and prosecution of the case. For whom do you file the U visa?
- Poll:
 - One parent as principal, the other as a derivative
 - Both as principals
 - It depends

Inadmissibility grounds not disclosed

- Your client has recently been granted deferred action and is on the U visa waitlist. When you give him his work permit, he starts talking to you about how he used a fake passport to enter into the country—something he never told you earlier.

- Poll: How do you handle it?
 - Submit amended I-192
 - Wait until your RFE'd when he's taken off the waitlist
 - Other

Inadmissibility

- While on the waitlist your client was arrested charged with assault.
- Poll: How would you handle this?
- Update USCIS right away at the arrest stage
- Wait until there's a final disposition
- Wait until the client can gain some positive equities
- Other

Detained Client

- Your client Elena is in immigration detention, and cannot afford the bond for release. She is eligible to be a derivative of her father's U visa application and has no serious criminal history.

What are your next steps?

- File a stay of removal
- Encourage OCC to ask for prima facie determination and ask for expedited processing
- Ask for prosecutorial discretion that she be released for detention
- Seek bond redetermination
- Other

U adjustment

- Gina was granted a U visa in July 2014 and is now ready to adjust status, but has a voluntary departure order from January 2010. During that time she was living with her abusive partner, and the domestic violence she suffered was the basis for her U visa application.

How do you deal with this?

- File a I-192 waiver at the time of adjustment
- File Motion to Reopen and Vacate voluntary departure order
- File an I-539 to extend U visa status for 2 years to wait out 10 year period
- Argue that her failure to depart was not “voluntary” due to the abuse.
- Other



Your U visa Questions?

ASISTA Resources

- www.asistahelp.org
- gail@asistahelp.org
- cecilia@asistahelp.org
- questions@asistahelp.org

