



September 4, 2018

Mr. L. Francis Cissna
Director
U.S. Citizenship & Immigration Services
20 Massachusetts Avenue, NW
Washington, D.C. 20529

RE: Sign on Letter Submission
Fee Waiver Adjudication at Vermont Service Center Humanitarian Division
VIA Email and U.S. Mail

Dear Director Cissna:

On behalf of 232 national, state and local organizations and agencies, we respectfully submit this letter regarding our concerns about recent changes in practice for fee waiver adjudication at the USCIS Vermont Service Center Humanitarian Division. We believe flexibility in the adjudication of fee waivers for ancillary forms related to VAWA self-petitions, U and T visa filings is essential to help survivors regain safety and security in their lives. We urge you to consider our recommendations in the enclosed letter to ensure crime survivors have equal access to critical protections.

Please do not hesitate to contact me using the information below should you have any questions. Thank you for your time and attention to this important issue.

With regards and thanks,

A handwritten signature in black ink, appearing to read "Cecelia Friedman Levin".

Cecelia Friedman Levin
Sr. Policy Counsel
ASISTA
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Suffield, CT 06078
Cecelia@asistahelp.org
(202) 505-5140

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Mr. L. Francis Cissna
Director
U.S. Citizenship & Immigration Services
20 Massachusetts Avenue, NW
Washington, D.C. 20529

Dear Director Cissna:

We, the undersigned 232 organizations and agencies who support, serve and/or advocate on behalf of immigrant survivors of domestic violence, sexual assault, human trafficking, and other crimes write to express our deep concern about the unannounced change in fee waiver practice at the Humanitarian Division at the Vermont Service Center. This abrupt change in practice has caused immense hardship for survivors and their families.

Numerous practitioners nationwide have recently reported a significant increase in fee waiver denials from the Vermont Service Center (VSC) in Violence Against Women Act (VAWA) self-petitions, U visa and T visa-related applications. A bipartisan majority in Congress created these forms of immigration relief because it recognized that survivors may not be willing to reach out for help because of the threat or fear of removal.¹ Thus, ensuring equal access to these protections is crucial, especially for survivors who may have few financial resources of their own.²

In July 2018, we noticed a significant increase in fee waiver denials from the Humanitarian Division. When asked about these changes to fee waiver practice³, USCIS responded:

¹ See H.R. REP. NO. 103-395, at 26-27 (1993)(stating “Consequently, a battered spouse may be deterred from taking action to protect him or herself, such as filing for a civil protection order, filing criminal charges, or calling the police, because of the threat or fear of deportation. Many immigrant women live trapped and isolated in violent homes, afraid to turn to anyone for help. They fear both continued abuse if they stay with their batterers and deportation if they attempt to leave”). See also Section 1513(a)(2)(A), Public Law No: 106-386, 114 Stat. 1464 (2000) (indicating that Congress created the U and T visa program to “strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault, trafficking...and other crimes...committed against aliens, while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States.”)

² For this reason, Congress codified the use of fee waivers in humanitarian cases in the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, specifically stating that DHS **shall** permit applicants to apply for a waiver of any fees associated with filing a VAWA self-petition, a T or U visa application, or an application for VAWA cancellation or suspension of deportation. William Wilberforce Trafficking Victims Protection Reauthorization Act. Section by section 201(d)(7), Public Law No: 110-457 (December 23, 2008), available at: <https://www.congress.gov/110/plaws/publ457/PLAW-110publ457.pdf>. [Emphasis added].

³ ASISTA letter to USCIS. July 30, 2018, available at: https://drive.google.com/file/d/1Sq_CtrhuAiiKGayzsT9wQld3ZgImFfFK/view

The United States Citizenship and Immigration Service (USCIS) VAWA, T, and U Humanitarian program has implemented the USCIS-wide policy regarding fee waivers. The VSC is conducting fee waiver adjudication using USCIS regulation and policy as written to be consistent across the agency. Please consult uscis.gov/Instructions for Form I-912, Request for Fee Waiver, or 8 CFR 103.7(c)(3) for a list of forms or services that are eligible for a fee waiver. You can also consult uscis.gov/Fee Waiver Guidance, for information relating to what documentation is required to demonstrate you are unable to pay the fees associated with the form(s) you are filing.⁴

This inadequate response provides no clarity around why these changes were not communicated in advance to stakeholders nor does it provide any guidance regarding the new expectations of Humanitarian Division adjudicators. The consequences of these unannounced changes are significant. Practitioners and applicants must spend critical and limited resources preparing and re-submitting denied applications, without any clear idea of USCIS' new expectations on fee waivers. There does not seem to be any consistent rationale between which fee waivers are granted and which are denied, with one practitioner reporting that one fee waiver was accepted and another denied for members of the same family who submitted identical fee waiver requests with their applications for employment authorization.

In numerous cases, critical deadlines passed because initial fee waivers were denied. In their non-responsive statement, USCIS has not addressed any recourse for these individuals in order to preserve their initial filing date. In other cases, critical deadlines are quickly approaching. For survivors who rightly qualify for the fee waiver, this change in practice means that many may have to borrow funds or spend their own limited resources on filing fees in order not to gamble away their deadline.

The 2011 USCIS fee waiver policy memorandum states that applicants may submit additional documents to prove their inability to pay, but there is no specific requirement that they do so.⁵ The memorandum also indicates that "a fee waiver request may be approved in the absence of additional documentation if the applicant's request is sufficiently detailed to substantiate his or her inability to pay."⁶ This is the proper interpretation given the any credible evidence standard for VAWA self-petition, U and T visa applications.⁷ This flexibility is essential as survivors fleeing abuse often do not have access to documentation to prove their economic need. Practitioners now report denials of fee waivers even where they had included documentation of household

⁴ For more information, see <http://bit.ly/FeeWaiverResponse2018>.

⁵ PM-602-0011.1 "Fee Waiver Guidelines Established by the Final Rule of the USCIS Fee Schedule: Revisions to Adjudicator Field Manual (AFM) Chapter 10.9, AFM Update AD11-26.(March 13, 2011), available at: <http://bit.ly/2011USCISFeeWaiverGuidelines>

⁶ *Id.* at 4-5.

⁷ INA 204(a)(1)(J); INA 214(p)(4); 8 CFR 211(d)(5)

members' means-tested benefits and detailing income and expenses, a marked departure from prior practice. For example:

Claudia⁸ is a victim of child sexual abuse. She is still in high school and has a U.S. citizen child, who receives means-tested medical benefits. Claudia is dependent upon her mother, Ava, for support. Claudia and Ava submitted fee waiver requests for forms related to their U visa applications. Claudia submitted an affidavit stating that she is still in school, dependent upon her mother and describing her child's receipt of medical benefits. Ava also submitted an affidavit stating she supports Claudia and other dependents and outlining her monthly expenses. These fee waiver requests were supported with documentation of the child's benefits; both were denied.

The widespread denials of fee waivers for VAWA, U visa, T visas and other humanitarian forms of relief is inconsistent with the intent of Congress to ensure **all survivors** can access these protections. Fee waivers provide an essential pathway for survivors to seek justice and safety. Strong, safe families lead to stronger, safer communities. Further restricting access to these protections put both at risk.

We call on USCIS to:

- Reinstatement of its prior fee waiver practice to ensure crime survivors have access to critical protections and eliminate unnecessary barriers to status as Congress intended;
- Provide applicants an opportunity to provide additional documentation to support fee waivers before denial;
- Accept as timely filed any application in which a fee waiver was denied due to these unannounced changes in practice;
- Take proper action to ensure consistent adjudication of fee waiver requests;
- Provide timely stakeholder engagements to provide the public with clear information on this new fee waiver practice at the Humanitarian Division.

We ask that USCIS recognize its obligations to ensure that survivors of domestic violence, sexual assault, and human trafficking have equal access to life-changing protections afforded to them under the law.

Respectfully submitted:

⁸ All names in this case example have been changed to protect the confidentiality of the applicants.

National Organizations/Agencies (23)

Akin Gump Strauss Hauer & Feld LLP's Pro Bono Practice
Alianza Latina en Contra la Agresión Sexual
Americans for Immigrant Justice
AMIGA Lawyers
Arte Sana
Asian Pacific Institute on Gender-Based Violence
ASISTA
Association of Pro Bono Counsel (APBCo)
Casa de Esperanza: National Latin@ Network for Healthy Families and Communities
Catholic Legal Immigration Network, Inc.
Freedom Network USA
Futures Without Violence
HEAL Trafficking
HIAS
IMMLAW
Institute for Women in Migration (IMUMI)
National Decency Coalition
National Immigrant Justice Center (NIJC)
National Latina/o Psychological Association
National Network to End Domestic Violence
Tahirih Justice Center
Victim Rights Law Center
World Relief

State and Local Organizations/Agencies (209)

Alabama

Armstrong Law, LLC

California

California Partnership to End Domestic Violence

Apoyo Legal Migrante Asdo (ALMA)
Alamillo Immigration Law, APLC
Alarcon Legal
Asian Pacific Islander Legal Outreach
Casa Cornelia Law Center
Central American Resource Center - CARECEN - of California
Coalition to Abolish Slavery & Trafficking (CAST)
Colin Immigration Law

Community Legal Services in East Palo Alto
Cross Border Lawyer
Dolores Street Community Services
Immigration Center for Women and Children
La Liga Defensora \ The Matian Firm
Law Firm of Anish Vashistha
Law Office of Carolina Castaneda
Law Office of Elisabeth A. Pellegrin
Law Office of Erich Keefe
Law Office of H. Rebeca Vasquez
Law Office of Kristin Love Boscia
Law Office of Magnolia Zarraga
Law Office of Marina Pineda-Kamariotis
Law Office of Martha Cordoba
Law Office of Vanessa Frank
Los Angeles Center for Law and Justice
Loyola Immigrant Justice Clinic
Lux Law
Maitri
Mary Dutcher
Negrette Law PC
Open Immigration Legal Services
Pangea Legal Services
Southwestern Law School Immigration Clinic

Colorado

Colorado Coalition Against Sexual Assault (CCASA)
SLV Immigrant Resource Center
Smith Immigration

Connecticut

Greater Hartford Legal Aid, Inc.

Delaware

Community Legal Aid Society Inc.

District of Columbia

Ayuda
Eagan Immigration PLLC

Florida

Florida Council Against Sexual Violence
AC Law, P.A.
American Immigration Advocates, P.A.

Angel F Leal, JR., P.A.
Gulfcoast Legal Services
Law Office of Sepideh Eskandari
Legal Aid Society of Palm Beach County, Inc.
Legal Response Center PL
Liz Cannon Attorney at Law
Nguyen Rogers Law
Orlando Center for Justice
Rebecca Black Immigration, PA
The Makar Law Firm
UNO Immigration Ministry
VIDA Legal Assistance Inc.

Georgia

Georgia Coalition Against Domestic Violence
Cisneros Immigration Law Firm, LLC
Klinke Immigration, LLC

Idaho

Christensen Legal

Illinois

Illinois Coalition Against Domestic Violence
A Safe Place
Arab American Family Services
Chicago Alliance Against Sexual Exploitation
Connections for Abused Women and their Children
Dady & Hoffmann LLC
Erie Neighborhood House
Family Rescue
KAN-WIN
Law Office of Gabriela Tejeda-Rios
Law Office of RSB
Law Offices of Lara Wagner, LLC
McFee Law Offices, P.C.
Northern Illinois Justice for Our Neighbors
Pathways Immigration Law
The Law Office of Jessica Hernandez
Turning Point, Inc.

Indiana

Indiana Coalition Against Domestic Violence
Broyles Kight and Ricafort PC
El Centro Comunal Latino

Immigration Witnesses
Popp & Bullman, Attorneys-at-Law
TK Immigration Law

Iowa

Iowa Coalition Against Domestic Violence (ICADV)
Brost Law Office
Vondra & Malott, PLC

Kansas

Kirschbaum & Nowotny LLC
Law Office of Sarah J. Schlicher, PA

Kentucky

Doors to Hope
Kentucky Coalition for Immigrant and Refugee Rights
Russell Immigration Law Firm, PLLC

Maine

Immigrant Legal Advocacy Project (ILAP)

Maryland

Jaimes Legal, LLC
Minikon Law, LLC
Women's Law Center of Maryland (WLC)
Whitaker Legal, LLC

Massachusetts

Boston University School of Law Immigrants' Rights & Human Trafficking Program
Dominican Dev Center
DOVE, Inc.
Elizabeth Freeman Center, Inc.
HarborCOV
Irish International Immigrant Center
Justice Center of Southeast MA
Massachusetts Immigrant and Refugee Advocacy Coalition
Massachusetts Law Reform Institute
MetroWest Legal Services
Northeast Justice Center
Political Asylum Immigration Representation (PAIR) Project

Michigan

Justice For Our Neighbors Michigan
Michigan Immigrant Rights Center

Minnesota

Bienvenidos Law Firm, Inc.
Mid-Minnesota Legal Assistance
Roberts Immigration Law Office, Ltd.
Standpoint

Missouri

Olivares Law Firm LLC

Nebraska

Nebraska Coalition to End Sexual and Domestic Violence

Blackford Law LLC
Curley Immigration Law PC LLO
Immigrant Legal Center

Nevada

Washoe Legal Services

New Hampshire

Jeanne Brennan Funk, Esq.

New Jersey

New Jersey Coalition to End Domestic Violence (NJCEDV)

New Mexico

Catholic Charities Santa Fe
New Mexico Immigrant Law Center
Noble & Vrapj, PA - LC

New York

New York State Coalition Against Domestic Violence

CAMBA Legal Services, Inc.
Camy Narain Esq
Center for Safety & Change, Inc.
Community Development Project, Urban Justice Center
Community Legal Advocates of New York
ECBA Volunteer Lawyers Project, Inc.
Her Justice
International Institute of Buffalo
Make the Road New York
New York Legal Assistance Group
Patricia Allel, Esq
Sanctuary for Families

The Legal Project
Volunteers of Legal Services
Western New York Coalition of Farmworker Serving Agencies
Womankind
Worker Justice Center of New York

North Carolina

North Carolina Coalition Against Domestic Violence
Alan Gordon Immigration Law
Catholic Charities of the Diocese of Raleigh
Changing Destinies Ministry (CDM)
Daughters of Worth
ENC Stop Human Trafficking Now
Helen Tarokic Law PLLC
Law Offices of Ashley Harris
Lily Pad Haven, Inc.
Pitt County Department of Social Services
TEDI BEAR Children's Advocacy Center

Ohio

Ohio Domestic Violence Network
Conoce Tus Derechos
The Law Offices of Valencia & Diaz

Oklahoma

Tulsa Immigrant Resource Network

Oregon

Marandas Silapasasai
Meadowlark Immigration PC

Pennsylvania

Pennsylvania Coalition Against Domestic Violence
Pennsylvania Coalition Against Rape
HIAS PA
Pennsylvania Immigration Resource Center (PIRC)

Puerto Rico

Law Office of Angel R. Robles

Rhode Island

Dorcus International Institute of Rhode Island
Sojourner House

Tennessee

Saev Hernandez Immigration Practice, PLLC
Santana Law Firm, PLLC
Sengkounmany Law

Texas

American Gateways
Catholic Charities Dallas
Frontera Immigration Law
Human Rights Initiative
Law Office of Allison N. Boyle, PLLC
Law Office of Karen J. Crawford
Law Office of Marlene A. Dougherty
Lone Star Victims Advocacy Project (LSVAP)
Lopez & Freshwater PLLC
Ruth Lane & Associates, PLLC
Saenz-Rodriguez & Associates
The Buitron Law Firm, P.C.
Walker Gates Vela

Vermont

Vermont Network Against Domestic and Sexual Violence

Virginia

Virginia Sexual & Domestic Violence Action Alliance
Just Neighbors
Virginia Poverty Law Center

Washington

Washington State Coalition Against Domestic Violence (WSCADV)
Alexandra Lozano Immigration Law, PLLC
Coalition Ending Gender-Based Violence
EC Immigration Law PLLC
Gibbs Houston Pauw
Hawkins Law Group PLLC
Hernandez Immigration Law
Kathleen M. Weber, Attorney at Law
Law Office of Shara Svendsen
Law Offices of M Dzhamilova
Northwest Immigrant Rights Project
Rich Immigration Pc
Shaklee & Oliver, PS
Souza Immigration Law PLLC

Sylvia A Miller Attorney at Law PLLC
Washington Immigration Defense Group

Wisconsin

Gennerman Law Office
Maria I. Lopez Immigration Law LLC
Soberalski Immigration Law
The Law Center for Children & Families

Wyoming

Wyoming Coalition Against Domestic Violence and Sexual Assault
Trefonas Law, P.C.