

May 7, 2015

Mr. León Rodríguez
Director
US Citizenship and Immigration Service
20 Massachusetts Ave, NW Washington, DC 20549

RE: Implementing Parole Procedures for U visa Program

Dear Director Rodríguez:

The undersigned 124 organizations that support, serve and/or advocate on behalf of survivors of domestic violence, sexual assault, dating violence, stalking, and human trafficking, write to voice our strong support for creating streamlined parole procedures for conditional grantees under the U visa program.

Given the number of crime victims eligible for U Nonimmigrant relief, it is apparent that the 10,000 annual U visa cap allocation has resulted in a several-year delay in the availability of U visas. Without legislative changes, this situation is likely to remain unaltered, leading to ongoing multi-year waits for final U visa approval. US Citizenship and Immigration Service (USCIS) has indicated that they are currently adjudicating applications for visas available in FY 2018, and that there are currently about 22,000 conditional grantees on the U visa waitlist.¹

Although we greatly appreciate USCIS providing Deferred Action to those who would otherwise receive U visas, the delay in receiving secure status is especially problematic for those with derivative family members abroad. Despite a regulatory mandate,² USCIS and the Department of State have not implemented policies that would allow U conditional grantee derivatives to travel to the United States. We therefore urge USCIS to implement parole procedures for U visa conditional grantees abroad.³

The current USCIS approach to humanitarian parole under INA § 212(d)(5) does not take into account the unique legal and practical character of the U visa program. Although the statute states that parole may be granted “on a case-by-case basis for urgent humanitarian reasons *or significant public benefit*,”⁴ USCIS parole adjudications appear to focus solely on the first prong, whether individuals can show compelling humanitarian reasons for seeking immediate entry to the U.S. We suggest that a more appropriate assessment for this class should focus on the “significant public benefit” such parole would serve.

¹ Based upon information shared by Vermont Service Center staff at the Freedom Network Conference on April 21, 2015 in Alexandria, Virginia.

² 8 CFR 214.14(d)(2) states, in relevant part: “USCIS *will grant* deferred action or *parole* to U-1 petitioners and qualifying family members while the U-1 petitioners are on the waiting list.” (emphasis supplied).

³ We will address in a separate communication the need for a clear advance parole procedure for U grantees in the United States who wish to travel.

⁴ INA § 212(d)(5)(emphasis supplied).

USCIS should facilitate and prioritize parole procedures for conditional U grantees abroad (both principals and derivatives) to support those who have helped law enforcement make our criminal system work. We all suffer when law enforcement and immigrant communities lose confidence in the U visa program.

As former USCIS Director Alejandro Mayorkas (now Deputy Secretary of DHS) stated,

The U-visa is an important tool aiding law enforcement to bring criminals to justice At the same time, we are able to provide immigration protection to victims of crime and their families. Both *benefits are in the interest of the public we serve.*⁵

The lack of parole undermines the Congressional goals of the law.⁶ We therefore urge USCIS to implement the regulatory mandate by issuing parole guidelines that reflect the special nature of this class.

Specifically, for those conditional grantees and derivatives abroad we urge USCIS to:

- **Presume that, absent individual evidence to the contrary, all conditional grantees meet the “significant public benefit” test for parole:** U principals and qualifying family members abroad with conditional approvals should be presumed eligible for parole by virtue of their conditional approval. Because supporting victims of crimes who have been helpful to law enforcement is a central goal of the U visa, USCIS should not require a declaration, detailed statement, or other evidence articulating individualized reasons the applicant merits parole.
- **Eliminate the requirement of an I-134 Affidavit of Support for Parole Applications:** The Violence Against Women Act of 2013 (VAWA 2013), codified in INA §212(a)(4)(E)(ii), makes the public charge ground of inadmissibility *inapplicable* to persons with U visa status. There is, thus, no legal rationale for requiring affidavits of support for conditional grantees. Moreover, U visa conditional grantees often lack the resources to provide typical I-134 affidavits of support. U applicants and grantees are either exempt or subject to liberal fee waivers precisely because they often lack financial resources.⁷ Requiring such affidavits, therefore, lacks legal foundation and undermines the public interest.

⁵ Press release, USCIS Reaches Milestone for Third Straight Year: 10,000 U Visas Approved in Fiscal Year 2012” (emphasis supplied) (available at: <http://www.uscis.gov/news/uscis-reaches-milestone-third-straight-year-10000-u-visas-approved-fiscal-year-2012>)

⁶ In creating the U visa program, Congress recognized that “providing temporary legal status to aliens who have been severely victimized by criminal activity...*comports with the humanitarian interests of the United States.*” See section 1513(a)(2)(B), Public Law No: 106-386, 114 Stat. 1464.

⁷ See “New Classification for Victims of Criminal Activity; Eligibility for “U” Nonimmigrant Status” 72 FR 53014 (September 17, 2007). USCIS has determined that no fee will be charged for filing Form I-918 or for derivative U nonimmigrant status for qualifying family members. Furthermore, there are no fees for biometric services for U visa applications. See USCIS. “I-918 Petition for U Nonimmigrant Status” available at: <http://www.uscis.gov/i-918>.

- **Ensure Fee Waivers Are Adjudicated Appropriately:** Consistent with 8 CFR 103.7(c)(3)(xviii), USCIS should fairly review fee waiver requests for Form I-131 parole request where the evidence indicates that the applicant for parole, who is conditionally approved for U Nonimmigrant Status, is unable to pay the required fee.
- **Eliminate DNA Testing Requirement:** USCIS should not require DNA testing absent a specific problem with the traditional relationship documentation already provided and reviewed by USCIS to grant conditional status. The derivative applicant's qualifying family relationship to the principal U applicant has already been established by the conditional approval of the I-918 Supplement A by USCIS.

On behalf of the courageous survivors that our organizations serve, we thank you for all the work you do on behalf of immigrant survivors; we know you have many problems to solve. We encourage you, however, to prioritize rectifying this problem in the U program.

Please do not hesitate to contact Gail Pendleton, Co-Director of ASISTA Immigration Assistance (gail@asistahelp.org) or Jessica Farb, Directing Attorney at the Immigration Center for Women and Children (jessicafarb@icwclaw.org) for more information regarding these issues.

Sincerely,

National Organizations (23)

American Friends Service Committee
 Americans for Immigrant Justice
 Asian Pacific Institute on Gender Based Violence
 ASISTA Immigration Assistance
 Church World Service
 Freedom Network
 Futures Without Violence
 Global Workers Justice Alliance
 Lutheran Immigration and Refugee Service
 Mil Mujeres
 National Center on Domestic and Sexual Violence
 National Coalition Against Domestic Violence
 National Guestworker Alliance
 National Immigrant Justice Center
 National Immigration Law Center
 National Immigration Project of the National Lawyers Guild
 National Latin@ Network; Casa de Esperanza
 National Latina Institute for Reproductive Health
 National Network to End Domestic Violence
 Southern Poverty Law Center
 Tahirih Justice Center
 We Belong Together
 Women's Refugee Commission

State and Local Organizations (101)

Alabama

Hispanic Interest Coalition of Alabama

Alaska

Alaska Network on Domestic Violence and Sexual Assault

Arizona

Arizona Coalition to End Sexual and Domestic Violence

California

California Partnership to End Domestic Violence

Alliance for Community Transformations

Apoyo Legal Migrante Asociado

Casa Cornelia Law Center

Catholic Charities of Santa Rosa

Catholic Charities of San Francisco

Coalition to Abolish Slavery & Trafficking

Community Legal Services in East Palo Alto

Considine Sorensen Trujillo, APLC

Franco Law Group, APLC

International Institute of the Bay Area

Law Office of Julie Cyphers

Law Office of Kristin Love Boscia

Los Angeles Center for Law and Justice

Meath & Pereira, APLC

Mira Law Group, A.P.C.

Pangea Legal Services

Redwood Justice Fund

Social Justice Collaborative

Colorado

Kelly Ryan Law, LLC

Connecticut

Connecticut Legal Services

New Haven Legal Assistance Association

District of Columbia

Ayuda

Florida

Legal Aid Service Collier County

UNO Immigration Ministry

Georgia

Georgia Asylum and Immigration Network

Illinois

Illinois Coalition Against Domestic Violence

Kansas

Kansas Coalition Against Sexual and Domestic Violence

Law Office of Sarah J. Schlicher, P.A.

Kentucky

Kentucky Coalition for Immigrant and Refugee Rights

Louisiana

New Orleans Workers' Center for Racial Justice

Massachusetts

Central West Justice Center

MetroWest Legal Services

Maryland

Immigration Legal Services, Esperanza Center, Catholic Charities of Baltimore

Minnesota

Minnesota Coalition for Battered Women

De Leon & Nestor, LLC

Immigrant Law Center of Minnesota

Montana

Biesenthal & Gray, LLC

North Carolina

North Carolina Coalition Against Domestic Violence

Charlotte Immigration Law Firm

Helen Tarokic Law PLLC

Yanez Immigration Law

Nebraska

Nebraska Coalition to End Sexual and Domestic Violence

Center for Legal Immigration Assistance

ST. MARY'S IMMIGRATION PROGRAM

Nevada

Nevada Network Against Domestic Violence

Jeglaw LTD

Pershing County Domestic Violence Intervention, Inc.

S.A.F.E. House

Safe Nest

New Jersey

Latin American Legal Defense and Education Fund

New Mexico

Catholic Charities Legal Services Diocese of Las Cruces

New Mexico Immigrant Law Center

Rebecca Kitson Law

New York

Bellevue/ NYU Program for Survivors of Torture/ NYU Center
for Health and Human Rights

CAMBA

Community Development Project of the Urban Justice Center

Domestic Violence Project at Urban Justice Center

Law Office of Usman B. Ahmad, PC

Northern Manhattan Improvement Corporation

Safe Horizon Immigration Law Project

Sex Workers Project at the Urban Justice Center

STEPS to End Family Violence

Ohio**Ohio Domestic Violence Network**

Asian Services In Action, Inc.

Oregon

Immigrant Law Group PC

Immigration Counseling Service (ICS)

Lane County Legal Aid and Advocacy Center

Marandas and McClellan

Waxler Immigration Law LLC

Pennsylvania

Friends of Farmworkers, Inc.

Hogan & Vandenberg LLC

Pennsylvania Immigration Resource Center

Tennessee

Jackson & Hurst, LLC

Texas

American Gateways

Immigrant Justice Alliance

Law Office of Lynn Coyle

Paso Del Norte Civil Rights Project

Ponce Law Firm, P.C.

Refugio del Rio Grande

Utah

Holy Cross Ministries
Immigrant Defenders Law Group
JLJ Law Group PLLC
Perretta law office

Virginia

Just Neighbors Ministry
Transitions Family Violence Services
Virginia Poverty Law Center

Washington

Washington State Coalition Against Domestic Violence
Domestic Violence Services of Benton & Franklin Counties
Kiiskila Immigration Law Office
Law Offices of Carol L. Edward & Associates, P.S.
Lower Valley Crisis and Support Services
OneAmerica
Northwest Immigrant Rights Project

Wisconsin

End Domestic Abuse Wisconsin
Pionek Valle Law Group, LLC