NOTES AND PRACTICE POINTERS FROM USCIS VAWA, U AND T VISA STAKEHOLDER EVENTS

2016

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ABSTRACT

This advisory contains general information shared by USCIS staff during multiple stakeholder events this year. We have added practice pointers and clarification where relevant. The information contained in this advisory does not create any law or rights, nor is it intended to be legal authority or advice, but is presented for informational purposes only and not for media attribution. The notes are provided for those experienced with VAWA self-petitions, U visa, and T visa relief. Basic background material and previous Vermont Service Center (VSC) stakeholder notes and practice pointers are available at www.asistahelp.org. NOTE: These policies and procedures are current as of November 2016. We realize that with the change of administration, some policies or procedures may be changed or delayed. We will update the materials as needed.

I. POLICY

A. General Policy Updates on VAWA, U and T visas

1. Regulatory Updates

a. **T visa regulation updates:** T visa regulations are currently awaiting clearance and USCIS hopes they will be out soon. It will be a final rule, but there should be a comment period for the public.

b. **U visa regulation update:** Updates to the new U visa regulations will implement provisions of TVPRA 2008 and VAWA 2013 and will make other clarifications.

Practice Pointer: It is unclear whether these regulations will be finalized before the change of administration in January 2017. In the past, the changes in U visa regulations focused on certifying officials. For example, in June of 2014, USCIS held a listening session regarding a possible modification to the U visa regulations, which would memorialize their current practice of allowing police chiefs, sheriffs, prosecutors, and other certifying agency heads to designate other individuals as certifiers. The regulations at 8 CFR 214.14(a)(3)(i) seem to support this, as a certifying official is listed as "The head of the certifying agency**, or any person(s) in a supervisory role who has been specifically designated by the head of the certifying agency** to issue U nonimmigrant status certifications on behalf of that agency." However, it appears that the regulatory change may be able to include other subject matter experts who may NOT be in a supervisory role including subject matter experts, or other officials that the head of the agency deems to have significant training and experience on cases involving violence against women and special victims, or who work on building relationships with the immigrant and limited English proficiency community. If there are any developments regarding the status of these regulations, we will update this advisory accordingly.

2. **USCIS Policy Manual:** The Policy Manual is USCIS's effort to put all policy-related documentation in one place. Some chapters are already published on USCIS website (available here). Humanitarian-based sections are currently being drafted. As these are developed, updates to the policy manual will be released in the form of an alert rather than a separate policy memoranda.

a. Practice Pointer: In the past, new Policy Manual sections did not include a high level of detail and, in some cases, did not include information on special approaches to VAWA. Please keep your eyes out for such discrepancies and let us know, so we can raise these concerns with USCIS HQ. USCIS should not (and presumably does not intend to) use the Policy Manual to eliminate past policies and procedures that have proven helpful to noncitizen survivors. There will be opportunities to provide stakeholder comments to the manual in the same ways as there is a comment period for guidance.

3. Employment Authorization for Battered Spouses of Certain Nonimmigrants

Question: Given the March 2016 memoranda on work authorization for abused A, E(iii), G and H derivatives, when should we expect a process for filing those applications? When does USCIS expect that the new I-765V form will be posted for public comment?

Update: On May, 27, 2016, proposed Form I-765V and the accompanying instructions were published in the Federal Register for comment. ASISTA, Asian Pacific Institute on Gender-based Violence, AILA, and CLINIC submitted a joint comment on July 26, 2016 which is available here: http://bit.ly/I765VComment2016.

We suspect that the USCIS will start to accept these applications sometime in 2017, though the exact time frame is not clear. If you are working with a survivor who cannot wait until then, please contact ASISTA at questions@asistahelp.org to discuss potential litigation strategies.

B. U visa Policy Questions

1. Recapture

Question: Has there been any talk at USCIS regarding issuing the approximately 60,000 visas that went unused between 2000 when the U visa was created and when the regulations were promulgated?

Answer: No. USCIS is not considering recapturing the 60,000+ unused U visas.

a. **Practice Pointers**: ASISTA and allies have had several conversations over the years with USCIS about recapture and have done legal research to inform those conversations; however, there does not seem to be a way to do so that comported with the statute. If you would like to discuss or revisit this analysis, please contact Gail Pendleton at ASISTA through questions@asistahelp.org.

2. Parole

Question: As USCIS is under a regulatory directive under 8 CFR 214.14(d)(2) to provide parole for conditional grantees, please provide an update about establishing a parole policy so that U visa waitlisted applicants or derivatives abroad may utilize parole to enter the U.S. If USCIS is working on parole policies, is advance parole for those on the U visa waitlist being considered as part of that guidance?

Answer: Based upon the CIS Ombudsman Recommendation,[1] USCIS is currently working on implementing a parole program for those principals and derivatives on the U waitlist who

[1]See "Ombudsman Recommendation on Parole for Eligible U Visa Principal and Derivative Petitioners Residing Abroad." Available at: https://www.dhs.gov/publication/ombudsman-recommendation-parole-eligible-u-visa-principal-and-derivative-petitioners

are residing abroad, and will also address advance parole for those on the U visa waitlist. This policy will not include parole for derivatives' derivatives (e.g., U visa grandchildren); but they can continue to apply on a case-by-case basis for humanitarian parole. USCIS is now working on a form and guidance; however, there are certain issues that have yet to be resolved, including whether the parole applications will be filed at VSC and whether the parole application can be filed concurrently with the initial U visa application. Yet given the change of administration, policy changes are unlikely to happen before January 2017, and after that may be subject to review or held up by the new administration. The authors will keep you posted on any and all updates on this policy.

a. **Practice Pointer:** ASISTA and CLINIC have developed a practice advisory for those considering filing for parole for family reunification purposes under the current framework. For more information, visit http://bit.ly/ParoleAdvisoryDec2015.

3. *L.D.G v. Holder:* Adhering to the Seventh Circuit's ruling on waivers in proceedings

Question: How does VSC handle I-192 waiver applications that are approved by an Immigration Judge following *L.D.G. v. Holder*, 744 F.3d 1022 (7th Cir. 2014).

Answer: USCIS is adhering to the decision in *LDG* in the Seventh Circuit but not expanding its application to other circuits at this time. All petitions will be reviewed on the merits, and will be reviewed for any grounds of inadmissibility not addressed by an Immigration Judge. VSC cannot overrule a (d)(3) waiver granted by an IJ but it may look at other inadmissibility issue not covered.

Update & Practice Pointer: So far *L.D.G v. Holder* has not been adopted outside the Seventh Circuit, see, e.g., *Sunday v. Atty Gen*, 832 F.3d 211 (3rd Cir. 2016) Furthermore, in September 2016, the Board of Immigration Appeals affirmed in *Matter of Khan*, 26 I&N Dec. 797 (BIA 2016) that Immigration Judges do not have authority to adjudicate a request for a waiver of inadmissibility under INA 212(d)(3)(A)(ii) of the INA for a U visa. Advocacy around this issue is on-going nationwide. If you are planning on pursuing L.D.G arguments in your own circuit, please connect with Gail Pendleton at ASISTA through questions@asistahelp.org and Trisha Teofilo Olave at National Immigrant Justice Center at TTeofilo@heartlandalliance.org. For more information on L.D.G, See NIJC's practice advisory, accessible here: http://bit.ly/NIJCAdvisoryLDG

4. EAD/U delay litigation project

ASISTA is working with litigators and U practitioners around the country to coordinate a national mandamus effort to accelerate U work authorization. If you would like to participate in this project, contact ASISTA Executive Director, Gail Pendleton through questions@asistahelp.org

II. General Processing

A. USCIS Customer Service Response:

1. **Volume:** T and U and VAWA section received 80,000 inquiries each year for VAWA self-petitions, U and T visa applications, as well as adjustment and ancillary forms. VSC strives to return calls **within 5 to 7 days**. VSC also strives to address email inquiries within 14 days (although they are aiming to get response time down to 7 to 10 days). Email inquiries are addressed in the **"first in, first out" process and can only be made by the attorney of record.** Written inquiries via mail (usually for *pro se* applicants) can take up to 6 months, though they have recently added resources to increase response time for written inquiries. Customer service officers are the same officers that adjudicate the cases.

    - To make an inquiry on a VAWA self-petition, the Hotline email address is: hotlinefollowupi360.vsc@uscis.dhs.gov.
    - To make an inquiry on a U visa or T visa matter, the Hotline email address is: hotlinefollowupi918i914.vsc@uscis.dhs.gov.
    - To make an inquiry about a domestic-violence based I-751 waiver filed at VSC, you may use this email address: HotlinefollowupI751ef.vsc@uscis.dhs.gov

2. **Improving Customer Service Tools:** Currently, VSC has 7 different email accounts (some for law enforcement agencies, some for advocates). It is an Outlook system and it is antiquated in terms of how to categorize and prioritize inquiries. They have contracted with Salesforce to develop a new system (called STARS) and it will hopefully be implemented in the start of 2017 to help address customer service inquiries more efficiently. All inquiries will go into the database, including written inquiries, which will be scanned into the system.

    a. **VSC Practice Pointer**: VSC recommends you utilize **only one** means to contact VSC (either by phone or email). When a stakeholder contacts VSC through more than 1 customer service channel, it takes away time from adjudication.

    b. VSC Practice Pointer: Since emails are responded to in a "first in, first out" order, if you are following up to an email response from the VSC Hotline, then you could consider writing "**Follow Up to Original Inquiry"** or some other way to indicate that your response is not an initial inquiry, and VSC will attempt to move that follow-up inquiry to the front of the line.

    c. **Practice Pointer**: We recommend contacting VSC via email as you are creating a record of USCIS' correspondence on the case, which is more helpful in terms of additional advocacy or establishing a record for appeal.

B. Requests for Further Evidence (RFEs)

1 **RFE Review:** Review time for RFE responses can vary. If it has been more than 60 days since submitting the RFE response, stakeholders may contact the Hotline to inquire about the case. VSC is unable to provide RFE processing time in auto response time, but they will consider it for the future.

2 **Requesting Supervisory Review:** VSC recommended that requests for supervisory review be used in limited situations and as a last resort. VSC notes that every request for supervisory review is honored, and it has become an overused process. Sometimes they find that something could have been better articulated or wasn't written well, but the underlying request is legitimate and the request stands. From VSC's perspective, if your RFE presents a legal argument, then it may be more efficient to respond to the RFE and present your arguments rather than going through the process of supervisory review.

   a. In addition, because the supervisory review process does not function well for advocates, ASISTA and the AILA VAWA, U and T visa Committee are currently collecting and reviewing RFEs and Denials related to VAWA self-petitions, U and T visas to identify problematic trends, especially for cases adjudicated at NSC. We invite you to submit your problematic RFEs and Denials at http://bit.ly/RFEDenialCollectionVAWAUT.

3 **Tips for Responding to RFEs:** VSC recommended that stakeholders highlight in the cover letter anything you think is important, and remember that the original RFE should be on the top of the submission as it is helpful to the contractor to help locate the correct file.

   a. **Practice Pointers: DO NOT RESPOND TO THE RFE VIA THE HOTLINE.** VSC indicated they have seen this as a trend. You should respond to the RFE in paper, with the original RFE on top of your submission.

   b. **Practice Pointer**: If you see boilerplate RFEs that does not take into account any of the evidence you submitted or list how the evidence you did submit does not meet the requirements, we still recommend requesting supervisory review in these cases as these types of RFEs are not supposed to occur.

   c. **Practice Pointer:** In responding to RFEs, advocates should ALWAYS do the following:
      i. Respond on time;
      ii. Look at the front and back of the RFE, since the notices are printed double-sided and often part of the request continues on the back of the notice.
      iii. Respond in full to the RFE: If not all the documents requested are included, USCIS can treat the submission as a request for a decision on the record.
      iv. Be civil in your response: focus on what is wrong factually or legally.

d. **Practice Pointer**: Generally, USCIS wants applicants to submit the "best evidence available." If certain evidence was unavailable, explain how you tried to get the evidence the RFE asked for, why it was not available, and how what you are submitting is credible. USCIS also likes to see "systems evidence" which may be proof that the applicants reached out to institutions or systems with regard to their case (i.e. hospitals, victim services, etc.), so that documentation is useful. This evidence, however, is "primary evidence" and insistence on supplying it violates the Congressionally mandated "any credible evidence" standard. For more on best evidence and the "any credible evidence" standard, see http://www.asistahelp.org/documents/resources/Pendleton_Practice_Pointers_on_Best_80FB0FB5B1AC9.pdf

e. ASISTA helps with "interventions" after you have responded to RFEs and the hotline review has proven unhelpful, by raising legal, procedural and other emerging problems with the heads of the unit, CIS HQ and the CIS Ombudsman's office. For help with this, send your question to questions@asistahelp.org.

C. Problems with the Consulate: If you are trying to resolve an issue with the consulate, then try reaching out to the USCIS contact in the consulate or contact the consulate directly. Contact information should be available on the embassy or consulate website, http://www.usembassy.gov/. If no final answer is received to a *legal* question after two attempts to contact post *or* if a final response is received that you believe is incorrect as a matter of law, send an email to LegalNet@state.gov.

a. **Practice Pointer:** Immigration Center for Women and Children (ICWC) manages a Zoho Database with information about consular processing procedures and policies broken down by embassy. To get connected to this database visit: http://icwclaw.org/services-available/icwc-u-travel-and-certifier-database/

D. Employment Authorization Documents: VSC makes an effort to adjudicate I-765 applications within 90 days and currently VSC is within processing times for I-765 for all types of applications. The Form I-765 should be adjudicated within 90 days of action on underlying case. That is, pending forms do not confer the right to the EAD, and the 90-day clock does not start until the underlying case has been approved. Contact the Hotline if the application is outside the 90-day processing time.

a. **Practice Pointer:** VSC stated they are seeing many I-765 applications that do not have the correct I-765 designation. Each form needs to have one category of eligibility for each application. If the form is not categorized properly, stakeholders risk delaying their application or the case may be rerouted to another division or service center. For example, if you are submitting an initial I-918A application for a child of a U visa applicant, you should submit 2 I-765 applications, one listing the

eligibility category under (c)(14) [for deferred action] and the other based on (a)(20) [as an approved U-3 visa holder]. Stakeholders should not be submitting one I-765 listing both eligibility requirements, rather 2 separate I-765 forms with the separate designations.

E. Change of Address

1. Process if clients are <u>represented:</u>

a. **Firm change of address:** If your firm is changing address, VSC indicated that attorneys may submit one G-28 listing the new address and attaching a list of the A#s of the attorney's current caseload.

Practice Pointer: If your firm is changing its address, confirm with the Hotline that the updated information has been received and that the information has been changed in the individual case's A file.

b. **Client change of address:** VSC has indicated that they do not want attorneys and representatives to submit AR-11s to VSC to change the address of clients, rather that representatives may contact the Hotline with information regarding the address change. For VAWA, T, and U visa cases, attorneys and representatives should not be mailing AR-11s to the Harrisonburg, VA address nor using the online Change of Address system. Due to confidentiality reasons, these mechanisms will not be sufficient to change an applicant's address for a VAWA, U, or T visa case, nor an adjustment of status based on those forms of relief.

a. Practice Pointer: Despite VSC's position that an address change may be accomplished via the Hotline, it may be prudent to file an actual AR-11 along with a response to an RFE, an EAD renewal, or other correspondence with VSC to ensure that there is paperwork in the file indicating the address change. This can help show compliance, if ever needed, with INA § 265, which requires certain noncitizens to notify the government of a change of address. Given that procedures and policies may change in the future, having an AR-11 on file with VSC is just an extra layer of protections for attorneys and their client to show the requirements have been met.

2. If applicants are *pro se* or if representation ends:

In order to fulfill their obligation under the INA, applicants must notify USCIS of any change of address within 10 days of the change at any time, including any employment authorization renewal or after adjustment but before naturalization. All pro se applicants should file an AR-11 directly with VSC to change their address. This obligation may be

fulfilled by sending a letter to the VSC VAWA Unit with an original signature to change their address or by filing an AR-11 with the VAWA Unit at VSC. Applicants with pending or approved VAWA, U or T visa, or subsequent adjustment applications should not be using the AR-11 online system to change their address.

F. Appeals and Motions: I-290Bs

VSC has implemented new policy distinguishing between treatment of motions and appeals on the I-290B form. They will no longer consider motions as appeals in the alternative or vice versa. Thus, you cannot file a motion and an appeal on the same form. If both the Motion to Reopen/Reconsider AND appeal boxes are checked the I-290B form it should be rejected and not receipted, or if it does slip through, it will be sent to the AAO. This apparently means, however, that if VSC denies a motion, instead of forwarding it as an appeal to the AAO as in the past, practitioners must now file another I-290B, marking it as an appeal. They have made this change to enable appeals to be sent to the AAO more expeditiously. If you mark the appeal box on the I-290B VSC will send it to the AAO generally within a 2-day timeframe. Generally, AAO completes most reviews within 6 months.

a. VSC said its goal is to process motions within 90 days but acknowledged that it is well outside that processing time right now. If you have a case with extenuating circumstances, you may request an expedited review of the motion.

b. **Practice Pointer:** If you are providing new evidence or challenging a clear legal infirmity, practitioners may benefit from first filing a motion to reopen/reconsider with VSC before filing an appeal. However, if the evidence remains the same as in the original submissions, the client may benefit from immediately filing an appeal as the process may be more expedient. Keep in mind that if your Motion to Reopen/Reconsider is denied, you may appeal. If you wish to discuss whether this process makes sense in a particular case, contact ASISTA via questions@asisthelp.org.

c. **Practice Pointer:** ASISTA has filed several amicus briefs with the AAO, and ASISTA and AILA can assist on strategy related to amicus briefs. For ASISTA's help in framing appeals and coordinating amicus briefs (preferably at the RFE stage), contact Questions@asistahelp.org. For help from AILA's Amicus Committee, please submit a request on the following website: http://www.aila.org/about/leadership/national-committees/agency-liaison/amicus-committee.

III. Common Filing Mistakes

A. Filings for derivative family members: VSC indicated that it is not uncommon that that I-918 Supplement A cases are not documented properly. I-918As should have evidence to support that petition (e.g. birth certificates showing the relationship). Failure to submit the necessary documentation could result in an RFE, which would extend the timeframe of adjudication.

B. Discrepancies: VSC indicated that sometimes applications contain discrepancies. For example, information in an applicant's personal statement not matching other evidence, either in the I-918 Supplement B or the cover letter.

a. **Practice Pointer:** An important component of RFE prevention is to identify inconsistencies in an application ***before*** its submission. Once the inconsistencies have been identified, then advocates should assess whether the inconsistency is material. If it is not material to the requirements of the application, then you should identify the inconsistency and address why it is not related to a material fact. If the inconsistency is material (e.g. charges on court documents do not match the Supplement B), then advocates should assess how these inconsistencies would be best addressed (e.g. declaration from LEA, statement from applicant, etc.).

C. Cover letters: Cover letters are not evidence or testimony, rather it is a place to present arguments to explain the evidence. If there is contradictory information in the application, the officer may not understand why there is a discrepancy. When possible, any discrepancies should be explained to provide context for the officers.

a. **Practice Pointers:** Stakeholders should not coach applicants on their personal statements. VSC wants personal statement in the applicant's own words, but it is always a good idea to review other supporting documents to help them remember.

b. **Practice Pointer:** While VSC has stated that cover letters are not mandatory; they are an extremely useful roadmap for the adjudicator regarding your application. Cover letters can be helpful to point out things that are not otherwise obvious; however, extremely lengthy and repetitive cover letters are not useful. ASISTA's Clearinghouse contains a sample U visa roadmap cover letter, available here: http://bit.ly/ASISTAUcover

D. Passports: VSC is seeing many U applications without a valid passport. Any nonimmigrant in the U.S. is required to have a valid passport for a minimum of six months from the date of the expiration of the authorized stay.[2]

a. **Practice Pointer**: Therefore, for those in the U.S. filing an I-918 or I-918 Supplement A, the applicant needs to do one of the following:

[2] INA 212 §(a)(7)(B)(i)(I).

i. Provide a copy of the passport biometrics page, showing that it is currently valid and will continue to be valid 6 months after the U Nonimmigrant Status is granted and/or
ii. Include on the waiver request, Form I-192, that the applicant wishes to get INA 212(a)(7)(B) waived for the passport requirement because either
    1. The applicant currently has no passport **or**
    2. (potential inadmissibility) The applicant's passport may expire within 6 months of U status expiration. Since U applicants now wait years before receiving a U visa, applicants with passports valid for less than 10 years will likely need to include this potential inadmissibility on the I-192.

b. **G-28s**: VSC reports that they are seeing G-28s not signed by the applicant. Principal petitioner should sign their own G-28 for their application and for the I-918A, as the Supplement A is actually **a principal's application for the derivative**. But if the derivative is submitting additional applications (like an I-765 or an I-192) then they need their own G-28 to help notify VSC that the attorney is also representing the derivatives on their own separate applications.

c. **Practice Pointer:** An attorney or BIA accredited representative can submit one G-28 for multiple application types (e.g. I-918, I-765, I-192). But a separate G-28 should be submitted for each individual principal and derivative applicant who is filing their own applications.

E. Fee waiver: VSC indicated that you need a fee waiver request or letter for fee to be waived with each application. If no fee or fee waiver request is provided for applications that require a fee, then USCIS will have to reject the application. In the order of the filing, the fee waiver should go right on top or underneath the G-28.

a. Practice Pointer: VSC has flexible fee waiver standards for all applications to the VAWA Unit. For a discussion of different options for fee waivers, see ASISTA's Advisory from February 2015 available here: http://bit.ly/Feb2015Advisory.

F. EADs for Waitlisted Cases: If a request for work authorization based on deferred action is not submitted concurrently with the I-918 application, then a copy of the waitlist letter must be submitted with the subsequently filed I-765, citing category (c)(14). If the letter is not submitted with the I-765, then this could slow down the processing of the application.

a. Practice Pointer: For more information about filing for employment authorization for the principal and derivatives, ASISTA's Advisory from February 2015 is available here: http://bit.ly/Feb2015Advisory.

G. Filing Supplement As after T or U Approval or on the Waitlist: Stakeholders should submit copies of the principal's approval or waitlist notice if filing Supplement As after the principal's case has been approved. They should also ensure A#s and EAC#s correspond with the principal application.

IV. U Visa Questions

A. Processing Times & Statistics

1. **General statistics:** General statistics on U visas are publicly posted data on the USCIS website and are updated quarterly. This information is posted on the U visa dataset, the latest of which is available here.

2. **Waitlist Statistics:** USCIS stated that there are approximately 140,000 pending U visa cases (including both principals and derivatives) and of those 24,000[3] have been waitlisted. In fiscal year 2017, USCIS will take up to 18,000[4] principals **and** derivatives off the waitlist to issue U visas.

3. **Delay in U visa Processing Times**

Question: Please explain what is causing the huge delay in adjudicating U visa applications. What is being done to improve processing times? When does VSC expect the May 7, 2014 processing date for I-918s to change?

Answer: Applications are delayed across the board at USCIS. U visa processing is impacted by a number of factors, including the statutory cap of 10,000 visas, an increase in the number of applications they have received, and personnel resources. USCIS has recently discussed how personnel resources do not align with the current caseload, and they are working to address the workload issues, and hope to provide information in the coming weeks. For the sake of transparency on the U waitlist and the work that the VSC has been doing on the delays, USCIS provided some background information.

USCIS is now processing waitlist letters for U nonimmigrant status submitted in June 2014.[5] USCIS understands that stakeholders and their clients are frustrated and the hardship that can result from the delay. VSC has a high volume workload, and the number of U visa petitions has increased. In 2009, USCIS received 11,000 applications for principals and derivatives and in 2015, they received 52,000 for principals and derivatives (thus an increase of almost fivefold). When reviewing U nonimmigrant waitlisted cases, VSC needs to go through the applications again to ensure eligibility and must make sure that biometrics are up to date, which takes away time from looking at new petitions. Sometimes when new information comes to light in this review, processing can take longer. VSC also prioritized

[3] Including both principals and derivatives.

[4] This number would include derivatives as well.

[5] Announced at the September 2016 VSC Stakeholder Meeting.

several I-918A petitions for U2s through U5s for those whose principals already had U status. Now, VSC will be focusing on putting the oldest cases on the "First In First Out" line on the waitlist as appropriate.

4. Change in U visa Processing

VSC has indicated that they are currently taking a more staggered approach to adjudicating U visa applications compared to the past few years. Previously, VSC has employed an "all hands on deck" strategy to issue U visas right as the fiscal year begins, halting any other adjudications and slowing down customer service responses. The previous approach resulted in VSC issuing all approvals by mid-December. To enable adjudication of initial U visas to continue without interruption (and to work on the backlog), U visas will be issued throughout the first ¾ of the fiscal year, though it may take the entire year. This will enable those who are waitlist-eligible to receive work authorization sooner.

Starting October 1, 2016, VSC expects to approve for U Nonimmigrant Status and remove from the waitlist those U visa applicants who filed their I-918 between May 2013 and February 2014. The exact end filing date will depend on how many people continue to remain eligible for status during this additional review. VSC will prioritize reviewing RFE responses for those eligible to be removed from the waitlist in FY2017 to ensure they remain in the FY2017 cohort. VSC will no longer backdate grants to October 1st. Instead the VSC will assign the actual approval date and the U visa will be valid for four years from that date.

B. Nebraska Service Center Workshare

1. **U visa workshare generally:** The U visa work share program began on July 18, 2016 when 3000 cases (about 11,000 cases including derivatives) were transferred to the new U Visa Unit at the Nebraska Service Center (NSC). During July and August, VSC staff went to NSC to train 23 adjudicators on U visa applications (including I-918s, I-192s, and I-918As) and over 100 officers were trained on VAWA Confidentiality. There are three supervisors at the NSC U visa unit. VSC is working on dividing up the cases and doing data "scrapes" to ensure "First In, First Out." VSC and NSC work together to ensure they are working on the initial adjudications for placement on the waitlist on the oldest cases first at both locations (most likely cases filed during the summer months of 2014). All applications transferred from VSC to NSC will receive a transfer notice. USCIS will post web-alerts and stakeholder notices updating information on transfers. At NSC, currently all RFEs and denials are reviewed by a supervisor before they are sent out. Once the initial batch of cases are adjudicated, VSC will send NSC additional cases, probably some time in FY 2017. The U visa workshare is a permanent change, although at this time all U visa applications will continue to be filed at VSC.

2. Important Practice Pointers

a. Responses to RFEs should be sent to NSC as indicated on the instructions on the RFE. While USCIS requests that you send the RFE response in an attached NSC envelope (the yellow striped envelope is the correct one for the U workshare at NSC), it may be difficult to fit the RFE response inside and/or track that envelope properly. Instead, you may consider filing the RFE response to NSC in the appropriate mailing envelope and then attach the yellow striped envelope to the top of your RFE response.

b. Any additional forms that were not submitted in the original application should be sent first to VSC, who will forward those supplemental materials to NSC. Examples of supplemental filings are the following: an I-765 for category (c)(14) for someone placed on the waitlist, an I-192 for someone who recently entered the U.S. without inspection, or a supplemental I-918 Supplement A derivative application for a new family member. We will update this advisory if or when this changes.

c. **Customer service:** Customer Service inquiries for cases transferred to NSC should still be directed to VSC via the phone or email Hotline for the time being (including requests for supervisory review). NSC does not have separate email, phone or addresses for case inquires at this time but there are plans for NSC to eventually have its own U visa customer service channels. Once NSC officers are fully trained on case adjudication, they will eventually be trained on customer service elements and trained to answer inquiries.

d. **Fee Waivers:** USCIS indicated that NSC will consider fee waivers for I-918-related applications (e.g. I-765s, I-192s, etc.) in the same way VSC currently does.

e. **Practice Pointer:** For more information on the USCIS U visa workshare, visit http://bit.ly/USCIS_UvisaUpdates. We are still concerned that CIS has not sought outside training for the adjudicators in the U visa workshare at NSC. ASISTA & the AILA VAWA/U committee will be closely monitoring the U visa workshare and will continue identifying the myriad problems caused by U visa backlogs, as well as ongoing adjudication issues at VSC. We are particularly interested to hear about problems you are seeing at NSC, and any apparent discrepancies in the way the two centers are evaluating cases (both good and bad). Please submit your problematic RFE or Denial to the ASISTA/ AILA VAWA U and T visa Committee Collection tool at: https://liaison.formstack.com/forms/vawa_rfe_denial.

C. U Adjudication Issues

1. Re-adjudication from Waitlist to U Issuance

Question: Why are issues that were dealt with at the waitlist stage being revisited at the removal from wait-list stage, such as RFEs on the authority of the U certifier and RFEs on discretion for an I-192 (when no new inadmissibility grounds or criminal issues have arisen since application was waitlisted)?

Answer: If there are any after-acquired offenses or violations, they need to be re-visited when the case is removed from the waitlist for U nonimmigrant status adjudication. VSC stated that about 50% of the RFEs it issues at this stage are for after-acquired offenses or violations. The remaining half are for issues that may have been overlooked or may not have been fully addressed when the person was placed on the waitlist. For example, any applicant who has certain arrests or convictions in her past must go through supervisory review before being approved for U nonimmigrant status. When asked what arrests or convictions require supervisory review before approval of U nonimmigrant status, VSC responded that supervisory review is required before a grant if the applicant has been arrested OR convicted for drug trafficking, gang-related activity, and/or violent crimes, including aggravated assault, domestic violence related offenses (although these will be examined to see if the applicant was actually the victim), and child abuse or neglect offenses. This required supervisory review happens at the time the person is taken off the waitlist for U nonimmigrant status adjudication; if the supervisor has any additional questions, they will be asked at that stage.

2. RFE or NOID after Approval:

USCIS noted that sometimes new information comes forward after the initial adjudication that was not previously available in the USCIS file or provided with the petition; this presents a problem, which is raised subsequent to the approval. Because of various reasons, USCIS may review a case and determine that the case was approved in error. This subsequent evaluation is done under the same standards as when adjudicating the case originally and mostly occurs due to new information. Sometimes, the altered decision is due to a mistake by the initial adjudicator. If the case should not have been approved, a notice of intent to revoke (NOIR) will be issued to put the petitioner on notice that USCIS intends to revoke the approved application. VSC affirmed that, even if they send out an RFE or NOIR, the EAD will not be revoked unless the application is ultimately denied.

a. **Practice Pointer:** Some problems identified post-waitlist grant might be avoided by ensuring, before you apply, that you have vetted your client's full immigration history including determining (a) what, if anything, happened at the border, and (b) whether the client applied for any previous immigration benefit. VSC may not catch these problems at the waitlist stage if you haven't highlighted and addressed them, but they may be material to a client's eligibility for a U. The best practice is to obtain FBI and/or local DOJ and/or FOIA results for every client, especially if there was ever

contact with law enforcement or DHS. Some clients may not understand your questions on these issues, or know what happened at the border or with other applications (especially if filed by abusers), so double-checking on criminal and/or immigration history helps avoid later issues with VSC. See advice regarding responding to RFEs above.

3. **Police reports not included in the record of conviction:** VSC believes that police reports are necessary in certain circumstances to find out "what happened," even if no charges were brought, the charges were later dismissed, or the charges were pled down.

   a. **Practice Pointer:** It is well-established law that insisting on evidence outside the record of conviction is illegal for purposes of determining whether a conviction has taken place, which in turn means it is illegal for VSC to use it to determine whether a ground of inadmissibility applies. ASISTA and advocates believe that the same reasons the courts have found this, i.e., the unreliability of such evidence and the fundamental violation of due process its consideration entails, should preclude VSC from insisting on such information for purposes of exercising discretion. Since the regulations prohibit review of VSC's discretion in the waiver context, there is no way to challenge this except through the federal courts (and fixing the regulations, a request we have repeatedly made since CIS issued them). If you would like to help organize a challenge to this practice through litigation, please contact Gail Pendleton at ASISTA through questions@asistahelp.org

D. Inadmissibility Issues

1. **After Acquired Grounds of Inadmissibility After U Grant:** If U applicants are convicted of a crime that triggers a ground of inadmissibility after being granted U nonimmigrant status but before adjusting status, VSC confirmed that they do not want a new I-192 after the applicant is already in U nonimmigrant status - unless the person travels. If the person travels, she will need an approved I-192 waiver of the new ground of inadmissibility (as well as any new grounds triggered upon departure) in order to return. If the person will not travel, simply note the discrepancy clearly in your cover letter and application to adjust status and include any/all evidence to support a discretionary approval of the adjustment of status.

   a. **Practice Pointer:** Note that this advice applies only to after-acquired inadmissibility for those who are granted U status. Those who received a U visa without revealing all inadmissibility grounds and having them waived may face a revocation of their visa if they do not timely notify CIS (timely as in when you find out about it, assuming this is an inherited case).

2. **Resolved criminal issues**

   Question: Can stakeholders notify USCIS of resolved criminal issues for applicants?

   Answer: Yes, the attorney can do so by notifying the VAWA Unit by submitting additional evidence. Please provide the applicant's name, A#, and the Receipt number on the correspondence, so that the evidence may be matched with the A file.

   a. **Practice Pointer:** Place a copy of the receipt on top, highlighting A#/EAC#, so that it gets flagged/reunited with the file like an RFE. You can track your filing by the mailing label.

E. Law Enforcement Certifications

There are many law enforcement agencies that provide blanket denials to U visa certification requests without any reasoning to support them. How can stakeholders support the connection between USCIS and law enforcement if there are questions about certification?

What USCIS said previously and what they continue to say is that USCIS cannot influence Law Enforcement Agencies (LEAs) to complete or sign these forms. USCIS can point them to the DHS Law Enforcement Certification Guide.[6] On the USCIS website, they have roll call videos specifically created for LEAs regarding T visas**;** they host a webinar that occurs every other month for LEAs**;** and LEAs can use a phone number provided for contact with OPS.[7] LEAs can personally request information or a training from USCIS. To request training for LEA or a stakeholder engagement event, send email to T_U_VAWAtraining@uscis.gov. They are able to travel when they can. If you have information about an area where engagement would be helpful or important, email them.

1. **Practice Pointer:** Many states have been trying to address the issue of law enforcement certification at the state level, most notably the California law SB 674 which requires that law enforcement agencies issue a decision on U visa certifications within a 90-day time frame (14 days if the applicant is in removal proceedings) and creates a rebuttable presumption of helpfulness if there is no evidence the victim refused or did not provide information and help reasonably requested by law enforcement.[8] If you are looking to address the issue of law enforcement certification through state or local legislation, please contact ASISTA at questions@asistahelp.org and Alison Kamhi at ILRC at akamhi@ilrc.org so we can connect you to these advocacy efforts.

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[6] Click the updated version of the DHS Law Enforcement Certification Guide is available here: http://bit.ly/DHSCertificationGuide12016

[7] For information that is available from USCIS for Law Enforcement, including roll call videos, click here: http://bit.ly/USCISToolsforLEAs

[8] For more information on SB 674 in California, IRLC has useful factsheets and infographics, available here: https://www.ilrc.org/new-california-law-ensures-all-immigrant-crime-victims-california-can-access-u-visa

2. **Practice Pointer:** ASISTA and the AILA VAWA, U and T Committee have previously collected resources including law enforcement certification memoranda and policies from several jurisdictions nationwide, this guide is available here: http://bit.ly/I-918BCertificationResources. If you have additional materials to add to this document, please contact ASISTA at questions@asistahelp.org

F. Intersections with DACA

1. **Renewal of DACA while U visa is pending:** Applicants should be able to renew their DACA if their U visa application is pending. However, if applicants are placed on the U visa waitlist and receive deferred action they will not be able to renew their DACA.

   a. **Practice Pointer:** Given that the future of the DACA program is very much at risk after the presidential election, ILRC has compiled comprehensive post-election talking points about DACA, available here: https://www.ilrc.org/sites/default/files/resources/post-election_talking_points.pdf

   b. Practice Pointer: If your DACA renewals are taking longer than normal because applicants have a pending U visa application, contact the VSC Hotline and let ASISTA know through questions@asistahelp.org.

G. Workplace U visa Cases: VSC announced that they have new training in place related to workplace U visa crimes which has been cleared through all USCIS Headquarters components. This training has been incorporated into the training for NSC as well. There are 200 workplace based U visa cases and there is a team of 7 officers focusing on this work (including cases where EEOC and the Department of Labor are certifying agencies). USCIS Office of Policy and Strategy are working on additional guidance related to substantial harm.

   a. **Practice Pointer:** We believe the training materials include those suggested by ASISTA and the National Employment Law Project when we raised with DHS Headquarters the problems with workplace U adjudications at VSC. You can see those materials available on ASISTA's website at www.asistahelp.org or the NELP guide, "U Visas for Victims of Crime in the Workplace: A Practice Manual" available here: http://www.nelp.org/content/uploads/2015/03/U-Visas-for-Victims-of-Workplace-Crime-Practice-Manual-NELP.pdf

H. Applicants in Detention and Removal

1. **Expedited Processing:** For detained applicants to have a U visa case expedited by USCIS, ICE needs to contact VSC and **request a prima facie decision.**[9] VSC has a dedicated email inbox for this specific purpose, which can help streamline those inquiries. However, USCIS said there are times when both offices need the A# file which can cause delays in adjudication because the file is needed by both USCIS and ICE. While VSC generally makes prima facie decisions **when asked by ICE, r**equesting expedited processing, even if the applicant meets the basic grounds, does **not necessarily** mean **VSC** will approve **it.** Most U visa petitions meet the humanitarian criteria for being expedited, so the request **should** be based on urgent or extreme circumstances. How long the expedited request takes depends on availability of the A# file, and so USCIS is not able to establish processing time at this time.

    a. **Practice Pointer:** The prima facie decision is crucial to cases in detention and/or proceedings, so practitioners must work with ICE to ensure that happens. If ICE refuses, contact ASISTA through questions@asistahelp.org, since that would be a violation of ICE's own guidance. Prima facie approvals should then trigger application of ICE's prosecutorial discretion concerning victims,[10] although we have not always seen ICE adhere to this memorandum. The White House and DHS HQ need to see the cases illustrating ICE's reluctance to implement the memoranda designed for victims of crimes; please contact ASISTA as noted above to contribute to this advocacy effort.

I. Extension of Status I-539

Question: The I-539 is getting denied now if it is not filed closer to the expiration date - is this a change in practice?

Answer: A contractor reviews these. VSC stated that there is no conscious change in practice so VSC is looking into whether the contractor will continue to reject early filings. VSC's preference is that we wait until 90 days before expiration.

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[9] See ICE memoranda on the prima facie request process at ICE Memorandum. "Adjudicating Stay Requests Filed by U nonimmigrant status Applicants." (September 24, 2009), available here: https://www.ice.gov/doclib/foia/dro_policy_memos/11005_1-hd-stay_requests_filed_by_u_visa_applicants.pdf Also, the ICE Memoranda for OPLA Attorneys, "ICE Guidance on U Nonimmigrant Status Applicants in Removal Proceedings or with Final Orders of Deportation and Removal. (September 25, 2009), available here: https://www.ice.gov/doclib/foia/dro_policy_memos/vincent_memo.pdf

[10] See ICE Memoranda "Prosecutorial Discretion: Certain Victim Witnesses and Plaintiffs" (June 17, 2011), Available here: http://bit.ly/ICEVictimWitnessMemo2011

J. U Visa Adjustment of Status (I-485) and Applications for Qualifying Family Members (I-929)

1. **Extension of Status Notices:** After receiving the adjustment application, VSC will issue a notice of automatic extension of status. They only issue those notices once per month. If the applicant did not receive this notice, contact the Hotline after 1.5-2 months after filing. That said, the case is automatically extended upon receipt (with proof of the I-485 receipt) and the extension notice is not necessary for USCIS purposes. *See* INA 214(p)(6). They understand, though, that some applicants may need the extension notice for public benefits purposes. If that's not the case, the applicant does not need to request the form if it was mistakenly not issued.

2. **Continuous Presence:** Regulations at 8 CFR 245.24(a)(1) state that continuous physical presence is the period of time that the U holder has been physically present in the United States. It must be a continuous period of at least 3 years since the date of admission as a U nonimmigrant continuing through the date of the conclusion of adjudication of the application for adjustment of status. The applicant must have at least 3 years at the time of filing the I-485 and maintain continuous physical presence through the adjudication.

3. **Expedite Processing of Supplement As if Principal is Adjustment Ready:** VSC is no longer prioritizing I-918A derivative applications for families where the principal already has U visa status. However, if the U principal visa holder is applying to adjust status, you may request an expedited processing of the pending I-918A, since the U principal should not adjust before the I-918A is adjudicated (and if abroad, until the derivative consular processes into the U.S. in U status) or else the derivative will lose the ability to obtain U visa status if the U-1 principal has already adjusted.

    a. **Practice Pointer:** This is especially important in cases where the derivative is now over 21 and so will not be able to enter the U.S. through the I-929 Qualified Family Member process at the time of adjustment.

4. **Age-Out Issues for I-929 Derivatives:** The issue of age out for I-929 derivatives is due to the existing statutory language and would require a legislative fix. But USCIS is aware of the issue and if you have a case where someone may age out, VSC will make an effort to adjudicate application prior to the derivative turning 21.

    a. **Practice Pointer:** Make it clear in the subject line in your email to the Hotline that you have an I-929 age out issue and request that VSC expedite the case (e.g. Subject Line: I-929 Age-Out, Expedited Processing Requested").

V. VAWA

A. Work Authorization:

USCIS has updated the Form I-360 to now inquire whether the VAWA self-petitioner is in the United States and is requesting employment authorization (see question 12 on page 14 of the I-360 form). If principal applicants check "yes" to that question on page 14 of the I-360 about whether they want employment authorization then they will receive an EAD incident to approval of the self-petition based upon (c)(31) eligibility *without* having to file a separate I-765.

If principal applicants wish to have a deferred action-based EAD upon approval of their self-petition, then they will have to file a separate I-765 requesting employment authorization under (c)(14). For the moment, applicants may file these I-765s concurrently with the I-360. In this case you should check "NO" on page 14 of the I-360 and write in **"See attached I-765 based on (c)(14) eligibility."**

Of course, if your client is eligible for (c)(9) work authorization and you are submitting an I-765 based on the pending adjustment, then applicants will probably check no on page 14 of the I-360 and write **"See attached I-765 based on (c)(9) eligibility"**

For Derivatives: VAWA derivatives applicants will still need to file a separate I-765 for work authorization based on (c)(14)/deferred action eligibility

1. **Practice Pointer:** VSC also recommended that in VAWA one-step applications, stakeholders should submit two G-28 Notice of Appearance: one for the I-360 and the other for the I-485 petition.

B. Prima Facie Determinations: Generally, VSC seeks to issue a Prima Facie Determination Notice within 60 days of the date of filing. If stakeholders do not receive one in that time period, then request supervisory review.

C. Processing of VAWA Adjustments

1. Role of District Offices in VAWA Adjustments:

Question: What is the rationale for having VAWA adjustments adjudicated through the District Offices? Given that there are several instances in which adjustments are granted without an interview, would it be possible for VAWA I-485s to be adjudicated at VSC in the same way?

Answer: The I-485 form is processed at the National Benefits Center (NBC) to prepare the case for transfer to the District Offices. NBC does name checks, fingerprint checks, and issues RFEs for missing documents if needed. Generally, clean cases will have an average processing time of 35 days. There can be delays due to RFEs requested, biometrics needing

to be rescheduled, FBI name check, etc. VAWA adjustment interviews will continue to be at the District Offices.

2. When to file I-824 for Derivatives Abroad:

Question: Can you file the I-824 for beneficiaries abroad concurrently with the I-485 packet for a VAWA self-petitioner?

Answer: Yes, the I-824 may be filed concurrently with the VAWA adjustment packet. If you are doing so, leave the approval and receipt date blank on the I-824 form, and it will be filled in once the I-485 is approved. Once the I-485 is approved, VSC will send the I-824 to NVC for processing. At that point, the case is outside their jurisdiction, so if there is a delay, then stakeholders would need to follow up with NVC

D. Filing a VAWA self-petition after "one-step" has been filed

Question: It has been reported that some field offices want to see a police report or protection order to "demonstrate a VAWA claim" when asking for the I-485 to be held in abeyance until the VAWA case is filed with VSC. Providing this documentation should not be a prerequisite to having the application being held in abeyance, especially since the "systems" evidence these offices seem to be requiring is not required for a self-petition (which has the "any credible evidence" evidentiary standard). What interaction does VSC have with Field Operations to ensure that VAWA Confidentiality provisions apply uniformly?

Answer: Applicants for adjustment of status may inform USCIS of their intention to file a VAWA self-petition and request that the adjustment application be held in abeyance as matter of discretion. Upon approval of the self-petition, applicants may request conversion of an I-130-based adjustment application to a VAWA-based adjustment application. These requests to hold in abeyance need not include specific evidence of the abuse such as hospital record or police report. Applicants should provide evidence of filing the VAWA self-petition within 30 days of the conversion request. USCIS will then hold the pending I-130 based adjustment application in abeyance until decision is issued on VAWA self-petition. If they don't receive information within 30 days, then USCIS can make a decision about underlying adjustment application.

1. **Practice Pointer:** ASISTA has a sample abeyance letter available here: http://bit.ly/ASISTAAbeyanceSample. These letters are an important step to put the District Office on notice of the applicant's intent to file a VAWA self-petition and also

invokes important 8 USC 1367 confidentiality protections to safeguard the privacy of the victim.

E. Prior Removal Orders

1. VAWA self-petitioners with prior removal orders

VAWA self-petitions can be adjudicated for those applicants with prior removal orders from an Immigration Court; however, USCIS does not have adjustment jurisdictions for applicants with removal orders. In those cases, immigration court proceedings should be terminated before adjusting with USCIS. Then, approved VAWA self-petitioners may seek adjustment of status if otherwise eligible. If the VAWA applicant has a reinstated order of removal, then they are ineligible for adjustment under INA 245(a)(5).

2. VAWA self-petitioners with a Reinstated Order of Removal.

If someone re-enters the United States illegally after having an order of removal or voluntary departure, then they may be subject to reinstatement of removal pursuant to 8 CFR 1241.8. However, there is a distinction to be made if a case is merely "reinstateable" or whether one has actually had a reinstated order of removal issued by ICE. In those cases where ICE has officially reinstated an order of removal for an applicant with a VAWA case pending, stakeholders may reach out to the USCIS Office of Policy and Strategy prior to case adjudication.[11] On a case-by-case basis, the Office of Policy and Strategy may confer with ICE on this issue to see whether ICE may consider rescinding reinstated order so they can proceed with adjudication of the case regarding underlying merits. Whether or not to rescind the reinstated order is ICE's decision.

VI. I-751 Domestic Violence-based Waivers

A. Training of CSC Officers

Question: What training is done for California Service Center (CSC) adjudicators of domestic violence based I-751 applications? Is there a specialized unit working on these cases in the same way as is done at the Vermont Service Center? What recourse do advocates have if they are receiving problematic RFEs or other issues from the CSC?

Answer: CSC provides special training to adjudicators before they're eligible to adjudicate domestic violence based I-751 waivers (6.5 hours of training). There is no special unit that adjudicate I-751 domestic violence based I-751 cases at CSC or VSC. All officers are proficient these cases. The CSC RFE templates have been vetted through the Office of Chief Counsel and stakeholders can make an inquiry through customer service if there is a problem with an RFE.

[11] For information how to contact Office of Policy and Strategy, contact ASISTA at questions@asistahelp.org

1. **Practice Pointer**: Please keep ASISTA and the AILA VAWA U and T Committee posted regarding ongoing problems with CSC adjudication of domestic violence based I-751 waivers. We have raised this with USCIS headquarters in the past and they continue to want to hear about the problems which tend to be lack of understanding of domestic violence and misapplying the any credible evidence standard. To contact ASISTA on this issue, please contact us at questions@asistahelp.org.

B. New Customer Service Line for Domestic Violence based I-751s at VSC

For domestic violence-based I-751 applications filed with the VSC, stakeholders may use a designated Hotline Email address: HotlinefollowupI751ef.vsc@uscis.dhs.gov.

VII. T visas

A. Processing Times

Processing times for T visa cases can be affected by several factors. Adjudicators must wait until the case is "adjudicative ready" and it cannot be adjudicated until the checks are complete (e.g. waiting on the A file, DOB or FBI checks, fingerprints can sometimes take 8 or 9 months to get a response back. If stakeholders have cases pending more than six months, check in with VSC through the Hotline.

B. Similarly Situated Victims

Question: We are increasingly seeing similarly situated victims from the same case yielding different results. In other words, one is granted a T visa and the other is denied. In response, the agency typically only says that it considers each case individually, with little additional explanation beyond that. This is causing victims anguish, years of delay and legal fees. Why is USCIS taking inconsistent positions on victims from the same case with similar fact-patterns?

Answer: Each applicant must establish their eligibility by preponderance of evidence. Even if multiple applicants are similarly situated, the individual will have their own unique filing and those differences can result in different decisions. VSC emphasized that it is helpful to have supporting letters as evidence of the requirements, and arguments in the cover letter to walk the adjudicator though why the requirements are met and are supported by substantial evidence.

1. **Practice Pointer:** Please let ASISTA know if you are getting inconsistent results in these group cases, as it may have something to do with the adjudicator and not the facts of this case. Please contact ASISTA at questions@asistahelp.org.

2. **Practice Pointer**: Given the U visa backlog, VSC officers encourage advocates to file T visa applications instead of U visa applications where possible, especially in many DOL/EEOC cases.

C. Establishing Requirements:

VSC staff mentioned that T visa letters are getting very brief and not getting into specifics or providing documentation that speak to the elements of the crime. If an applicant is not submitting a T visa certification form, you may need a more detailed statement and/or cover letter illustrating why the applicant cannot get certain documentation and submit other evidence (supporting letters, etc.) that establish the eligibility.