

ALLIANCE FOR IMMIGRANT SURVIVORS

December 3, 2024

Ur M. Jaddou, Director
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue, NW
Washington, D.C. 20529

Re: VAWA Self-Petitioner Interviews at USCIS Field Offices

Dear Director Jaddou:

The undersigned organizations working closely with immigrant survivors of domestic violence write to you regarding the recent stakeholder meeting announcing the commencement of interviews at USCIS Field Offices of VAWA Self-Petitioners about the contents of their I-360 Petitions. With this letter, we share our concerns about this change in practice and offer recommendations that would both enhance the integrity of the VAWA program and protect immigrant survivors of domestic violence.

On November 12, 2024, representatives of USCIS convened a small number of stakeholders including members of several of the undersigned organizations to announce that beginning in December 2024, USCIS Field Offices would conduct interviews of selected VAWA Self-Petitioners who filed both an I-360 Petition and I-485 Application, pursuant to its authority under 8 CFR 103.2(b)(9). According to the announcement, these interviews would be conducted as part of a pilot program to enhance the agency's ability to make accurate and efficient eligibility assessments, improve the overall adjudication process, and assess the incidence of fraud in I-360 Petitions. USCIS representatives explained that this change was prompted by recent high profile prosecutions of fraudulent marriage-based immigration schemes and news reports of fraud in the VAWA program.

The commencement of in-person interviews of VAWA Self-Petitioners on the contents of their I-360 Petitions at local Field Offices represents a significant and drastic shift from the decades-long practice of adjudicating these filings by USCIS Service Center personnel with specialized training and guidance in the evaluation of battery and extreme cruelty. USCIS Field Office personnel are not equipped to apply the specialized evidentiary standard, confidentiality protections, and understanding of domestic violence dynamics required to implement VAWA such that these interviews may cause harm to immigrant survivors with meritorious cases.

When Congress created VAWA immigration provisions thirty years ago, it directed that the "Attorney General shall consider any credible evidence relevant to the [VAWA] petition." Violence Against Women Act of 1994 ("VAWA 1994"), Pub. L. No. 103-322, §§ 40701(a), 108

Stat. 1796, 1954 (1994) (codified at INA section 204(a)(1)(H)). “Congress adopted [the credible evidence standard] for the specific purpose of putting a stop to immigration officials’ practice of employing overly strict evidentiary rules when determining the credibility of battered women” *Oropeza-Wong v. Gonzales*, 406 F.3d 1135, 1143 (9th Cir. 2005), due to its recognition that “lay understandings of domestic violence are frequently comprised of ‘myths, misconceptions, and victim blaming attitudes’” *Hernandez v. Ashcroft*, 345 F.3d 824, 836 (9th Cir. 2003), citing H.R. Conf. Rep. No. 103-395, at 24 (1993).

To best effectuate the goals of the VAWA program, USCIS has long recognized that “specialized training including victimization awareness, domestic violence, special confidentiality protections, vicarious trauma, and statutory and regulatory eligibility requirements” is necessary.¹ In a 2010 report to Congress, USCIS noted that “[m]embers of the VAWA Unit undergo rigorous initial training, and the training regimen is significantly more thorough and of greater duration than in other product lines at VSC. Initial training is followed by a lengthy period of mentorship of newer officers by more senior adjudicators.”² Currently, VAWA adjudicators at the HART Service Center are included in this training cohort, but to the best of our knowledge, USCIS Field Office adjudicators typically do not receive specialized training in the dynamics of domestic violence and trauma-informed interviewing techniques.³

For these reasons, our organizations are deeply concerned about the impact of in-person interviews on the emotional and psychological well-being of VAWA Self-Petitioners and the quality of assessments conducted by adjudicators at the local Field Offices. The effect on VAWA Self-Petitioners with meritorious cases will be devastating and retraumatizing, and will likely cause a chilling effect preventing eligible survivors of abuse from coming forward. **The undersigned organizations and practitioners, all of which have extensive experience working with immigrant survivors of domestic violence and sexual assault, representing VAWA Self-Petitioners, training practitioners, and developing best practice recommendations, oppose this change to the VAWA Program as an unnecessary diversion of resources that is likely to result in severely detrimental effects on noncitizen survivors of abuse and extreme cruelty.**

If you are unable to adopt our mainline recommendation to abandon this dramatic change, then in the interest of maintaining the integrity of the VAWA program and reducing additional burdens on VAWA Self-Petitioners, we respectfully make the following recommendations to ensure that noncitizen survivors of abuse and extreme cruelty are treated with dignity and sensitivity regarding their experiences.

¹ CIS Ombudsman and USCIS, *Joint Webinar on the HART 1 year anniversary*, p. 12 (April 30, 2024), available at https://www.dhs.gov/sites/default/files/2024-06/24_0430-cisomb_hart_webinar-presentation.pdf.

² USCIS, *Report on the Operations of the Violence Against Women Act Unit at the USCIS Vermont Service Center*, p. ii (October 22, 2010), available at <https://www.uscis.gov/sites/default/files/document/reports/vawa-vermont-service-center.pdf>.

³ In the asylum program, USCIS recognizes the need for officers assigned to conduct in-person asylum and credible fear interviews to undergo specialized training in trauma-informed techniques when interviewing survivors of torture and other severe trauma. See Refugee, Asylum, and International Operations Directorate (RAIO), *Training Module: Interviewing Survivors of Torture and Severe Trauma* (December 20, 2019), available at https://www.uscis.gov/sites/default/files/document/foia/Interviewing_-_Survivors_of_Torture_LP_RAIO.pdf. Interviews involving traumatic subject matter are well beyond the purview and experience of most USCIS Field Office adjudicators, and there is not sufficient time before VAWA Self-Petition interviews are set to begin for USCIS to conduct similar training for them.

Recommendations

1) Ensure that USCIS Field Office personnel conducting I-360 VAWA Self-Petition interviews are properly trained:

- a) USCIS Field Office adjudicators who conduct joint I-360/I-485 interviews should be specially trained in VAWA Self-Petition evidentiary standards, trauma-informed interviewing techniques, the tactics and dynamics of domestic violence, and safety planning for Self-Petitioners whose abusive spouses show up at the interview, including in violation of protective orders.
- b) USCIS Field Office adjudicators who conduct joint I-360/I-485 interviews should also be specially trained in the confidentiality provisions of VAWA. In particular, officers should receive training about the treatment of adverse evidence that may have been provided or generated by an abusive spouse, child, or parent or their proxies.

2) Ensure the safety and dignity of VAWA Self-Petitioners during interviews:

- a) USCIS Field Officers conducting interviews of VAWA Self-Petitioners should conduct interviews in-person, not via a teleconference screen or telephone.
- b) Interview notices should be issued at least three weeks prior to the interview date, allowing adequate time for mail delivery and for the Self-Petitioner to obtain counsel if needed. Self-petitioners should also be permitted to request a change of interview location if the USCIS Field Office where the interview is scheduled is a great distance from their current residence.
- c) VAWA Self-Petition interviews should be conducted with maximum privacy in enclosed offices and not in open cubicles where the content of interviews can be overheard by others, including personnel and noncitizens appearing for interviews on other applications.
- d) In addition to lawyers and accredited representatives, victim or survivor advocates should also be permitted, with the consent of the Self-Petitioner, to accompany VAWA Self-Petitioners into interviews with USCIS Field Office adjudicators. Other reasonable safeguards and accommodations should also be considered upon request by the Self-Petitioner or their representative.
- e) If the self-petitioner becomes overwhelmed and must stop the interview, this should be without prejudice to the case and the USCIS Field Office personnel conducting the interview should offer the Self-Petitioner an opportunity to reschedule the interview or provide written responses to any outstanding questions.

- f) Children of noncitizen survivors attending VAWA Self-Petition interviews should be permitted to wait with a trusted adult outside of the interview room while their parent is being interviewed on the contents of their I-360 petition.

3) Ensure adherence to 1367 Confidentiality Protections:

- a) VAWA Self-Petition interviews conducted at USCIS Field Offices should adhere to the admonitions in 8 USC § 1367 regarding the confidentiality of matters and source of evidence relating to both the I-360 petition and I-485 petition, and the prohibition against relying on evidence provided by the abuser as set forth in 8 USC §1367.

4) Ensure that VAWA evidentiary standards are observed:

- a) USCIS Field Office adjudicators conducting VAWA Self-Petition interviews of noncitizen survivors should be instructed to adhere to the applicable preponderance-of-the-evidence standard and the statutory directive that any credible evidence may satisfy the requirements of the petition.

5) Ensure accountability for violations of VAWA protections and protocols:

- a) USCIS officers conducting interviews *solely on I-485 applications* for survivors with approved I-360s *must* be instructed not to question the applicant regarding the basis or evidence for the underlying I-360. If the officer believes there may be an indicator of fraud present, the officer must communicate their concerns to the HART Service Center for consideration.⁴
- b) USCIS should establish a mechanism for VAWA Self-Petitioners to share complaints and feedback about this change to the VAWA Program.
- c) USCIS should assign supervisors at USCIS Field Offices to monitor the application of trauma-informed interviewing, confidentiality protections, evidentiary standards, and interview accommodations. These supervisors should be available to address concerns raised by legal counsel during an I-360 interview when escalation is necessary. USCIS should also identify those supervisors and share their contact information for the purpose of local office field engagements, and so that Self-Petitioners and their representatives may communicate directly with the USCIS Field Office about scheduling and other matters connected to the interviews.
- d) Before denying an I-360 VAWA Self-Petition based on the results of notes or conclusions relayed by the USCIS Field Officer who conducted the interview, HART Service Center adjudicators should be instructed to first issue a Request for

⁴ Johnny N. Williams /s/ Thomas Schiltgen for Executive Associate Commissioner Office of Field Operations, USCIS, *Revocation of VAWA-Based Self-Petitions (I-360s)* (August 5, 2002), available at <https://niwaplibrary.wcl.american.edu/wp-content/uploads/Memo-Revocation-of-VAWA-Based-Self-Petitions-August-5-2002.pdf>.

Evidence or Notice of Intent to Deny explaining in as much detail as possible the specific issues the petitioner must address. This will provide the petitioner with a meaningful opportunity to respond, and also maximize efficiency for USCIS when completing adjudication.

- e) USCIS should report the outcomes of this pilot project to stakeholders and seek feedback from stakeholders before institutionalizing or expanding this effort.

Thank you for your attention to this critical matter, and for your work to support survivors and their families. We would welcome the opportunity to discuss these and other recommendations in greater detail. Should you have any questions or require additional information, please contact Cristina Velez at cristina@asistahelp.org.

Sincerely,

Alliance for Immigrant Survivors co-chairs:

Asian Pacific Institute on Gender-Based Violence (API-GBV)
ASISTA Immigration Assistance (ASISTA)
Esperanza United
Tahirih Justice Center

National and State/Local Organizations

Battered Women's Justice Project (BWJP)
California Partnership to End Domestic Violence
End Domestic Abuse Wisconsin
Immigration Center for Women and Children (ICWC)
Immigrant Legal Resource Center (ILRC)
Indiana Coalition Against Domestic Violence, Inc.
Iowa Coalition Against Domestic Violence
Jane Doe Inc (JDI), the Massachusetts Coalition Against Sexual Assault and Domestic Violence
Kansas Coalition Against Sexual and Domestic Violence
Maryland Network Against Domestic Violence
Michigan Coalition to End Domestic and Sexual Violence
National Immigrant Women's Advocacy Project, Inc. (NIWAP)
National Network to End Domestic Violence (NNEDV)
New Jersey Coalition to End Domestic Violence
New Mexico Coalition Against Domestic Violence
Northwest Immigrant Rights Project (NWIRP)
Ohio Domestic Violence Network (ODVN)
Rhode Island Coalition Against Domestic Violence
Sanctuary For Families
South Dakota Voices for Peace (SDVFP)
Urban Justice Center Domestic Violence Project (UJC DVP)
Utah Domestic Violence Coalition
Violence Free Colorado
WA State Coalition Against Domestic Violence

cc:

Avideh Moussavian, Chief, Office of Policy and Strategy, USCIS

Rená Cutlip-Mason, Chief, Humanitarian Division, Office of Policy and Strategy, USCIS

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**U.S. Citizenship
and Immigration
Services**

January 7, 2025

Cristina Velez
Legal & Policy Director
ASISTA Immigration Assistance
cristina@asistahelp.org

Dear Ms. Velez:

Thank you for your December 3, 2024 letter to U.S. Citizenship and Immigration Services (USCIS). We appreciate your thoughtful feedback and recommendations.

As stated in the November 12, 2024, stakeholder engagement announcing this initiative, the Department of Homeland Security (DHS) understands the importance of the self-petitioning provisions of the Violence Against Women Act (VAWA). The goal of this initiative is to ensure the VAWA program remains a viable and accessible option for eligible noncitizens. USCIS carefully considered options before deciding to use its regulatory authority to interview certain individuals with pending VAWA self-petitions. We deeply appreciate and respect the concerns you raised; however, we do not agree with your primary recommendation to terminate interviews for this population.

You also expressed concerns about the training and capabilities of USCIS field office personnel to conduct these specialized interviews. We agree certain trainings are required before USCIS personnel can adjudicate VAWA self-petitions. As you note, USCIS has a long history of successfully training Service Center staff in this manner. USCIS field office staff have received appropriate and commensurate training to conduct VAWA eligibility interviews under the applicable legal and policy standards. Officers also receive training to ensure a trauma-informed and victim-centered approach. Additionally, as discussed during the November 12, 2024 engagement, USCIS Service Center personnel will continue to make the final adjudicative decisions on the merits in these cases.

We thank you for the additional recommendations you provided and address them individually below:

1) Ensure that USCIS Field Office personnel conducting I-360 VAWA Self-Petition interviews are properly trained.

All Immigration Service Officers conducting interviews regarding eligibility for immigrant classification under VAWA have received and will continue to receive necessary adjudications training related to eligibility requirements, evidentiary standards, trauma-informed interviewing, the dynamics of domestic violence, and the 8 U.S.C. §1367 provisions.

2) Ensure the safety and dignity of VAWA Self-Petitioners during interviews.

The safety and dignity of VAWA self-petitioners is extremely important to USCIS. We carefully considered the concerns you raise. USCIS cannot commit to conduct all interviews in-person and will continue to use remote-to-office interviews to enable us to assign officers with the specialized training and experience required to conduct these interviews, regardless of geographic location, and to ensure that we are able to adjudicate these petitions in a timely manner.

We strive to provide a reasonable time for notice and will further consider the request to adopt a three-week notice period for this interview type.

We respect the sensitive information contained in the VAWA self-petition, and interviews are conducted in closed locations with appropriate privacy.

Officers have discretion to consider reasonable requests regarding who may be present during the interview and in the waiting room.

USCIS uses trauma-informed interview techniques, including acknowledgement that an individual may need time to respond to questions or take extra time to compose oneself, however, interviews must be completed, and interview questions cannot be responded to in writing. USCIS follows DHS Directive 002-03 Preventing and Addressing Gender-Based Violence Through a Victim-Centered Approach, available online at <https://www.uscis.gov/newsroom/stakeholder-messages/dhs-announces-new-resources-to-combat-gender-based-violence>.

3) Ensure adherence to 1367 confidentiality protections.

USCIS is bound by law to adhere to the 8 U.S.C. §1367 provisions. Officers are trained and understand that the confidentiality and prohibited source provisions apply.

4) Ensure that VAWA evidentiary standards are observed.

USCIS adheres to all statutory requirements, including the “any credible evidence” provisions and preponderance of the evidence standard. USCIS has not made any changes to the applicable evidentiary standards.

5) Ensure accountability for violations of VAWA protections and protocols.

USCIS has not made any changes to procedures related to adjustment of status interviews based on an approved VAWA self-petition.

For information about how VAWA self-petitioners may share complaints and feedback about this initiative, please see USCIS Policy Manual, Volume 1, Part A, Chapter 9 – Feedback, Complaints, Misconduct, Discrimination, available online at <https://www.uscis.gov/policy-manual/volume-1-part-a-chapter-9>.

Generally, USCIS does not provide information on internal procedures such as how supervisors are assigned or provide contact information for personnel. The interview notice contains instructions on how to make scheduling requests.

Specific adjudicative actions are determined on a case-by-case basis dependent upon the unique facts and circumstances of each case. We will refer this suggestion to the Humanitarian, Adjustment, Removing Conditions and Travel Documents (HART) Service Center to consider as appropriate.

This initiative is not a pilot. This decision was made as part of an ongoing effort to ensure the effectiveness and integrity of humanitarian programs administered by USCIS. USCIS has long had the authority to require any individual filing a benefit request to appear for an interview under 8 C.F.R. § 103.2(b)(9), and the Form I-360 instructions repeatedly state USCIS may require a petitioner to appear for an interview in connection with the petition.

Thank you again for your letter and interest in this important issue and for the work you do to protect noncitizen victims of battery and extreme cruelty. Please share this response with the other organizations that cosigned your letter. Should you wish to discuss this matter further, please do not hesitate to contact the USCIS Public Engagement Division by email at public.engagement@uscis.dhs.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", with a long horizontal flourish extending to the right.

Ur M. Jaddou
Director