



Hearing of the House Judiciary Committee, Subcommittee on Immigration and Citizenship
July 16, 2019

“Policy Changes and Processing Delays at U.S. Citizenship and Immigration Services”

ASISTA is a national organization dedicated to safeguarding and advancing the rights of immigrant survivors of violence. For over 15 years, ASISTA has been a leader on policy advocacy to strengthen protections for immigrant survivors of domestic violence, sexual assault, human trafficking and other crimes. Our agency assists advocates and attorneys across the United States in their work on behalf of immigrant survivors, so that survivors may have greater access to protections they need to achieve safety and independence.

The Asian Pacific Institute on Gender-Based Violence is a national resource center on domestic violence, trafficking, and other forms of gender-based violence in Asian and Pacific Islander communities, including domestic violence dynamics in refugee zones. The institute serves national network of advocates and community-based service programs that work with Asian and Pacific Islander survivors, and is a leader in providing analysis on critical issues facing victims in the Asian and Pacific Islander community. The institute aims to strengthen advocacy, change systems, and prevent gender violence through community transformation.

We write in support of the House Judiciary Committee Subcommittee on Immigration and Citizenship’s present focus on U.S. Citizenship and Immigration Service (USCIS) processing delays. We urge particular attention to the impact of processing delays on immigrant survivors of crime and their families. At this moment, Congress has a unique opportunity to provide meaningful oversight to a broken immigration system and hold USCIS accountable for failing to protect survivors in a way that a bipartisan majority in Congress intended when it created critical protections for immigrant survivors, most notably in the Violence Against Women Act (VAWA) and the Trafficking Victims Protection Act (TVPA).

Abusive partners and perpetrators of crime often manipulate victims’ lack of immigration status or dependent immigration status as a way to maintain power and control and to keep victims silent. Recent changes in immigration enforcement priorities have sharpened the tools of abusers and resulted in increased risks of harm to survivors. Immigrant survivors around the country are afraid

to reach out for protection due to fears of deportation.¹ These fears are exacerbated by substantial delays in processing for humanitarian-based applications like VAWA self-petitions, U and T visas, which create increased instability and risk of danger for survivors.

Recognizing how the immigration system can be used to perpetuate abuse and exploitation, a bipartisan majority in Congress created VAWA self-petitions in 1994 to assist abused family members of U.S. citizens or lawful permanent residents so that they would not be forced to choose between living with abuse or facing deportation. When VAWA was reauthorized in 2000, in conjunction with the passage of the Trafficking Victims Protection Act (TVPA), Congress established, also in a bipartisan fashion, two additional remedies for immigrant survivors: the T visa to assist victims of human trafficking, and the U visa to assist noncitizen victims of certain eligible crimes (including domestic violence, sexual assault, and trafficking) who are willing to assist in the investigation or prosecution of those crimes. In creating these new remedies for immigrant victims, Congress recognized the importance of fostering cooperation between undocumented victims and law enforcement agencies or other agencies tasked with investigating crimes.²

The processing times for survivor-based forms of immigration protections like VAWA self-petitions and U and T visas have skyrocketed, undermining the effectiveness of these critical benefits. VAWA self-petitions now take between 18.5 and 24 months to be adjudicated.³ Current processing times for T visa applications are between 16 and 33.6 months⁴, an exponential increase from FY2015 when these applications took 6.4 months to adjudicate.⁵

¹ See “May 2019 Advocate Survey: Immigrant Survivors Fear Reporting Violence” Asian-Pacific Institute on Gender Based Violence, ASISTA Immigration Assistance, Casa de Esperanza: National Latin@ Network, National Alliance to End Sexual Violence, National Domestic Violence Hotline, National Network to End Domestic Violence, and Tahirih Justice Center available at <https://www.tahirih.org/pubs/may-2019-advocate-survey-immigrant-survivors-fear-reporting-violence/>; See also Rebecca Tan. “Amid immigration crackdown, undocumented abuse victims hesitate to come forward” Washington Post (June 30, 2019) available at https://www.washingtonpost.com/local/social-issues/amid-immigration-crackdown-undocumented-abuse-victims-hesitate-to-come-forward/2019/06/30/3cb2c816-9840-11e9-830a-21b9b36b64ad_story.html?utm_term=.f0302819c5d2

² Congress stated that the purpose of creating these provisions was to “strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault, trafficking [...] and other crimes [...] committed against aliens, while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States.” See also section 1513(a)(2)(A), Public Law No: 106-386, 114 Stat. 1464. Congress found that “providing battered immigrant women and children . . . with protection against deportation . . . frees them to cooperate with law enforcement and prosecutors in criminal cases brought against their abusers.” Pub. L. No. 106-386, § 1502(a)(2), 114 Stat. 1464 (2000) (emphasis added).

³ See USCIS Processing Times at <https://egov.uscis.gov/cris/processTimesDisplayInit.do> for processing times for I-360 VAWA self petitions adjudicated at the Vermont Service Center

⁴ *Id.* for processing times for I-914 Application for T Nonimmigrant Status processed at Vermont Service Center

⁵ USCIS. “Historic National Average Processing Times for All USCIS Offices”, available at <https://egov.uscis.gov/processing-times/historic-pt>

In the case of U visas, the delay is even more egregious, as there is over a 4-year backlog in the adjudication process. Current processing times for I-918 U visa applications indicate that adjudications can take between 50.5 and 51 months.⁶ This is the posted time for placing cases on the U visa waitlist, not the issuance of a full 4-year U visa. This is a shameful delay which compromises the safety and well-being of applicants and their families. Equally alarming is that the fact that this backlog continues to grow substantially since at least 2015.⁷

For years, advocates have raised their concerns about the growing processing times, and USCIS' efforts to address the backlog have been insufficient.⁸ Such long waits for the adjudication of their cases, coupled with other barriers (like a lack of access to work authorization or other financial supports) can be devastating to victims, and may possibly place them either facing homelessness or having to return to violent homes. Similarly, survivors who are facing these incredible backlogs risk potential deportation before their applications are adjudicated, which contravenes the purpose of these bipartisan protections established by Congress.

Congressional goals are also undermined by U and T visa processing delays as they negatively impact law enforcement's ability to investigate and prosecute criminal activity within their own communities. Tucson Police Chief Chris Magnus indicated that "his biggest concern about U visas is that the program's effectiveness would diminish as a result of the enormous backlog as witnesses or victims may get deported before getting through the program: 'If word gets out that this does nothing for you, then people won't be willing to come forward.'"⁹ Sgt. Inspector Antonio Flores in In San Francisco, California stated "the growing delays in issuing the U visas have frightened undocumented immigrant victims from coming forward and, in turn, thwarted charges against suspects."¹⁰ Staff at the Denver district attorney's office put it plainly, "If the delay is too long, it could limit the value of the tool."¹¹

⁶ See USCIS Processing Times at <https://egov.uscis.gov/cris/processTimesDisplayInit.do> for processing times for I-918 Petition for U Nonimmigrant Status adjudicated at the Vermont or Nebraska Service Centers

⁷ See Note 6 *supra*, specifically information posted for I-918: Petition for U Nonimmigrant Status, showing the posted processing times for U visa applications in FY2015 was 11.5 months ; See also Kate Linthicum. "Safety for immigrant victims put on hold by U-visa delay" Los Angeles Times (Feb. 1, 2015), available at <http://www.latimes.com/local/california/la-me-u-visa-20150202-story.html>.

⁸ Sign on letter to USCIS regarding U visa backlog with USCIS Response (2016) available at <https://asistahelp.org/wp-content/uploads/2019/07/2016-ASISTA-Sign-on-letter-on-U-processing-delays-and-respons-e-1.pdf>

⁹ Human Rights Watch. "Immigrant Crime Fighters: How the U visa Program Makes U.S. Communities Safer" (July 8, 2019) available at <https://www.hrw.org/report/2018/07/03/immigrant-crime-fighters/how-u-visa-program-makes-us-communities-safer>

¹⁰ Zolan Kanno-Youngs. "Trump's Immigration Crackdown Has Blunted Police Efforts to Be Tough on Crime" New York Times (May 14, 2019) available at <https://www.nytimes.com/2019/05/14/us/politics/trumps-immigration-visa-crime.html>

¹¹ See Human Rights Watch Report, Note 9 *supra*.

Conclusion

For these reasons, we strongly support the House Judiciary Committee's efforts to seek accountability from USCIS, and urge you to prioritize the need to protect immigrant survivors and their families who are impacted by these processing delays.

Respectfully submitted,

ASISTA

Asian Pacific Institute on Gender-Based Violence