



*Protecting Immigrant
Women and Girls
Fleeing Violence*

Statement of the Tahirih Justice Center:
**UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY
IMMIGRATION & CITIZENSHIP SUBCOMMITTEE**
Policy Changes and Processing Delays at U.S. Citizenship and Immigration Services
July 16, 2019

The Tahirih Justice Center (Tahirih) respectfully submits this statement to the United States House of Representatives Committee on the Judiciary, Immigration & Citizenship Subcommittee, as it considers the impact of unprecedented U.S. Citizenship & Immigration Services (USCIS) case processing delays on survivors of gender-based violence.

Tahirih is a national, nonpartisan advocacy and direct services organization that has assisted over 25,000 immigrant survivors of gender-based violence over the past 22 years. The women and girls we serve endure horrific abuses such as rape, domestic violence, forced marriage, and human trafficking and are in dire need of humanitarian relief. Tahirih is deeply concerned about the consequences that USCIS' severe backlogs are having for survivors and their children. **Rather than continuing to rely on fees to fund USCIS' adjudications, we urge Congress to appropriate sufficient funds to allow USCIS to substantially reduce case processing times for the benefit of all stakeholders.**

Battered Spouse "VAWA" Self-Petitions, U visas, and T visas

The "battered spouse" self-petition, the U visa, and the T visa are immigration remedies created by the Violence Against Women Act (VAWA) and the Trafficking Victims Protection Act (TVPA) to protect survivors of violence. These forms of relief are specifically intended to prevent violent abusers and traffickers from using the immigration system as a tool of abuse. It is well-known that without these protections, abusers are emboldened and rewarded - with traumatized survivors at their mercy. Abusers and traffickers routinely hold survivors' immigration, financial, and identity documents hostage, threatening to have them deported if they try to escape or call the police. For many survivors, deportation results in loss of custody of US citizen children, putting children in even greater danger. U and T visas also enhance public safety within our communities by shielding survivors from deportation if they cooperate with law enforcement to help get dangerous criminals off the streets. Congress' intent to protect survivors and promote public safety through the bipartisan legislation that created these forms of relief, however, is routinely and unnecessarily thwarted as a result of USCIS' excessive processing delays.

In 2015, a survivor of human trafficking petitioning for a T visa waited 6.4 months for work authorization and adjudication, while today, the wait is 16 – 33.5 months. For battered spouse self-petitioners, the wait was 4.7 months; today it is 18.5 - 24. A U visa petitioner could expect to wait 11.5 months for adjudication in 2015 but now, the wait is 50.5 - 1 months.ⁱ

Work authorization for a survivor is a life line – it can literally mean the difference between life or death. It is no surprise, least of all to abusers, that close to 100% of survivors report

ATLANTA

230 Peachtree Street NW
Atlanta, GA 30303
Tel: 470-481-4700
Fax: 470-481-7400
Atlanta@tahirih.org

BALTIMORE

211 E. Lombard Street
Suite 307
Baltimore, MD 21202
Tel: 410-999-1900
Fax: 410-630-7539
Baltimore@tahirih.org

GREATER DC | NATIONAL

6402 Arlington Boulevard
Suite 300
Tel: 571-282-6161
Fax: 571-282-6162
TTY: 711
Falls Church, VA 22042
GreaterDC@tahirih.org
Justice@tahirih.org

HOUSTON

1717 St. James Place
Suite 450
Houston, TX 77056
Tel: 713-496-0100
Fax: 713-481-1793
Houston@tahirih.org

SAN FRANCISCO BAY AREA

881 Sneath Lane
Suite 115
San Bruno, CA 94066
Tel: 650-270-2100
Fax: 650-466-0006
SFBayArea@tahirih.org

tahirih.org

suffering financial abuse,ⁱⁱ and 75% of women report staying in abusive relationships due to economic barriers.ⁱⁱⁱ Abusers use threats to keep victims dependent on them in order to deter them from escaping. To survive, many resort to low wage work under poor or even abusive conditions while waiting for USCIS to issue work authorization, jeopardizing their immigration cases in the process. Exorbitant USCIS processing delays are inadvertently rewarding perpetrators; the longer the wait for relief, the longer perpetrators can exploit victims with impunity while they suffer in silence.

Lengthy USCIS processing delays reward abusers in other ways. An abuser can easily manipulate the child custody process in his favor while a child's mother waits years to secure lawful status. Tahirih client Sarah* filed a battered spouse self-petition and has been awaiting adjudication for over a year. In the meantime, she cannot see her son or pursue custody because her abuser has threatened violence and deportation if she does. Rachel* has been waiting for adjudication of her U visa petition for over 4 years. During this time, while her divorce was pending, Rachel's abuser gained lawful permanent residence. He reopened child custody proceedings and won custody back from Rachel precisely because she lacks immigration status.

Also troubling is that survivors are now vulnerable to deportation by Immigration & Customs Enforcement (ICE) while they await adjudication of their petitions. Previously, ICE exercised its discretion to avoid deporting survivors while waiting to secure relief, and instead direct its resources toward prosecution of bad actors. As a survivor of human trafficking and rape, Anna* became pregnant and gave birth to her child in the U.S. She petitioned USCIS for a T visa over a year ago, after seeking help from the police and testifying against her trafficker in court. The longer Anna waits in limbo for her T visa, the greater the danger of deportation she faces to the country where her trafficker now resides. She is terrified that he will retaliate against her if she is forced to return.

Furthermore, if a survivor is deported while waiting for her U or T visa, she is no longer readily available to assist police. ICE's new policy coupled with USCIS' backlogs not only diverts critical resources away from higher priority enforcement targets such as public safety or national security threats; it undermines Congressional intent to enhance law enforcement effectiveness through the U and T visas.

Finally, ICE's new policy together with the USCIS backlogs and recent immigration court policy changes are all leading to inefficiencies, waste of government resources, and re-traumatization of survivors. Diane* is a derivative on her mother's U visa petition, and her mother finally received her work authorization 4 years after filing. Diane is in proceedings and her attorney has already requested 6 continuances over the last 3 years and will need at least 2 more before her mother's U visa petition is granted. Instead of having her proceedings administratively closed while she waits, Diane's daughter prepares for court hearings and potential deportation several times per year with no end in sight in case the judge denies her next motion for continuance.

Asylum Applications

In January 2018, USCIS announced implementation of the "Last In First Out" (LIFO) policy to address the growing "crisis-level" asylum backlog which had increased by over 1750% over the previous 5 years.^{iv} For those who filed for asylum prior to LIFO, it is now nearly impossible to estimate when their applications will be considered. The uncertainty is traumatizing, and even relatively short delays can have tragic consequences for asylum seekers. Children are highly vulnerable to retaliation from persecutors and can easily be used as bargaining chips by abusers and traffickers. Sarah* from Nigeria fled severe domestic violence and applied for asylum in the U.S. prior to LIFO. Her application has been stalled in the backlog for several years. In the meantime, her 14-year-old daughter was brutally attacked on her way home from school last fall and died the next day of her injuries. Sarah's husband had been threatening her children for months,

so she strongly suspects he was involved. Sarah's son is in hiding, so she is requesting an expedited asylum interview for herself and humanitarian parole for him.

Indefinite delays in asylum cases can prevent survivors from being able to testify effectively about traumatic events no longer fresh in their mind. Delays exacerbate the devastating effects of trauma itself and prolong the healing process particularly for those suffering from Post-Traumatic-Stress-Disorder. Healing is necessary for survivors to fully reintegrate into society. Forcing survivors to remain in a state of instability harms not only themselves, but also communities that cannot benefit from their contributions.

Freedom of Information Act (FOIA) Requests

Excessive delays within the FOIA request process are also harming survivors and jeopardizing their cases. Attorneys filing requests for copies of client records are not receiving them in a timely manner. It is very difficult to file complete and accurate visa petitions and applications for relief without copies of client records. Still, attorneys must file within deadlines even if USCIS has not yet responded to a FOIA request within the timeline required.

Certain applicants and petitioners may request expedited adjudication from USCIS in limited circumstances. However, for the vast majority of survivors, the prolonged paralyzing uncertainty caused by USCIS processing delays is compounded by the violence they have fled. Persistent trauma leads to chronic health problems that taxpayers ultimately pay for, while survivors cannot move forward with healing, regaining self-sufficiency, and reintegration back into their communities. **It is imperative that Congress allocate resources to enable USCIS to reduce case processing times, so that survivors and their children have meaningful access to the protections Congress designed specifically for them.**

Respectfully,



Irena Sullivan
Senior Immigration Policy Counsel

ⁱ See <https://egov.uscis.gov/processing-times/historic-pt>; <https://egov.uscis.gov/processing-times/>

ⁱⁱ See, e.g., Postmus, J. L., Plummer, S. B., McMahon, S., Murshid, N. S., & and Mi Sung Kim, M. S. (2012). Understanding economic abuse in the lives of survivors. *Journal of Interpersonal Violence*, 27(3),411–430, Adams, A, Sullivan,C, Bybee, D, & Greeson, M. (2008), Development of the scale of economic abuse. *Violence Against Women*, 13, 563-588.

ⁱⁱⁱ The Mary Kay Foundation. (2012). 2012 Mary Kay Truth About Abuse Survey Report available at: <http://content2.marykayintouch.com/Public/MKACF/Documents/2012survey.pdf>

^{iv} <https://www.uscis.gov/news/news-releases/uscis-take-action-address-asylum-backlog>