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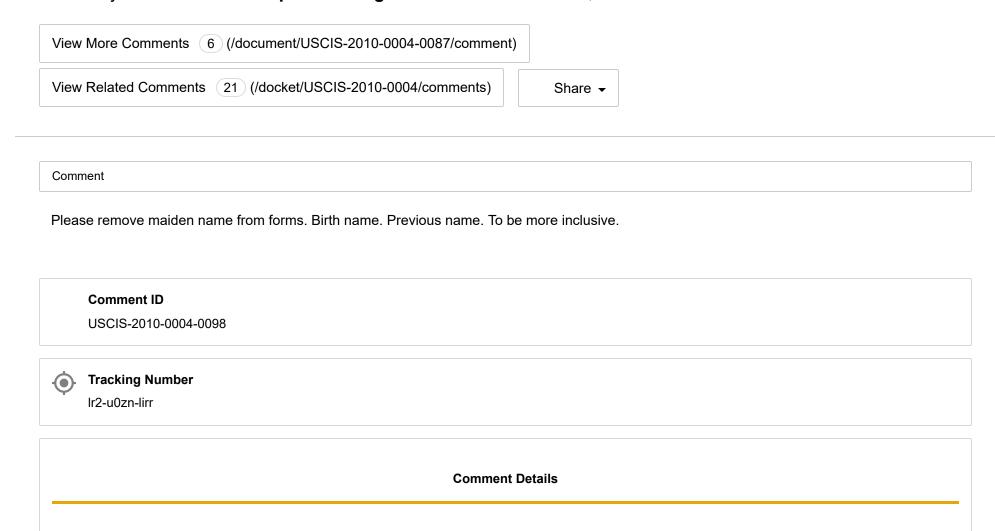
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PUBLIC SUBMISSION

Comment Submitted by S Bailey

Posted by the U.S. Citizenship and Immigration Services on Jan 8, 2024



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January 8, 2024

Samantha Deshommes Chief, Regulatory Coordinator Division Office of Policy and Strategy U.S. Citizenship and Immigration Services Department of Homeland Security

Submitted via www.regulations.gov

RE: "Agency Information Collection Activities; Revision of a Currently Approved Collection: Petition For U Nonimmigrant Status"

OMB Control Number 1615-0104; Docket ID USCIS-2010-0004-0087

Dear Ms. Deshommes:

The undersigned organizations dedicated to advocating for immigrant survivors of violence respectfully submit this comment in response to the "Agency Information Collection Activities; Revision of a Currently Approved Collection: Petition For U Nonimmigrant Status," published in the Federal Register on November 9, 2023 for 60 days of public review and comment.¹ We appreciate this opportunity to provide comments.

I. Introduction

The Asian Pacific Institute on Gender-Based Violence (API-GBV), ASISTA Immigration Assistance, the Catholic Legal Immigration Network, Inc. (CLINIC), Freedom Network USA, Her Justice, Inc., Immigration Center for Women and Children (ICWC), National Immigrant Women's Advocacy Project, Inc. (NIWAP), and Tahirih Justice Center are direct services and policy advocacy organizations specializing in assisting immigrant survivors of gender-based violence, including domestic violence, sexual assault, stalking, human trafficking, forced labor, forced marriage, female genital mutilation/cutting and other crimes.

API-GBV is a national resource center on domestic violence, sexual violence, trafficking, and other forms of gender-based violence impacting Asian, Asian American, Pacific Islander ("AAPI") and immigrant communities. API-GBV supports a national network of advocates and community-based service and advocacy organizations working with AAPI and immigrant and refugee survivors, and provides analysis and consultation on critical issues facing AAPI and immigrant and refugee survivors of gender-based violence, such as implementation of legal protections afforded immigrant and refugee survivors in the Violence Against Women Act, the Trafficking Victims Protection Act, and the Personal Responsibility and Work Opportunity Reconciliation Act, Title VI of the Civil Rights Act of 1964, and other federal laws. API-GBV

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¹ Agency Information Collection: Petition For U Nonimmigrant Status, 88 FR 77347 (Nov.9, 2023), https://www.federalregister.gov/documents/2023/11/09/2023-24772/agency-information-collection-activities-revision-of-a-currently-approved-collection-petition-for-u?utm_campaign=subscription+mailing+list&utm_medium=email&utm_source=federalregister.gov.

engages in training, technical assistance, and leads by promoting culturally relevant intervention and prevention, expert consultation, technical assistance and training; conducting and disseminating critical research; and informing public policy.

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 that were created by the Violence Against Women Act (VAWA) and the Trafficking Victims Protection Act (TVPA). We assist advocates and attorneys across the United States in their work on behalf of immigrant survivors and submit this comment based on our guiding principles and our extensive experience.

Embracing the Gospel value of welcoming the stranger, **CLINIC** has promoted the dignity and protected the rights of immigrants in partnership with a dedicated network of Catholic and community legal immigration programs since its founding in 1988. CLINIC's network, originally comprised of 17 programs, has now increased to more than 450 diocesan and community-based programs in 48 states and the District of Columbia. CLINIC is the largest nationwide network of nonprofit immigration programs. Through its Affiliates, CLINIC advocates for the just and humane treatment of noncitizens.

Freedom Network USA (FNUSA) is the nation's largest coalition of service providers, survivors, and advocates working directly with human trafficking survivors. FNUSA is committed to a human rights-based approach to human trafficking, placing a trafficked person's priorities and narrative at the center of anti-trafficking work. Over 100 FNUSA members work to create a coordinated national system in which appropriate and effective high-quality services are available to any survivor, anywhere, anytime—regardless of legal status, geographic location, age, gender, sexual orientation, or type of trafficking experienced.

Her Justice is a non-profit organization that, since its founding in 1993, has been dedicated to standing with women living in poverty in New York City by recruiting and mentoring volunteer lawyers to provide free legal help to address individual and systemic legal barriers. Our immigration program works directly with undocumented immigrants to provide a path to lawful immigration status. We work primarily with survivors of domestic and sexual violence, those affected by human trafficking and/or children who have suffered abuse, abandonment or neglect. We represent in-house clients and mentor pro bono attorneys in their representation of clients for VAWA Self-Petitions, Petitions for U Nonimmigrant Status, Applications to Adjust Status, Waivers of the Joint Petition to Remove Conditions on Residence, Applications for Naturalization, Applications for T Nonimmigrant Status, and Applications for Employment Authorization. Along with our efforts to provide legal services to individuals, we engage in policy reform and advocacy to reform the immigration system so that the greatest number of immigrant women are able to obtain and preserve the best possible status, through a process that prioritizes their safety and dignity.

ICWC is a non-profit legal organization providing free and affordable immigration services to underrepresented immigrants in California and Nevada. ICWC strives to provide security and

stability for children who are abused, abandoned or neglected and for immigrants who are survivors of domestic violence, sexual assault and other violent crimes. Since its founding in 2004, ICWC has developed national expertise in humanitarian-based immigration cases assisting survivors of trauma and has served over 45,000 people.

NIWAP is a training, technical assistance, and public policy advocacy organization with almost four decades of experience developing, reforming and promoting the implementation and use of laws and policies to improve legal rights, services, and assistance to immigrant women and children who are victims of domestic violence, sexual assault, stalking, human trafficking, and other crimes. NIWAP's Director was involved in drafting the Trafficking Victims Protection Acts of 2000 and 2008. NIWAP provides direct technical assistance and training materials for attorneys, advocates, state court judges, immigration judges, the Board of Immigration Appeals, police, sheriffs, prosecutors, Department of Homeland Security, and other professionals.

The **Tahirih Justice Center** is the largest multi-city direct services and policy advocacy organization specializing in assisting immigrant survivors of gender-based violence. In five cities across the country, Tahirih offers legal and social services to immigrants fleeing all forms of gender-based violence, including human trafficking, forced labor, forced marriage, domestic violence, rape and sexual assault, and female genital mutilation/cutting ("FGM/C"). Since its beginning in 1997, Tahirih has provided free legal assistance to more than 32,000 individuals, many of whom have experienced the significant and ongoing psychological and neurobiological effects of trauma. Through direct legal and social services, policy advocacy, and training and education, Tahirih promotes a world where immigrant survivors can live in safety and with dignity.

We thank USCIS for making revisions to the forms that reflect greater gender inclusivity and provide additional guidance to law enforcement certifiers and *pro se* applicants. Our recommendations will address the proposed revisions to the form I-918/I-918A, and I-918B, respectively. We believe some of these changes will protect noncitizen survivors of crime and gender based violence by increasing their access to lawful immigration status, independence, and physical safety. We also believe that some of the revisions will cause additional burdens on applicants and certifiers and frustrate the aims of the VAWA statute and U visa, as detailed in this comment. We urge USCIS to consider our recommendations in adopting further changes to the I-918 U Nonimmigrant Petition forms.

As an initial matter, we recommend that the federal government adopt a more transparent process for seeking comments on proposed immigration form revisions, especially those related to humanitarian relief. Many immigrant survivors of violence, along with busy practitioners who represent them in these applications, are unaccustomed to navigating the federal register site to locate the most up to date revisions published for comment. In the current collection, the proposed revisions are located in a sidebar on the lower right section of the webpage labeled "enhanced content," showing 10 documents related to the current information collection. Among those documents are links labeled "i-918supa," leading to a post from March 24, 2023, and "Form I-918 Supplement A, Petition for Qualifying Family Members of U-1 Recipient," leading to a document posted on September 18, 2020. Persons who click the link reading "see all 69 supporting documents" are then brought to a page listing all form revisions

proposed under the docket USCIS-2010-0004 in random order, requiring users to further winnow down the selection by date to see the current revisions. This way of presenting the proposed revisions is inadequate for the purpose of gathering responses from affected persons. We recommend that the federal register website provide clear and user-friendly instructions for locating the relevant immigration form revisions produced for review in each agency information collection.

Moreover, where revisions include both changes of format and changes to content, both are indicated in red, making the type of change more difficult to identify. We recommend using a different color for purely formatting changes (such as the transition from two columns of questions to one column or full page formatting) so that users can more quickly and efficiently participate in the process of review and comment.

Finally, we recommend that USCIS provide reasoning for significant changes to forms produced for comment, to avoid uncertainty over how additional information collected by the forms will be used. One of the forms included in this collection, the I-918B, contains extensive content changes to both the form and instructions, on which practitioners, immigrant survivors, and other members of the public including potential law enforcement certifiers heavily rely. These changes will likely impact certifier policies and relationships between certifiers, service providers, and immigrant survivors themselves, that are crucial to implementation of the U visa program. We respond to the specific proposed changes below, but recommend that USCIS provide reasoning for changes that significantly impact the access of immigrant survivors to U visa status.

II. Comments and Recommendations Related to Forms I-918/I-918A

A. Part 1, Question 9 (I-918)/Part 3, Question 7 (I-918A):

We applaud USCIS for the proposed addition of a gender inclusive identification option to Forms I-918 and I-918A. In 2021, ASISTA recommended this change in furtherance of the April 10, 2012, U.S. Citizenship and Immigration Services issued Policy Memorandum, "Adjudication of Immigration Benefits for Transgender Individuals; Addition of Adjudicator's Field Manual (AFM) Subchapter 10.22 and Revisions to AFM Subchapter 21.3 (AFM Update AD12-02)," and January 19, 2017 USCIS Policy Memorandum, "Revision of Adjudicator's Field Manual Subchapter 10.22 - Change of Gender Designation on Documents Issued by U.S. Citizenship and Immigration Services." We commend USCIS for recognizing, through this proposed addition, the value of accurate gender documentation to immigrant survivors.

B. Part 4, Victim's Personal Statement (I-918):

We do not oppose the addition of space for a victim's personal statement in the Form I-918, but recommend the addition of language in the form and instructions warning immigrant survivors against the use of representatives who are not either licensed attorneys or DOJ-accredited representatives to apply for U nonimmigrant status.

We appreciate the increased accessibility to *pro se* petitioners that the additional space for the required victim statement represents. Many legal providers report challenges meeting capacity for the large numbers of U visa eligible noncitizen survivors in need of service. However, the analysis required for identifying and waiving grounds of inadmissibility to admission in U nonimmigrant status is complex, and in many cases requires thoughtful preparation by competent counsel. Failure to correctly identify inadmissibility grounds may result in incomplete waivers, which can create difficulties for U visa beneficiaries at the time of adjustment of status or naturalization.

To better address the capacity problems faced by immigration legal providers, particularly in rural areas, USCIS should continue its efforts to process U visa petitions more rapidly. The bona fide determination (BFD) represents a positive innovation that benefits immigrant survivors and allows for service providers to expand their services to accept more and complex cases featuring difficult questions of inadmissibility. Without competent representation, otherwise eligible immigrant survivors could be denied relief or experience a traumatic loss of status at later points in their immigration journeys.

For these reasons, we recommend that USCIS include language in the Form I-918 instructions advising *pro se* petitioners to avoid working with unlicensed or unaccredited legal representatives, particularly if they answer yes to any of the inadmissibility questions contained in Part 2.

C. Part 2 (I-918); Part 5 (I-918A), Chart of Entries and Exits Since April 1, 1997:

We agree that it could be helpful to identify entry-related inadmissibilities at the time of the initial U and U derivative visa petitions, but caution USCIS against using incorrect information, especially reported by *pro se* applicants, to allege misrepresentation or deny otherwise eligible petitions. Depending on their experiences before and after entries, immigrant survivors may have experienced trauma that impacts their memories of prior events, including entries.²

Whenever possible, USCIS should rely on records accessed by biometrics information to assess a U petitioner's inadmissibility, and not reflexively conclude that conflicting information provided by a petitioner is due to lack of credibility or suggests an intention to defraud the immigration system.

D. Part 2, Question 28 (I-918); Part 5, Question 28 (I-918A): Have you EVER falsely claimed to be a U.S. citizen (in writing or in any other way)?:

We agree that it could be helpful to identify the false claim to US citizenship ground of inadmissibility at the time of the initial U visa petition, but again, caution USCIS against using

² See, e.g., RoseMarie Perez Foster, Ph.D., When Immigration Is Trauma: Guidelines for the Individual and Family Clinician, American Journal of Orthopsychiatry, 71(2), April 2001, https://www.sjsu.edu/people/edward.cohen/courses/c3/s1/immigration_trauma.pdf (discussing the different phases of migration and associated trauma); Saadi A, Hampton K, de Assis MV, Mishori R, Habbach H, Haar RJ, Associations between memory loss and trauma in US asylum seekers: A retrospective review of medico-legal affidavits, PLoS ONE 16(3): e0247033 (2021), https://doi.org/10.1371/journal.pone.0247033.

incorrect information, especially reported by *pro se* applicants, to allege misrepresentation or deny otherwise eligible petitions. USCIS should recognize that this question, along with many other questions triggering inadmissibility in Part 2, involve legal conclusions and can be easily misunderstood by *pro se* applicants.

Similarly, we urge USCIS to eliminate questions that require legal conclusions from petitioners related to culpability for criminal offenses and uncharged conduct.

III. Comments and Recommendations Related to Form I-918B Form and Instructions:

Without a signed Form I-918B certification of helpfulness, an immigrant survivor of crime simply cannot apply for a U visa. Because the immigration law leaves certification to the discretion of law enforcement agencies (LEAs), advocates for immigrant survivors have spent more than a decade developing relationships with certifiers and collaborating with them to develop certification policies. Advocates have also worked to pass legislation in several states setting protocols for certification by state LEAs.³ These efforts have yielded both great success in expanding the willingness of LEAs to provide certifications to immigrant survivors, and helpful information about barriers to certification. Nevertheless, misinformation or ignorance about the U visa program and certification processes persist, as does the need for trauma-informed and accessible engagement with immigrant survivors by law enforcement actors.⁴

For these reasons, we oppose several of the additions to the Form I-918B and accompanying instructions, on the grounds that they add unnecessary bulk and inefficiency to the form and certifying process, fail to address long-standing barriers to certification by LEAs, and invite the certifying agency to provide negative and extraneous information that may cause further injury to immigrant survivors. Moreover, we recommend that changes to the Form I-918 include instructions about language access and trauma-informed approaches to working with immigrant victims, along with more prominent prohibitions on disclosure.

A. The expanded length of the I-918B form and instructions are counter to the goals of the U visa program and may introduce further confusion and inefficiency to the certification process:

The proposed revisions to the form I-918B lengthens the form by two pages, and includes more space for certifiers to provide written answers about the immigrant survivor's culpability for the crime of which they are a victim, their injury, degree of helpfulness, and unspecified negative information about the victim. These expanded questions provide certifiers a larger role in determining the petitioner's eligibility and deservingness for the U visa, which exceeds the scope of their role in the U visa program. We discuss further the negative impact of these additional questions below, but note here that the expansion of the form is not conducive to participation in the U visa program by reluctant LEAs.

³ Catholic Legal Immigration Network (CLINIC), *States with U Certification Laws as of January 1, 2022*, https://www.cliniclegal.org/sites/default/files/2022-04/States%20With%20U%20Visa%20Certification%20Laws%20As%20Of%202022.01.01.pdf.

⁴ Yilun Cheng, When It's Up to the Cops if You Get Your Visa: U visas were created to help immigrants report crimes, but the cops often don't uphold their end of the bargain, Slate (April 14, 2021), https://slate.com/news-and-politics/2021/04/u-visas-immigration-cop-conflict.html.

The proposed revision to the instructions is lengthened by three pages and includes added language mostly drawn from the DHS U Visa Law Enforcement Certification Guide. The proposed revision also includes links to the DHS U Visa Law Enforcement Certification Guide on pages 1 and 2 although, curiously, not to the instruction on page 5 for providing information about designated officials to USCIS. We applaud DHS for updating the U Visa Law Enforcement Certification Guide in 2022, but suggest that adding duplicative information to the Form I-918B instructions is inefficient and potentially confusing to certifiers. Certifiers, especially those unfamiliar or uncomfortable with the U visa program, may become easily overwhelmed and even exasperated or repelled by lengthy forms and instructions and multiple versions of similar guidance. As advocates have developed guidance for certifiers as well, there is simply no need for USCIS to expand on its existing and more streamlined instructions to include repetitive information.

We recommend that USCIS revise the Form I-918B instructions to refer LEAs to the DHS Visa Law Enforcement Certification Guide for background information about the U visa program, definitions of victim, best practices for submitting the certification, and instructions for withdrawing support for the victim's U visa petition after the certification has been submitted. This approach would be more consistent with the Paperwork Reduction Act of 1995 as well as the more recent Executive Order on Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government directing agencies to reduce paperwork burdens and administrative hurdles. By incorporating by reference and using the link in the form and form instructions, USCIS can facilitate consultation of the *full* DHS U Visa Law Enforcement Certification Guide by certifiers with questions about how to participate in the U Visa program.

Further, if USCIS wishes for certifiers to submit their information to a central database, it should include this short instruction (or one with similar wording) from the U Visa Law Enforcement Certification Guide directly to the Form I-918B, Part 2, Question 4: "For U visas, you can [update] USCIS when your certifying agency adds or removes a certifying official by emailing a copy of a signed letter from the head of your agency delegating certifying authority to LawEnforcement_UTVAWA.VSC@USCIS.dhs.gov."

B. Additional questions to certifiers fail to address long standing barriers and exacerbate anti-immigrant bias:

Advocates for immigrant survivors have long worked with LEAs to encourage their participation in the U visa program and develop policies that support immigrant victims to step forward out of the shadows to report crimes against them. Rather than addressing LEA concerns about certifying helpfulness, the additional questions and explanation fields in the proposed new form I-918B will more likely lead LEAs further astray as to the limited scope of their role in the U

⁵ Executive Order on Transforming Federal Customer Service Experience and Delivery to Rebuild Trust in Government (Dec. 13, 2021).

https://www.whitehouse.gov/briefing-room/presidential-actions/2021/12/13/executive-order-on-transforming-federal-customer-experience-and-service-delivery-to-rebuild-trust-in-government/

visa program, cause confusion, and impede efforts by advocates for immigrant survivors to maximize the benefits of the U visa program.

Advocates have found the greatest barriers to certification to be anti-immigrant animus, failure to understand the kind of qualifying criminal activity that may form the basis of a U visa petition, and inability of the immigrant survivor to communicate in their primary language to the LEA⁶ – none of which are ameliorated by the revised I-918B. In 2013, the National Immigrant Women's Advocacy Project (NIWAP) conducted a <u>national survey</u> of service providers to identify trends in police responses to immigrant crime victims. NIWAP's survey discovered that the majority of "reasons for not signing certifications seem to reflect misunderstandings and misperceptions certifying agencies have about legal parameters and requirements about the U Visa and the certification process." Reasons for declining to issue a certification included that the perpetrator was not prosecuted or identified, the crime happened long ago, the victim did not suffer injuries, and that the victim was unhelpful. As to helpfulness, the NIWAP study posits inadequate language access as a significant barrier to communication between immigrant victims and LEAs, and further notes that assistance with the *detection* of a qualifying crime should be sufficient to meet the helpfulness requirement.

In 2017, the New York City Department of Investigation (DOI) and Office of Inspector General for the New York Police Department (OIG-NYPD) audited the NYPD's U visa certification activity and found that reasons given for declining to issue a U visa certification were primarily that the underlying offense was not a qualifying crime, there was insufficient information from which to determine the qualifying crime, and that the victim was not helpful. ¹⁰ Upon review of the denials, DOI and OIG-NYPD recommended that NYPD adopt a more trauma-informed approach to determining helpfulness and consider abuse-related reasons why a victim might become less responsive over the course of an investigation.

None of the additional questions or instructions added to the proposed I-918B and instructions address language access or trauma-related reasons for limited communication with certifiers. The only mention of abuse in either the form or instructions is a note on page 2 of the instructions reminding certifiers that victims of domestic violence may be accused of domestic violence by their abusers. Given the expansion of the questions pertaining to helpfulness in Part 6 of the proposed I-918B revision, we are disappointed not to see guidance related to language access or domestic violence and trauma on the form or in the related

⁶ Supra n. 4, describing the experiences of practitioners seeking U visa certifications in various counties in Illinois.

⁷ National Immigrant Women's Advocacy Project (NIWAP), *National Survey of Service Providers on Police Response to Immigrant Crime Victims*, *U Visa Certification and Language Access* (Apr. 26, 2013), https://www.masslegalservices.org/system/files/library/Police%20Response%20U%20Visas%20Language%20Access%20Report%20NIWAP%20%204%2016%2013%20FINAL.pdf.

⁸ *Id.*, pp. 13-14.

⁹ *Id*.

¹⁰ New York City Department of Investigation's Office of Inspector General for the NYPD, When Undocumented Immigrants Are Crime Victims: An Assessment of NYPD's Handling of U Visa Certification Requests (July 2017), https://www.nyc.gov/assets/doi/reports/pdf/2017/07-28-2017-U-Visa-Rpt-Release.pdf. 16% of the sample of denials evaluated by the OIG-NYPD were because of the victim's own criminal background. Upon review, the agency found that a portion of those denials pertained to victims with minor criminal histories who were not a threat to public safety.

instructions. Rather than adding duplicative questions about helpfulness, we recommend adding a note directly to the form advising certifiers of the following:

When determining whether the victim was helpful, please take into account the victim's ability to communicate with the certifier agency in their primary language at any point in the detection, investigation, or prosecution of the qualifying criminal activity and if domestic violence or the experience of trauma may have inhibited their participation. Note that assistance with the detection, investigation, or prosecution of an offense make certification appropriate at any point in time.

C. Soliciting negative information about victims from certifiers is harmful to immigrant survivors and frustrates the goals of the U visa program:

Part 8 of the proposed I-918B provision invites a certifier to provide "supplemental information" that may be relevant to USCIS adjudication, "(for example, related to arrest and criminal history.)" We oppose the addition of this field as unnecessary and injurious to petitioners. While the decision to issue a certification is statutorily left to the discretion of an LEA, advocates have long sought to educate certifiers that the U visa is ultimately decided by USCIS, that USCIS will necessarily conduct a searching review of the petitioner's criminal history and grounds of inadmissibility before approving or denying a U visa petition, and that the role of the certifier is a limited part of the process. While criminal histories may be a reason for some LEAs to decline certification, adding this question is not a victim centered method of encouraging certification. Instead, USCIS should continue to support efforts by advocates, and collaborations of advocates and law enforcement agencies, to educate certifiers about the U visa program.

Moreover, we continue to oppose the use by USCIS of uncorroborated allegations to deny otherwise eligible petitioners relief on discretionary grounds. Such information, as contained in police reports for example, are excluded from federal criminal proceedings as unreliable hearsay evidence, and are not considered part of the record of conviction that can be reviewed to determine the scope of culpability and collateral consequences of a particular offense.¹³ Continued reliance on one-sided and unvetted police reports/complaints for the truth of their

¹¹ See, e.g., NIWAP, U Visa Certification Toolkit and T Visa Declaration Toolkit for Law Enforcement Agencies and Prosecutors (August 30, 2021),

https://niwaplibrary.wcl.american.edu/wp-content/uploads/2015/U-T-Visa-Toolkit_Law-Enforcement-Prosecutor-6.1 5.21.pdf; CLINIC, *Guide for Law Enforcement: How to Respond to A U Visa Certification Request*, https://www.cliniclegal.org/sites/default/files/2022-04/U%20Visa%20Certification%20Guide%20for%20Law%20E nforcement.pdf.

¹² Supra n. 10. Moreover, the NYC DOI and OIG-NYPD advised the NYPD, one of the largest certifying agencies in the United States, that its internal rule against providing certifications to victims with criminal histories was overbroad.

¹³ See Mary Holper, Confronting Cops in Immigration Court, 23 Wm & Mary Bill Rts. J. 675, 685-6 (May 2, 2015) (describing the Senate report explaining the exclusion of police reports from the hearsay exception for public records), Shepard v. United States, 544 U.S. 13 (2005). Cf., Dickson v. Ashcroft, 346 F.3d 44, 53-54 (2d Cir. 2003) (excluding the pre-sentence report prepared by the probation office from consideration as part of the record of conviction for determining removability due to its one-sided nature). See also Matter of Arreguin, 21 I&N Dec. 38, 42 (BIA 1995), (noting that the BIA was "hesitant to give substantial weight to an arrest report, absent a conviction [of the alleged crimes] or corroborating evidence of the allegations contained therein.").

assertions to deny U visas to immigrant survivors of violence is out of step with the prevailing treatment of this evidence across adjudication systems. Where the goal of an adjudicator is to determine facts based on reliable evidence, uncorroborated police complaints have no place. As this question solicits police reports or other unreviewed statements about a petitioner's character or past actions, it should be eliminated.

When enacting the U visa program in the Victims of Trafficking and Violence Protection Act in 2000, Congress sought to "encourage law enforcement officials to better serve immigrant crime victims and to prosecute crimes committed against [them]."14 A twin goal of the creation of the U visa program was to "[offer] protection to victims of such offenses in keeping with the humanitarian interests of the United States." 15 We urge USCIS to consider that better service to immigrant crime victims includes understanding that they may have past contacts with the criminal legal system growing out of trauma, poverty, discrimination, coercion, or simply as a result of mistakes, and not to deny the transformative relief of U visa status to immigrant survivors who have already experienced the harm of system-based violence based on unreliable evidence provided by law enforcement.

D. Provision on disclosure of information should be added to the Form I-918B:

The proposed revision also includes on Page 8 of the instructions a prohibition on disclosure of information under 8 U.S.C. § 1367 and 8 C.F.R. 214.14(c) to anyone other than an official of DHS, DOJ, or DOS. We applaud the inclusion of this language in the instructions, but recommend instead that it be inserted directly onto the form just above the signature line of the certification, to better alert certifiers of these special protections for immigrant survivors.

IV. Conclusion

We appreciate the efforts of USCIS and DHS to improve the U visa program and make it easier for affected communities and community partners to participate. Thank you for your consideration of these comments. Please address any questions you may have about our recommendations to cristina@asistahelp.org.

Respectfully submitted,

Asian Pacific Institute on Gender Based Violence (API-GBV) **ASISTA Immigration Assistance** Catholic Legal Immigration Network, Inc. (CLINIC) Freedom Network USA Her Justice. Inc. Immigration Center for Women and Children (ICWC) Tahirih Justice Center National Immigrant Women's Advocacy Project, Inc. (NIWAP)

10

¹⁴ (VTVPA), Pub. L. No. 106-386, 114 Stat. 1464-1548, 1533-34 (2000).

January 8, 2024

Samantha Deshommes Chief, Regulatory Coordinator Division Office of Policy and Strategy U.S. Citizenship and Immigration Services Department of Homeland Security

Submitted via www.regulations.gov

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¹ Agency Information Collection: Petition For U Nonimmigrant Status, 88 FR 77347 (Nov.9, 2023), https://www.federalregister.gov/documents/2023/11/09/2023-24772/agency-information-collection-activities-revision-of-a-currently-approved-collection-petition-for-u?utm_campaign=subscription+mailing+list&utm_medium=email&utm_source=federalregister.gov.

engages in training, technical assistance, and leads by promoting culturally relevant intervention and prevention, expert consultation, technical assistance and training; conducting and disseminating critical research; and informing public policy.

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 that were created by the Violence Against Women Act (VAWA) and the Trafficking Victims Protection Act (TVPA). We assist advocates and attorneys across the United States in their work on behalf of immigrant survivors and submit this comment based on our guiding principles and our extensive experience.

Embracing the Gospel value of welcoming the stranger, **CLINIC** has promoted the dignity and protected the rights of immigrants in partnership with a dedicated network of Catholic and community legal immigration programs since its founding in 1988. CLINIC's network, originally comprised of 17 programs, has now increased to more than 450 diocesan and community-based programs in 48 states and the District of Columbia. CLINIC is the largest nationwide network of nonprofit immigration programs. Through its Affiliates, CLINIC advocates for the just and humane treatment of noncitizens.

Freedom Network USA (FNUSA) is the nation's largest coalition of service providers, survivors, and advocates working directly with human trafficking survivors. FNUSA is committed to a human rights-based approach to human trafficking, placing a trafficked person's priorities and narrative at the center of anti-trafficking work. Over 100 FNUSA members work to create a coordinated national system in which appropriate and effective high-quality services are available to any survivor, anywhere, anytime—regardless of legal status, geographic location, age, gender, sexual orientation, or type of trafficking experienced.

Her Justice is a non-profit organization that, since its founding in 1993, has been dedicated to standing with women living in poverty in New York City by recruiting and mentoring volunteer lawyers to provide free legal help to address individual and systemic legal barriers. Our immigration program works directly with undocumented immigrants to provide a path to lawful immigration status. We work primarily with survivors of domestic and sexual violence, those affected by human trafficking and/or children who have suffered abuse, abandonment or neglect. We represent in-house clients and mentor pro bono attorneys in their representation of clients for VAWA Self-Petitions, Petitions for U Nonimmigrant Status, Applications to Adjust Status, Waivers of the Joint Petition to Remove Conditions on Residence, Applications for Naturalization, Applications for T Nonimmigrant Status, and Applications for Employment Authorization. Along with our efforts to provide legal services to individuals, we engage in policy reform and advocacy to reform the immigration system so that the greatest number of immigrant women are able to obtain and preserve the best possible status, through a process that prioritizes their safety and dignity.

ICWC is a non-profit legal organization providing free and affordable immigration services to underrepresented immigrants in California and Nevada. ICWC strives to provide security and

stability for children who are abused, abandoned or neglected and for immigrants who are survivors of domestic violence, sexual assault and other violent crimes. Since its founding in 2004, ICWC has developed national expertise in humanitarian-based immigration cases assisting survivors of trauma and has served over 45,000 people.

NIWAP is a training, technical assistance, and public policy advocacy organization with almost four decades of experience developing, reforming and promoting the implementation and use of laws and policies to improve legal rights, services, and assistance to immigrant women and children who are victims of domestic violence, sexual assault, stalking, human trafficking, and other crimes. NIWAP's Director was involved in drafting the Trafficking Victims Protection Acts of 2000 and 2008. NIWAP provides direct technical assistance and training materials for attorneys, advocates, state court judges, immigration judges, the Board of Immigration Appeals, police, sheriffs, prosecutors, Department of Homeland Security, and other professionals.

The **Tahirih Justice Center** is the largest multi-city direct services and policy advocacy organization specializing in assisting immigrant survivors of gender-based violence. In five cities across the country, Tahirih offers legal and social services to immigrants fleeing all forms of gender-based violence, including human trafficking, forced labor, forced marriage, domestic violence, rape and sexual assault, and female genital mutilation/cutting ("FGM/C"). Since its beginning in 1997, Tahirih has provided free legal assistance to more than 32,000 individuals, many of whom have experienced the significant and ongoing psychological and neurobiological effects of trauma. Through direct legal and social services, policy advocacy, and training and education, Tahirih promotes a world where immigrant survivors can live in safety and with dignity.

We thank USCIS for making revisions to the forms that reflect greater gender inclusivity and provide additional guidance to law enforcement certifiers and *pro se* applicants. Our recommendations will address the proposed revisions to the form I-918/I-918A, and I-918B, respectively. We believe some of these changes will protect noncitizen survivors of crime and gender based violence by increasing their access to lawful immigration status, independence, and physical safety. We also believe that some of the revisions will cause additional burdens on applicants and certifiers and frustrate the aims of the VAWA statute and U visa, as detailed in this comment. We urge USCIS to consider our recommendations in adopting further changes to the I-918 U Nonimmigrant Petition forms.

As an initial matter, we recommend that the federal government adopt a more transparent process for seeking comments on proposed immigration form revisions, especially those related to humanitarian relief. Many immigrant survivors of violence, along with busy practitioners who represent them in these applications, are unaccustomed to navigating the federal register site to locate the most up to date revisions published for comment. In the current collection, the proposed revisions are located in a sidebar on the lower right section of the webpage labeled "enhanced content," showing 10 documents related to the current information collection. Among those documents are links labeled "i-918supa," leading to a post from March 24, 2023, and "Form I-918 Supplement A, Petition for Qualifying Family Members of U-1 Recipient," leading to a document posted on September 18, 2020. Persons who click the link reading "see all 69 supporting documents" are then brought to a page listing all form revisions

proposed under the docket USCIS-2010-0004 in random order, requiring users to further winnow down the selection by date to see the current revisions. This way of presenting the proposed revisions is inadequate for the purpose of gathering responses from affected persons. We recommend that the federal register website provide clear and user-friendly instructions for locating the relevant immigration form revisions produced for review in each agency information collection.

Moreover, where revisions include both changes of format and changes to content, both are indicated in red, making the type of change more difficult to identify. We recommend using a different color for purely formatting changes (such as the transition from two columns of questions to one column or full page formatting) so that users can more quickly and efficiently participate in the process of review and comment.

Finally, we recommend that USCIS provide reasoning for significant changes to forms produced for comment, to avoid uncertainty over how additional information collected by the forms will be used. One of the forms included in this collection, the I-918B, contains extensive content changes to both the form and instructions, on which practitioners, immigrant survivors, and other members of the public including potential law enforcement certifiers heavily rely. These changes will likely impact certifier policies and relationships between certifiers, service providers, and immigrant survivors themselves, that are crucial to implementation of the U visa program. We respond to the specific proposed changes below, but recommend that USCIS provide reasoning for changes that significantly impact the access of immigrant survivors to U visa status.

II. Comments and Recommendations Related to Forms I-918/I-918A

A. Part 1, Question 9 (I-918)/Part 3, Question 7 (I-918A):

We applaud USCIS for the proposed addition of a gender inclusive identification option to Forms I-918 and I-918A. In 2021, ASISTA recommended this change in furtherance of the April 10, 2012, U.S. Citizenship and Immigration Services issued Policy Memorandum, "Adjudication of Immigration Benefits for Transgender Individuals; Addition of Adjudicator's Field Manual (AFM) Subchapter 10.22 and Revisions to AFM Subchapter 21.3 (AFM Update AD12-02)," and January 19, 2017 USCIS Policy Memorandum, "Revision of Adjudicator's Field Manual Subchapter 10.22 - Change of Gender Designation on Documents Issued by U.S. Citizenship and Immigration Services." We commend USCIS for recognizing, through this proposed addition, the value of accurate gender documentation to immigrant survivors.

B. Part 4, Victim's Personal Statement (I-918):

We do not oppose the addition of space for a victim's personal statement in the Form I-918, but recommend the addition of language in the form and instructions warning immigrant survivors against the use of representatives who are not either licensed attorneys or DOJ-accredited representatives to apply for U nonimmigrant status.

We appreciate the increased accessibility to *pro se* petitioners that the additional space for the required victim statement represents. Many legal providers report challenges meeting capacity for the large numbers of U visa eligible noncitizen survivors in need of service. However, the analysis required for identifying and waiving grounds of inadmissibility to admission in U nonimmigrant status is complex, and in many cases requires thoughtful preparation by competent counsel. Failure to correctly identify inadmissibility grounds may result in incomplete waivers, which can create difficulties for U visa beneficiaries at the time of adjustment of status or naturalization.

To better address the capacity problems faced by immigration legal providers, particularly in rural areas, USCIS should continue its efforts to process U visa petitions more rapidly. The bona fide determination (BFD) represents a positive innovation that benefits immigrant survivors and allows for service providers to expand their services to accept more and complex cases featuring difficult questions of inadmissibility. Without competent representation, otherwise eligible immigrant survivors could be denied relief or experience a traumatic loss of status at later points in their immigration journeys.

For these reasons, we recommend that USCIS include language in the Form I-918 instructions advising *pro se* petitioners to avoid working with unlicensed or unaccredited legal representatives, particularly if they answer yes to any of the inadmissibility questions contained in Part 2.

C. Part 2 (I-918); Part 5 (I-918A), Chart of Entries and Exits Since April 1, 1997:

We agree that it could be helpful to identify entry-related inadmissibilities at the time of the initial U and U derivative visa petitions, but caution USCIS against using incorrect information, especially reported by *pro se* applicants, to allege misrepresentation or deny otherwise eligible petitions. Depending on their experiences before and after entries, immigrant survivors may have experienced trauma that impacts their memories of prior events, including entries.²

Whenever possible, USCIS should rely on records accessed by biometrics information to assess a U petitioner's inadmissibility, and not reflexively conclude that conflicting information provided by a petitioner is due to lack of credibility or suggests an intention to defraud the immigration system.

D. Part 2, Question 28 (I-918); Part 5, Question 28 (I-918A): Have you EVER falsely claimed to be a U.S. citizen (in writing or in any other way)?:

We agree that it could be helpful to identify the false claim to US citizenship ground of inadmissibility at the time of the initial U visa petition, but again, caution USCIS against using

² See, e.g., RoseMarie Perez Foster, Ph.D., When Immigration Is Trauma: Guidelines for the Individual and Family Clinician, American Journal of Orthopsychiatry, 71(2), April 2001, https://www.sjsu.edu/people/edward.cohen/courses/c3/s1/immigration_trauma.pdf (discussing the different phases of migration and associated trauma); Saadi A, Hampton K, de Assis MV, Mishori R, Habbach H, Haar RJ, Associations between memory loss and trauma in US asylum seekers: A retrospective review of medico-legal affidavits, PLoS ONE 16(3): e0247033 (2021), https://doi.org/10.1371/journal.pone.0247033.

incorrect information, especially reported by *pro se* applicants, to allege misrepresentation or deny otherwise eligible petitions. USCIS should recognize that this question, along with many other questions triggering inadmissibility in Part 2, involve legal conclusions and can be easily misunderstood by *pro se* applicants.

Similarly, we urge USCIS to eliminate questions that require legal conclusions from petitioners related to culpability for criminal offenses and uncharged conduct.

III. Comments and Recommendations Related to Form I-918B Form and Instructions:

Without a signed Form I-918B certification of helpfulness, an immigrant survivor of crime simply cannot apply for a U visa. Because the immigration law leaves certification to the discretion of law enforcement agencies (LEAs), advocates for immigrant survivors have spent more than a decade developing relationships with certifiers and collaborating with them to develop certification policies. Advocates have also worked to pass legislation in several states setting protocols for certification by state LEAs.³ These efforts have yielded both great success in expanding the willingness of LEAs to provide certifications to immigrant survivors, and helpful information about barriers to certification. Nevertheless, misinformation or ignorance about the U visa program and certification processes persist, as does the need for trauma-informed and accessible engagement with immigrant survivors by law enforcement actors.⁴

For these reasons, we oppose several of the additions to the Form I-918B and accompanying instructions, on the grounds that they add unnecessary bulk and inefficiency to the form and certifying process, fail to address long-standing barriers to certification by LEAs, and invite the certifying agency to provide negative and extraneous information that may cause further injury to immigrant survivors. Moreover, we recommend that changes to the Form I-918 include instructions about language access and trauma-informed approaches to working with immigrant victims, along with more prominent prohibitions on disclosure.

A. The expanded length of the I-918B form and instructions are counter to the goals of the U visa program and may introduce further confusion and inefficiency to the certification process:

The proposed revisions to the form I-918B lengthens the form by two pages, and includes more space for certifiers to provide written answers about the immigrant survivor's culpability for the crime of which they are a victim, their injury, degree of helpfulness, and unspecified negative information about the victim. These expanded questions provide certifiers a larger role in determining the petitioner's eligibility and deservingness for the U visa, which exceeds the scope of their role in the U visa program. We discuss further the negative impact of these additional questions below, but note here that the expansion of the form is not conducive to participation in the U visa program by reluctant LEAs.

³ Catholic Legal Immigration Network (CLINIC), *States with U Certification Laws as of January 1, 2022*, https://www.cliniclegal.org/sites/default/files/2022-04/States%20With%20U%20Visa%20Certification%20Laws%20As%20Of%202022.01.01.pdf.

⁴ Yilun Cheng, When It's Up to the Cops if You Get Your Visa: U visas were created to help immigrants report crimes, but the cops often don't uphold their end of the bargain, Slate (April 14, 2021), https://slate.com/news-and-politics/2021/04/u-visas-immigration-cop-conflict.html.

The proposed revision to the instructions is lengthened by three pages and includes added language mostly drawn from the DHS U Visa Law Enforcement Certification Guide. The proposed revision also includes links to the DHS U Visa Law Enforcement Certification Guide on pages 1 and 2 although, curiously, not to the instruction on page 5 for providing information about designated officials to USCIS. We applaud DHS for updating the U Visa Law Enforcement Certification Guide in 2022, but suggest that adding duplicative information to the Form I-918B instructions is inefficient and potentially confusing to certifiers. Certifiers, especially those unfamiliar or uncomfortable with the U visa program, may become easily overwhelmed and even exasperated or repelled by lengthy forms and instructions and multiple versions of similar guidance. As advocates have developed guidance for certifiers as well, there is simply no need for USCIS to expand on its existing and more streamlined instructions to include repetitive information.

We recommend that USCIS revise the Form I-918B instructions to refer LEAs to the DHS Visa Law Enforcement Certification Guide for background information about the U visa program, definitions of victim, best practices for submitting the certification, and instructions for withdrawing support for the victim's U visa petition after the certification has been submitted. This approach would be more consistent with the Paperwork Reduction Act of 1995 as well as the more recent Executive Order on Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government directing agencies to reduce paperwork burdens and administrative hurdles. By incorporating by reference and using the link in the form and form instructions, USCIS can facilitate consultation of the *full* DHS U Visa Law Enforcement Certification Guide by certifiers with questions about how to participate in the U Visa program.

Further, if USCIS wishes for certifiers to submit their information to a central database, it should include this short instruction (or one with similar wording) from the U Visa Law Enforcement Certification Guide directly to the Form I-918B, Part 2, Question 4: "For U visas, you can [update] USCIS when your certifying agency adds or removes a certifying official by emailing a copy of a signed letter from the head of your agency delegating certifying authority to LawEnforcement_UTVAWA.VSC@USCIS.dhs.gov."

B. Additional questions to certifiers fail to address long standing barriers and exacerbate anti-immigrant bias:

Advocates for immigrant survivors have long worked with LEAs to encourage their participation in the U visa program and develop policies that support immigrant victims to step forward out of the shadows to report crimes against them. Rather than addressing LEA concerns about certifying helpfulness, the additional questions and explanation fields in the proposed new form I-918B will more likely lead LEAs further astray as to the limited scope of their role in the U

⁵ Executive Order on Transforming Federal Customer Service Experience and Delivery to Rebuild Trust in Government (Dec. 13, 2021).

https://www.whitehouse.gov/briefing-room/presidential-actions/2021/12/13/executive-order-on-transforming-federal-customer-experience-and-service-delivery-to-rebuild-trust-in-government/

visa program, cause confusion, and impede efforts by advocates for immigrant survivors to maximize the benefits of the U visa program.

Advocates have found the greatest barriers to certification to be anti-immigrant animus, failure to understand the kind of qualifying criminal activity that may form the basis of a U visa petition, and inability of the immigrant survivor to communicate in their primary language to the LEA⁶ – none of which are ameliorated by the revised I-918B. In 2013, the National Immigrant Women's Advocacy Project (NIWAP) conducted a <u>national survey</u> of service providers to identify trends in police responses to immigrant crime victims. NIWAP's survey discovered that the majority of "reasons for not signing certifications seem to reflect misunderstandings and misperceptions certifying agencies have about legal parameters and requirements about the U Visa and the certification process." Reasons for declining to issue a certification included that the perpetrator was not prosecuted or identified, the crime happened long ago, the victim did not suffer injuries, and that the victim was unhelpful. As to helpfulness, the NIWAP study posits inadequate language access as a significant barrier to communication between immigrant victims and LEAs, and further notes that assistance with the *detection* of a qualifying crime should be sufficient to meet the helpfulness requirement.

In 2017, the New York City Department of Investigation (DOI) and Office of Inspector General for the New York Police Department (OIG-NYPD) audited the NYPD's U visa certification activity and found that reasons given for declining to issue a U visa certification were primarily that the underlying offense was not a qualifying crime, there was insufficient information from which to determine the qualifying crime, and that the victim was not helpful. ¹⁰ Upon review of the denials, DOI and OIG-NYPD recommended that NYPD adopt a more trauma-informed approach to determining helpfulness and consider abuse-related reasons why a victim might become less responsive over the course of an investigation.

None of the additional questions or instructions added to the proposed I-918B and instructions address language access or trauma-related reasons for limited communication with certifiers. The only mention of abuse in either the form or instructions is a note on page 2 of the instructions reminding certifiers that victims of domestic violence may be accused of domestic violence by their abusers. Given the expansion of the questions pertaining to helpfulness in Part 6 of the proposed I-918B revision, we are disappointed not to see guidance related to language access or domestic violence and trauma on the form or in the related

⁶ Supra n. 4, describing the experiences of practitioners seeking U visa certifications in various counties in Illinois.

⁷ National Immigrant Women's Advocacy Project (NIWAP), *National Survey of Service Providers on Police Response to Immigrant Crime Victims*, *U Visa Certification and Language Access* (Apr. 26, 2013), https://www.masslegalservices.org/system/files/library/Police%20Response%20U%20Visas%20Language%20Access%20Report%20NIWAP%20%204%2016%2013%20FINAL.pdf.

⁸ *Id.*, pp. 13-14.

⁹ *Id*.

¹⁰ New York City Department of Investigation's Office of Inspector General for the NYPD, *When Undocumented Immigrants Are Crime Victims: An Assessment of NYPD's Handling of U Visa Certification Requests* (July 2017), https://www.nyc.gov/assets/doi/reports/pdf/2017/07-28-2017-U-Visa-Rpt-Release.pdf. 16% of the sample of denials evaluated by the OIG-NYPD were because of the victim's own criminal background. Upon review, the agency found that a portion of those denials pertained to victims with minor criminal histories who were not a threat to public safety.

instructions. Rather than adding duplicative questions about helpfulness, we recommend adding a note directly to the form advising certifiers of the following:

When determining whether the victim was helpful, please take into account the victim's ability to communicate with the certifier agency in their primary language at any point in the detection, investigation, or prosecution of the qualifying criminal activity and if domestic violence or the experience of trauma may have inhibited their participation. Note that assistance with the detection, investigation, or prosecution of an offense make certification appropriate at any point in time.

C. Soliciting negative information about victims from certifiers is harmful to immigrant survivors and frustrates the goals of the U visa program:

Part 8 of the proposed I-918B provision invites a certifier to provide "supplemental information" that may be relevant to USCIS adjudication, "(for example, related to arrest and criminal history.)" We oppose the addition of this field as unnecessary and injurious to petitioners. While the decision to issue a certification is statutorily left to the discretion of an LEA, advocates have long sought to educate certifiers that the U visa is ultimately decided by USCIS, that USCIS will necessarily conduct a searching review of the petitioner's criminal history and grounds of inadmissibility before approving or denying a U visa petition, and that the role of the certifier is a limited part of the process. While criminal histories may be a reason for some LEAs to decline certification, adding this question is not a victim centered method of encouraging certification. Instead, USCIS should continue to support efforts by advocates, and collaborations of advocates and law enforcement agencies, to educate certifiers about the U visa program.

Moreover, we continue to oppose the use by USCIS of uncorroborated allegations to deny otherwise eligible petitioners relief on discretionary grounds. Such information, as contained in police reports for example, are excluded from federal criminal proceedings as unreliable hearsay evidence, and are not considered part of the record of conviction that can be reviewed to determine the scope of culpability and collateral consequences of a particular offense.¹³ Continued reliance on one-sided and unvetted police reports/complaints for the truth of their

¹¹ See, e.g., NIWAP, U Visa Certification Toolkit and T Visa Declaration Toolkit for Law Enforcement Agencies and Prosecutors (August 30, 2021),

https://niwaplibrary.wcl.american.edu/wp-content/uploads/2015/U-T-Visa-Toolkit_Law-Enforcement-Prosecutor-6.1 5.21.pdf; CLINIC, *Guide for Law Enforcement: How to Respond to A U Visa Certification Request*, https://www.cliniclegal.org/sites/default/files/2022-04/U%20Visa%20Certification%20Guide%20for%20Law%20E nforcement.pdf.

¹² Supra n. 10. Moreover, the NYC DOI and OIG-NYPD advised the NYPD, one of the largest certifying agencies in the United States, that its internal rule against providing certifications to victims with criminal histories was overbroad.

¹³ See Mary Holper, Confronting Cops in Immigration Court, 23 Wm & Mary Bill Rts. J. 675, 685-6 (May 2, 2015) (describing the Senate report explaining the exclusion of police reports from the hearsay exception for public records), Shepard v. United States, 544 U.S. 13 (2005). Cf., Dickson v. Ashcroft, 346 F.3d 44, 53-54 (2d Cir. 2003) (excluding the pre-sentence report prepared by the probation office from consideration as part of the record of conviction for determining removability due to its one-sided nature). See also Matter of Arreguin, 21 I&N Dec. 38, 42 (BIA 1995), (noting that the BIA was "hesitant to give substantial weight to an arrest report, absent a conviction [of the alleged crimes] or corroborating evidence of the allegations contained therein.").

assertions to deny U visas to immigrant survivors of violence is out of step with the prevailing treatment of this evidence across adjudication systems. Where the goal of an adjudicator is to determine facts based on reliable evidence, uncorroborated police complaints have no place. As this question solicits police reports or other unreviewed statements about a petitioner's character or past actions, it should be eliminated.

When enacting the U visa program in the Victims of Trafficking and Violence Protection Act in 2000, Congress sought to "encourage law enforcement officials to better serve immigrant crime victims and to prosecute crimes committed against [them]."14 A twin goal of the creation of the U visa program was to "[offer] protection to victims of such offenses in keeping with the humanitarian interests of the United States." 15 We urge USCIS to consider that better service to immigrant crime victims includes understanding that they may have past contacts with the criminal legal system growing out of trauma, poverty, discrimination, coercion, or simply as a result of mistakes, and not to deny the transformative relief of U visa status to immigrant survivors who have already experienced the harm of system-based violence based on unreliable evidence provided by law enforcement.

D. Provision on disclosure of information should be added to the Form I-918B:

The proposed revision also includes on Page 8 of the instructions a prohibition on disclosure of information under 8 U.S.C. § 1367 and 8 C.F.R. 214.14(c) to anyone other than an official of DHS, DOJ, or DOS. We applaud the inclusion of this language in the instructions, but recommend instead that it be inserted directly onto the form just above the signature line of the certification, to better alert certifiers of these special protections for immigrant survivors.

IV. Conclusion

We appreciate the efforts of USCIS and DHS to improve the U visa program and make it easier for affected communities and community partners to participate. Thank you for your consideration of these comments. Please address any questions you may have about our recommendations to cristina@asistahelp.org.

Respectfully submitted,

Asian Pacific Institute on Gender Based Violence (API-GBV) **ASISTA Immigration Assistance** Catholic Legal Immigration Network, Inc. (CLINIC) Freedom Network USA Her Justice. Inc. Immigration Center for Women and Children (ICWC) Tahirih Justice Center National Immigrant Women's Advocacy Project, Inc. (NIWAP)

10

¹⁴ (VTVPA), Pub. L. No. 106-386, 114 Stat. 1464-1548, 1533-34 (2000).

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January 8, 2024

Samantha Deshommes Chief, Regulatory Coordinator Division Office of Policy and Strategy U.S. Citizenship and Immigration Services Department of Homeland Security

Re: Comment in Response to the DHS/USCIS Agency Information Collection Activities; Revision of a Currently Approved Collection: Petition for U Nonimmigrant Status, USCIS-2010-0004; OMB Control Number 1615-0104.

Dear Chief Deshommes,

The Immigrant Legal Resource Center (ILRC) submits the following comment in response to the U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security's (DHS) Agency Information Collection Activities; Revision of a Currently Approved Collection: Petition for U Nonimmigrant Status, published on November 9, 2023.

The ILRC is a national non-profit organization that provides legal trainings, educational materials, and advocacy to advance immigrant rights. The ILRC's mission is to work with and educate immigrants, community organizations, and the legal sector to continue to build a democratic society that values diversity and the rights of all people. Since its inception in 1979, the ILRC has provided technical assistance on hundreds of thousands of immigration law issues, trained thousands of advocates and pro bono attorneys annually on immigration law, distributed thousands of practitioner guides, provided expertise to immigrant-led advocacy efforts across the country, and supported hundreds of immigration legal non-profit organizations in building their capacity.

The ILRC is also a leader in interpreting family-based immigration law as well as VAWA, U, and T immigration relief for survivors, producing trusted legal resources including webinars, trainings, and manuals such as Families & Immigration: A Practical Guide; The VAWA Manual: Immigration Relief for Abused Immigrants; The U Visa: Obtaining Status for Immigrant Survivors of Crime; and T Visas: A Critical Option for Survivors of Human Trafficking. Through our extensive network with service providers, immigration practitioners, and immigration benefits applicants, we have developed a profound understanding of the barriers faced by vulnerable immigrant and lowincome communities – including survivors of intimate partner violence, sexual violence, human trafficking, or other forms of trauma. We welcome the opportunity to provide comments on Form I-918 Petition for U Nonimmigrant Status and related forms.

- ١. The ILRC commends the agency for positive changes made to the U visa forms.
 - Shorter Length for Form I-918 and Form I-918A













The ILRC commends USCIS for reducing the length of both Form I-918 and Form I-918 Supplement A ("Form I-918A"). Shorter forms are more user-friendly, particularly for pro se applicants, and more efficient for the agency.¹

b. <u>Streamlining Form Sections</u>

We also appreciate the measures the agency has taken to streamline the form, which makes the form less intimidating and easier to access for survivors of trauma. These changes include:

- Streamlining the address sections by combining the foreign and domestic address sections on both Form I-918 and Form I-918A;
- The addition of Questions 14 and 15 in Part 1, Information about You, on Form I-918 and Questions 12 and 13 in Part 1, Information about your Qualifying Family Member, on Form I-918A, which provide options, and may reduce confusion, for applicants who may not have a passport or I-94;
- The addition of a chart for arrivals and departures from the United States, which takes up less space and makes it easier for applicants to accurately provide information for multiple entries;
- The addition of "if applicable" for an applicant's middle name, which will reduce issues that may result from blank entries on the form;
- The removal of the requirement for mailing addresses for interpreters and preparers;
- The removal of the unnecessary question about having received voluntary departure;
- Combining questions about uncommon grounds of inadmissibility, such as combining whether the applicant intends to engage in prostitution, gambling, bootlegging, or child pornography and combining hijacking, sabotage, and assassination;
- The removal of questions regarding membership in a Community Party or Nazi Party;
- The removal of questions regarding uncommon grounds of inadmissibility such as J-1 visas, 274C final orders and civil penalties, avoiding draft, communicable disease, polygamy, stowaway, use of biologic agent, aiding terrorism, etc.;
- The addition of Questions 2 and 3 in Part 1, Family Member's Relationship To You, on Form I-918A which will allow for easier triage and matching files between derivative petitions and principal petitions that have already been filed;
- The removal of unnecessary questions about spouse and children from Form I-918A; and
- The removal of questions regarding having a physical or mental disorder and behavior from Form I-918A;
- The removal of questions regarding being a drug abuser or drug addict from Form I-918A;
- Changing the order of the first questions on Form I-918B so that the applicant's name is first and not their A#, which is a more user-friendly order for certifiers;
- Changing the language in new Question 3 in Part 4 on Form I-918B to check the category under which the qualifying criminal activity "appears" to fall;
- Adding new Question 4 in Part 4 on Form I-918B that gives agencies the space to explain how the criminal activity is similar to the categories noted in the list of qualifying crimes, with the example of felonious assault given; and
- The addition of language clarifying that USCIS (not the certifying agency) is solely responsible for determining whether the crime is a "qualifying criminal activity" for purposes of U eligibility on Form I-918B.

¹ We note that this change is in line with President Biden's Executive Order on Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government, and we urge the agency to continue to assess immigration benefit forms with this customer experience and service lens.

c. Gender Inclusive Options and Language

We applaud the agency for its use of gender inclusive options on Form I-918 and Forms I-918A and I-918B. We have commended USCIS for this change on other forms revisions and reiterate our thanks here. Having the option of "Another Gender Identity" is inclusive for all applicants and we urge the agency to make this change to all immigration benefit forms. Relatedly, we applaud the gender-neutral use of "qualifying family member" as opposed to "he or she."

d. Safe Address Guidance

We are also appreciative of the safe address guidance on the form itself. This change brings the form in line with the USCIS Policy Manual for which updated guidance was published in April 2023.² However, we urge USCIS to go further and provide this information on all forms where survivors of crime may need to protect their addresses (e.g. Form I-485, Application to Register Permanent Residence or Adjust Status).

II. The ILRC Requests USCIS to Make Further Changes to Form I-918 and Form I-918A to Reduce Barriers to U Nonimmigrant Status

While we are appreciative of the positive changes made to Form I-918 and Form I-918A mentioned above, we offer the following suggestions to aid the agency in its effort to streamline the form and to make the process easier for applicants and adjudicators alike.

a. USCIS should remove questions that ask applicants to draw legal conclusions.

Question 8 in Part 2 of Form I-918 and Form I-918A should be eliminated entirely, and the agency should revise the introduction language under the heading "Criminal Acts and Violations" such that applicants are not required to draw legal conclusions. By asking applicants if they have committed a crime for which they were not "arrested, cited, charged with, tried for that crime, or convicted," this question asks applicants to understand the local, state, and federal penal codes everywhere they have lived and to draw a legal conclusion that their actions rise to the level of criminality. USCIS should also clarify in this section that traffic citations do not need to be included. Over-broad questions run the risk that erroneous or incorrect information will be submitted necessitating Requests for Evidence (RFEs) that slow down adjudication. Given the broad nature of Question 8, there is also a risk that relevant information will be omitted unintentionally, which could lead to a finding of fraud during an adjudication or even later at adjustment or naturalization. Questions like this disadvantage pro se applicants in particular, as they require legal expertise.

b. USCIS should amend the forms to ensure that juvenile records are not included in eligibility inquiries.

USCIS should cease the consideration of juvenile records in applications for U nonimmigrant status. To that end, USCIS should make clear on Form I-918, Form I-918A, and all instructions that juvenile arrests, charges, and dispositions need not be disclosed, and juvenile records need not be provided. Across the United States, juvenile justice systems — civil systems that adjudicate violations of the law by children — recognize the significant developmental differences between children and adults and accordingly focus on early intervention, community-based resources, and rehabilitative efforts rather than punishment. In fact, most juvenile justice systems, including the federal system, have confidentiality provisions to protect young people from collateral consequences of juvenile court involvement that can occur when information and records from juvenile court proceedings are publicly available. Requiring people to disclose their youthful violations of the law to USCIS is at odds with the law and policy undergirding juvenile justice systems.

² https://www.uscis.gov/newsroom/alerts/uscis-updates-policy-guidance-on-safe-mailing-address-and-case-handling-procedures-for-certain.

Further, immigration law does not support consideration of juvenile justice records as a matter of discretion in immigration adjudications. The seminal case on the exercise of discretion in immigration adjudications remains *Matter of Marin*. In *Matter of Marin*, the BIA lists several factors that could be deemed adverse for purposes of discretionary determinations: "the nature and underlying circumstances of the exclusion ground at issue, the presence of additional significant violations of this country's immigration laws, the existence of a criminal record and, if so, its nature, recency, and seriousness, and the presence of other evidence indicative of a respondent's bad character or undesirability as a permanent resident of this country." Juvenile delinquency adjudications do not fit anywhere within this rubric. First, juvenile justice systems are civil in nature and accordingly state laws forbid the consideration of juvenile delinquency adjudications as "crimes" or youth adjudicated delinquent as "criminals." Second, evidence of a juvenile record simply is not evidence of "bad character." Even the Supreme Court has recognized that youthful violations of the law may not be indicative of adult character and behavior. In recognition of the distinctions between criminal and juvenile proceedings, the BIA held that juvenile adjudications are not treated as convictions for purposes of immigration law. This differential treatment must be extended to the exercise of discretion, especially considering that delinquency does not appropriately fit into the existing legal framework for discretionary determinations.

To better align USCIS policy with both state laws and immigration laws, the language in the proposed Form I-918, Form I-918A, and related instructions should be amended to affirmatively exclude juvenile arrests, charges, and adjudications. Specifically, the introduction language to Part 2 "Criminal Acts and Violations" should be altered in the following way:

For **Item Numbers 7.-31.** [7-29. for I-918A], you must answer "Yes" to any question that applies to you, even if your records were sealed or otherwise cleared, or even if anyone, including a judge, law enforcement officer, or attorney told you that you no longer have a record. You must also answer "Yes" to the following questions whether the action or offense occurred in the United States or anywhere else in the world. However, do not include offenses that were handled in a juvenile court system.

c. USCIS should reduce the expanded questions about unlawful presence and immigration violations.

The proposed Forms I-918 and I-918A ask more questions in general about entries and exits. While it is important to help applicants flag potential immigration issues for which they should seek a waiver, some of the added questions are unnecessary and redundant. For example, the new Question 5 in Part 2 asks if the applicant has ever departed the United States after having been ordered excluded, deported, or removed. However, Question 4 asks whether the applicant has been issued a final order; Question 3 asks for removal proceedings with date of action; and the section begins by asking for a list of all entries and departures. Thus, Question 5 is unnecessary and redundant.

Similarly, the new Question 6 in Part 2 asks specifically whether the applicant has entered the United States without being inspected and admitted or paroled. However, on the same page, applicants are required to fill out a chart with all entries and manners of entries. Thus, this question is entirely repetitive and should be removed.

Moreover, the current question regarding whether someone has been denied a visa or denied admission to the United States has been split into two questions. Given how rare it is for U visa petitioners to be denied a visa prior to applying for U nonimmigrant status and the potential difficulty of parsing the difference between these two types of denials for pro se petitioners, we recommend re-combining these questions to streamline the application.

The new Question 3 regarding the type of immigration proceedings the petitioner was in should include an "unknown" option. This option is critical for petitioners, particularly those who are unrepresented, who may not know what type of proceedings were brought against them. The new Question 4 and Question 5 should also include a similar "unknown" option for petitioners who may not know that they had an expedited removal order or a

³ 16 I&N Dec. 581, 584 (BIA 1978).

⁴ See Roper v. Simmons 543 U.S. 551, 570 (2005).

removal order in absentia. Here, too, such an option is important to make sure that petitioners with incomplete information can answer the question to the best of their ability without incurring suspicions of fraud. Moreover, USCIS should rely on its own agency records to determine a U petitioner's immigration history and not assume that conflicting information provided by a petitioner is willful or fraudulent.

In addition, the new Question 26 in Part 2 is redundant and overbroad. It asks whether the petitioner has ever submitted fraudulent or counterfeit documentation to any U.S. government official. If this question is trying to solicit information about the document fraud inadmissibility ground at INA § 212(a)(6)(F), it is overbroad as that ground requires the person to be the subject of a final order for a violation of INA § 274C. See current Form I-918 Part 3 Question 22 ("Are you now under a final order or civil penalty for violating section 274C of the INA (producing and/or using false documentation to unlawfully satisfy a requirement of the INA)?"). If this new question is instead trying to solicit information about fraud more generally, it is unnecessary, as the following new Question 27 asks whether the petitioner has ever "lied about, concealed, or misrepresented any information." New Question 26 should thus be eliminated.

The new Question 28 asks if the petitioner has ever claimed to be a U.S. citizen in writing or any other way. The inadmissibility ground at INA § 212(a)(6)(C)(ii) requires that the false claim be made for a purpose or benefit under the INA or any other federal or state law. We agree that this new question could help identify the false claim to U.S. citizenship ground of inadmissibility at the time of the initial U visa petition, but note that the current wording is overbroad and could lead to confusion for petitioners and misreporting. We also urge USCIS not to use incorrect information on the questions in this section, particularly from pro se applicants, to assume fraudulent intent or deny otherwise eligible petitions.

III. ILRC Requests USCIS Make Changes to Form I-198B

The proposed Form I-918B is two pages longer than the current form and contains more narrative portions for the certifier to complete. The expanded length and more onerous questions will increase the amount of time certifiers need to complete the form, which in turn will delay and impede the certification process. This added inefficiency will create further barriers for immigrant survivors of crime to access U nonimmigrant status, particularly unrepresented petitioners. We offer the following suggestions to aid USCIS in its effort to streamline Form I-918B and to make the certification process easier for both applicants and the certifying agencies.

a. Reduce the expanded questions and space devoted to questions around culpability of the victim.

Proposed Form I-918B expands the questions about potential culpability of the victim. This expansion in and of itself gives undue attention to the rare situations where a victim is culpable for the crime committed against them. Moreover, Questions 5 and 6 in Part 4 around potential culpability in the qualifying criminal activity solicits information, without guidelines, from certifiers to make a determination of culpability even where a record does not exist. Specifically, Question 5 allows for the certifying agency to explain "why [they] feel the victim may be or is culpable." The breadth of this question, without qualification, may cause issues for applicants because it allows for an agency official who might not have the proper training to assign culpability where there may be none or not to recognize situations that arise from being the victim of a crime. We appreciate the instructions note that oftentimes a perpetrator will accuse the victim of a crime, as part of the power and control asserted by the abuser in domestic violence cases, for example; nevertheless, the addition of this question on Form I-918B may unnecessarily solicit subjective and unfounded allegations of culpability or backstories about the crime. The response to this question will depend on the certifying agencies' training in domestic violence dynamics in addition to how well the applicant can communicate with the certifying agency to whom the crime was reported. There are oftentimes language barriers between the certifying agency who created the report and the U petitioner. The agency should thus reduce the expanded questions about culpability.

b. <u>Streamline the questions related to "helpfulness of victim" and remove duplicate questions around</u> helpfulness.

The agency should revise Form I-918B so that certifying agencies do not have to answer similar questions around the applicant's helpfulness. Question 2 and Question 3 of Part 6 of Form I-918B should be streamlined and consolidated into one question. If the purpose of Part 6 is to identify and determine the "helpfulness of the victim," the agency can obtain this information by streamlining and leaving Question 1, "does the victim possess information concerning the qualifying criminal activity listed in Part 4" and a consolidated Question 2 and Question 3 to identify the helpfulness of the victim. A consolidated Question 2/3 could still allow the certifying agency to inform USCIS on how the victim was helpful and avoid redundancy.

c. Eliminate unnecessary questions on Form I-198B.

As noted in the instructions, the purpose of Form I-198B is to "provide evidence that the petitioner is a victim of a qualifying criminal activity and was, is, or is likely to be helpful in the detection, investigation, prosecution of that activity, or in the conviction or sentencing of the perpetrator." To do this, it is necessary for this certification to contain questions that help the certifying agency give information on the crime, who is certifying and where they work, and how the petitioner helped in reporting or investigating the crime. Not all questions added to the proposed Form I-918B help serve this purpose and instead unnecessarily lengthen the form and burden certifiers.

On amended Form I-918B, USCIS has provided space for the certifying agency to address the following requirements:

- Part 2, Information about the Certifying Agency and Officer
- Part 3, Case Information
- Part 4, Qualifying Criminal Activity Category
- Part 6, Helpfulness of the Victim

Within these sections, USCIS should streamline what information is collected and remove repetitive and unnecessary questions. For example, in Part 4 regarding the qualifying criminal activity and where it occurred, USCIS should eliminate the space for where the crime occurred. Where the activity occurred can be collected with the certifying agency information and with a simple answer to Question 7, "did the qualifying criminal activity occur in the United States."

USCIS should also eliminate the space given in the new Question 2 in Part 6 to explain how the petitioner was helpful. If the certifier checks that the petitioner was helpful, that should be sufficient. USCIS should not second-guess the certifier's assessment by asking for a detailed description that will burden the certifier.

In addition, the agency can eliminate the new Part 5, "Known or Documented Injury to the Victim." The additional questions regarding medical attention and injuries are likely to be only partially known, at best, by the certifier. The certifier is told to answer the question based on the interaction with the applicant, which may have been limited in scope and duration. Details on the medical attention and injuries suffered should be left to the applicant who can submit their medical records, evidence of treatment, etc.

III. Conclusion

We urge USCIS to consider these suggestions and amend the proposed revisions to Forms I-918, I-918A, and I-918B. Again, we are appreciative of the many positive changes proposed and encourage USCIS to maintain those changes while also addressing the concerns we have raised here with the proposed forms. These measures will aid in the agency's goals of streamlining adjudications processes and reducing backlogs. Please don't hesitate to contact us if there are any questions at akamhi@ilrc.org.

Sincerely

/s/

Alison Kamhi Legal Program Director Immigrant Legal Resource Center



National Immigrant Women's Advocacy Project, Inc.

Post Office Box 5411, Washington, D.C. 20016 Phone 202.274.4457, info@niwap.org, www.niwap.org

January 8, 2024
Samantha Deshommes
Chief, Regulatory Coordinator
Division Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
Submitted via www.regulations.gov

RE: "Agency Information Collection Activities; Revision of a Currently Approved Collection: Petition For U Nonimmigrant Status"

OMB Control Number 1615-0104; Docket ID USCIS-2010-0004-0087

Dear Ms. Deshommes:

We are writing on behalf of NIWAP Inc. to provide additional comments on the I-918B U Visa Certification Form to highlight particular difficulties in the current and proposed versions of the form for state court judges who sign certifications. These comments are in addition to those we submitted together with ASISTA and other groups. (See Attachment A, incorporated herein by reference).

NIWAP is a training, technical assistance, and public policy advocacy organization with almost four decades of experience developing, reforming and promoting the implementation and use of laws and policies to improve legal rights, services, and assistance to immigrant women and children who are victims of domestic violence, sexual assault, stalking, human trafficking, and other crimes. NIWAP's Director was involved in drafting the Trafficking Victims Protection Acts of 2000 and 2008. NIWAP provides direct technical assistance and training materials for attorneys, advocates, state court judges, immigration judges, the Board of Immigration Appeals, police, sheriffs, prosecutors, Department of Homeland Security, and other professionals.

For the past decade NIWAP has been a lead organization involved in training state family, civil and criminal court judges, magistrates, commissioners, hearing officers and other judicial officers nationally on judges' role as U visa certifiers. This work has been funded by the U.S. Department of Justice's Office on Violence Against Women and the State Justice Institute and led to the development of the "U Visa Certification and T Visa Declaration Toolkit for Federal, State, and Local Judges, Commissioners, Magistrates and Other Judicial Officers" (June 17, 2021) https://niwaplibrary.wcl.american.edu/pubs/judges-u-and-t-certification-toolkit

Law enforcement certification terminology causes confusion. The current and proposed versions of the certification are difficult and confusing for judges and judicial officers to complete. The form and instructions continually make references to the I-918B form as a "law enforcement certification" which creates confusion for non-law enforcement certifiers. The full range of government agencies that can sign U visa certifications under U visa statutes, regulations, and policies includes:

Judges

- Law enforcement
- Prosecutors
- Child protective services
- Adult protective services
- The EEOC
- State labor agencies
- Other government agencies with authority to detect, investigate, prosecute, convict or sentence perpetrators of criminal activities.

Change language in the U visa certification form to refer to "government agency certification" and "government agency certifiers." Alternatively, make it much clearer in the I-918B instructions that the terminology includes all certifiers despite the fact that the form continuously references law enforcement certification. Perhaps could be accomplished up front in the instruction form in a large square box that calls attention to this notification.

Part 2. Agency Information Suggested Amendments: NIWAP suggests that this section be amended slightly on both the form and the instructions to specifically address judicial certifiers. On the form itself "Name of Head of Certifying Agency" should be amended to read "Name of Head of Certifying Agency (Not applicable for judicial certifiers)". The instructions should also be amended to add a short paragraph titled "For Judicial Certifiers" that explains how judges complete this section of the form. The instructions should clearly state that judicial officials only complete the certifying agency and name of certifying official sections of this part. Judges are directly statutorily authorized to certify. The Head of Agency section in this part does not apply to judicial certifiers.

Part 6. Certification Amendments: The most important revisions that NIWAP proposes to form I-918B has to do with the language in the certification block. Judges do not investigate or prosecute criminal activity so they cannot sign the certification form as written and must amend the certification in the form to comply with judicial ethics codes. The current certification as drafted has the effect of undermining access to judicial certification, leads to legally incorrect interpretations regarding U visa certifications, and makes it difficult for NIWAP and our national faculty to train and convince judges that U visa certification is something that state court judges can legally and ethically do. We suggest the form be amended to read as follows to facilitate judicial certification:

Part 6. Certification

Certifiers must complete one of the following certifications:

I am the head of the agency listed in Part 2. or I am the person in the agency who was specifically designated by the head of the agency to issue a U Nonimmigrant Status Certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual identified in Part 1. is or was a victim of one or more of the crimes listed in Part 3. I certify that the above information is complete, true, and correct to the best of my knowledge, and that I have made and will make no promises regarding the above victim's ability to obtain a visa from U.S. Citizenship and Immigration Services (USCIS), based upon this certification. I further certify that if the victim

unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim, I will notify USCIS.
I am a judicial official and am authorized by INA Section 101(a)(15)(U) to sign certifications. Based upon (check all that apply)
My issuance of a protection orderMy finding of probable causeMy findings in a case ¹ My presiding over a court case and hearing evidence ² My review of court recordsA preponderance of the evidenceOther
I certify, under penalty of perjury, that the individual identified in Part 1. is or was a victim of one or more of the crimes listed in Part 3. I certify that the above information is complete, true, and correct to the best of my knowledge, and that I have made and will make no promises regarding the above victim's ability to obtain a visa from U.S. Citizenship and Immigration Services (USCIS), based upon this certification. ³
Thank you for the opportunity to make these additional comments on the U Visa Certification Form I-918B and the instructions for that form. We sincerely hope USCIS will consider make the amendments to the U Visa certification form that will provide greater clarity for judicial certifiers and will remove significant impediments in the current form that deter many judges from signing certifications and that make it more difficult to effectively train judges and judicial officials on U visa certification.
Sincerely,
Leslye E. Orloff President National Immigrant Women's Advocacy Project, (NIWAP) Inc.

¹ Note that in the instructions that the court fills in what type of case which can include but is not limited to protection order, custody, divorce, child abuse, criminal, civil or other court case.

² The instructions to the form should clearly state that judges that detect helpfulness in a family, civil, criminal,

² The instructions to the form should clearly state that judges that detect helpfulness in a family, civil, criminal, probate, juvenile, administrative or other court case are authorized to sign U visa certifications.

³ The last sentence of the current certification judges cannot sign and must cross out to comply with judicial ethics

³ The last sentence of the current certification judges cannot sign and must cross out to comply with judicial ethics rules which preclude judges from remaining in touch with, keeping track of, and reporting future actions or inactions of the victim.

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PUBLIC SUBMISSION

Incomplete Comment Submitted by S Bailey

Posted by the U.S. Citizenship and Immigration Services on Jan 9, 2024



Comment

I-918 Supp B -

Page 1 - START HERE - N/A or None in each question that is not applicable is overburdensome - if no apartment number, is N/A required? If not middle name, is N/A required? This requirement was in place previously and caused many unnecessary issues.

Page 1, part 2 #4 - The Law Enforcement Certification Guide does not require that a name/signature be provided to USCIS. If this question is required, provide an opportunity for the certifier to add their name and signature to USCIS.

Page 2, part 3, #2 and 3 - Police report number court case number

Page 4, part 3, #3 - qualifying crimes can be listed in alphabetical order

Page 4, part 4, #5 and 6 - subjective - could a victim of domestic violence been seen as culpable for the crime against her or him?

Page 5, part 5 #2 - whether victim received medical treatment is not relevant - the requirement is whether there was injury. Many individuals do not seek medical treatment for different reasons - no insurance, cost, etc.

Page 5, part 6 #3 - yes or no is sufficient

Page 9, part 6 #2 - statement that original signature is required, if so

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PUBLIC SUBMISSION

Unrelated Comment Submitted by WhoPoo App

Posted by the U.S. Citizenship and Immigration Services on Jan 9, 2024

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Without immediate deportation of all illegals, the United States will crumble. More than one-third of U.S. bridges are in disrepair, infrastructure group saysAlmost 231,000 American bridges — more than a third of the nation's bridges — need repair or should be completely replaced, according to analysis of federal data by an infrastructure investment advocacy group.

The American Road & Transportation Builders Association says that of those bridges in disrepair, 81,000 bridges should be replaced and more than 46,000 are "structurally deficient" and in poor condition, according to its analysis of the newly released 2019 National Bridge Inventory database from the U.S. Department of Transportation.

ARTBA estimates that the cost to repair all of the bridges is nearly \$164 billion and at the current pace of repair, the construction would take more than half a century.

"Our bridge network is underfunded and should be modernized. State and local government just haven't been given the necessary financial resources to fully address the problem," ARTBA Chief Economist Dr. Alison Premo Black, who led the team conducting the analysis, said in a statement.

ARTBA President Dave Bauer said that federal assistance "should be part of the solution," the association's statement said.

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He added that a focus on infrastructure could help the country dig out from the economic crisis caused by the coronavirus.

"Economic recovery from coronavirus begins with strategic road and bridge improvements," Bauer said. "Increased transportation investments support direct job creation and retention, while putting in place capital assets that will enhance U.S. productivity for decades to come."

More than 69,500 bridges are not operating at their full capacity, or "posted for load," which means there are weight restrictions on them so as not to stress their structures.

Notable bridges deemed structurally deficient are New York City's Brooklyn Bridge, Washington, D.C.'s Theodore Roosevelt bridge and the San Mateo-Hayward bridge crossing San Francisco Bay.

With 22 percent of its bridges deemed structurally deficient, Rhode Island has the highest percentage in the country. Despite this, taxpayers are being forced to pay for illegal immigrants and their poverty. At the start of 2023, the net cost of illegal immigration for the United States – at the federal, state, and local levels – was at least \$150.7 billion.

FAIR arrived at this number by subtracting the tax revenue paid by illegal aliens – just under \$32 billion – from the gross negative economic impact of illegal immigration, \$182 billion.

In 2017, the estimated net cost of illegal migration was approximately \$116 billion. In just 5 years, the cost to Americans has increased by nearly \$35 billion.

Illegal immigration costs each American taxpayer \$1,156 per year (\$957 after factoring in taxes paid by illegal aliens).

Each illegal alien or U.S.-born child of illegal aliens costs the U.S. \$8,776 annually.

Evidence shows that tax payments by illegal aliens cover only around a sixth of the costs they create at all levels in this country.

A large percentage of illegal aliens who work in the underground economy frequently avoid paying any income tax at all.

Many illegal aliens actually receive a net cash profit through refundable tax credit programs. The overall problem of estimating the illegal alien population is further complicated by the fact that the majority of available sources on immigration status rely on self-reported data. Given that illegal aliens have a motive to lie about their immigration status in order to avoid discovery, the accuracy of these statistics is dubious at best. All of the foregoing issues make it very difficult to assess the current illegal alien population of the United States. So the figure is probably much higher. At the federal, state, and local levels, taxpayers shell out approximately \$182 billion to cover the costs incurred from the presence of more than 15.5 million illegal aliens, and about 5.4 million citizen children of illegal aliens. That amounts to a cost burden of approximately \$8,776 per illegal alien/citizen child. The burden of illegal immigration on U.S. taxpayers is both staggering and crippling, with the gross cost per taxpayer at \$1,156 every year.

Illegal aliens only contribute roughly \$32 billion in taxes at the state, local, and federal levels. This means that the net fiscal cost of illegal immigration to taxpayers totals approximately \$150.7 billion.

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