



Report on the Operations of the Violence Against Women Act Unit at the USCIS Vermont Service Center

Report to Congress

October 22, 2010



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U.S. Citizenship and Immigration Services

OCT 22 2010



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Foreword

I am pleased to present the following report, "Report on the Operations of the Violence Against Women Act Unit at the USCIS Vermont Service Center," which has been prepared by U.S. Citizenship and Immigration Services.

Pursuant to congressional requirements, this report is being provided to the following Members of Congress:

The Honorable Howard L. Berman
Chairman, House Committee on Foreign Affairs

The Honorable Ileana Ros-Lehtinen
Ranking Member, House Committee on Foreign Affairs

The Honorable John Conyers, Jr.
Chairman, House Committee on the Judiciary

The Honorable Lamar S. Smith
Ranking Member, House Committee on the Judiciary

The Honorable John F. Kerry
Chairman, Senate Committee on Foreign Relations

The Honorable Richard G. Lugar
Ranking Member, Senate Committee on Foreign Relations

The Honorable Patrick J. Leahy
Chairman, Senate Committee on the Judiciary

The Honorable Jeff Sessions
Ranking Member, Senate Committee on the Judiciary

If I may be of further assistance, please contact me at (202) 447-5890.

Respectfully,

A handwritten signature in black ink, appearing to read "N. Peacock", written over a white background.

Nelson Peacock
Assistant Secretary
Office of Legislative Affairs

Executive Summary

This report fulfills the requirement set forth in Section 238 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 2008) (P.L. 110-457) that U.S. Citizenship and Immigration Services (USCIS) report on the operations of the specially-trained Violence Against Women Act (VAWA) Unit at the Vermont Service Center (VSC) no later than six months after passage of the TVPRA.

The following are the principal conclusions of the report:

- The VSC, through its specialized VAWA Unit, is the sole service center that adjudicates petitions pertaining to VAWA special immigrants and applications and petitions pertaining to T and U nonimmigrant status.
- The VAWA Unit historically has demonstrated a higher degree of staff seniority within USCIS and has a lower rate of staff turnover than other units at VSC. Staff members assigned to the VAWA Unit generally remain with the unit unless and until reassigned at the request of the employee or due to promotion.
- The VAWA Unit has grown in size to reduce processing times and accommodate new workloads, including adjustment of status requests by T and U nonimmigrants. Recently, the VAWA Unit doubled the number of adjudicators assigned to U nonimmigrant status requests and has shown significant progress in reducing the backlog of pending U nonimmigrant cases.
- Members of the VAWA Unit undergo rigorous initial training, and the training regimen is significantly more thorough and of greater duration than in other product lines at VSC. Initial training is followed by a lengthy period of mentorship of newer officers by more senior adjudicators.
- Initial training is augmented by frequent in-house meetings, training sessions, and conferences at VSC and by conferences featuring policy updates from Headquarters personnel and technical expertise from advocacy organizations.
- The VAWA Unit benefits from frequent consultation and continuous operational and policy-related dialogue with USCIS Headquarters units, including the Office of Chief Counsel, Office of Policy and Strategy, and Office of Service Center Operations. This includes an ongoing monthly conference call between the VAWA Unit and VSC management and the aforementioned Headquarters offices.

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I. Legislative Requirement

This document responds to the reporting requirements set forth in the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 2008) (P.L. 110-457). Each element required by Section 238(b) of the TVPRA of 2008 is displayed in table format in Part III, Data Report, and discussed in Part IV, Analysis/Discussion. DHS notes that the statute directed that this report be submitted to Congress no later than six months after passage of the TVPRA (i.e., by June 21, 2009). DHS apologizes for the delay in submitting the report, which took longer than anticipated to prepare. However, a number of events have occurred since last June that will be of interest to the Congress. Accordingly, DHS has prepared an addendum to the report discussing those post-June 2009 events (see Appendix E). The statutory reporting requirement is as follows:

SEC. 238. PROCESSING OF CERTAIN VISAS.

(a) REPORT.— Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives and the Committee on Foreign Relations and the Committee on the Judiciary of the Senate a report on the operations of the specially-trained Violence Against Women Act Unit at the Citizenship and Immigration Service’s Vermont Service Center.

(b) ELEMENTS.— The report required by subsection (a) shall include the following elements:

(1) Detailed information about the funds expended to support the work of the Violence Against Women Act Unit at the Vermont Service Center.

(2) A description of training for adjudicators, victim witness liaison officers, managers, and others working in the Violence Against Women Act Unit, including general training and training on confidentiality issues.

(3) Measures taken to ensure the retention of specially trained staff within the Violence Against Women Act Unit.

(4) Measures taken to ensure the creation and retention of a core of supervisory staff within the Violence Against Women Act Unit and the Vermont Service Center with responsibility over resource allocation, policy, program development, training and other substantive or operational issues affecting the Unit, who have historical knowledge and experience with the Trafficking Victims Protection Act of 2000, the Violence Against Women Act of 1994, Violence Against Women Act of 1994 confidentiality, and the specialized policies and procedures of the Department of Homeland Security and its predecessor agencies in such cases.

(5) Measures taken to ensure routine consultation between the Violence Against Women Act Unit, U.S. Citizenship and Immigration Services Headquarters, and the Office of Policy and

Strategy during the development of any Department of Homeland Security regulations or policies that impact Violence Against Women Act of 1994 confidentiality-protected victims and their derivative family members.

(6) Information on any circumstances in which victim-based immigration applications have been adjudicated by entities other than the Violence Against Women Act Unit at the Vermont Service Center, including reasons for such action and what steps, if any, were taken to ensure that such applications were handled by trained personnel and what steps were taken to comply with the confidentiality provisions of the Violence Against Women Act of 1994.

(7) Information on the time in which it takes to adjudicate victim-based immigration applications, including the issuance of visas, work authorization and deferred action in a timely manner consistent with the safe and competent processing of such applications, and steps taken to improve in this area.

II. Background

Since its creation in 2000, the VAWA Unit (“the Unit”) at the Vermont Service Center (VSC) has played a vital role in profoundly affecting peoples’ lives, oftentimes with life or death consequences. Ultimately, the VAWA Unit has helped liberate victims from a perpetual cycle of abuse and bondage and steer them towards a new beginning in a lawful status and, eventually, towards citizenship in the United States.

By creating a specialized VAWA Unit composed of non-rotating staff who affirmatively opted to serve in this unit, the former Immigration and Naturalization Service (INS) adopted a system for adjudicating VAWA self-petitions that was patterned after the models that courts and other justice system entities have found to be most successful. The VAWA Unit operates in a similar manner to the domestic violence units around the country where the judges, prosecutors, and court personnel are permanent, well-trained, and well-versed staff in domestic violence law. With specialized personnel who have committed themselves to the plight of battered women, domestic violence units across the country are making great progress by efficiently moving cases through the judicial system while presenting as much specialized assistance to the victims as possible. Throughout the justice system, courts, police, and prosecutors are called upon to address the same dual functions Congress has required of USCIS in VAWA self-petitioning cases. They must fairly adjudicate the merits of domestic violence cases while carrying out these adjudications in a manner that protects victims and fosters their safety. The ultimate goal in providing relief to battered immigrants is to reduce family violence while offering protection to victims. The best way to achieve this goal is to maintain a permanent VAWA Unit and permanent staff who have sufficient expertise and understanding of domestic violence and the impact that a poor decision can have on a battered immigrant. The Unit staff are extremely attentive to the well-being and safety of battered immigrants who file VAWA self-petitions.

Maintaining a permanent VAWA Unit staff also furthers the mission and goals of USCIS to provide accuracy, consistency, uniformity, and reliability, and helps to prevent USCIS from committing accidental violations of confidentiality. Without the well-trained and specialized staff working in the VAWA Unit, it would be difficult for USCIS to process each application timely, efficiently, fairly, and with victim safety in mind. Devoting expert staff to VAWA cases also provides another means of detecting fraudulent applications. Despite a high volume of VAWA cases received, expert adjudicators who handle domestic violence cases on a daily basis are best suited to distinguish a legitimate application by a *pro se* applicant from a fraudulent application. The VAWA Unit staff are able to share information with one another about cases, which helps them identify patterns and dynamics among both the valid, approvable applications and the fraudulent ones. Since specialized staff share information with each other, each case is adjudicated in an appropriate, consistent, and timely manner, and the fraudulent cases are addressed quickly. Further, they can do this while preserving victim safety and without the risk of violating the special confidentiality provisions that apply to VAWA cases. In this regard, the Unit has experienced such success that USCIS has centralized the adjudication of all human trafficking-related and crime victim-related petitions at the VSC as well.

III. Data Report

Section 3.1 VAWA Unit Costs.

The following chart lists expenditures for the VAWA and T and U nonimmigrant programs for the years indicated:

VAWA Unit Funding					
Item	Description	FY 2006	FY 2007	FY 2008	FY 2009*
Payroll	Includes OT over FLSA** limit	\$2,090,127.00	\$2,231,329.73	\$2,285,236.00	\$1,903,539.86
Overtime (OT)	OT up to FLSA limit	\$155,598.36	\$77,380.28	\$109,487.00	\$90,804.60
Awards	Inc. Special Act & Performance	\$11,481.48	\$5,499.06	\$10,208.00	\$35,569.46
General Expenses	Supplies, goods & services	\$185,435.34	\$63,227.16	\$175,980.00	\$56,641.79
Operating Expenses***	Leases, guard service, maintenance contracts	\$227,338.52	\$265,675.37	\$275,416.65	\$198,592.45
TOTAL BUDGET PER FISCAL YEAR		\$2,669,980.70	\$2,643,111.61	\$2,856,327.65	\$2,285,148.16

* As of June 1, 2009

** FLSA - Fair Labor Standards Act. In accordance with OPM rules, VSC pays overtime initially from its specific overtime budget, and overtime in excess of the OT budget is paid from VSC's payroll budget.

*** Operating expenses for the VAWA Unit are calculated as a percentage (6%) of overhead cost for all of VSC based on the size of the VAWA Unit as a percentage of VSC's overall operation.

Source: Vermont Service Center

Section 3.2 Training.

The following chart details the type and duration of training for each employee in the VAWA Unit at the Vermont Service Center. Officers assigned to T and U nonimmigrant adjudications must first undergo VAWA-related domestic violence training (VAWA Overview Training) before they begin T and U Nonimmigrant Training.

C- Completed (if training)

CP- Continuous Participation (if ongoing meeting);

N/A- Not applicable at present and pending completion of prerequisite VAWA work

EMPLOYEE	JOB CLASSIFICATION AND GS LEVEL	VIOLENCE AGAINST WOMEN ACT TRAINING				T & U NONIMMIGRANT STATUS TRAINING			
		VAWA Overview Training ¹	On-the-Job Training under guidance of mentor	Post Basic Follow-up Training (appx. 2 months after Basic training)	Bi-Monthly Team Meetings	Basic T&U Nonimmigrant Initial Training	On-the-Job Training under guidance of mentor	Post Basic Follow-up Training (appx. 2 months later)	Bi-Monthly Team Meetings
		4 days	120 days ²	6 hours	Ongoing	2 days	120 days ²	6 hours	Ongoing
1	Adjudicator, GS-12	C	C	C	C	C	C	C	C
2	Adjudicator, GS-12	C	C	C	C	C	C	C	C
3	Adjudicator, GS-12	C	C	C	C	C	C	C	C
4	Adjudicator, GS-12	C	C	C	C	C	C	C	C
5	Adjudicator, GS-12	C	C	C	C	C	C	C	C
6	Adjudicator, GS-12	C	C	C	C	C	C	C	C
7	Adjudicator, GS-12	C	C	C	C	C	C	C	C
8	Adjudicator, GS-12	C	C	C	C	C	C	C	C
9	Adjudicator, GS-12	C	C	C	C	C	C	C	C
10	Adjudicator, GS-12	C	C	C	C	C	C	C	C
11	Adjudicator, GS-12	C	C	C	C	C	C	C	C
12	Adjudicator, GS-12	C	C	C	C	C	C	C	C
13	Adjudicator, GS-12	C	C	C	C	C	C	C	C
14	Adjudicator, GS-12	C	C	C	C	C	C	C	C
15	Adjudicator, GS-12	C	C	C	C	C	C	C	C
16	Adjudicator, GS-12	C	C	C	C	C	C	C	C
17	Adjudicator, GS-12	C	C	C	C	C	C	C	C
18	Adjudicator, GS-12	C	C	C	C	C	C	C	C
19	Adjudicator, GS-12	C	C	C	C	C	C	C	C
20	Adjudicator, GS-12	C	C	C	C	C	C	C	C
21	Adjudicator, GS-12	C	C	C	C	C	C	C	C
22	Adjudicator, GS-12	C	C	C	C	C	C	C	C
23	Adjudicator, GS-12	C	C	C	C	C	C	C	C

24	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
25	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
26	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
27	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
28	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
29	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
30	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
31	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
32	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
33	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
34	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
35	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
36	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
37	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
38	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
39	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
40	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
41	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
42	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
43	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
44	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
45	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
46	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
47	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
48	Adjudicator, GS-12	C	C	C	C	N/A	N/A	N/A	N/A
49	Senior Adjudicator / Mentor, GS-13	C	C	C	C	C	C	C	C
50	Senior Adjudicator / Mentor, GS-13	C	C	C	C	C	C	C	C
51	Senior Adjudicator / Mentor, GS-13	C	C	C	C	C	C	C	C
52	Supervisor, GS-13	C	C	C	C	C	C	C	C
53	Supervisor, GS-13	C	C	C	C	C	C	C	C
54	Supervisor, GS-13	C	C	C	C	C	C	C	C
55	Supervisor, GS-13	C	C	C	C	C	C	C	C
56	Supervisor, GS-13	C	C	C	C	C	C	C	C
57	Supervisor, GS-13	C	C	C	C	C	C	C	C
58	Immigration Services Officer, Level 1 (ISO(1)) ³ , GS-9/11	C	C	CP	C	CP	C	CP	C
59	Immigration Services Officer, Level 1 (ISO(1)), GS-9/11	C	C	CP	C	CP	C	CP	C
60	Immigration Services Officer, Level 1 (ISO(1)), GS-9/11	C	C	CP	C	CP	C	CP	C
61	Immigration Services Officer, Level 1 (ISO(1)), GS-9/11	C	C	CP	C	CP	C	CP	C
62	Manager, GS-15	C	C	C	C	C	C	C	C

Source: Vermont Service Center

Notes:

- 1 Includes basic overview of VAWA victim protection, including applicable statute and regulations. Officers receive more specific procedural guidance on Form I-360 adjudication during on-the-job training.
- 2 Varies according to skills and ability of trainee. 120 days is the average length of post-basic on-the-job training under mentorship, for both VAWA and T & U Nonimmigrant work.
- 3 Position is titled Immigration Services Officer, Level 1 (ISO(1)). ISO(1)s provide technical assistance to attorneys and accredited representatives with respect to immigration statute and regulation and basic filing procedures. ISO(1)s provide information regarding status of pending applications and petitions, as well as administrative procedures and processing times. ISO(1)s were added to the VAWA Unit in 2003. Unlike most other units at the VSC, the VAWA Unit has its own ISO(1)s dedicated to VAWA-related concerns and inquiries raised by the applicants and/or their attorneys. This position is equivalent to the description of "Victim Witness Liaison Officer", which was referred to by Congress. The position is also commonly referred to as "Immigration Information Officer (IIO).

Section 3.3 Staff Retention.

The following chart provides information regarding the seniority of each individual currently employed in the VAWA Unit and information regarding the departure of former VAWA Unit employees:

EMPLOYEE	JOB CLASSIFICATION AND GS LEVEL	CURRENT EMPLOYEES	FORMER EMPLOYEES						
		Seniority in Unit (Months)	Date Left Unit	Seniority in Unit When Left (Months)	Reason For Leaving Unit				
					Promotion (incl to VAWA unit supervisor)	Reassigned at Gov't Initiative	Requested Reassignment	Quit USCIS	Retired
TOTALS / AVERAGES		27.58*		44	3	0	1	0	0
1	Adjudicator, GS-12		12/31/07**	54	1				
2	Adjudicator, GS-12		12/31/07**	46	1				
3	Adjudicator, GS-12		12/31/07**	39	1				
4	Adjudicator, GS-12		12/31/07**	37			1		
5	Adjudicator, GS-12	88							
6	Adjudicator, GS-12	88							
7	Adjudicator, GS-12	88							
8	Adjudicator, GS-12	88							
9	Adjudicator, GS-12	88							
10	Adjudicator, GS-12	88							
11	Adjudicator, GS-12	88							
12	Adjudicator, GS-12	88							
13	Adjudicator, GS-12	88							
14	Adjudicator, GS-12	88							
15	Adjudicator, GS-12	88							
16	Adjudicator, GS-12	84							
17	Adjudicator, GS-12	63							
18	Adjudicator, GS-12	48							
19	Adjudicator, GS-12	7							
20	Adjudicator, GS-12	7							
21	Adjudicator, GS-12	7							
22	Adjudicator, GS-12	7							
23	Adjudicator, GS-12	7							
24	Adjudicator, GS-12	5							
25	Adjudicator, GS-12	5							
26	Adjudicator, GS-12	5							
27	Adjudicator, GS-12	5							
28	Adjudicator, GS-12	5							

29	Adjudicator, GS-12	5							
30	Adjudicator, GS-12	4							
31	Adjudicator, GS-12	4							
32	Adjudicator, GS-12	3							
33	Adjudicator, GS-12	3							
34	Adjudicator, GS-12	3							
35	Adjudicator, GS-12	3							
36	Adjudicator, GS-12	3							
37	Adjudicator, GS-12	3							
38	Adjudicator, GS-12	3							
39	Adjudicator, GS-12	3							
40	Adjudicator, GS-12	3							
41	Adjudicator, GS-12	3							
42	Adjudicator, GS-12	2							
43	Adjudicator, GS-12	2							
44	Adjudicator, GS-12	2							
45	Adjudicator, GS-12	2							
46	Adjudicator, GS-12	2							
47	Adjudicator, GS-12	2							
48	Adjudicator, GS-12	2							
49	Adjudicator, GS-12	2							
50	Adjudicator, GS-12	2							
51	Adjudicator, GS-12	2							
52	Adjudicator, GS-12	2							
53	Senior Adjudicator / Mentor, GS-13	88							
54	Senior Adjudicator / Mentor, GS-13	48							
55	Senior Adjudicator / Mentor, GS-13	2							
56	Immigration Services Officer, Level 1 (ISO(1)), GS-9/11	64							
57	Immigration Services Officer, Level 1 (ISO(1)), GS-9/11	9							
58	Immigration Services Officer, Level 1 (ISO(1)), GS-9/11	9							
59	Immigration Services Officer, Level 1 (ISO(1)), GS-9/11	9							

Source: Vermont Service Center

*This figure refers to average seniority of individuals currently with the VAWA Unit and does not include average seniority of those who have left the Unit.

** Three officers entered on duty into new positions at approximately the same time due to promotions. The fourth officer was reassigned at his/her request at about the same time.

Section 3.4 Supervisory Retention.

The following chart provides information regarding the seniority, or average tenure, of each supervisor currently employed in the VAWA Unit and information regarding the departure of former VAWA Unit supervisors:

SUPERVISORY OR MANAGERIAL EMPLOYEE	JOB CLASSIFICATION AND GS LEVEL	CURRENT SUPERVISORS OR MANAGERS	FORMER SUPERVISORS OR MANAGERS						
		Seniority in Unit (Months)	Date Left Unit	Seniority in Unit When Left (Months)	Reason For Leaving Unit				
					Promotion (incl. promotion to VAWA unit manager)	Reassigned at Gov't Initiative	Requested Reassignment	Quit USCIS	Retired
TOTALS / AVERAGES		12		41	0	3	1	0	0
Former Supervisor 1	Supervisor GS-13		10/01/08	17		1			
Former Supervisor 2	Supervisor GS-13		07/01/07	72		1			
Former Supervisor 3	Supervisor GS-13		03/01/09	56			1		
Former Manager 1	Manager GS-14		03/01/09	20		1			
Current Supervisor 1	Supervisor GS-13	3							
Current Supervisor 2	Supervisor GS-13	8							
Current Supervisor 3	Supervisor GS-13	22							
Current Supervisor 4	Supervisor GS-13	3							
Current Supervisor 5	Supervisor GS-13	8							
Current Supervisor 6	Supervisor GS-13	28							
Current Manager 1	Manager GS-15	3							

Source: Vermont Service Center

Section 3.5 VSC-Headquarters Consultation.

The following chart details consultation between USCIS headquarters and the VAWA Unit:

TYPE OF CONSULTATION	FISCAL YEAR 2008				FISCAL YEAR 2009	
	1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter	1 st Quarter	2 nd Quarter
Teleconferences between HQ and VSC VAWA	0	0	1	3	3	3
Visits to VSC VAWA Unit by HQ personnel*	1	1	1	0	0	1

* Includes HQ personnel assigned to the Domestic Operations Directorate (DOMO), the Office of Service Center Operations (SCOPS), the Office of Policy and Strategy (OP&S) and/or the Office of the Chief Counsel (OCC)

Section 3.6 Adjudication Outside the VSC VAWA Unit.

The following chart indicates the number of VAWA and T and U cases** adjudicated outside the Vermont Service Center during the periods indicated:

USCIS OFFICE	FISCAL YEAR 2006	FISCAL YEAR 2007	FISCAL YEAR 2008				FISCAL YEAR 2009	
			1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter	1 st Quarter	2 nd Quarter
Nebraska Service Center	0	0	0	0	0	0	0	0
Texas Service Center	0	0	0	0	0	0	0	0
California Service Center	0	0	0	0	0	0	0	0
National Benefits Center	0	0	0	0	0	0	0	0
District and Sub-offices (Combined Total)	0	0	0	0	0	0	0	0
International Offices (Combined Total)	0	0	0	0	0	0	0	0

Sources :

USCIS Service Center Operations for the Nebraska, Texas, and California Service Centers
 USCIS Domestic Operations for the National Benefits Center and for the District and Sub-offices
 USCIS International Operations for the International Offices

**Statistics reflect Forms I-360, I-914, I-918 and T or U-based I-485s. The VSC currently has sole jurisdiction over these form types. I-360-based I-485s are adjudicated at District Offices.

Section 3.7 Production Statistics

The following chart lists processing times by form type as of June 2009:

CASE TYPE		Processing Time Goal (Months)	Current Processing Time (Months)	Current* Processing Dates	Initial** Pending	Requests For Evidence/ Notices of Intent To Deny	Total Pending
Form Number	Title/Description						
I-192	Application for Advance Permission to Enter as a Nonimmigrant	4	17.7	4/6/2008	6,248	23	6,271
I-360 VAWA	Petition for Amerasian, Widow(er), or Special Immigrant	5	14.9	4/15/2008	5,040	2,870	11,089
T or U I-485	Application to Register Permanent Resident or Adjust Status	4	20.3	7/24/2006	4,430	153	5,082
I-765 (filed under 8 CFR 274a.12(a)(20))	Application for Employment Authorization (U nonimmigrant)***	2.5	20.5	10/17/2007	1,427	15	1,611
I-765 (filed under 8 CFR 274a.12(c)(14))	Application for Employment Authorization (VAWA Deferred Action)	2.5	2.9	4/2/2009	3,456	63	3,667
I-914	Application for T Nonimmigrant Status (Principal)	4	7.3	5/17/2009	142	0	279
I-914 A	Application for T Nonimmigrant Status (Dependent)	6	8.4	5/17/2009	91	0	143
I-918	Application for U Nonimmigrant Status (Principal)	6	15.6	4/6/2009	5,300	322	14,183
I-918 A	Application for U Nonimmigrant Status (Dependent)	6	17.4	4/6/2009	8,858	161	10,631

* Current processing dates correspond to the receipt date on the petitions/applications being distributed to officers.

** Initial pending corresponds to the number of petitions/applications that have not yet been distributed and are awaiting initial adjudication.

*** We have included processing times for U nonimmigrant employment authorizations because this represents a substantial workload. However, given that employment authorizations for T nonimmigrants is statistically insignificant, we have omitted processing time for that application from the chart.

IV. Analysis/Discussion

Section 4.1 VAWA Costs

The VSC spends over two million dollars each fiscal year on VAWA-related programs. This amount represents six percent of the VSC's overall operating costs. This funding is spent on the salaries of employees, overtime hours, performance awards for employees, and general expenses, including necessary support services. The funding not only includes monies for adjudicative resources but also provides for specific unit support, such as safe address review, VAWA hotline support, *prima facie* determinations, database management, and necessary clerical assistance.

As shown in Section 3.1, the overall cost of operating the VAWA Unit has remained relatively constant over the past four fiscal years, with moderate increases during fiscal years 2008 and 2009. While more fixed costs, such as overhead, have shown little variation, the greatest single-item increases during the past two years have occurred with respect to overtime and awards. In addition, payroll has increased to reflect expansion of the unit, as discussed in Section 4.3 below. Overtime for fiscal year 2009, which amounted to \$90,804.60 as of June 1, is expected to exceed the amounts spent in the previous two fiscal years (\$109,487 in fiscal year 2008 and \$77,380.28 in fiscal year 2007). Award money for fiscal year 2009 to date (\$35,569.46) represents a nearly three-and-a-half fold increase over fiscal year 2008 (\$10,208.00). As an incentive for increased productivity, VSC currently provides awards to all members of the unit who perform at the Excellent or Outstanding¹ level, as reflected in their annual performance work plans, whereas performance awards in prior fiscal years depended entirely on managerial discretion. Payroll, which accounted for \$1,903,539.86 as of June 1, is on track to exceed last year's \$2,285,236.00, and VSC estimated that fiscal year 2009 payroll costs amounted to approximately \$2.85 million, over \$500,000 more than in fiscal year 2008. This increase reflects the addition of new staff to the unit specifically to address the backlog of U nonimmigrant status requests.

Section 4.2 Training

The training regimen of the VSC VAWA Unit through the first half of fiscal year 2009 is depicted in Section 3.2. VAWA Unit adjudicators initially receive four days of classroom-type training regarding basic eligibility requirements for special immigrant status under VAWA, confidentiality protections and disclosure prohibitions under Section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA),² and processes for adjudicating Form I-360 special immigrant petitions under VAWA. This training is conducted

¹ The Excellent and Outstanding levels are the two highest levels of performance. The performance rating scale ranges, from lowest to highest, from Unsatisfactory to Minimally Satisfactory to Fully Successful to Excellent to Outstanding.

² IIRIRA Section 384 (8 U.S.C. § 1367) prohibits Department of Homeland Security employees from rendering a determination of admissibility or deportability based solely on information provided by an abuser or a family member who acquiesced in the abuse. IIRIRA Section 384 also prevents the disclosure of information related to a request for relief under VAWA, or T and U nonimmigrant provision, except in limited circumstances.

by a veteran officer of the VAWA Unit who has a Master's degree in Social Work and has extensive experience teaching the subject at the collegiate level. The initial training includes eight to ten hours specifically dedicated to understanding family violence. Officers are taught to identify the main characteristics and theories of family violence, debunk commonly held myths about family violence, and recognize the impact family violence has on individuals, families, and society. Officers also learn the ways in which immigration status, or lack thereof, and culture or cultural differences may contribute to domestic violence. Each trainee is assigned a series of hypothetical test cases which he or she completes under the mentorship of a veteran VAWA adjudicator. Trainees continue to work with a mentor and attend follow-up trainings for the next several months.

VAWA officers also participate in bi-monthly team meetings during which all team members are encouraged to raise pertinent adjudication-related issues for discussion and resolution. VAWA managers, trainers and mentors are also cognizant of the potential impact for mental trauma suffered by adjudicators while adjudicating this form type and monitor constantly for officer reactions. To date, this has not been a significant issue for the VAWA Unit, but VSC is prepared to provide internal and external counseling to its adjudicators if necessary.

In addition to initial VAWA training, officers assigned to the adjudication of T and U nonimmigrant applications and petitions undergo an additional two-day training program conducted by Senior Adjudicators who have detailed knowledge of the subject matter and experience in adjudicating these types of petitions and applications. These officers participate in mentoring, follow-up training, and bi-monthly staff meetings in the same manner as officers assigned to adjudicate VAWA special immigrant petitions. To the extent that supervisors attend the same training as adjudicators on VAWA-related adjudications, supervisors are afforded similar opportunities for training when their schedule and availability of appropriate alternate internal or external training sessions permit.

In comparison with the on-going training mandated for VAWA Unit adjudicators after basic training, adjudicators in other, non-VAWA units at VSC generally receive one day of follow-up training relative to the INA provision specific to their adjudicative function. VAWA Unit adjudicators are co-located in a contiguous area at VSC, whereas the adjudicators in other, non-VAWA units may be located separately from one another in different areas. Senior Adjudicators with the VAWA Unit provide constant support to fellow adjudicators, and supervisors meet with adjudicators on a daily basis to discuss case-related matters. Due to the complexity of the caseload of the VAWA Unit, adjudicators are not given a full caseload for at least their first four months with the unit, in contrast with other VSC units, where adjudicators are equipped to take on a full caseload for rating and evaluation purposes after their first 30 days.

Section 4.3 Staff Retention and Section 4.4 Supervisory Retention

Considering the sensitivity of VAWA-related filings and the specialized knowledge necessary for proper and consistent handling of this caseload, VSC encourages experienced officers and supervisors to stay with the VAWA Unit. VSC maintains a policy of not rotating or reassigning adjudicators and supervisors out of the unit. However, VSC also supports employee development and career advancement. If an employee or supervisor is promoted or requests to

leave the VAWA Unit, VSC will honor the request, if possible. In the past three years, only four adjudicators, three supervisors, and one manager have left the Unit or taken on new functions within it. Of those, three adjudicators were promoted within the VAWA Unit, two supervisors and one manager were reassigned at government initiative and one adjudicator and one supervisor requested reassignment (see Sections 3.3 and 3.4). At the same time, the unit has continued to grow in size and currently consists of 62 employees. These additional officers were recruited through a solicitation of interest and a review of adjudication background. In the fall of 2007, the VSC added to the Unit three Senior Adjudicators, who act as veteran VAWA officers, subject matter experts, and mentors. In 2008, VSC reorganized the unit's reporting structure to place a GS-15 manager (Assistant Center Director, or ACD) in charge of VAWA and similar victim-related casework. The ACD reports directly to the Deputy Center Director. Over the course of their careers, managers and supervisors have amassed skills beyond the technical and adjudications skills necessary to adjudicate a particular type of case.

Historically, the VAWA Unit has demonstrated longer lengths of tenure within the Unit than do other product lines at VSC. Recently, the number of adjudicators was significantly increased to reduce the backlog of pending U nonimmigrant status requests, bringing within-unit seniority to an average of 27.58 months per officer. However, even before this increase, the VAWA unit had significantly higher rates of within-unit seniority relative to other product lines. Before the current calendar year, VAWA Unit officers had an average of 63.05 months with the unit, whereas within-unit seniority of other product lines at VSC generally averages between 24 and 40 months.

In terms of evaluating the VAWA-related experiences of the Unit's managers and supervisors, it is important to note that Section 3.4 credits only seniority within the Unit as a supervisor or manager. Although they have had past experience with VAWA-related adjudications, the past experience was not reflected in the chart. The following is a summary of previous VAWA-related adjudications experience of the Unit's supervisory team.

- The current manager for the Unit joined the Unit in March of 2009. However, he was one of the original VAWA adjudicators when the VAWA Unit was originally formed before he was promoted to supervisor and reassigned to another division in his new position.
- One of the newer supervisors had adjudicated I-360 petitions before the VAWA Unit was established. That individual had 24 months experience adjudicating the I-360 prior to the creation of the unit in March 2000.
- One of the newer supervisors had been reassigned to a different unit before being promoted and reassigned back to the VAWA Unit.
- One of the supervisors had just completed training and was on the verge of being certified in the adjudication of the VAWA I-360 form when the promotion to supervisor occurred.
- The other had 72 months of adjudication experience within the unit before being promoted to supervisor.

Management evaluates many different factors when deciding which adjudicator to promote to manager or supervisor. Time and experience in a specific area may count as a positive factor in

a candidate's favor but it is not an explicit requirement when recruiting for manager or supervisor. Seniority or technical expertise in a subject area alone do not necessarily equate to competency as a supervisor. Many of the adjudicators with seniority in the VAWA Unit have not applied for the recent promotion opportunities, and two of the three senior adjudicators (ISO3) positions are occupied by officers with seniority within the unit.

In addition to the aforementioned policy of non-rotation/non-reassignment except in limited circumstances, as indicated in Section 3.1, VSC provides ample awards and overtime in an effort to retain staff in the VAWA Unit. Retention is also due in large part to the type of work done in the VAWA Unit, and the satisfaction that members of the Unit experience from work that benefits and assists victims. The VAWA Unit receives significant feedback from Stakeholders, which is for the most part very positive, and this also gives officers a feeling of satisfaction.

Section 4.5 VSC-Headquarters and Stakeholder Consultation

As shown in Section 3.5, communication between the legal, policy, and operational components at USCIS Headquarters and the VSC VAWA Unit continues to be frequent and collaborative.

The Office of Policy and Strategy (OP&S), via Service Center Operations (SCOPS), communicates with supervisors and the manager of the unit on a regular basis regarding policy, interpretation, and clarification of standards. Additionally, the VSC VAWA Unit, OP&S, the Office of Chief Counsel (OCC), and SCOPS have monthly teleconferences to identify issues requiring legal and/or policy guidance from Headquarters and to resolve case-specific inquiries. In May of 2009, USCIS HQ established a weekly conference call to specifically address U visa concerns. Participants in the weekly U visa teleconference included Domestic Operations (DOMO)³, SCOPS, OP&S, and OCC, as well as U.S. Immigration and Customs Enforcement (ICE). Representatives from OP&S, OCC, and SCOPS recently provided guidance and training at VSC regarding regulations promulgated in December 2008 that allow for adjustment of status for T and U nonimmigrants. The training also addressed changes made by the TVPRA 2008 legislation and specific issues related to U nonimmigrant status requests. These headquarters units also conducted a similar training at VSC in June 2009, in conjunction with non-governmental victims' rights advocates and federal and local law enforcement. The agenda for that training is found in Section V, Appendix B.

SCOPS, OCC, and OP&S frequently represent DHS as subject matter experts at meetings with the advocacy community and other stakeholders. For example, the Director of the VSC, in conjunction with DOMO, addressed T and U concerns at a stakeholder liaison meeting in May 2009. On August 20, 2009, VSC conducted an all-stakeholder meeting off-site. This meeting was open to all public stakeholders and included break-out sessions specifically focused on VAWA-related issues. In addition, on August 26-27, 2009, VSC participated in the Congressional Conference held in California and addressed T and U questions. For these

³ Domestic Operations (DOMO) was formerly a directorate within USCIS that included the operations divisions for the Office of Service Center Operations (SCOPS) and Office of Field Operations (OFO), among other units, within its reporting structure. The USCIS reorganization in January 2010 changed this structure, and SCOPS and OFO became separate directorates.

meetings and conferences, VSC worked with SCOPS, OP&S, and OCC as needed to ensure that presentations and responses were operationally and legally sufficient and correct.

Section 4.6 Adjudication Outside the VSC VAWA Unit

As shown in Section 3.6, no office outside VSC has adjudicated VAWA-related applications, including Forms I-360, I-918, and I-914. The August 5, 2002 memorandum from Johnny N. Williams, entitled “Revocation of VAWA-Based Self-Petitions (I-360s)” states: “In 1997, to ensure appropriate and expeditious handling of all self-petitions filed by battered spouses and children, [the Immigration and Naturalization Service] implemented a centralized filing procedure in which all VAWA-based petitions and applications are adjudicated at the VSC.” The memorandum further clarifies that revocations may not be done at Field Offices and must be returned to VSC for review.

In every instance that comes to USCIS’s attention where centralized adjudication did not occur at VSC, USCIS will make a concerted effort to take corrective measures to prevent future occurrences. For example, in one such incident, a T visa holder applying for adjustment of status inadvertently filed his application with the wrong service center. That service center erred by routing the file to a field office. As soon as the error was discovered, the field office re-routed the file to the Vermont Service Center without adjudicating the case. USCIS Headquarters sent a reminder to all service centers and field offices stressing that all T- and U-related filings received elsewhere must be forwarded to VSC for adjudication. In addition, USCIS is reviewing the filing instructions on its public website to ensure that applicants can properly determine the correct filing location for T- and U-based adjustment of status applications.

To the knowledge of the VSC, no VAWA, T or U case has been adjudicated in a USCIS office outside of VSC within at least the last three years. The T adjustment of status case mentioned above is an example of a case that was erroneously filed and erroneously forwarded to a field office. However, due to stringent safeguards in place to protect against such occurrences, the case was identified by the field office and forwarded to VSC for proper adjudication.

Although USCIS is transforming its internal processes to require the vast majority of applications to be filed at a centralized Lockbox facility, all petitions and applications currently adjudicated by the VSC VAWA Unit will continue to be filed directly with VSC. Centralizing the filing and adjudication within one USCIS office ensures the following:

- Victim confidentiality is safeguarded to the greatest extent possible;
- USCIS correctly and expeditiously adjudicates these particularly sensitive benefit requests; and
- The VAWA Unit remains the primary repository of operational expertise and institutional knowledge with respect to these programs.

Section 4.7 Production Statistics

Section 3.7 provides a detailed summary of processing times for each of the form types adjudicated by the VAWA Unit. The statistics are valid through June 22, 2009, which is indicative of the period within six months of passage of TVPRA as mandated by the Act.

VSC continuously reviews processes to improve officer proficiency and productivity. As a result, VSC adjudicates T nonimmigrant status requests well within the USCIS processing time goal of six months.

The current processing time for U nonimmigrant status requests is rapidly improving. The backlog of pending U petitions occurred primarily because VSC lacked the regulatory authority to waive the filing fee for Form I-192, Application for Advance Permission to Enter as a Nonimmigrant. Rather than deny U petitioners who needed an I-192 but were unable to pay the required fee, VSC held the U petition in abeyance, awaiting the authority to waive the fee of the I-192. TVPRA 2008 provided this authority in December 2008. Since then, VSC has significantly increased the number of trained adjudicators dedicated to U nonimmigrant status requests. As a result, in May 2009 VSC approved 1,275 principals and 904 derivatives for U nonimmigrant status, and denied or accepted withdrawal of applications for 20 principals and 16 derivatives, bringing total monthly completions to 2,215. In contrast, between October 2008 and April 2009, VSC completed an average of 80 cases per month. Although USCIS strives to achieve an ambitious production plan in order to eliminate backlogs, production alone is not the only factor that is considered. While USCIS recognizes that an increase in production will greatly assist victims, USCIS is also mindful that each petition deserves meticulous review from an adjudicator. USCIS is aware of the need to balance production with quality adjudication, especially with respect to such a sensitive caseload, and strives to meet that balance.

The VAWA I-360 processing time during the six month period following the passage of TVPRA is also significantly higher than the agency goal. However, this is largely attributable to the addition of new officers to the VAWA Unit. During their first four months with the Unit, new officers are not held to the same productivity standards as their fully-trained and vetted counterparts. Since these recently-added officers have now passed that initial period, the VSC expects productivity to increase and processing times to decrease correspondingly. Processing times for adjustment of status of T and U nonimmigrants is above the agency goal because the regulations enabling this type of adjudication were only promulgated in December 2008. As a result, procedures for adjudicating adjustment of status for T and U nonimmigrants and a cadre of officers trained to perform this type of adjudication were only in place shortly after passage of TVPRA 2008 and will only improve as officers develop proficiency in the adjudications process.

V. Appendices

- A. In-house Training for VAWA Unit Schedule for Fiscal Year 2009
- B. VSC Domestic Violence Training Schedule, June 10-11, 2009
- C. Memorandum from Executive Associate Commissioner Johnny N. Williams, “Revocation of VAWA-Based Self-Petitions (I-360s)”, August 5, 2002.
- D. Objectives for Adjudication Certification of the I-360 VAWA Self-Petition Course
- E. Addendum Highlighting Program Accomplishments Post-June 2009

Appendix A

Training for VAWA Unit for Fiscal Year 2009

This is a list of all scheduled trainings conducted by the VAWA Unit in fiscal year 2009.

#	Session	Dates
1	I-360 VAWA Battered Spouse Training (Group A)	10/20 – 10/23/2008
2	VAWA IIO Orientation	10/17/08
3	U-visa Interim Relief Extension (I-765) training	11/18/08
4	I-360 Battered Spouse follow-up session (Group A)	12/3/08
5	I-918 training (Group A)	12/15-12/16/08
6	I-751 E,F,G training	12/08
6	I-918 follow-up session (Group A)	1/20/09
7	I-918 Training (Group B)	2/3-2/4/09
8	I-765 (c)(14) training	2/18/09
9	I-918 follow-up session (Group B)	2/26/09
10	I-360 VAWA Battered Spouse Training (Group B)	3/2-3/5/09
11	I-765 (c)(14) follow up session	3/9/09
12	T/U AOS HQ training	3/11/09
13	I-601 for T Visa AOS Certification (Tiger Team)	3/27/09
14	VAWA Domestic Violence Training (Tiger Team)	3/30/09
15	I-360 VAWA Battered Spouse Training (Group C)	3/30/09-4/2/09
16	I-360 VAWA Battered Spouse follow-up session (Group B)	4/6/09
17	I-751 E,F,G training (Tiger Team)	4/7/09
18	I-601 for T Visa AOS follow-up	4/15/09
19	I-751 E,F,G follow-up session (Tiger Team)	4/21/09
20	I-360 VAWA Battered Spouse follow-up session (Group C)	5/4/09
21	I-918 Training	5/4-5/5/09
22	I-918 follow-up	5/11/09
23	I-360 VAWA Battered Spouse follow-up session (Groups A, B and C)	Postponed
24	I-918 follow-up	6/1/09
25	I-914 Training	7/14 – 7/15/2009
26	I-914 follow-up	7/22/2009
27	I-914 follow up	8/10/2009

Key:

(a) I-360 = Petition for Amerasian, Widow(er), or Special Immigrant.

(b) IIO = Immigration Information Officer. Immigration Information Officer (IIO). IIOs provide technical assistance to attorneys and accredited representatives with respect to immigration statute and regulation and basic

filing procedures. IIOs provide information regarding status of pending applications and petitions, as well as administrative procedures and processing times.

(c) U Visa = Nonimmigrant status that provides temporary immigration benefits to aliens who are victims of qualifying criminal activity, and to their qualifying family members, as appropriate.

(d) I-765 = Application for Employment Authorization.

(e) I-918 = Petition for U Nonimmigrant Status to provide temporary immigration benefits to aliens who are victims of qualifying criminal activity, and to their qualifying family members, as appropriate.

(f) I-751 E, F, G = I-751, Petition to Remove Conditions of Residence. E,F,G refer to three categories of requests to waive the requirement for a conditional permanent resident to file jointly with his or her U.S.-citizen or lawful permanent resident spouse. I-751 E = conditional resident spouse who entered marriage in good faith and during the marriage was battered or subjected to extreme cruelty. I-751 F = conditional resident child who was battered by or subjected to extreme cruelty. I-751 G = termination of status and removal would result in an extreme hardship.

(h) I-765(c)(14) = Employment Authorization based upon a grant of deferred action.

(i) T/U AOS = Adjustment of Status for T and U nonimmigrants.

(j) I-601 = Application for Waiver of Ground of Inadmissibility.

Appendix B

Victims of Domestic Violence VAWA Training Vermont Service Center June 10 –11, 2009

Location: Church of the Rock, Fairfax Street (Route 104), St. Albans, Vermont

Training Schedule

June 10, 2009

9:00-9:10 Welcome

Daniel Renaud
Director Vermont Service Center

9:10-10:30 History of VAWA legislation and Creation of VAWA unit

Leslye Orloff
Vice President and Director
Immigrant Women Program
Legal Momentum

Laura Dawkins
Division Chief
Family Immigration and Victim Protection Division
Office of Policy and Strategy

10:30-10:45 BREAK

10:45-12:00 Confidentiality and Section 384

Colleen Zengotitabengoa
Associate USCIS Counsel: VAWA, T visa, U visa portfolio
Office of Chief Counsel

12:00-1:00 LUNCH

1:00-2:30 Administrative Appeals/Referrals/NOIDS

Cleo Kung
Assistant VAWA Branch Chief
USCIS Administrative Appeals Office

2:30-2:45 BREAK

2:45-4:00 Panel Discussion with USCIS Headquarters
Recent Regulation Changes and
Questions from Adjudicators

David Tu
Service Center Operations

Cleo Kung
Administrative Appeals Office

Colleen Zengotitabengoa
Office of Chief Counsel

Laura Dawkins
Office of Policy and Strategy

Amanda Atkinson
Office of Policy and Strategy

4:00-4:15 Conclusion

June 11, 2009

9:00-9:10 Welcome
Amanda Atkinson
Office of Policy and Strategy

9:10-10:30 Defining Domestic Violence and Battery as it affects Immigrants

Leslye Orloff
Vice President and Director
Immigrant Women Program
Legal Momentum

Sujata Warriar
Director
NY State Office for the Prevention of Domestic Violence

10:30-10:45 BREAK

10:45-12:00 Cultural Awareness and Diversity

Sujata Warriar
Director
NY State Office for the Prevention of Domestic Violence

12:00-1:00 LUNCH

1:00-2:30 Domestic Violence from Local Law Enforcement Perspective

T.J. Anderson
Family Violence Training Coordinator
Vermont Criminal Justice Training Council

2:30-2:45 BREAK

2:45-4:00 Domestic Violence from ICE/Federal Law Enforcement Perspective

Anne McElearney
Assistant Chief Counsel
US Immigration and Customs Enforcement
Seattle, WA

4:00-4:15 Conclusion

Guest Speaker Contact Information:

Leslye Orloff
Vice President and Director
Immigrant Women Program
Legal Momentum
Email: lorloff@legalmomentum.org

T.J. Anderson
Family Violence Training Coordinator
Vermont Criminal Justice Training Council
Email: tj.anderson@state.vt.us

Sujata Warriar
Director
NY State Office for the Prevention of Domestic Violence
Email: Sujata-warriar@att.net

Anne McElearney
Assistant Chief Counsel
US Immigration and Customs Enforcement
Seattle, WA
Email: Anne.McElearney@dhs.gov

Appendix C



Office of the Executive Associate Commissioner

U.S. Department of Justice
Immigration and Naturalization Service

HQADN/70/9

425 I Street NW
Washington, DC 20536

August 5, 2002

MEMORANDUM FOR REGIONAL DIRECTORS
DEPUTY EXECUTIVE ASSOCIATE COMMISSIONER,
IMMIGRATION SERVICES DIVISION

FROM: Johnny N. Williams /s/ Thomas Schiltgen for
Executive Associate Commissioner
Office of Field Operations

SUBJECT: Revocation of VAWA-Based Self-Petitions (I-360s)

It has come to the attention of this office that certain district offices have been issuing notices of intent to revoke I-360 immigrant visa petitions that were approved at the Vermont Service Center (VSC) pursuant to the self-petitioning provisions contained in the Violence Against Women Act (VAWA). This practice has led to allegations that the Immigration and Naturalization Service's (Service/INS) adjudication of VAWA-based self-petitions is inconsistent. Consequently, effective the date of this memorandum, the VSC shall have sole authority to revoke an approved VAWA-based self-petition.

New Policy

In 1997, to ensure appropriate and expeditious handling of all self-petitions filed by battered spouses and children, the Service implemented a centralized filing procedure in which all VAWA-based petitions are adjudicated at the VSC. The VSC adjudications officers assigned to the VAWA unit have received specialized domestic violence training and have developed expertise in adjudicating these petitions. Therefore, in order to ensure consistency in the adjudication of VAWA cases, self-petitions that field offices believe should be reviewed for possible revocation are to be returned to the VSC accompanied by a memorandum of explanation.

If an officer in the field receives new information that was not available to the VSC at the time of the approval of a self-petition, and that new information leads the officer to reasonably believe that a self-petition should be revoked, the officer must write a memorandum to his or her Supervisory District Adjudications Officer (SDAO) explaining why the self-petition should be reviewed for possible revocation. The memorandum must state what the new information is and how it was obtained.

Supervisory Review and Return to VSC

If, upon review of an officer's memorandum of explanation, the SDAO concurs in the officer's assessment, the SDAO must sign and forward it and the file in question to the VSC to the attention of the VAWA unit. A VSC VAWA unit supervisor will review the memorandum of explanation and the file to which it refers, and make a recommendation to initiate revocation proceedings or to reaffirm the self-petition. If the recommendation is to reaffirm the self-petition, the VSC supervisor must write a memorandum explaining the reasons for which the self-petition was not revoked. This memorandum will be returned to the field with the file. In all such situations, the VSC is expected to complete its review process on an expedited basis. Self-petitions being returned to the VSC from a field office, or from the VSC to a field office, must in all cases be accompanied by a memorandum signed by the appropriate supervisor prior to such action being taken.

Reminder of Special Provisions Relating to VAWA Cases

Officers should keep in mind that section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA)¹ prohibits Department of Justice employees from making an adverse determination of admissibility or deportability of an alien using information provided solely by:

- 1) a spouse or parent who has battered the alien or subjected the alien to extreme cruelty;
- 2) a member of the spouse's or parent's family residing in the same household as the alien who has battered the alien or subjected the alien to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty;
- 3) a spouse or parent who has battered the alien's child or subjected the alien's child to extreme cruelty (without the active participation of the alien in the battery or extreme cruelty); and

¹ Codified at 8 U.S.C. § 1367.

- 4) a member of the spouse's or parent's family residing in the same household as the alien who has battered the alien's child or subjected the alien's child to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty.²

Any adverse information received by the INS from a self-petitioner's U.S. citizen or lawful permanent resident spouse or parent, or from relatives of that spouse or parent, must be independently corroborated by an unrelated source before the INS may take adverse action based on such information.³

Section 384 of IIRIRA also prohibits Department of Justice employees from permitting the use by or disclosure to anyone (other than a sworn officer or employee of the Department, or bureau or agency thereof, for legitimate Department, bureau, or agency purposes) of any information that relates to an alien who is the beneficiary of a VAWA-based self-petition.⁴ Anyone who willfully uses, publishes, or permits such information to be disclosed in violation of IIRIRA § 384 will face disciplinary action and be subject to a civil money penalty of up to \$5,000 for each such violation.⁵

If you have questions regarding this memorandum or other VAWA-related issues, please contact the Office of Adjudications at (202) 514-4754.

² For limited exceptions to this prohibition, see IIRIRA § 384(b).

³ See Virtue, INS Office of Programs, "Non-Disclosure and Other Prohibitions Relating to Battered Aliens: IIRIRA § 384", Mem. 96act.036 (May 5, 1997).

⁴ See IIRIRA § 384(a)(2).

⁵ See IIRIRA § 384(c).

Appendix D

(Training module used during Form I-360-specific training in March, April, September, and November 2009 and August 2010)

COURSE OBJECTIVES

Course

Adjudication Certification of the I-360 VAWA Self-Petition

**Terminal
Performance
Objective**

Upon receiving a properly filed I-360 VAWA self-petition, seeking classification as the battered spouse or child of a United States Citizen or Lawful Permanent Resident, the officer will be able to make a quality, timely, adjudicative decision, correctly update CLAIMS, and complete any necessary worksheets.

**Interim
Performance
Objectives**

1. Explain the purpose of the I-360 VAWA Self-Petition
2. Identify appropriate statute, regulation and policy guidance relevant to adjudication
4. Demonstrate appropriate use of to discretion relating to INA Sections 201(b), 203(a)(2), and 204(a)(1), and 8 CFR 204.1-2 to make a decision on the I-360 VAWA Self-Petition
5. Demonstrate appropriate use of INA Sections 204(c) and 204(g) when applicable
6. Identify the eligibility requirements of the self-petitioner
7. Identify requirements for Prima Facie determination
8. Identify valid supporting documentation
9. Describe privacy requirements and adverse information prohibitions cited under 384 IIRIRA
10. Correctly annotate the self-petition
11. Correctly update CLAIMS
12. Correctly assess eligibility for Deferred Action Status
13. Correctly complete the Adjudication Worksheet

14. Correctly route the file
15. Describe the Appellate process

**Required
Materials**

- Standard Operating Procedures
 - Sample I-360 for each student
 - HQ Memorandums
 - Regulatory cites, definitions, and precedent decisions
 - RFE call-ups
 - Denial Index
-

Appendix E

Addendum Highlighting Program Accomplishments Post-June 2009

Since the data and information for this report were initially compiled, significant changes occurred, such as reduction in processing times and utilization of the entire fiscal year 2010 U visa cap. This addendum highlights these more recent accomplishments and explains their significance below.

In addition to the statistical information in this report, VSC continued to eliminate backlogs in the adjudication of victim-related petitions and applications in fiscal year 2010. For example, the Form I-360 backlog in fiscal year 2009 started at 9,806; however, as of the end of the third quarter in fiscal year 2010, the number of pending Form I-360s was 5,070. Furthermore, the cycle time for Form I-360 was 14.9 months when the data was initially collected for this report. Since the original drafting, the cycle time has fallen to 4.8 months.

In addition to reducing the backlog and processing times for the Form I-360, the VSC has reduced the backlogs and cycle times for the Form I-918 and Form I-918A. See chart below:

CASE TYPE		Processing Time (Months) as of June 2009	Processing Time (Months) as of July 31, 2010	Total Pending as of June 2009	Total Pending as of July 31, 2010
Form Number	Title/Description				
I-918	Application for U Nonimmigrant Status (Principal)	15.6	5.2	14,183	5,844
I-918 A	Application for U Nonimmigrant Status (Dependent)	17.4	5.2	10,631	5,230

The U visa program reached the statutory maximum on July 15, 2010 after VSC issued the 10,000 principal approvals for the fiscal year. As a result, no new principal visas may be issued until the start of fiscal year 2011. In the interim, VSC implemented a waiting list process to provide a conditional approval notice to those petitioners who will receive an approval at the start of the fiscal year. Those individuals placed on this waiting list are also receiving deferred action, which provides them with eligibility to request work authorization while they wait for the new allotment of visa numbers.

VSC continued to participate in outreach and training opportunities with the public, law enforcement and other agencies and departments within the Federal government. A manager and senior officer attended and participated in a panel discussion at the launch of the DHS Blue

Campaign, which is a campaign to combat human trafficking through enhanced public awareness, new training initiatives for law enforcement, and victim assistance efforts. In addition, a senior officer and supervisor provided training to law enforcement and district officers in the Southeastern Region and for the Chicago District Office. Furthermore, VSC has held biannual public stakeholder conferences, quarterly stakeholder teleconferences and multiple web-based trainings have been provided to law enforcement agencies on U visa specific issues.