

## Advocate's and Attorney's Tool for Developing a Survivor's Story: Trauma Informed Approach<sup>1</sup>

**BY: Krisztina Szabo, Rocio Molina, Maria Jose Fletcher, Mercedes V. Lorduy, Edna Yang,  
Mary Ann Dutton, Leslye Orloff and SPARC  
The National Immigrant Women's Advocacy Project<sup>2</sup>  
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A survivor's story<sup>3</sup> is one of the most important pieces of evidence submitted with the VAWA, U, and T visa applications, which makes them different from other immigration applications. This is an opportunity for Department of Homeland Security (DHS) adjudicators to hear directly from the survivor, in his or her own voice. When reading the survivor's story, the reader – ultimately, the DHS adjudicator – should be able to know and feel what the survivor felt after being subjected to abuse or crime victimization.

### Preparing for Story Collection

- Do your homework by reading police reports, requests for protection orders, court records and medical records whenever they are available.
- Talk with your client before the story collection session by letting your client know ahead of time what your goals are for the next session.
- Make sure both you and your client have set aside the adequate time taking into account the use of interpreters and translators.
- You may prefer not use the word "affidavit," instead refer to it as his or her "story."

### Getting Your Client's Story on Paper

- Remember, your client is the expert of his or her experience.
- Keep in mind that your assistance is crucial to help your client tell their story with your support listening/witnessing their story with empathy that validates their experience and sympathizes with the trauma they experience to minimize re-traumatization.
- Consider your client's ability and willingness to read and write.
- The story could be written in her native language and translated later to English.
- For the first draft, chronology, spelling and grammar are not important.
- Create an environment in which the client tells her story uninterrupted to a listener who cares.
- Being present when your client writes her story is important and is the preferred approach. However, some victims will feel strongly that they want to write their stories alone. It is important to respect your client's decision about how the client wants to undertake the difficult process of writing her story.

### Supplemental Interview

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<sup>3</sup> We will not be referring to them as affidavit, but rather "stories" of the survivor's experience.

- After your client has had an opportunity to tell her story, you as the client’s advocate/attorney will proceed to the next step of the story development process in which you will review with your client a series of additional questions.
- See the “Trauma Informed Structured Interview Questions”<sup>4</sup>.
- These questions are designed to obtain more complete information about the survivor, their case, experiences, and the impact of these events on the victim and her children.
- The supplemental interview will also be the time when it will be appropriate for you to ask follow-up questions obtaining more detail about events raised in your client’s story.

### Integrating the Story

- After you have obtained the story your client wrote/told you, and held your follow up supplemental questioning session, you as the advocate/attorney will mold the story into a cohesive whole. This is your opportunity to:
  - Organize the story chronologically;
  - Correct grammar, and spelling;
  - Ensure that the story remains your client’s story in your client’s words – not yours.
- Once you have edited the story together you will review it with your client one last time before obtaining her signature and submitting her story as evidence in her immigration case.

<b>VAWA Self-Petition</b>
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Proof requirements for a person applying for a VAWA self-petition. The victim must prove the following:

1. That the victim has a required relationship to the abuser:
  - a) The abuser is the victim’s U.S. citizen or Legal Permanent Resident (green card holder) spouse or former spouse and the marriage was in good faith;<sup>5</sup> or
  - b) The abuser is the victim’s U.S. citizen or Legal Permanent Resident (green card holder) parent or stepparent; or
  - c) The abuser is the victim’s U.S. citizen son or daughter who is over 21 years old.
2. That the victim cohabited with the abuser at some point in time;
3. That the victim experienced battery and/or extreme cruelty;
4. That the victim has good moral character.

### **Guide to Writing Your VAWA Declaration – Writing YOUR Story**

This is the most important part of your application. It should be as detailed as possible, but in your own words. When you write your story, don't worry about spelling or grammar. Remember, you are the expert on your experiences. This is your story about what happened to you and your feelings are important.

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<sup>5</sup> All marriages that are valid in the state where they were performed are valid as a basis for VAWA self-petitioning including marriages between heterosexual and same sex couples.

It may be difficult to write about what happened, but the Immigration Officer (who will read and evaluate your application) needs to understand why you qualify for the VAWA immigration protections. Therefore, in your story, you should:

1. Show that your relationship with the abuser is real or that your marriage to the abuser was genuine.
2. Show that you lived together with your abuser (e.g. your spouse, former spouse, parent, stepparent, or your child who is over 21 years old) at some point in time.
3. Describe the abuse and the abusive periods in detail, stating what specifically he or she did to you. Describe any physical, sexual, psychological, or emotional abuse or injury you have suffered. State specifically how the abuse has changed you or has changed the way you live your life, including the impact of the abuse on your children or your relationship with or interactions with your children.
4. Write about your good moral character and ask for immigration relief.

### Strategies for Advocates or Attorneys

It is important to develop an emotional safety plan before asking someone to do this – either with you or, especially, if they opt to do it alone at home. An emotional safety plan should include recognition of “triggers” for getting emotionally upset, a set of strategies to help calm oneself (victim or advocate) and a plan for reaching out for help, as needed.<sup>6</sup> Generally, it is far better to develop the story WITH an advocate/attorney who can provide support and witness the process.

### Outline and Guiding Questions

The following outline and guiding questions can help you through the process of writing your story. Keep in mind that some of the questions may not apply to your situation and you don’t have to follow the outline exactly.

Part 1 – A good starting point would be to introduce yourself by stating your name. A good example of this is: “I am \_\_\_\_\_ (your name) and I live at \_\_\_\_\_ (your current address).”

Part 2 – Then, you want to begin to talk about the relationship between you and your U.S. Citizen or Legal Permanent Resident abuser.

If the abuser is your spouse or ex-spouse, remember that you need to show the reader that you got married because you loved each other.

- When and where did you and your spouse meet?
  - Who introduced you?
  - Who else was there when you first met?
- When did you start dating? What did you do while you were dating?
  - While you were getting to know each other, were you in the U.S. or in another country?
  - Did you go out to eat, go to parties, go to the movies, etc.?

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<sup>6</sup> Advocates and attorneys following these trauma informed strategies for working with immigrant crime victims can receive technical assistance from trauma experts by contacting NIWAP at (202) 274-4457; [niwap@wcl.american.edu](mailto:niwap@wcl.american.edu) or [info@niwap.org](mailto:info@niwap.org). NIWAP staff will arrange a conversation with trauma experts for you.

- Were there people that you went out with?
      - What made you fall in love with your spouse?
- When did you move in together?
- How long did you date or live together before you decided to get married?
- When did you decide to get married?
  - Did your spouse propose to you?
  - Where were you?
  - What were you doing?
  - What did your spouse say?
  - What did you respond?
  - Was anyone else present?
- When and where did you get married?
  - How was your wedding?
  - Who was present?
  - Was there a party before or after the wedding?
- Did you go on a honeymoon? If yes, when and where?
- Where did you first live as a married couple? Do you remember the address?
- Write down a list of the addresses of all the homes you shared with your spouse and the dates you lived there.
- When you were living together, did anyone else live with you (children, parents, siblings, or friends)?
- Were you allowed to have friends visit you at your home?
- Did you have parties or receptions?
- Do you and your spouse have children together? How many children do you have in common? What are their names and when were they born?
- If you had children from a previous marriage or relationship, did your spouse spend time with them?
- What was the marriage like at the beginning?
  - Were there good times before the abuse started?
  - What did you do together as a family?
  - Do you remember any special occasion from the good times?
  - A family celebration?
  - A birthday party?
  - A family vacation?
- What were your future plans together?

If the abuser is your stepparent, you will need to show that you had a stepparent-child relationship.

- How did your parent and stepparent meet?
  - When did they start dating?
  - When did they move in together?
- How long did your parent and stepparent live together before they decided to get married?
- When and where did your parent and stepparent get married?
  - How was their wedding?

- In addition to you, do your parent and stepparent have any children?
  - How many children do they have in common?
  - What are their names and when were they born?
- Were you ever adopted by your stepparent?
- Did you ever live together with your parent and stepparent?
  - If so, do you remember the address(es)? Try to include all the address(es) of the homes you shared with your parent and stepparent and the dates you lived there.
- Do you remember any special occasions from the good times you spent with your parent and stepparent?
  - A family celebration?
  - A birthday party?
  - A family vacation?

If the abuser is your parent, you will need to show that you had a parent-child relationship.

- How did your parents meet?
  - Did they ever get married?
  - If so, when and where?
- When and where were you born?
- Is the abusive parent listed on your birth certificate or on your baptism record?
- Do you have any siblings or half-brothers or half-sisters from this parent?
- If your parents divorced or separated, did the abusive parent have custody of you?
- Did the abusive parent have to pay child support?
- Did he or she have visitation rights to see you? If so, how often?
- Did you ever live together with your abusive parent?
  - If so, do you remember the address(es)?
  - Try to include all the address(es) of the homes you shared with him or her and the dates you lived there.
- Do you remember any special occasions from the good times you spent with your abusive parent?
  - A family celebration?
  - A birthday party?
  - A family vacation?

If your abuser is your over 21 year old U.S. citizen son or daughter, you will need to show that you had a parent-child relationship.

- When was your son or daughter born?
  - Are you listed on his or her birth certificate or baptism record?
- Did you live with your son or daughter as he or she was growing up?
  - If not, did you visit him or her?
  - If yes, how often did you see your son or daughter?
  - Did you pay child support for him or her?
- When did your son or daughter come to the U.S.?
  - How did he or she become a U.S. citizen?
- Did you ever live together with your son or daughter in the U.S.?
  - If so, do you remember the address(es)?

- Try to include all the address(es) of the homes you shared with him or her and the dates you lived there.
- Do you remember any special occasions from the good times you spent with your son or daughter?
  - A family celebration?
  - A birthday party?
  - A family vacation?
- Part 2 – Next, tell the reader about the abuse: how it started, specific instances or stories, how it made you feel, and how it affected your children and your family members. Focus on how the abuse has “changed” you in some way, made things more difficult for you, made you upset, affected how you live your life, including with your children and family. It is useful to use a calendar to remember when certain events occurred. Refer to evidence checklists<sup>7</sup> “Trauma Informed Structured Interview Questions”<sup>8</sup> that your advocate/attorney will review with you that can help you remember particular stories about the abuse that you may have not remembered.
- When did the abuse begin and where were you at the time?
  - Did it start with an argument or was it unprovoked?
  - Did it escalate into physical violence?
    - Did it escalate over time?
      - In what ways?
- After the initial mistreatment, how frequent were your abuser’s abusive episodes?
  - Did your abuser get more and more violent?
- Please give a detailed description of what the abuse was like.
  - Can you recall a specific violent or abusive outburst?
  - What did your abuser do specifically?
  - Did your abuser do any of the following things:
    - Yell or curse at you? Did your abuser call you names? If so, what words did he or she use?
    - Hit, kick, or slap you? If so, what did your abuser use and how did he or she hurt you?
    - Throw things at you? If so what did your abuser throw at you?
    - Pull your hair?
    - Grab you by the throat?
    - Force you to have sex against your will (when you didn’t want to)?
    - Did your abuser ever track, follow, or monitor you? How?
    - Did your abuser ever show up uninvited where you were?
    - Did your abuser ever invade your privacy by contacting you when you didn’t want them to? How?

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<sup>7</sup> VAWA Self Petitioning Evidence Checklist available at [http://niwaplibrary.wcl.american.edu/immigration/vawa-self-petitioning-and-cancellation/tools/VAWA\\_Self-Petitioning-Checklist\\_English\\_2008.pdf/view](http://niwaplibrary.wcl.american.edu/immigration/vawa-self-petitioning-and-cancellation/tools/VAWA_Self-Petitioning-Checklist_English_2008.pdf/view)

- Did your abuser ever humiliate you in public?
  - Did your abuser interfere with your life? How?
  - Did your abuser ever sabotage your work or finances? Ruin your reputation?
  - Did your abuser ever take photos or videos of you without your consent?
  - Did your abuser ever post photos or videos of you without your consent (even if they were taken consensually)?
  - Did your abuser ever hack into or take over your social media accounts without your permission?
  - Did your abuser ever pretend to be you online?
- Did your abuser also hurt your children? How?
  - Did your abuser also hurt your pets? How?
  - Did your abuser forbid you to communicate with family or friends?
  - Did your abuser ever threaten to kill or hurt you, your children, or family members?
  - Did your abuser ever threaten to kill or hurt your pets?
  - Did your abuser threaten you with a gun or other weapon?
  - Did your abuser threaten to commit suicide?
  - Did your abuser threaten to destroy your property?
  - Did your abuser threaten to have you deported or take your papers away?
    - Did your abuser threaten to take your children away?
  - Did anyone, including family and friends, witness the abuse?
  - Did you seek medical assistance because of the abuse? When? Where?
  - Did you call the police because of the abuse?
    - When?
    - How many times?
    - What did the police do? Was a police report taken at these times?
  - Did you ever get a restraining order?
  - Has there been a criminal case charged against your abuser? When? Where did it happen?
  - After your abuser's violent periods, did you make up?
    - Did your abuser apologize?
    - How was your abuser's behavior afterwards?
    - Did your abuser treat you better momentarily?
  - Did you ever ask the abuser to stop?
  - Did you ever try to leave your abuser?
  - When and why did you decide to leave your abuser
    - How were you able to do it?
    - Did you make any changes to your life to make it more difficult for your abuser to contact you?
  - **Review Stalking Behaviors and Risk Factors** questions below on page 14

Part 3 – Then, state that you have good moral character. Tell the reader that you are a good person, responsible parent, hardworking employee, law-abiding person, and that you are involved in your community.

- Think of examples that show that you are a good parent.
  - Do you work long hours or overtime to support your family?
    - Do you work several jobs to make ends meet?
  - Describe your role in taking care of your children.
    - Do you drive them to and from school?
    - Do you dress them in the morning?
    - Do you prepare their meals?
    - Do you take them to the doctor or dentist?
  - Do you help your children with their homework or school projects?
    - Are you involved with their school activities?
  - Describe your favorite activities with your children.
    - Do you read them stories at night?
    - Do you pray together?
    - Do you take them to the playground?
    - Do you play with them?
- Give examples that show that you are a good member of your community.
  - Do you go to church regularly?
  - Are you an active member in your faith community?
  - Do you volunteer your time or donate?
  - Do you help out your neighbors, friends, or other family members?

<b>VAWA CANCELLATION OF REMOVAL</b>
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Some people, who qualify under VAWA, have been placed in removal (deportation) proceedings. The requirements for VAWA cancellation of removal are very similar to VAWA self-petitioning described above. However, in addition to establishing that the victim meets the criterion for VAWA self-petitioning,<sup>9</sup> a VAWA cancellation of removal applicant must also demonstrate two additional requirements:

- That they lived in the U.S. continuously for 3 years immediately preceding the filing of the application.
  - A single absence from the U.S. of 90 days, or aggregate absences over 180 days, breaks continuity of physical presence, unless the absence was connected to the abuse.
- That they would face extreme hardship if they had to leave the U.S.
  - Economic deprivation, loss of employment, or difficulty readjusting to life in the native country is not enough in themselves to show extreme hardship.

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<sup>9</sup> There are several categories of immigrant crime victims who qualify for VAWA cancellation of removal but not for VAWA self-petitioning, these include: the parent of an abused child, regardless of the child's U.S. citizenship, who was never married to the child's abusive U.S. citizen or permanent resident parent; The abused spouse of a U.S. citizen or permanent resident spouse who has died or any abused children of a U.S. Citizen or permanent resident parent who has died over 2 years ago; An abused spouse who was divorced for over 2 years from the U.S. citizen or permanent resident abuser spouse; An abused stepchild whose immigrant parent has been divorced from the abusive parent for over 2 years; An abused spouse or child whose citizen or legal permanent resident parent renounced citizenship or lost lawful permanent resident status over 2 years ago; Victims of child abuse or incest abused by a U.S. citizen or permanent resident parent while under 21 years of age but who did not file their VAWA self-petition while they were under 21 and who are now over 21 years of age; and Victims of child abuse who cannot establish that they have resided with the U.S. citizen or permanent resident abuser parent.



- The best way to prove extreme hardship is to show how experiencing the abuse has been harmful to the victim and how deportation would impede any progress that he/she has made to overcome the effects of the abuse.
- Life-time trauma events can be helpful here.

### **Adding to Your Story to Qualify for VAWA Cancellation of Removal**

After you finished writing about your good moral character in Part 3, you need to write about 2 additional things to qualify for VAWA Cancellation of Removal protection. Therefore, in your story you should also:

1. Demonstrate that you lived in the U.S. for 3 years.
2. Describe the hardship you and your family would face if you had to leave the U.S.

The following outline and guiding questions can help you through the process of finishing your story for VAWA Cancellation of Removal. Keep in mind that some of the questions may not apply to your situation and you don't have to follow the outline exactly.

Part 4 – After Part 3, show the reader that you lived in the U.S. for 3 years.

- When did you come to the U.S.?
- How long have you lived in the U.S.?
- Did you ever leave the country?
  - If yes, for how long were you gone?
  - Did your abuser take you outside of the country?
  - Did you leave the country because of the abuse?
  - Did you go on a vacation outside the U.S.?
  - Did you visit relatives in your home country?
- If you left several times, it's important to make note of those times with specific dates.

Part 5 – Lastly, conclude by explaining how your life would change if you had to leave the U.S. If you have children, also discuss how it would change the lives if you had to return to your native country.

- What would happen to you or your family if you were to return to your country of origin? Are you afraid of returning to your country of origin? Why?
  - What are the living conditions in your country?
  - Do you think you would be safe?
    - Why or why not?
  - Can you trust the police?
    - Is there a lot of crime?
  - Are there laws or customs in your country that mistreat victims of domestic violence, are divorced, or have children but no husband?
  - Does the government of your country protect victims of crime?
  - Are you afraid that your abuser would take action against you in your country?
    - Or do you think your perpetrator would try to harm you for having called the police?
    - If so, would you be able to receive adequate protection?

- Are you afraid that the friends and family of your abuser will try to hurt you or your children (physically or psychologically)?
- Has your abuser arranged for others to harass, threaten, or intimate your family currently living in your home country?
- Why do you want to stay in the United States?
  - If you had to leave the U.S., would you be separated from your loved ones?
  - Would you still be able to support yourself and your family?
  - Are there services that you have in the U.S. that you wouldn't have if you were deported (for example social workers, medical help, counseling, government benefits like WIC, etc.)?
  - If you or your children are receiving medical treatments or counseling, would you be able to continue them in your home country?
  - Do your children speak the native language of your country?
  - Would it be difficult for them to adjust going to school in your country?
  - Do you need to stay in the U.S. to have access to the courts and/or help the police in investigating your abuser?
- What hopes do you have for the future, for you and for your children?
- Is there anything else you would like to mention or tell the Immigration officer about you or your family?

<b>U VISA</b>
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Proof requirements for a person applying for a U Visa include the following:

1. That they (or their child) have been victim of a qualifying criminal activity.
  - The parent can be the “indirect” victim if the victim of the criminal activity is a child under 21 years of age, or is a child who was murdered.
2. That they have suffered substantial physical or mental abuse as a result of being a victim of criminal activity.
3. That they possess information regarding the criminal activity.
4. That they have been helpful, are being helpful, or will be helpful in the detection, investigation, prosecution, conviction, or sentencing related to the criminal activity.

### **Writing Your U Visa Declaration – Writing YOUR Story**

Your story is the most important part of your application. It should be as detailed as possible, but in your own words. When you write your story, don't worry about spelling or grammar. Remember, you are the expert on the events that happened to you or your family--this is your story. Describing your experiences, how the criminal activity affected you or your children, and how you feel is very important for your application.

Remember that what happened and how it made or still makes you feel is very important. It is important to be specific and detailed, although this may make it harder to remember. Refer to the checklist of

questions for a U visa case<sup>10</sup> and the *Trauma Informed: Structured Interview Questions*<sup>11</sup> that ask about your experiences, remind you of how you feel and remind you of stories to illustrate the effects of the abuse on you and your family.

It may be difficult to write about what had happened, but the Immigration Officer (who will read and evaluate your application) needs to know about the criminal activity or criminal activities that happened and how they harmed you, so that they can understand why you qualify for the U Visa. Therefore, in your story, you should:

1. Describe the criminal activity or criminal activities that your U Visa is based on.
2. Write about the physical, sexual, and/or psychological harm you suffered (or your child suffered) because of the criminal activity (or criminal activities) and how you feel as a result of it.
3. Describe how you helped law enforcement or prosecutors.

The following outline and guiding questions can help you through the process of writing your story. Keep in mind that some of the questions may not apply to your situation and you don't have to follow the outline exactly.

Part 1 – A good starting point would be to introduce yourself by stating your name. A good example of this is: “I am \_\_\_\_\_ (your name) and I live at \_\_\_\_\_ (your current address).”

Part 2 – Next, talk about the relationship, if any, between you and the perpetrator. If the perpetrator was an acquaintance, write about how you knew him or her. If the perpetrator was a stranger or someone you never had a relationship with, you should skip to Part 3 to discuss the criminal activity.

- If the perpetrator is someone you know, you may start by describing your relationship with him/her or explain how you knew him/her.
  - Is the perpetrator a relative or family member?
    - If so, you could write about whether you lived together and how was your relationship with him or her.
  - Is the perpetrator your spouse, former spouse, or significant other? If so, you could write about how you met and what your relationship has been like.
    - How did you meet your partner or spouse?
    - How long were you in a relationship?
    - What made you fall in love with your partner?
    - When did you decide to live together?
    - If you were married, when and where did the ceremony take place?
    - Did you have children from a previous relationship?
    - Did you have children with your partner?
    - How did your partner treat the children?
  - Is the perpetrator someone you went on a date with? If so, write about how and where you met.
    - Who introduced you?

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<sup>10</sup> U Visa Evidence Checklist is available at [http://niwaplibrary.wcl.american.edu/immigration/u-visa/tools/UVISA\\_Evidence-Check-List.pdf/view](http://niwaplibrary.wcl.american.edu/immigration/u-visa/tools/UVISA_Evidence-Check-List.pdf/view)

- Is the perpetrator someone who stalked you or tried to go on dates with you?
- Is the perpetrator your boss, manager, co-worker, customer, or client?
- Is the perpetrator your teacher or classmate?
- Is the perpetrator your neighbor or family friend?
- Is the perpetrator your clergy member or someone from your faith community?

Part 3 – For this part, thoroughly describe the qualifying criminal activity or criminal activities with as much detail as you can remember. Please review the qualifying criminal activities below<sup>12</sup> and then answer the following questions with regard to each of the criminal activities that were committed by the perpetrator.

- If you were a victim of continuous abuse by your spouse, partner, or parent:
  - When and how did your abuser start mistreating you?
    - For example did your abuser insult you?
    - Did he or she hit you?
    - Push you?
    - Kick you?
    - Did your abuser say bad words to you?
    - Did he or she call you names?
    - How often did your abuser do this?
    - Did your abuser do it in front of others? Who?
    - How did it make you feel?
  - Did you ever call the police?
    - Were you too scared to call for help?
  - When was the first time you decided to call the police?
    - What happened?
    - How did you feel?
- If you were the victim of a single criminal activity:
  - Where were you and what were you doing right before the crime?
    - Do you remember the time?
  - How did the incident begin?
    - Did the perpetrator instigate an argument or did he/she attack right away?
  - How and where did the perpetrator hurt you?
  - Did you try to escape?
  - Were you able to cry for help?
  - Did anyone see what happened?

Part 4 – After you described the qualifying criminal activity or criminal activities, the next step is to write extensively about the emotional and physical pain that you suffered during and after the criminal act. This part is the most important element in your application and it should be the most detailed. The person reviewing your case will want to know, from your perspective, how the criminal activity has affected you physically and/or emotionally.

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<sup>12</sup> Abduction, Abusive Sexual Content, Blackmail, Domestic Violence, Extortion, False Imprisonment, Female Genital Mutilation, Felonious Assault, Hostage, Incest, Involuntary Servitude, Kidnapping, Manslaughter, Murder, Obstruction of Justice, Peonage, Perjury, Prostitution, Rape, Sexual Assault, Sexual Exploitation, Slave Trade, Stalking, Torture, Trafficking, Witness Tampering, and Unlawful Criminal Restraint.

- You can think about how the abuse affected you while it was happening, right after and many days, months, or years later. Think about how it has affected you physically, emotionally, and spiritually.
  - To show physical injury, describe: the intensity and the duration of the pain, any permanent disability, scarring, hospitalization, medical care, medication, etc.
  - Describe the physical and emotional injury from any sexual violence you (or your children) experienced. Include the effects of any ongoing sexual harassment that may have taken place before the rape, attempted rape, or sexual assault.
  - To show psychological injury, describe the emotional harm, the humiliation, depression, sleeping problems, anxiety, any counseling received, medication prescribed, etc.
  - How has the abuse changed your physical or emotional energy?
    - Have you been suddenly acting or feeling as if a stressful experience were happening again (as if you were reliving it)?
    - Have you been feeling very upset when something reminded you of a stressful experience from the past?
    - Have you been experiencing physical reactions (e.g., heart pounding, trouble breathing, or sweating) when something reminded you of a stressful experience from the past?
    - Have you been avoiding thinking about or talking about a stressful experience from the past or avoid having feelings related to it?
    - Have you been avoiding activities or situations because they remind you of a stressful experience from the past? If so, what kind of activities have you been avoiding?
    - Did you lose interest in things that you used to enjoy? If so, what sort of things or activities?
    - Have you experienced trouble falling or staying asleep?
    - Have you been feeling irritable or have you had angry outbursts?
    - Have you experienced difficulty concentrating?
    - Have you been feeling “super alert” or watchful on guard?
    - Have you been feeling jumpy or easily startled?
  - How has the abuse changed your reaction to remembering or thinking about certain things?
    - Do you have repeated, disturbing memories, thoughts, or images of a stressful experience from the past?
    - Do you have repeated, disturbing dreams of a stressful experience from the past?
    - Do you have trouble remembering important parts of a stressful experience from the past?
- How has the abuse changed how you feel about the future?
- Have you been feeling as if your future will somehow be cut short?
- Think about how the abuse has changed your relationships with people.
  - How has the abuse changed your ability to work or be productive?
  - How has the abuse changed how you interact with others?
  - Are you more fearful and mistrusting of people? Are you fearful for your life?
  - Have you been feeling distant or cut off from other people?

- How has the abuse changed your relationship with your family and children?
- How has it changed your daily activities and routines?
- Have you been feeling emotionally numb or being unable to have loving feelings for those close to you?
- Were your children affected in any way? Are they experiencing sleeping or behavioral problems after the incident? Are they acting out in school?
- Did you receive assistance from any community agency?
  - What kind of assistance did you receive?
  - Financial, therapy, social services? Please describe.
  - Have you received any kind of counseling or psychological therapy as a result of the incidents that occurred with your perpetrator?
    - Where and how long?
    - Did that help you?
    - How do you feel about that?
  - Have your children received any kind of counseling or psychological therapy as a result of the incidents that occurred with the perpetrator?
    - Where and how long?
    - Did that help your children?
  - Did your abuser ever scare you?
    - What about their behavior scared you?
    - What do you think they are capable of doing that scares you?
- **Stalking Behaviors and Risk Factors** (Review for VAWA Self-Petitioners and VAWA cancellation of removal cases as well. See SIQI for greater detail<sup>13</sup>)
  - How do you know the abuser?
    - How long have you known them?
    - How would you describe your relationship?
    - Has your relationship changed?
    - How has your relationship changed?
    - What type of contact was typical in your relationship? (medium and frequency)
  - Has your abuser ever tracked, followed, or monitored you in any way? In-person or using technology?
    - This could include watching you from a distance, waiting for you somewhere, showing up unexpectedly, using tracking software, obtaining information about the victim online or from others, and more.
    - This could be done with smart home devices, tracking software or GPS devices, cameras and recording devices, or by monitoring online activity, accessing the victim's accounts, researching the victim online, or asking others for information about the victim.
  - Has your abuser repeatedly invaded your life and/or privacy by initiating unwanted contact?

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<sup>13</sup> <https://niwaplibrary.wcl.american.edu/pubs/siqi-trauma-informed-tool>

- For example, repeated phone calls, texts, messages, emails, or gifts, breaking into your car or home when you were not around, showing up uninvited, public humiliation, harassing your friends or family, or other unwanted intrusions?
- This could be numbers you don't recognize calling and harassing you, hang-up calls from random numbers, calls that show up as a friend or the court but instead it's your abuser calling.
- This can be done in person or online, by impersonating the victim, by hacking into the victim's accounts, and in other ways.
- Has your abuser intimidated or scared you through threats, property damage, threatening or actual harm of pets, or other means?
  - This could include property destruction, forcing confrontations with you, threats to harm you, or threats to harm others.
- Has your abuser significantly and directly interfered with your life?
  - Have they physically or sexually attacked you while stalking you?
  - Have they threatened you with a weapon while stalking you?
  - Have they tried to destroy your life by doing things like spreading rumors about you or publicly humiliating you, jeopardizing your job, interfering with your finances, or interfering with your housing?
  - Did your abuser ever hack into or take over your social media accounts without your permission?
- Has your abuser ever followed through on threats?
- Did your abuser ever take photos or videos of you without your consent? Did your abuser ever post photos or videos of you without your consent (even if they were taken consensually)?
- What losses have you experienced as a result of these behaviors? This could include:
  - Basic resources (income, housing, ability to pay bills)
  - Social connections
  - Time
    - Have you gotten new phone numbers, email accounts, social media accounts, etc. and not told your abuser?
    - Have you made any changes to any of your accounts or device settings?
    - Have you increased any security or privacy measures?
  - Safety
    - Have you spent any money on safety devices or accommodations?
  - Personal
    - What kinds of things have you had to stop doing? What other personal changes has this caused you?
- How would you describe your level of fear? What are you most afraid of?
  - Physical harm/death
  - Physical harm of others
  - Ongoing control and harassment
  - Life sabotage?

Part 5 – In this part, describe how you helped the police or the prosecuting attorney.

- Did you call the police?
  - If you didn't, who did?
  - If you called the police on previous occasions, then describe the events that occurred when you called the police the last time.
- How long did it take for the police to arrive?
- What happened while you were waiting?
- What happened when the police arrived?
  - Did they arrest the perpetrator?
  - Did the perpetrator get away?
- How were you and the police officers able to communicate?
  - Did someone translate for you?
  - If so, who?
  - Did the police bring an interpreter for you?
- What did the officers ask you?
  - What did you tell them?
  - Did you tell the police you wanted the perpetrator arrested?
  - How did you feel?
- Did the police officers take any photos of your injuries or of the place where the criminal activity occurred?
- Did the police report accurately describe what happened? If not, what were the discrepancies?
- Did the police ever call you to follow-up or ask you more questions?
  - Who called you and how many times did the officers call you to ask questions about the incident?
- Did anyone else call you to ask you about the incident?
  - Who were they and what did they ask you?
  - Did they request you appear in court?
  - In their office?
  - How did you feel about everything that was happening?
- Were social services involved as a result of the criminal activity?
  - If so, how did you help them?
- Was the perpetrator charged with a crime?
  - Do you remember what it was?
- Did you get a restraining order?
  - Did the perpetrator ever violate it?
  - If so, did you call the police?
- Were you asked to identify the perpetrator for the police?
  - How did you do it?
- Did you receive any correspondence from the Court?
  - The State Attorney's Office?
  - The Police Department?
  - What was it?
- Did you receive any telephone calls from the Court?



- The State Attorney’s Office?
- The Police Department?
- Who called you and what did they need?
- Did you ever receive a notice to appear in Court?
  - Did you ever receive a Subpoena?
  - If so, did you go to court?
  - If you did, describe what happened in court.
  - How did you feel?
  - Were you confused?
  - Were you afraid? Why?

Part 6 – This is where you should conclude your story and ask for immigration relief.

<b>WAIVER OF INADMISSIBILITY</b>
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Waivers of past conduct are available for both VAWA, U and T Visa applicants. Generally, applicants waive their unlawful entry and/or unlawful presence in the U.S.

Usually, waivers are approved, but you must honestly disclose all past conduct that may apply, no matter how serious. It is important to know that as part of the VAWA, U and T Visa application process your fingerprints will be taken by Immigration. As a result of having your fingerprints on file, Immigration will find out about any criminal history you may have, including any arrests where nothing came of it, such as: you paid a fine, the charges were dropped, you never went to court, you completed community service, or you were told that the charges would be removed from your record. Immigration will be able to see all of this. Therefore, it is important and very helpful to your case to tell your advocate/attorney about any contact you had with police, immigration and the court system as early as possible in your case. Knowing this information early will help your lawyer work with you to make sure that these types of experiences that occurred in your past will not hurt your immigration case. If you have any criminal history, immigration history, or other type of experience listed below. Telling your attorney about it can help them ensure that these experiences will not hurt your or your immigration case. It allows them to do what they can to make sure that your case is not denied. On the other hand, being truthful with your advocate and attorney about these issues will help them prepare your case in a way that can be successful, despite your history.

We may have to ask for waivers for the following:

- Unlawful entries;
- If you made a misrepresentation on official;
- Orders of removal or deportation;
- Convictions for criminal activity;
- Assisting your children to enter the U.S. Unlawfully;

### **Writing Your Waiver<sup>14</sup>**

In your waiver you should:

1. Explain the conduct being waived and say you are sorry for committing the unlawful activity.

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<sup>14</sup> Some practitioners prefer to insert the waiver of inadmissibility at the end of the applicant’s personal declaration.

2. Write about your good moral character.
3. Describe the hardship you and your family would face if you had to leave the U.S.

Read through the following questions and directions for guidance. Some of the questions may not apply to your situation, but answer the ones that do when you are writing your waiver.

Part 1 – Begin by explaining the conduct being waived and by expressing remorse.

- Write directly about the illegal activity committed.
  - What or who made you do it?
  - Did you cross the border as a minor?
  - Did you enter unlawfully to reunite with your family?
  - Were you trying to escape abuse, physical or sexual violence, or extreme poverty?
  - Did you drive without a license because you had to get to work, take care of your children, or go to the doctor?
- What were the consequences of the unlawful activity?
  - Did you resolve the matter by paying a fine?
  - Did you have to go to court?
    - If so, what happened at court?
    - Did you plead guilty?
    - Who advised you to plead guilty or why did you decide to plead guilty?
- Do you feel sorry for what you did?

Part 2 – Next, describe your good moral character. Tell the reader that you are a good person, responsible parent, hardworking employee, law-abiding person, and that you are involved in your community.

- Think of examples that show that you are a good parent.
  - Do you work long hours or overtime to support your family? Do you work several jobs to make ends meet?
  - Describe your role in taking care of your children. Do you drive them to and from school? Do you dress them in the morning? Do you prepare their meals? Do you take them to the doctor or dentist?
  - Do you help your children with their homework or school projects? Are you involved with their school activities?
  - Describe your favorite activities with your children. Do you read them stories at night? Do you pray together? Do you take them to the playground? Do you play with them?
- Give examples that show that you are a good member of your community.
  - Do you go to church regularly? Are you an active member in your faith community?
  - Do you volunteer your time or donate?
  - Do you help out your neighbors, friends, or other family members?

Part 3 – Lastly, conclude by explaining how your life would change if you had to leave the U.S. If you have children, also discuss how it would change the lives if you had to return to your native country.

- What would happen to you or your family if you were to return to your country of origin?
  - Are you afraid of returning to your country of origin? Why?

- What are the living conditions in your country?
- Do you think you would be safe? Why or why not?
- Can you trust the police? Is there a lot of crime?
- Are there laws or customs in your country that mistreat victims of domestic violence, are divorced, or have children but no husband?
- Does the government of your country protect victims of crime?
- Are you afraid that your abuser would take action against you in your country?
  - Or do you think your perpetrator would try to harm for having called the police?
  - If so, would you be able to receive adequate protection?
- Are you afraid that the friends and family of your abuser will try to hurt you or your children (physically or psychologically)?
- Why do you want to stay in the United States?
  - If you had to leave the U.S., would you be separated from your loved ones?
    - Would you still be able to support yourself and your family?
  - Are there services that you have in the U.S. that you wouldn't have if you were deported (for example social workers, medical help, counseling, government benefits like WIC, etc.)?
  - If you or your children are receiving medical treatments or counseling, would you be able to continue them in your home country?
  - Do your children speak the native language of your country?
    - Would it be difficult for them to adjust going to school in your country?
  - Do you need to stay in the U.S. to have access to the courts and/or help the police in investigating your abuser?
- What hopes do you have for the future, for you and for your children?
- Is there anything else you would like to mention or tell the Immigration officer about you or your family?