



To: Lisa LaRoe, Humanitarian VAWA Unit, Vermont Service Center, U.S. Citizenship and Immigration Services, Department of Homeland Security

From: Leslye E. Orloff, Director, National Immigrant Women's Advocacy Project
Benish Anver, Policy Staff Attorney, National Immigrant Women's Advocacy Project

Date: October 14, 2016

Re: U Visa Certifications in Employment Based Abuse Cases

Following the training that the National Immigrant Women's Advocacy Project (NIWAP) assisted the VSC in conducting for the VAWA Unit last year we began a series of meetings and discussions with Department of Labor (DOL) officials on their U visa certification policy and practices. From those meetings and from the discussions I had with VSC staff at the training, we decided to develop comprehensive charts tracking state laws on forced labor, involuntary servitude, slavery, slave trade, and peonage, which are not expressly included on the U visa criminal activity list, and identifying the qualifying criminal activities on the U visa list that are contained within these state statutes. The goal of these charts is to provide a tool that will assist U.S. Immigration and Citizenship Services (USCIS) officials in adjudicating U visa cases involving U visa criminal activity and similar activities occurring in the workplace. These charts will help increase DHS adjudicators' understanding of the state statutes that define these criminal activities.

We hope these tools make the processing of U visa certifications signed by DOL, Equal Employment Opportunity Commission (EEOC), and state departments of labor that investigate labor abuses that may also involve other U visa criminal activity more efficient, potentially reducing the need for Requests for Further Evidence. This is particularly important because many cases in which a federal or state labor and workplace enforcement agencies, police, or prosecutors are pursuing investigations, enforcement actions or criminal cases under state or federal laws that involve crimes that either not on the U visa list and/or would constitute "similar" criminal activities. These are cases that often, as part of the pattern of abuse and the totality of circumstances in the case, include U visa listed criminal activities. This occurs most commonly when U visa criminal activities are detected as part of the state, local, or federal agency's investigation, but are not the crime being investigated or prosecuted by the agency. The second way this occurs is when the crime being investigated or prosecuted by the state, federal, or local certifying agency is a crime which is a "similar" criminal activity to a U visa listed criminal activity. These charts will help VSC adjudicators easily access statutory definitions and requirements under state laws to see which state crimes include as U visa criminal activities within the crime's definition. When this occurs, the adjudicator can decide the case based on the included U visa criminal activity.

This approach will reduce the number of cases in which VSC adjudicators will need to make a determination that the criminal case being pursued by the state or federal agency is a “similar” criminal activity to a U visa qualifying criminal activity. The attached charts provide state by state statutory definitions of forced labor, involuntary servitude, slave trade, and peonage for easy reference for USCIS adjudicators when processing U visa applications that include U visa certifications signed by DOL, EEOC, and other state departments of labor and, hopefully, reduce the need to request further evidence.

Please do not hesitate to contact us if you have any questions about these charts.

Sincerely,

A handwritten signature in black ink that reads "Leslye E. Orloff". The signature is written in a cursive style with a long, sweeping horizontal line extending to the right from the end of the name.

Leslye E. Orloff