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## MEMORANDUM

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**TO:** Elizabeth Turpin, Office of Senator Domenici  
**FROM:** Leslye Orloff and Janice Kaguyutan, Immigrant Women Program,  
NOW Legal Defense and Education Fund  
**Subject:** Proposed Battered Immigrant Legislation  
**Date:** 7/6/2001

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Thank you for meeting with us to discuss proposed legislation that would fund the Immigration and Naturalization's (INS) development of training materials on the Violence Against Women Act's (VAWA) immigration provisions. Additionally, we discussed the possibility of funding for the INS VAWA unit in Vermont and funding for an expert staff position within the Department of State to handle issues regarding battered immigrants under VAWA. The following is an outline of our conversation and a brief description and flowchart of the INS process of adjudicating battered immigrant cases under the VAWA.

1. Development of Training Materials for INS Officers, Trial Attorneys, and Adjudicators on the VAWA Immigration Provisions.

- Tremendous need to train INS Adjudicators in local INS District Offices as well as INS Trial Attorneys on the battered immigrant provisions of VAWA. There have been many instances of local INS adjudicators either readjudicating the I-360 (VAWA self-petition) or conducting their own independent investigation into the facts stated in the I-360. Despite the fact that a highly specialized unit of adjudicators staff the VAWA unit at the Vermont Service Center, their approvals of VAWA cases are being questioned by local INS adjudicators and INS trial attorneys. Most INS officers receive very little or no training on the dynamics of domestic violence in immigrant communities, nor do they understand that VAWA self-petitions are first adjudicated by their highly skilled and capable colleagues at the Vermont Service Center. There is no need for readjudication of the I-360.
- Develop training and training materials. Gather experts outside of INS to train on domestic violence in immigrant communities. Training manuals. Video training. Etc.

2. Funding for the INS VAWA Unit for Increased Number and Type of Cases.

- The Victims of Trafficking and Violence Protection Act was enacted in October of 2000. This new piece of legislation made several improvements to the immigration provisions of the 1994 VAWA. Additionally, it created two

new visas, the U and T which may be adjudicated at the Vermont Service Center.

3. Hiring Expert at the Department of State to Handle Battered Immigrant Issues.

- Two types of battered immigrant cases that potentially can reach the American consulate abroad: a battered immigrant filing from abroad or a battered immigrant who chooses to go through consular processing (applying for lawful permanent residence abroad) instead of applying for lawful permanent residence at a local INS District Office.
- Must have an DOS point person in case issues arise regarding the VAWA self-petition.

## **Outline of the The Violence Against Women Act's Immigration Provisions Adjudicatory Process**

There are two forms of immigration relief provided to immigrant victims of domestic violence under the 1994 Violence Against Women Act: VAWA Self-petitions and VAWA Cancellation of Removal. For purposes of this outline, I will only briefly describe the VAWA self-petition process. VAWA cancellation of removal applies to victims in removal (deportation) proceedings before an immigration judges, whereas self-petitions are affirmative applications made before the INS.

**Step One:** The battered immigrant files INS form I-360 with INS. She files the form with documentation proving that she was a victim of battery or extreme cruelty by her spouse or former spouse who is a U.S. citizen or lawful permanent resident. She must also prove that she resided with her abuser, she has been a person of good moral character and that she married her abuser in good faith. For abused immigrant children, the requirements are similar except they need not prove the marriage in good faith. The I-360 is sent to the INS Vermont Center's VAWA unit.

**Step Two:** Once the I-360 is received by the VAWA unit at the INS Vermont Service Center, it can take up to three months to issue an approval or denial of the I-360 VAWA self-petition. Once the self-petition is approved, the battered immigrant is notified and will be eligible for work authorization from INS. Once the I-360 self-petition is approved, the battered immigrant may be eligible to apply for lawful permanent residence. For victims married or formerly married to U.S. citizens, the application for lawful permanent residence may be filed once they receive approval of their self-petition. Victims married or formerly married to lawful permanent residents must wait approximately four to six years before they become eligible to file the application for lawful permanent residence.

**Step Three (a):** Victims of domestic violence with approved self-petitions and who are or were married to U.S. citizens may immediately file an application for lawful permanent residence. Once the application is filed for lawful permanent residence, it is processed typically within six months to one year of filing the application. The VAWA self-petition file is sent to the INS District Office that has jurisdiction over the battered immigrant. An interview is scheduled with an adjudications officer. Once the INS officer approves the application for lawful permanent residence, the battered immigrant is issued a green card and may live and work in the U.S. permanently. For battered immigrants living abroad, the adjudications interview takes place at the American consulate of their home country.

**Step Three (b):** Victims of domestic violence with approved self-petitions who are or were married to lawful permanent residents must essentially wait in line to apply for lawful permanent residence. This process can take from four to six years. For relatives of lawful permanent residents and some citizens of the U.S., there is a visa quota

system where the intending immigrant must wait until there is a visa available in order to apply for lawful permanent resident status. During this time period, the battered immigrant with an approved self-petition is granted deferred action status, entitling her to work authorization and legal status while she awaits the four to six years before she can apply for her lawful permanent residence. After she submits her application for lawful permanent residence, she is scheduled an interview with an INS adjudications officer at her local INS District Office or consular official if she is residing abroad. Once her application is granted, she can live and work in the U.S. permanently.

Battered Immigrant



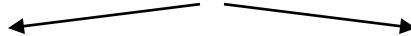
INS Form I-360 (VAWA self-petition) is Filed with the INS Vermont Service Center



INS Vermont Service Center VAWA Unit Adjudicates the VAWA self-petition



Approval of the VAWA self-petition



Victims married/formerly married to  
U.S. Citizens



Immediately eligible to apply for  
Lawful permanent residence



Interview with an INS adjudicator  
Or interview with a Consular official



Approval = Lawful Permanent  
Residence

Victims married/formerly married to  
Lawful Permanent Residents



Must wait 4 to 6 years before they  
are eligible to apply for lawful  
permanent residence



Interview with an INS adjudicator  
Or interview with a Consular official



Approval = Lawful Permanent  
Residence