

Senator Chris Murphy  
Chair, Subcommittee on Homeland Security  
Senate Appropriations Committee  
136 Hart Senate Office Building  
Washington, DC 20510

Congresswoman Lucille Roybal-Allard  
Chair, Subcommittee on Homeland Security  
House Appropriations Committee  
2083 Rayburn House Office Building  
Washington, DC 20515

Senator Shelley Moore Capito  
Ranking Member, Subcommittee on Homeland  
Security  
Senate Appropriations Committee  
172 Russell Senate Office Building  
Washington, DC 20510

Congressman Chuck Fleischman  
Ranking Member, Subcommittee on Homeland  
Security  
House Appropriations Committee  
462 Cannon House Office Building  
Washington, DC 20515

March 31, 2022

**Re: *Department of Homeland Security (DHS) Fiscal Year 2022 (FY 2023) Appropriations Act and the accompanying Committee Report***

Dear Chair Murphy, Chairwoman Roybal Allard, and Ranking Members Moore Capito and Fleischman,

On behalf of the fifty-eight undersigned national and statewide organizations who work to advance the safety and autonomy of survivors of domestic violence, sexual assault, human trafficking, and other forms of gender-based violence, we submit the following requests as you work to develop the Department of Homeland Security Appropriations bill to address the needs of immigrant survivors. We write to urge you to include the following recommendations in the Department of Homeland Security (DHS) Fiscal Year 2022 (FY 2023) Appropriations Act and the accompanying Committee Report. The following requests will help support implementation of the immigration-related provisions included in the Administration's National Strategy on Gender Equity and Equality,<sup>1</sup> which we whole-heartedly support. The National Strategy on Gender Equity and Equality recognized the critical need to enact policies that reduce vulnerability to abuse and exploitation faced by immigrants and noncitizens, including reducing barriers for immigrant survivors' help-seeking, for example, from the police, or courts.<sup>2</sup>

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<sup>1</sup> <https://www.whitehouse.gov/wp-content/uploads/2021/10/National-Strategy-on-Gender-Equity-and-Equality.pdf>

<sup>2</sup> 2019 Advocate and Legal Service Survey Regarding Immigrant Survivors (2019), available at: <http://alturl.com/ta3i5>; Cory Englebrect, *Fewer Immigrants Are Reporting Domestic Abuse. Police Blame Fear of Deportation*, New York

## **The Impacts of Barriers to VAWA and TVPA Protections**

We make these requests to alleviate the harmful impacts of domestic violence, sexual assault, and human trafficking on survivors, who face extended wait times for access to legal status or employment authorization, often with negative health and mental health consequences. In addition, these survivors are unable to maintain lawfully work without employment authorization, making it more difficult to obtain and maintain stable housing. These survivors are also ineligible for public benefits, and also risk losing their children to Child Protective Services without access to stable housing. We urge the Appropriations Committees to prioritize funding in the DHS budget to uphold Congress' commitment to *all* survivors of sexual and domestic violence, including by upholding the immigration protections in VAWA, the TVPA, and under the Refugee Convention.

### **THE DELAYS IN OBTAINING PROTECTIONS UNDER VAWA AND THE TRAFFICKING VICTIMS PROTECTION ACT PUT VICTIMS AT UNDUE RISK**

As noted previously immigrant survivors are experiencing protracted delays in the processing of their VAWA Self-Petitions, U-visa, and T-visa petitions.<sup>3</sup> The National Strategy on Gender Equity and Equality has raised the importance of seeking “timely adjudication of immigration petitions for survivors of domestic violence, sexual assault, and human trafficking, and other crimes.”<sup>4</sup> This includes over 170,800 principal applicants<sup>5</sup> with pending U-visa petitions, and additional derivatives (e.g. victims' children) languishing in limbo. While USCIS has begun implementing the Bona Fide Determination (BFD) process to initially review U-visa applications and issue employment

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Times (June 3, 2018), available at <https://www.nytimes.com/2018/06/03/us/immigrants-houston-domestic-violence.html>.

<sup>3</sup> At the end of FY 2020 the median wait time for a U visa applicant to be placed on the U visa waiting list after application was 50.1 months, and the average time spent on the waiting list until U visa issuance was 10.8 months. <https://www.uscis.gov/sites/default/files/document/reports/USCIS-Humanitarian-Petitions.pdf> These wait times have not significantly improved.

<sup>4</sup> <https://www.whitehouse.gov/wp-content/uploads/2021/10/National-Strategy-on-Gender-Equity-and-Equality.pdf>, at p. 25

<sup>5</sup> There are over 285,000 pending petitions, including principal and derivative applicants. See, [https://www.uscis.gov/sites/default/files/document/data/I918u\\_visastatistics\\_fy2021\\_qtr4.pdf](https://www.uscis.gov/sites/default/files/document/data/I918u_visastatistics_fy2021_qtr4.pdf)

authorization for individuals who have established eligibility for the program,<sup>6</sup> there is still an extensive backlog of applications to be processed. Timely access to employment authorization for victims in the U-visa program, as well as in the T-visa and VAWA-Self-Petition programs are critical for victims to be able to escape and overcome abuse.

**Request (1):** The backlogs in the U-Visa program could be significantly alleviated by an increase in the number of U-visas available to the program. Although the U-visa program was enacted in the Battered Immigrant Women Protection Act of 2000 (VAWA 2000), due to the delay in the issuance of regulations until 2007, the 10,000 visas available annually were not allocated during FY 2001-FY 2007. Recapture of these unallocated visas from the first years of implementation of the U-visa program would assist in alleviating a significant portion of the backlog of over 170,800<sup>7</sup> primary applicants awaiting U-visas. This minor technical change would significantly reduce U visa backlogs.

We request *inclusion of legislative language* to implement recapture of any previously unused U-visas from the date of the enactment of the U-visa program until the present day. We urge the committee to include the following *bill language*: *SEC. XXX RECAPTURE OF CRIME VICTIM VISAS: Section 214(p)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(p)(2)(A) is amended by adding at the end the following—“U visas that were made available in fiscal year 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, and 2009 that were unused shall added to the number of U-visas available during FY 2023, and each fiscal year thereafter until no more previously unused visas remain available, and in any such year, the number of aliens who may be issued visas or otherwise provided status as nonimmigrants under section 1101(a)(15)(U) of this title may exceed*

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<sup>6</sup> <https://www.uscis.gov/records/electronic-reading-room/u-nonimmigrant-status-bona-fide-determination-process-faqs>

<sup>7</sup> See USCIS. I-918 Number of Form I-918, Petition for U Nonimmigrant Status By Fiscal Year, Quarter, and Case Status Fiscal Years 2009-2021, available at

[https://www.uscis.gov/sites/default/files/document/data/I918u\\_visastatistics\\_fy2021\\_qtr4.pdf](https://www.uscis.gov/sites/default/files/document/data/I918u_visastatistics_fy2021_qtr4.pdf)

10,000, without limitation.” At a minimum, we request **that legislative authority be provided to USCIS** to recapture these unused U-visas notwithstanding the annual cap found in 8 U.S.C. 1184(p)(2)(A).

**Request 2.** The extensive delays in initial processing of survivor-based applications, combined with other barriers (lack of employment authorization, and lack of access to financial support), leave victims without access to economic resources, making them more vulnerable to ongoing victimization and trauma. We request an allocation of a minimum of **\$15,000,000 in funding for USCIS** as part of a larger **\$400,000,000 for backlog reduction efforts** in order to **increase adjudications staffing of the Vermont Service Center Humanitarian Unit and the Nebraska Service Center U Visa Unit.** We seek **Report Language**, which builds on language that was included in House FY21 Report, urging “*sufficient staffing to initially review and adjudicate VAWA Self-Petitions or petitions for nonimmigrant status under section 101(a)(15)(T) or 101(a)(15)(U) and Special Immigrant Juvenile applications within 90 days of submission as well as issue attendant employment authorization within 180 days of submission after the date that is the earlier of the date on which the individual filed the application, or the individual’s application is approved, as well as provide for staff training.*”

**Request (3).** Because of the extensive backlogs in processing immigration cases, as well as significant immigration court backlogs, immigrant survivors continue to face the risk of removal while their applications are pending. While we appreciate steps that the Administration has taken to incorporate a victim-centered approach,<sup>8</sup> immigrant survivors of domestic and sexual violence continue to face pending removal cases when they are encountered in the course of enforcement actions, and others face barriers in accessing legal assistance to establish their eligibility for immigration-related protections. Accordingly, we request **legislative language** reducing funding for ICE, similar to HR 4431, [Section 218 of the FY22 House DHS Appropriations bill](#), by *restricting the use*

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<sup>8</sup> <https://www.ice.gov/doclib/news/releases/2021/11005.3.pdf>

*of funds, resources or fees from being used for the detention or initiation or prosecution of removal of survivors with pending applications for relief via VAWA Self-Petitions, T-visas, U-visas, VAWA Cancellation of Removal or Suspension of Deportation, or spouses or children of certain abusive non-immigrants, or Special Immigrant Juvenile applications unless and until there has been a final denial of the individual's application for status.*

## **AN AGENCY-WIDE APPROACH TO COORDINATE VICTIM-RELATED RESPONSES**

While DHS' Office of Civil Rights and Civil Liberties and Office of Inspector General oversee complaints against DHS, and the USCIS Ombudsman fields USCIS-related inquiries, this scheme lacks a dedicated, expert point of contact to address survivors' needs throughout the immigration enforcement and adjudications lifecycles. Acute and long-term physical and emotional trauma, searing social stigmas, and threats of retaliation for reporting or fleeing violence are hallmarks of gender-based violence that render survivors particularly vulnerable to abuse and exploitation by individual perpetrators as well as on a systemic level. Survivors in DHS custody or without legal representation are at even further risk. In addition, survivor-based remedies such as the U and T visa are relatively new and highly technical.

**Request (4).** We request the inclusion of *funding for a new position of a Gender-Based Violence (GBV) Ombudsperson to oversee the Department's development and implementation of laws and policies that impact survivors of GBV*. As an expert in the unique and sensitive dynamics of GBV and trauma-informed service delivery, the Ombudsperson can optimize the Department's ability to develop and implement laws, rules, and policies that best protect them from further harm. Addressing these issues in individual cases will also allow the Ombudsperson to identify and rectify systemic problems, thereby relieving pressure on an already overburdened system to the benefit of all stakeholders. The Ombudsperson could also maintain data on GBV-related complaints, strengthen Department training curricula to include accurate, in-depth information on the dynamics of

GBV, liaise with key government agencies, assist with policy development, and engage with stakeholders. These functions fill a critical gap in promoting accountability, consistency, efficiency, and public confidence in our immigration system for survivors whose rights, safety, and lives are at stake.

## **CONCLUSION**

Supporting the purpose and intent of immigration protections created in VAWA, FVPSA, and our nation's asylum laws through these recommended measures will help protect victims, and help make our communities safer. We urge you to include provisions in the FY 2023 DHS appropriations bill that will help strengthen the protections for survivors of sexual assault, domestic violence, and other gender-based violence. If you have any questions, please contact Grace Huang at the Asian Pacific Institute on Gender-Based Violence ([ghuang@api-gbv.org](mailto:ghuang@api-gbv.org)), Thank you for your leadership throughout this process, and we look forward to working with you on these important issues.

Sincerely,

### ***Alliance for Immigrant Survivors***

Asian Pacific Institute on Gender-Based Violence  
ASISTA Immigration Assistance  
Esperanza United  
Tahirih Justice Center

### ***National Organizations***

Futures Without Violence  
Immigration Center for Women and Children  
Jewish Women International  
Justice for Migrant Women  
Labor Council for Latin American Advancement  
Legal Momentum, the Women's Legal Defense and Education Fund  
National Alliance to End Sexual Violence  
National Coalition Against Domestic Violence  
National Council of Jewish Women  
National Domestic Violence Hotline  
National Network to End Domestic Violence  
National Resource Center on Domestic Violence  
Ujima Inc: The National Center on Violence Against Women in the Black Community  
ValorUS

***State and Local Organizations***

Arizona Coalition to End Sexual and Domestic Violence  
California Partnership to End Domestic Violence  
Colorado Coalition Against Sexual Assault  
Connecticut Alliance to End Sexual Violence  
Connecticut Coalition Against Domestic Violence  
Americans for Immigrant Justice  
Farmworker Association of Florida  
Florida Council Against Sexual Violence  
Illinois Accountability Initiative  
Illinois Coalition Against Sexual Assault  
Iowa Coalition Against Domestic Violence  
Iowa Coalition Against Sexual Assault  
“Almas Valientes” and the Law Office of Sonia Parras PLLC  
Kansas Coalition Against Sexual and Domestic Violence  
Louisiana Foundation Against Sexual Assault  
Maine Coalition Against Sexual Assault  
Maryland Coalition Against Sexual Assault  
Jane Doe Inc.  
Mississippi Coalition Against Sexual Assault  
Missouri Coalition Against Domestic and Sexual Violence  
Nevada Coalition to End Domestic and Sexual Violence  
New Jersey Coalition to End Domestic Violence  
New York State Coalition Against Domestic Violence  
New York State Coalition Against Sexual Assault  
North Carolina Coalition Against Domestic Violence  
North Carolina Coalition Against Sexual Assault  
Ohio Alliance to End Sexual Violence  
Pennsylvania Coalition Against Domestic Violence  
Pennsylvania Coalition Against Rape  
Tennessee Coalition to End Domestic and Sexual Violence  
Texas Association Against Sexual Assault  
Vermont Network Against Domestic and Sexual Violence  
Virginia Sexual & Domestic Violence Action Alliance  
Washington State Coalition Against Domestic Violence  
Wisconsin Coalition Against Sexual Assault  
Wyoming Coalition Against Domestic Violence and Sexual Assault

Her Justice, Inc.  
Workers Center of Central New York  
Mujeres Divinas  
Violence Intervention Program