



Samantha Deshommes
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Division Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security

Submitted via www.regulations.gov

RE: “Agency Information Collection Activities; Revision of a Currently Approved Collection: Petition For U Nonimmigrant Status”
OMB Control Number 1615-0104; Docket ID USCIS-2010-0004

Dear Ms. Deshommes:

Her Justice is a non-profit organization that, since its founding in 1993, has been dedicated to standing with women living in poverty in New York City by recruiting and mentoring volunteer lawyers to provide free legal help to address individual and systemic legal barriers. Our immigration program works directly with undocumented immigrants to provide a path to lawful immigration status. We work primarily with survivors of domestic and sexual violence, those affected by human trafficking and/or children who have suffered abuse, abandonment or neglect. We represent in-house clients and mentor pro bono attorneys in their representation of clients for VAWA Self-Petitions, Petitions for U Nonimmigrant Status, Applications to Adjust Status, Waivers of the Joint Petition to Remove Conditions on Residence, Applications for Naturalization, Applications for T Nonimmigrant Status, and Applications for Employment Authorization. Along with our efforts to provide legal services to individuals, we engage in policy reform and advocacy to reform the immigration system so that the greatest number of immigrant women are able to obtain and preserve the best possible status, through a process that prioritizes their safety and dignity.

We reiterate our comments previously submitted in coalition with other organizations serving immigrant survivors on January 8, 2024 urging USCIS to adopt changes to protect noncitizen survivors of crime and gender based violence and remove burdens on applicants and law enforcement certifiers.

We submit further comments to specifically address the following proposed revisions to the Forms and Instructions pertaining to I-918, I-918A, and I-918B.

I. Form I-918B Instructions, Page 3: General Instructions – Suggested Best Practice of Law Enforcement Certifier Submission of Signed Form I-918B in Sealed Envelope

While we commend USCIS for providing additional guidance to law enforcement certifiers, the suggested best practice of having certifiers submit a signed Form I-918B in a sealed envelope is



burdensome to the law enforcement agency and has the potential to harm applicants. As worded, the I-918B instructions do not mandate law enforcement certifiers to provide applicants with a copy of their signed I-918B form. Rather, the instructions state that a copy of the signed I-918B form should be given to applicants as a suggested best practice.

Where an applicant receives only a sealed envelope containing a signed I-918B form and no courtesy copy, there is no way for the applicant or their legal representative to know the relevant date of expiration of the signed Form I-918B nor the actual qualifying criminal activity upon which the applicant's petition is based absent additional communication with the law enforcement certifier. The additional time and effort required to obtain a courtesy copy from the law enforcement certifier is burdensome to both applicants and certifiers, especially given the limited six-month validity of the Form I-918B once signed by the certifier. Although USCIS suggests providing courtesy copies to applicants as a best practice, law enforcement certifiers are not required to do so. Should certifiers fail to provide an applicant with a courtesy copy, the result can be prejudicial to applicants and create additional obstacles for the victimized applicant to overcome.

The processing times for Forms I-918B vary greatly by jurisdiction and law enforcement agency. In New York City, the average processing time for Forms I-918B can range from 30 days to over 9 months, depending on certifier and the resources of the certifying agency. Processing times can be lengthy based upon the workload of the certifier, and asking certifiers to place signed Forms I-918B in a sealed envelope and provide a courtesy copy to the applicant will only increase Form I-918B processing times. What may seem like a small ask may, given the volume of requests for I-918B forms in populous regions like New York City, contribute to certifier burnout to the detriment of both law enforcement and applicant.

Thus, we feel that it is in the best interest of law enforcement and applicants to remove the language referring to submitting signed I-918B forms in a sealed envelope entirely.

A. Form I-918 and I-918A Instructions, Pages 4 and 12: Specific Instructions for Form I-918 and General Requirements, Required Initial Evidence to Support Form I-918 – Form I-918B in Sealed Envelope

Under the Specific Instructions for Form I-918 section on Page 4 of the Form I-918 and I-918A Instructions, the proposed revisions to the second paragraph states: "The Form I-918, Supplement B, should be submitted to USCIS in an envelope sealed by the certifying agency. We urge USCIS to remove this sentence entirely.

Under the General Requirements section discussing Required Initial Evidence to Support Form I-918 on Page 12 of the Form I-918 and I-918A Instructions, Item 1. Form I-918, Supplement B, contains the following sentence under the proposed revisions: "The Form I-918, Supplement B, should be properly sealed by the certifying agency." We urge USCIS to remove this sentence entirely.



II. Form I-918B Instructions, Page 4: Specific Instructions – Designation Letters

The proposed revisions on Page 4 of the I-918B instructions puts the onus on certifiers to submit designation letters directly to USCIS. However, it is unclear what the consequence is to an applicant should a certifier fail to submit their designation letter to USCIS and whether USCIS or the applicant will bear the burden of following up with the certifier to provide the necessary letter.

An applicant has no control over a certifier's actions or inactions. If a certifier fails to submit a designation letter to USCIS, will the applicant be denied a *bona fide* determination? If the applicant is to be given a chance to "cure the defect," must the applicant then request that the certifier submit a designation letter to USCIS when it is the certifier's responsibility to do so? If the certifier wholly fails to submit a designation letter, does the applicant then get penalized for the certifier's non-cooperation?

This requirement unnecessarily complicates I-918 and I-918B processing, which will result in delays or denials that will prejudice applicants who are already facing an adjudication period of over five years. Thus, we propose that the existing instructions under the "Specific Instructions" section on Page 4 be changed as follows: (changes noted in bold)

*Item Number 4. Indicate whether your name and signature have already been provided to USCIS as a designated certifying official. USCIS maintains records of the heads of certifying agencies and their designated certifying officials. If your name and signature have not already been provided to USCIS, **or if you are unsure, you may provide your name to USCIS by emailing a copy of a signed letter from the head of your agency delegating certifying authority to LawEnforcementUTVAWA.VSC@USCIS.dhs.gov or attaching a designation letter to your signed Form I-918, Supplement B.***

We also suggest sending designation letter to USCIS as a best practice under the "General Instructions" section: "Best Practices for Preparing Form I-918, Supplement B." Suggested language is as follows:

USCIS strongly suggests that law enforcement agencies submit the names of designated certifying officials directly to USCIS by emailing a copy of a signed letter from the head of your agency delegating certifying authority to LawEnforcementUTVAWA.VSC@USCIS.dhs.gov or attaching a designation letter to your signed Form I-918, Supplement B.



III. I-918B Instructions, Page 4: Specific Instructions, Item Numbers 2 & 4 – Specific Details of Crime & Explanation of Nature and Elements of Crime

The proposed revisions instruct certifiers to provide specific details of the qualifying crime, including events leading up to the crime, what happened during the crime, and the perpetrator's actions and motives (if known), as well as listing and providing a detailed explanation of the nature and elements of the crime that are substantially similar to the enumerated crimes if, for example, a state does not have a "felonious assault" crime. This requirement adds additional, unnecessary work to certifier workloads contributing to law enforcement burnout and increased I-918B processing times, discourages law enforcement agencies from issuing I-918B forms, and requires certifiers to engage in legal analysis that they may or may not be trained to do.

The requirement for law enforcement certification of form I-918B is that the applicant has been helpful to law enforcement in "detecting, investigating, prosecuting, convicting or sentencing" the qualifying crime. As front-line law enforcement, police officers are generally responsible for detecting and investigating criminal activity. Police officers conduct a low-level legal assessment to determine whether the perpetrator's conduct appears to have violated a criminal statute. Whether or not the perpetrator's conduct is further investigated and prosecuted is generally up to the district attorney or prosecutor's office which engages in a high-level legal analysis to determine whether the perpetrator's conduct meets the statutory elements under the state's statute.

While a law enforcement agent such as a prosecutor is likely to be able to provide "specific details" of the crime, as well as a detailed explanation of the "nature and elements" of the crime that are substantially similar to the enumerated crimes, another law enforcement agency engaging in the detection or investigation of a crime is likely not in a position to provide this level of information or analysis. Requiring all law enforcement certifiers to provide this type of information forces all certifiers to engage in high-level legal analysis without any guidance, and to conduct the analysis that trained USCIS adjudicators should be doing. Given widely varying state laws and large variety of law enforcement agencies, certifiers in the same jurisdiction may have varied explanations and interpretations of whether a crime is substantially similar to an enumerated crime. This defeats the purpose and intent of the U nonimmigrant status statute.

Thus, we strongly urge USCIS to remove this language and requirement from the I-918B instructions and the form itself given the added burden to certifiers and the potentially unjust effect to applicants where certifiers in the same jurisdiction may provide varied explanations that can greatly impact an adjudicator's decision.



IV. Form I-918 and I-918A Instructions, Page 14: General Requirements, Required Initial Evidence to Support Form I-918 – Item 7. Evidence of Helpfulness

We commend USCIS for outlining factors the agency considers in determining whether the victim is, has been, or will be helpful in the proposed revisions. However, as many I-918 victim applicants do not speak English as their primary language, we urge USCIS to also consider adding “English proficiency” and “education level” to the individual circumstances listed under Item 7.D.

V. Conclusion

We urge USCIS to consider these suggestions and amend the proposed revisions to Forms I-918, I-918A, and I-918B. We are appreciative of the positive changes proposed and encourage USCIS to maintain those changes while also addressing the concerns we have raised on the proposed forms. Please don’t hesitate to contact us if there are any questions at ssaul@herjustice.org or rbraunstein@herjustice.org.

Sincerely,

/s/ Susanna Saul

Susanna Saul, Esq.
Director, Immigration Practice
Her Justice

/s/ Rachel Braunstein

Rachel Braunstein, Esq.
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