



**U.S. Department of Justice**  
Immigration and Naturalization Service

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*425 I Street NW*  
*Washington, DC 20536*

August 5, 2002

Office of the Executive Associate Commissioner

MEMORANDUM FOR REGIONAL DIRECTORS  
DEPUTY EXECUTIVE ASSOCIATE COMMISSIONER,  
IMMIGRATION SERVICES DIVISION

FROM: Johnny N. Williams /s/ Thomas Schiltgen for  
Executive Associate Commissioner  
Office of Field Operations

SUBJECT: Revocation of VAWA-Based Self-Petitions (I-360s)

It has come to the attention of this office that certain district offices have been issuing notices of intent to revoke I-360 immigrant visa petitions that were approved at the Vermont Service Center (VSC) pursuant to the self-petitioning provisions contained in the Violence Against Women Act (VAWA). This practice has led to allegations that the Immigration and Naturalization Service's (Service/INS) adjudication of VAWA-based self-petitions is inconsistent. Consequently, effective the date of this memorandum, the VSC shall have sole authority to revoke an approved VAWA-based self-petition.

New Policy

In 1997, to ensure appropriate and expeditious handling of all self-petitions filed by battered spouses and children, the Service implemented a centralized filing procedure in which all VAWA-based petitions are adjudicated at the VSC. The VSC adjudications officers assigned to the VAWA unit have received specialized domestic violence training and have developed expertise in adjudicating these petitions. Therefore, in order to ensure consistency in the adjudication of VAWA cases, self-petitions that field offices believe should be reviewed for possible revocation are to be returned to the VSC accompanied by a memorandum of explanation.

If an officer in the field receives new information that was not available to the VSC at the time of the approval of a self-petition, and that new information leads the officer to reasonably believe that a self-petition should be revoked, the officer must write a memorandum to his or her Supervisory District Adjudications Officer (SDAO) explaining why the self-petition should be reviewed for possible revocation. The memorandum must state what the new information is and how it was obtained.

### Supervisory Review and Return to VSC

If, upon review of an officer's memorandum of explanation, the SDAO concurs in the officer's assessment, the SDAO must sign and forward it and the file in question to the VSC to the attention of the VAWA unit. A VSC VAWA unit supervisor will review the memorandum of explanation and the file to which it refers, and make a recommendation to initiate revocation proceedings or to reaffirm the self-petition. If the recommendation is to reaffirm the self-petition, the VSC supervisor must write a memorandum explaining the reasons for which the self-petition was not revoked. This memorandum will be returned to the field with the file. In all such situations, the VSC is expected to complete its review process on an expedited basis. Self-petitions being returned to the VSC from a field office, or from the VSC to a field office, must in all cases be accompanied by a memorandum signed by the appropriate supervisor prior to such action being taken.

### Reminder of Special Provisions Relating to VAWA Cases

Officers should keep in mind that section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA)<sup>1</sup> prohibits Department of Justice employees from making an adverse determination of admissibility or deportability of an alien using information provided solely by:

- 1) a spouse or parent who has battered the alien or subjected the alien to extreme cruelty;
- 2) a member of the spouse's or parent's family residing in the same household as the alien who has battered the alien or subjected the alien to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty;
- 3) a spouse or parent who has battered the alien's child or subjected the alien's child to extreme cruelty (without the active participation of the alien in the battery or extreme cruelty); and

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<sup>1</sup> Codified at 8 U.S.C. § 1367.

- 4) a member of the spouse's or parent's family residing in the same household as the alien who has battered the alien's child or subjected the alien's child to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty.<sup>2</sup>

Any adverse information received by the INS from a self-petitioner's U.S. citizen or lawful permanent resident spouse or parent, or from relatives of that spouse or parent, must be independently corroborated by an unrelated source before the INS may take adverse action based on such information.<sup>3</sup>

Section 384 of IIRIRA also prohibits Department of Justice employees from permitting the use by or disclosure to anyone (other than a sworn officer or employee of the Department, or bureau or agency thereof, for legitimate Department, bureau, or agency purposes) of any information that relates to an alien who is the beneficiary of a VAWA-based self-petition.<sup>4</sup> Anyone who willfully uses, publishes, or permits such information to be disclosed in violation of IIRIRA § 384 will face disciplinary action and be subject to a civil money penalty of up to \$5,000 for each such violation.<sup>5</sup>

If you have questions regarding this memorandum or other VAWA-related issues, please contact the Office of Adjudications at (202) 514-4754.

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<sup>2</sup> For limited exceptions to this prohibition, *see* IIRIRA § 384(b).

<sup>3</sup> *See* Virtue, INS Office of Programs, "Non-Disclosure and Other Prohibitions Relating to Battered Aliens: IIRIRA § 384", Mem. 96act.036 (May 5, 1997).

<sup>4</sup> *See* IIRIRA § 384(a)(2).

<sup>5</sup> *See* IIRIRA § 384(c).