

Question#:	1
Topic:	TVPRA (1)
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Under current law, a victim of trafficking may apply for a “T” visa under the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(T), if he or she meets the definition of a victim of trafficking and is currently present in the United States on account of that trafficking.

The first part of section 211 of the TVPRA (S.1301) would allow would-be “T” visa applicants who have left the United States to apply from outside the country if they left based on a threat from the traffickers to the victim or the victim’s family. An application for a “T” visa that is filed from outside the United States can be filed up to five years after the trafficking.

How many additional “T” visa applications will be filed each year, if this provision is enacted?

Response: It is unknown how many additional Applications for T Nonimmigrant Status (Form I-914) would be filed if the provision is enacted. However, we believe that the provision, if implemented, is drafted in such a way that a victim residing abroad could have trouble meeting the evidentiary burden to establish eligibility. For example, it might be difficult for an applicant residing abroad to show cooperation with a Federal, state or local law enforcement agency in the United States. As such, if the provision is enacted, we do not anticipate a significant number of additional I-914 filings.

Question#:	2
Topic:	TVPRA (2)
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Under current law, a victim of trafficking may apply for a “T” visa under the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(T), if he or she meets the definition of a victim of trafficking and is currently present in the United States on account of that trafficking.

The first part of section 211 of the TVPRA (S.1301) would allow would-be “T” visa applicants who have left the United States to apply from outside the country if they left based on a threat from the traffickers to the victim or the victim’s family. An application for a “T” visa that is filed from outside the United States can be filed up to five years after the trafficking.

What will the cost be each year of implementing this provision, in terms of the amount of public assistance that will have to be given to the additional “T” visa recipients and their relatives?

For each of the last eight years, what was the cost of the public assistance given to “T” visa recipients?

For each of the last eight years, what was the cost of the public assistance given to the derivative beneficiaries/relatives of “T” visa recipients?

Response: DHS does not provide public assistance benefits to T visa recipients or their derivatives; therefore, the Department does not collect such data on T visa recipients.

Question#:	3
Topic:	"T" Visa
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: What type of background investigation (if any) is currently conducted on a “T” visa applicant and his family members/derivative beneficiaries before they are allowed to remain in/enter the U.S.?

Response 3a: All applicants for T nonimmigrant status between the ages of 14 through 79, including derivative family members, must be fingerprinted for the purpose of conducting a criminal background check. After submitting an application to USCIS, the applicant and any derivative beneficiaries are notified of the proper time and location to appear for fingerprinting. Fingerprint notification, for both the applicant and all derivatives, is sent to the principal applicant’s “safe address.” Safe Address is an address indicated by an applicant where they can receive mail in a safe and secure manner that will not alert a trafficker and potentially endanger the applicant. Fingerprint appointments are scheduled at the Application Support Center (ASC) based upon the zip code of the residential mailing address. Overseas applicants must appear at an embassy or consulate for fingerprinting.

USCIS subjects all applicants for T nonimmigrant status, including derivative family members, to the following background checks:

The Interagency Border Inspection System (IBIS) Name Check — IBIS is a multiagency effort with a central system that combines information from multiple agencies, databases and system interfaces to compile data relating to national security risks, public safety issues and other law enforcement concerns. USCIS can quickly check information from these multiple government agencies to determine if the information in the system concerns an applicant and thereby affects the adjudication of the case. Results of an IBIS check are usually available immediately. In some cases, information found during an IBIS check will require further investigation. The IBIS check is not deemed completed until all eligibility issues arising from the initial system response are resolved.

FBI Fingerprint Check — The FBI fingerprint check provides information relating to criminal background within the United States. Generally, the FBI forwards responses to USCIS within 24 hours. If there is a record match, the FBI forwards an electronic copy of the criminal history (RAP sheet) to USCIS. At that point, a USCIS adjudicator reviews the information to determine what effect it may have on eligibility for the benefit. In cases involving arrests or charges without disposition, USCIS requires the applicant to provide court certified evidence of the disposition. All applicants with prior arrests

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should provide complete information and certified disposition records at the time of filing an application to avoid adjudication delays or denial resulting from misinformation about criminal history. Even expunged or vacated convictions must be reported for immigration purposes.

FBI Name Checks — The FBI name check is different from the FBI fingerprint check. The records maintained in the FBI name check process consist of administrative, applicant, criminal, personnel and other files compiled by law enforcement. Initial responses to this check generally take about two weeks. Some of these cases involve complex, highly sensitive information and cannot be resolved quickly. Even after the FBI has provided an initial response to USCIS concerning a match, the name check is not complete until full information is obtained and eligibility issues arising from it are resolved.

Question: Assuming there is an investigation, who conducts it? Who evaluates it?

Response 3b: See response to 3a above. USCIS officers at the Vermont Service Center (VSC) review and evaluate the results of IBIS checks, FBI Fingerprint Checks, and FBI name checks. If a criminal investigation is warranted, it will be conducted by Immigration and Customs Enforcement (ICE). Administrative investigations, where needed, will be conducted by USCIS's Fraud Detection and National Security (FDNS) officers.

Question: Assuming there is an investigation, if it results in an adverse determination, can a "T" visa applicant be allowed to remain in the U.S. and receive a visa? If so, under what circumstances and how is that justified? Who makes that decision? If it can occur, for each of the last eight years how many times did it occur?

Response 3c: If any of the background checks result in derogatory information on a particular applicant, USCIS will evaluate that information on a case-by-case basis to determine if the applicant remains eligible for T nonimmigrant status. If a criminal investigation is warranted, it will be conducted by ICE. Administrative investigations, where needed, will be conducted by USCIS's FDNS. If the derogatory information indicates that the applicant is inadmissible under applicable grounds of section 212(a) of the Immigration and Nationality Act (INA), the applicant will not be eligible for T nonimmigrant status unless USCIS waives the ground of inadmissibility. Applicants for T nonimmigrant status may apply for INA section 212(d)(3) waivers of inadmissibility to the same extent as any other applicant for nonimmigrant status or for INA section

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212(d)(13) waivers of inadmissibility which are specific to applicants for T nonimmigrant status.

Such waivers are not automatic, but may be granted in the exercise of USCIS' discretion on a case-by-case basis. Application for Advance Permission to Enter as Nonimmigrant (Form I-192) must be used when a principal or derivative family member is seeking such waiver of inadmissibility.

USCIS does not capture numerical information of how many Form I-192 requests were granted for T applicants over the past 8 years.

Question: Assuming there is an investigation, if it results in an adverse determination, will a "T" visa applicant's derivative beneficiary be allowed to remain in the U.S.? If so, under what circumstances and how is that justified? Who makes that decision? If it can occur, for each of the last eight years, how many times did it occur?

Response 3d: The approvability and maintenance of a derivative beneficiary's T nonimmigrant status depends on that of the principal applicant. Under 8 CFR 214.11(s)(5), if a principal's T-1 status is revoked, all T nonimmigrant status holders deriving status from the principal shall have that status revoked or denied, if the derivative's application is pending. Derivative beneficiaries are subject to the same background checks as principal applicants, which are explained in response to question 3a. Any derogatory information is reviewed and evaluated by USCIS on a case-by-case basis. If a criminal investigation is warranted, it will be conducted by ICE. Administrative investigations, where needed, will be conducted by USCIS's FDNS. If the derogatory information indicates that the derivative beneficiary is inadmissible under section 212(a) of the INA, the derivative beneficiary will not be eligible for derivative T nonimmigrant status unless USCIS waives the ground of inadmissibility. Derivatives may apply for INA section 212(d)(3) waivers of inadmissibility to the same extent as any other applicant for nonimmigrant status or for INA section 212(d)(13) waivers of inadmissibility which are specific to applicants for derivative and principal T nonimmigrant status.

Such waivers are not automatic, but may be granted in the exercise of the USCIS' discretion on a case-by-case basis. Application for Advance Permission to Enter as Nonimmigrant (Form I-192) must be used when a derivative family member is seeking such waiver of inadmissibility.

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Topic:	"T" Visa
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USCIS does not capture numerical information of how many Form I-192 requests were granted for derivative T applicants over the past 8 years.

Question#:	4
Topic:	applicant
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: If a “T” visa applicant is in the U.S. illegally, is any effort be made to determine whether the applicant was complicit in violating U.S. immigration law? If not, why not? If any effort is made, describe it and the standard governing it in detail. If an applicant was complicit in violating U.S. immigration law, does that bar him or her from being awarded a “T” visa?

Response: All T visa applicants are scrutinized to determine how they entered the United States. This is done through a review of the evidence and the information provided on the application. Other checks are done of the alien’s background including fingerprint and IBIS checks. If a criminal investigation is warranted, it will be conducted by the U.S. Immigration and Customs Enforcement (ICE). Administrative investigations, where needed, will be conducted by U.S. Citizenship and Immigration Services’ (USCIS) FDNS. An alien’s complicity in illegally entering the United States does not automatically bar him/her from receiving T nonimmigrant status due to the waiver authority at INA 212(d)(13). Certain waivers are available for those who entered illegally. To receive an approval of the waiver the alien must demonstrate that it is in the national interest to waive the illegal entry and that the violation is caused by or is incident to the trafficking.

Such waivers are not automatic, but may be granted in the exercise of the USCIS’s discretion on a case-by-case basis. Application for Advance Permission to Enter as Nonimmigrant (Form I-192) must be used when an applicant is seeking such waiver of inadmissibility.

Question#:	5
Topic:	beneficiary
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: For a “T” visa applicant’s derivative beneficiary who is already in the U.S., is any investigation done to determine whether the beneficiary is in the U.S. illegally? If so, what does that investigation consist of? Who conducts it?

Response: Derivative beneficiaries are subject to the same scrutiny given to principal applicants to determine how they entered the United States. This is done through a review of the evidence and the information provided on the derivative’s application. Other checks are done of the derivative’s background including fingerprint and IBIS checks. If a criminal investigation is warranted, it will be conducted by the U.S. Immigration and Customs Enforcement (ICE). Administrative investigations, where needed, will be conducted by U.S. Citizenship and Immigration Services’ (USCIS) FDNS. A derivative’s complicity in illegally entering the United States does not automatically bar him/her from receiving derivative T nonimmigrant status due to the waiver authority at INA 212(d)(13). Certain waivers are available for those who entered illegally. To receive an approval of the waiver the derivative must demonstrate that it is in the national interest to waive the illegal entry and that the violation is caused by or is incident to the trafficking. Such waivers are not automatic, but may be granted in the exercise of the USCIS’s discretion on a case-by-case basis. Application for Advance Permission to Enter as Nonimmigrant (Form I-192) must be used when a derivative family member is seeking such waiver of inadmissibility.

Question#:	6
Topic:	removal
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: If a “T” visa applicant’s derivative beneficiary is in the U.S. illegally, is the beneficiary allowed to remain in the U.S.? Are removal proceedings commenced against the beneficiary?

Response: Those derivative family members in the United States unlawfully may remain if they receive an approved T application as a derivative family member and a waiver of their unlawful presence in the United States (see response to 5). Removal proceedings may be commenced against the family member if U.S. Immigration and Customs Enforcement (ICE) chooses to pursue removal.

Question#:	7
Topic:	legislation
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: For the proposed legislation (section 211 of S.1301), what type of background investigation will be conducted on a “T” visa applicant applying from abroad before he is allowed to return to the U.S.? Assuming there will be an investigation, who will conduct it? Who will evaluate it?

Response: See the response to question 3a. All applicants, whether in the United States or abroad, for T nonimmigrant status or a T visa between the ages of 14 and 79 are required to submit fingerprints and receive an IBIS check prior to a final decision being issued. Since these checks are currently done on all applicants, including derivatives who enter from overseas, U.S. Citizenship and Immigration Services (USCIS) anticipates following this same procedure for any future filings from abroad that result from the proposed legislation.

In addition, all T applicants who enter from abroad are required to consular process through the Department of State (DOS). DOS has certain requirements for issuance of a visa, including an interview, proof of identity and relationship, and proof of admissibility to the United States or a waiver of any grounds of inadmissibility. Additionally, DOS may request further documentation. USCIS believes this process would also apply to any future principal applicants entering the United States from abroad.

The results of any administrative investigation conducted by USCIS’s FDNS or Department of State, or any criminal investigation conducted by U.S. Immigration and Customs Enforcement (ICE) would be reviewed by USCIS and be relevant to any adjudication.

Question#:	8
Topic:	family members
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: For the proposed legislation (section 211 of S.1301), what type of background investigation will be conducted on a “T” visa applicant’ family members/derivative beneficiaries before they are allowed to enter or remain in the U.S.? Assuming there will be an investigation, who will conduct it? Who will evaluate it?

Response: See response to Question 7, which applies equally to derivative family members.

Question#:	9
Topic:	conditions
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: One of the conditions of receiving a “T” visa is that the applicant complies with reasonable requests by law enforcement to assist in trafficking investigations or proves that he or she is unable to do so because of physical or psychological trauma. The second part of section 211 provides that such trauma may be caused by a reasonable fear of retaliation by the traffickers against a family member. Section 211 only requires that an alien have a “reasonable fear of retaliation” by the trafficker or the trafficker’s associates in order for the alien to be excused from cooperating with law enforcement.

Who evaluates a claim of physical or psychological trauma? What does that evaluation consist of? If it is merely a review of paper, how is that justified? Isn’t an in-person review needed for a true review?

Response 9a: In accordance with our statutory authority, the U.S. Citizenship and Immigration Services (USCIS) would evaluate any claim of physical or psychological trauma on a case-by-case basis and with a thorough review of all submitted evidence. An applicant may submit an affirmative statement describing the trauma, and any other credible evidence, including a signed statement on official letterhead from a professional who makes determinations of this type in the course of his or her job and can attest to the victim’s mental state, such as a medical professional, social worker, or victim advocate. While a victim’s affidavit may be enough to satisfy the evidentiary burden, USCIS encourages the submission of other evidence, particularly a signed statement from a mental health professional or victim advocate. USCIS reserves the right to contact the law enforcement agency that is involved in the case, if appropriate. Under 8 CFR 214.11(d)(6) and (n)(6), in its discretion, USCIS may require an applicant to submit to an in-person interview. While USCIS has the authority to interview any applicant at its discretion, USCIS will consider all factors when deciding to exercise its interview authority, including whether an interview is in the best interest of a traumatized victim of human trafficking and any possibility of continued victimization.

Question: For each of the last eight years, how many “T” visa applications sought to be excused from having to cooperate with law enforcement official?

Response 9b: To date, USCIS has not received any T applications seeking an exception to the cooperation requirement based on trauma. The trauma exception was only added by TVPRA 2008, so there would not be eight years of data. Prior to TVPRA 2008 there

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was no exception to the cooperation requirement. There was only a statutory exemption for minor applicants under the age of 18.

Question: For each of the last eight years, how many “T” visa recipients were excused from cooperating with law enforcement officials? Was the Department of Justice consulted in every instance before exemptions were granted? If not why not?

Response 9c: None (see clarification in above response 9b).

Question: For each of the last eight years, on how many occasions did the DOJ maintain that an exemption should not be granted, but was overruled?

Response 9d: None (see clarification in above response 9b).

Question: For each of the last eight years, how many criminal investigations were terminated or not commenced because a “T” visa applicant was excused from having to cooperate with law enforcement officials?

Response 9e: No trauma exceptions to the cooperation requirement were granted (see clarification in above response 9b).

Question#:	10
Topic:	terminated
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: For each of the last eight years, how many prosecutions were terminated because a “T” visa applicant was excused from having to cooperate with law enforcement officials?

Response: No trauma exceptions to the cooperation requirement were granted (see clarification in above response 9b). Additionally, DHS does not track the number of prosecutions terminated as a result of a T visa applicant being excused from having to cooperate with law enforcement officials.

Question#:	11
Topic:	"T" visa recipient (1)
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: The third part of section 211 of the TVPRA (S.1301) expands the list of eligible relatives who may join a “T” visa recipient. Under current law, spouses and children may accompany or follow an eligible trafficking victim. A parent or unmarried sibling under 18 years of age may also do so if the victim is a minor or if the derivative relatives face a danger of retaliation based on the victim’s escape from the traffickers or cooperation with law enforcement. Section 211 would allow additional derivative family members to apply to join the trafficking victim if those family members allegedly face a danger of retaliation.

Under the current system, who evaluates a “T” visa applicant’s claim that he faces retaliation if he cooperates with law enforcement? How is that evaluation carried out?

Response 11a: The burden to establish danger of retaliation is on the applicant. U.S. Citizenship and Immigration Services’ (USCIS) Vermont Service Center considers any credible evidence of a present danger of retaliation to the immediate family member. The determination of present danger is evaluated on a case-by-case basis. An applicant may submit an affirmative statement describing the danger the family member faces and how the danger is linked to the victim’s escape from the traffickers or cooperation with law enforcement. However, an applicant’s statement alone is not sufficient to establish that a family member faces a danger of retaliation. An applicant must submit some other type of evidence to establish the present danger of retaliation. Some examples of acceptable evidence include, but are not limited to, a previous grant of advance parole to a family member, a signed statement from a law enforcement official describing the danger of retaliation, trial transcripts, court documents, police reports, news articles, copies of reimbursement forms for travel to and from court, and affidavits from other witnesses. USCIS reserves the right to contact the law enforcement agency involved in the case, as appropriate.

Question: Under the current system, who evaluates a “T” visa applicant’s claim that family members/beneficiaries face retaliation? How is that evaluation carried out?

Response 11b: See response to 11a.

Question: How many additional relatives/beneficiaries of “T” visa applicants will be allowed to enter/remain in the U.S. annually, if this legislation is enacted?

Question#:	11
Topic:	"T" visa recipient (1)
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Response 11c: It is unknown how many additional relatives/beneficiaries would be allowed to enter/remain in the United States if the legislation is enacted.

Question: What type of background investigation will be conducted before a relative is admitted or allowed to remain in the U.S. under this provision?

Response 11d: All applicants for T nonimmigrant status, whether in the United States or abroad, including derivative family members, would receive the checks cited in response to Questions 3a and 8. In addition, any individual who seeks to be admitted to the United States would need to complete the Department of State (DOS) consular processing.

Question: If any background investigation is to be conducted, who will carry it out?

Response 11e: See responses to 3a and 7.

Question: If any background investigation will be conducted, what will the role of the Vermont Service Center (VSC) be in the process?

Response 11f: The role of the Vermont Service Center is to review all results and determine the impacts of the findings on the alien's eligibility for T nonimmigrant status (see response to question 3c). If an administrative investigation is conducted by USCIS's FDNS or DOS, or a criminal investigation is conducted by ICE, the VSC will coordinate with those agencies to obtain any information revealed as a result of an investigation.

Question: Will an employee of the VSC be able to overrule an adverse determination of a background investigation and award an applicant a visa or legal status?

Response 11g: Adverse information from a background investigation may negatively impact an alien's eligibility for nonimmigrant status or a visa. However, DHS and DOS are prohibited from making an adverse determination based on evidence supplied solely by a prohibited source under 8 U.S.C. § 1367. Derogatory information based on evidence which is not solely from a source prohibited by section 384 may be considered in the adjudication of a case.

Question#:	12
Topic:	"T" visa recipient (2)
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: The third part of section 211 of the TVPRA (S.1301) expands the list of eligible relatives who may join a “T” visa recipient. Under current law, spouses and children may accompany or follow an eligible trafficking victim. A parent or unmarried sibling under 18 years of age may also do so if the victim is a minor or if the derivative relatives face a danger of retaliation based on the victim’s escape from the traffickers or cooperation with law enforcement. Section 211 would allow additional derivative family members to apply to join the trafficking victim if those family members allegedly face a danger of retaliation.

What will the cost of implementing this proposed provision be to U.S. taxpayers on an annual basis, in terms of the amount of public assistance that will be given to the additional derivative beneficiaries?

Response: DHS does not provide public assistance benefits to T visa recipients or their derivatives; therefore, the Department does not collect such data on T visa recipients.

Question#:	13
Topic:	section 212 (1)
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Section 212 of the TVPRA (S.1301) adds “fraud in foreign labor contracting,” as defined by 18 U.S.C. § 1351, to the list of crimes of which victims may be eligible to apply for a “U” visa.

Under the current system, who evaluates a “U” visa applicant’s claim of suffering substantial physical or mental abuse? How is that evaluation conducted? What standard is applied?

Response: U.S. Citizenship and Immigration Services (USCIS) officers evaluate evidence of suffering substantial physical or mental abuse on a case-by-case basis and with a thorough review of all evidence submitted in support of the petition. Under 8 CFR 214.11(f), an applicant must submit an affirmative statement describing the victimization. While a victim’s affidavit may be enough to satisfy the evidentiary burden, USCIS encourages submitting other credible evidence, including a signed statement on official letterhead from a professional who makes determinations of this type in the course of his or her job duties and can attest to the victim’s mental state, such as medical professionals, social workers, or victim advocates. USCIS reserves the right to contact the law enforcement agency that is involved in the case, as appropriate, for further information.

Question: What type of background investigation, if any, will be conducted on the “U” visa applicant and his or her relatives/beneficiaries before the “U” visa is granted under this new provision?

Response: The same background investigation/security check process is in place for U nonimmigrant petitions as for T nonimmigrant applications. See response 3a.

Question#:	14
Topic:	section 212 (2)
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Section 212 of the TVPRA (S.1301) adds “fraud in foreign labor contracting,” as defined by 18 U.S.C. § 1351, to the list of crimes of which victims may be eligible to apply for a “U” visa.

What will the cost of implementing this proposed provision be to U.S. taxpayers on an annual basis, in terms of the amount of public assistance that will be given to additional “U” visa recipients?

Response: DHS does not provide public assistance benefits to U visa recipients; therefore, the Department does not collect such data on U visa recipients.

Question#:	15
Topic:	immigration (1)
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: In 2009, Congress amended the immigration statute to enable certain widows and widowers of U.S. citizens to apply for lawful permanent residence. Prior to this change, if the alien spouse was in his or her conditional residency period when the U.S. citizen passed away, the DHS was supposed to deport the alien widow(er), the rationale being that the basis for the spousal visa no longer existed. Section 213 of the TVPRA (S.1301) would add the derivative beneficiaries of “T” visa holders, “U” visa holders, and VAWA Self-Petitioners to the “widows fix” in the immigration statute.

For each of the last four years how many individuals were subjected to removal proceedings under the law as currently written? Of those, how many were removed from the U.S.?

Is the DHS currently removing the beneficiaries who will be covered by this proposed legislation? Or are they receiving deferred action?

Response: While U.S. Immigration and Customs Enforcement (ICE) is responsible for carrying out any removals of the types of persons the inquiry addresses, ICE does not delineate this type of category of removals and cannot report how many derivative beneficiaries were removed who might otherwise have been eligible if this provision had been in effect.

Question#:	16
Topic:	immigration (2)
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: What will the cost of implementing section 213 of the TVPRA (S.1301) be to U.S. taxpayers on an annual basis, in terms of the amount of public assistance that will be given to derivative beneficiaries who would receive relief under this provision?

Response: DHS does not provide public assistance benefits to T and U visa recipients or their derivatives; therefore, the Department does not collect such data on T and U visa recipients.

Question#:	17
Topic:	VSC
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: What type of background investigation will be conducted before a derivative beneficiary is given legal status and allowed to remain in the U.S. under this provision? If any investigation is to be conducted, who will conduct it? Who will evaluate it?

Response: All applicants for U and T nonimmigrant status, whether in the United States or abroad, would have fingerprint checks and FBI Name/date of birth checks described in 3a. All applicants for U and T nonimmigrant status receive an IBIS check as indicated in 3a above.

Currently, VAWA self-petitioners are not required to submit fingerprints as part of the VAWA self-petitioning process. However, each VAWA self-petitioner receives an IBIS check (see answer to question 3a above). Fingerprint checks are conducted on VAWA self-petitioners at the time the application for the “green card” is submitted.

Question: Will an employee of the Vermont Service Center (VSC) or any other government agency be able to overrule an adverse determination of a background investigation and award a visa or legal status?

Response: Adverse information from a background investigation may negatively impact an alien’s eligibility for nonimmigrant status or a visa. However, the U.S. Department of Homeland Security (DHS) and U.S. Department of State (DOS) are prohibited from making an adverse determination based on evidence supplied solely by a prohibited source under 8 U.S.C. § 1367. Derogatory information based on evidence which is not solely from a source prohibited by section 384 may be considered in the adjudication of a case.

In the T and U contexts, some adverse information in an individual’s background may be waived in certain circumstances. If the alien submits a waiver application and demonstrates that it is in the national or public¹ interest to allow that individual to remain in the United States, the VSC may, after a thorough consideration of the circumstances of the case and the waiver application, waive the derogatory information that indicates inadmissibility under many grounds of section 212(a) of the INA. T applicants must also generally demonstrate that the inadmissibility was caused by or incident to the

¹ T nonimmigrants are eligible for a waiver of certain inadmissibilities if the Secretary determines it to be in the national interest. INA 212(d)(13). U nonimmigrants are eligible for a waiver of certain inadmissibilities if the Secretary determines it to be in the public or national interest. INA 212(d)(14).

Question#:	17
Topic:	VSC
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

trafficking. Congress has provided waiver authority over INA section 212(a) grounds of inadmissibility at INA section 212(d)(13) and 212(d)(14) for T and U nonimmigrants, respectively. Such waivers are not automatic, but may be granted in the exercise of USCIS's discretion on a case-by-case basis. See response to questions 3c, 18, and 20.

Question#:	18
Topic:	records
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: When considering applications, does the DHS/USCIS/VSC consider whether “T” visa applicants have criminal records (both in the U.S. and abroad)? If so, for each of the last eight years, how many “T” visa applicants had criminal records and what were the crimes they were arrested for?

Response: U.S. Citizenship and Immigration Services (USCIS) conducts the background checks described in response to question 3a to determine if an applicant has a criminal record. In addition, on the Form I-914, Application for T Nonimmigrant Status, an applicant must answer a series of questions related to their criminal history. An applicant is prompted to respond even if an arrest or conviction never took place. An applicant signs the Form I-914 under oath.

If any of the background checks or responses on the Form I-914 results in derogatory information on a particular applicant, or if USCIS has other information not disclosed by the applicant, USCIS will evaluate that information on a case-by-case basis. If a criminal investigation is warranted, it will be conducted by ICE. Administrative investigations, where needed, will be conducted by USCIS’s FDNS. If the derogatory information indicates that the applicant is inadmissible under section 212(a) of the INA, the applicant will not be eligible for T nonimmigrant status unless USCIS waives the ground of inadmissibility. Application for Advance Permission to Enter as Nonimmigrant (Form I-192) must be used when a principal applicant or derivative family member is seeking such a waiver of inadmissibility.

Applicants for T nonimmigrant status may apply for INA section 212(d)(3) waivers of inadmissibility to the same extent as any other applicant for nonimmigrant status or for INA section 212(d)(13) waivers of inadmissibility which are specific to applicants for T nonimmigrant status.

USCIS may not waive the following grounds of inadmissibility: 212(a)(3) [the security and related grounds of inadmissibility, including terrorist activities]; 212(a)(10)(C) [international child abduction]; and 212(a)(10)(E) [former citizens who renounced citizenship to avoid taxation]. Other 212(a) grounds of inadmissibility may be waived. Such waivers are not automatic, but may be granted in the exercise of USCIS’s discretion on a case-by-case basis. When a waiver for violent or dangerous crimes is requested, DHS will generally only exercise favorable discretion in T nonimmigrant status cases in extraordinary circumstances. Moreover, depending on the nature and severity of the

Question#:	18
Topic:	records
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

underlying offense(s) to be waived, the Secretary retains the discretion to determine that the mere existence of extraordinary circumstances is insufficient.

USCIS does not capture numerical information of how many of these cases are approved or what crimes the applicant was arrested for.

Question#:	19
Topic:	applicants
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: When considering applications, does the DHS/USCIS/VSC consider whether “T” visa applicants’ derivative beneficiaries have criminal records (both in the U.S. and abroad)? If so, for each of the last 8 years, how many “T” visa applicants’ derivative beneficiaries had criminal records and what were the crimes they were arrested for?

Response: See response to question 18. USCIS does not capture numerical information of how many of these cases are approved or what crimes they were arrested for.

Question#:	20
Topic:	"U" visa (1)
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: When considering applications, does the DHS/USCIS/VSC consider whether “U” visa applicants have criminal records (both in the U.S. and anywhere else)? If so, for each of the last 8 years, how many “U” visa applicants had criminal records and what were the crimes they were arrested for?

Response: U.S. Citizenship and Immigration Services (USCIS) conducts the background checks described in response to question 3a to determine if an applicant has a criminal record. In addition, on the Form I-918, Petition for U Nonimmigrant Status, a petitioner must answer a series of questions related to his or her criminal history. A petitioner is prompted to respond even if an arrest or conviction never took place. A petitioner signs the Form I-918 under oath.

If any of the background checks or responses on the Form I-918 results in derogatory information on a particular petitioner, or if USCIS has other information not disclosed by the applicant, USCIS will evaluate that information on a case-by-case basis. If a criminal investigation is warranted, it will be conducted by ICE. Administrative investigations, where needed, will be conducted by USCIS’s FDNS. If the derogatory information indicates that the petitioner is inadmissible under section 212(a) of the INA, the petitioner will not be eligible for U nonimmigrant status unless USCIS waives the ground of inadmissibility. Application for Advance Permission to Enter as Nonimmigrant (Form I-192) must be used when a principal petitioner or derivative family member is seeking such a waiver of inadmissibility.

Petitioners for U nonimmigrant status may apply for INA section 212(d)(3) waivers of inadmissibility to the same extent as any other applicant for nonimmigrant status or for INA section 212(d)(14) waivers of inadmissibility which are specific to petitioners for U nonimmigrant status.

USCIS may not waive INA section 212(a)(3)(E) [Participants in Nazi persecution, genocide, or the commission of any act of torture or extrajudicial killing] for U petitioners. Other 212(a) grounds may be waived. Such waivers are not automatic, but may be granted in the exercise of USCIS’ discretion on a case-by-case basis. When a waiver for violent or dangerous crimes is requested, DHS will generally only exercise favorable discretion in U nonimmigrant status cases in extraordinary circumstances. Moreover, depending on the nature and severity of the underlying offense(s) to be

Question#:	20
Topic:	"U" visa (1)
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

waived, the Secretary retains the discretion to determine that the mere existence of extraordinary circumstances is insufficient.

USCIS does not capture numerical information of how many of these cases are approved or what crimes they were arrested for.

Question#:	21
Topic:	"U" visa (2)
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: When considering applications, does the DHS/USCIS/VSC consider whether “U” visa applicants’ derivative beneficiaries have criminal records (both in the U.S. and anywhere else)? If so, for each of the last 8 years, how many “U” visa applicants’ derivative beneficiaries had criminal records and what were the crimes they were arrested for?

Response: Please see response to Question 20.

Question#:	22
Topic:	criminal records (1)
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: If criminal records are considered, what is the DHS’/VSC’s policy on awarding visas to “T” and “U” visa applicants with criminal records? Does having a record disqualify an applicant?

Response: Having a criminal record does not automatically disqualify the alien as waivers of inadmissibility are available under INA sections 212(d)(13) and 212(d)(14). Only certain grounds are not eligible for a waiver of inadmissibility. Under INA section 212(d)(13), T visa applicants are barred from receiving a waiver for security related grounds, international child abduction and renouncing U.S. citizenship to avoid taxation. Under INA section 212(d)(14), U visa petitioners are barred from receiving a waiver for participation in Nazi persecution, genocide, or the commission of any act of torture or extrajudicial killing. For both T and U nonimmigrant status, the alien must demonstrate that it is in the national or public² interest that the criminal act be waived. T applicants must also generally demonstrate that the crime was caused by or incident to the trafficking. Such waivers for T applicants and U petitioners are not automatic, but may be granted in the exercise of USCIS’s discretion on a case-by-case basis. When a waiver for violent or dangerous crimes is requested, DHS will generally only exercise favorable discretion in T or U nonimmigrant status cases in extraordinary circumstances. Moreover, depending on the nature and severity of the underlying offense(s) to be waived, the Secretary retains the discretion to determine that the mere existence of extraordinary circumstances is insufficient.

² T nonimmigrants are eligible for a waiver of certain inadmissibilities if the Secretary determines it to be in the national interest. INA 212(d)(13). U nonimmigrants are eligible for a waiver of certain inadmissibilities if the Secretary determines it to be in the public or national interest. INA 212(d)(14).

Question#:	23
Topic:	criminal records (2)
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: If criminal records are considered, what is the DHS'/VSC's policy on derivative beneficiaries with criminal records? Does the discovery of a record result in the beneficiary being removed from the U.S. or bar the beneficiary from being allowed to enter the U.S.?

Response: See response to question 22. ICE may initiate removal proceedings in its discretion if the VSC denies T or U nonimmigrant status. If the beneficiary is abroad, the Department of State (DOS) conducts consular processing. If the VSC does not waive inadmissibility and denies T or U nonimmigrant status, DOS will not issue a visa for the applicant to enter the United States.

Question#:	24
Topic:	DHS/VSC
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: If the DHS/VSC does conduct criminal background investigations on applicants and/or beneficiaries, for each of the last 8 years how many visas were granted to applicants with records and how many beneficiaries with records were (a) allowed to remain in the U.S. and (b) allowed to enter the U.S.?

Response: USCIS does not capture numerical information of how many of these cases are approved.

Question#:	25
Topic:	recipients
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: In each of the last 8 years, how many “T” visa recipients were subsequently arrested (after a visa was awarded) and for what crimes were they arrested?

In each of the last 8 years, how many “derivative beneficiaries of “T” visa holders were subsequently arrested (after a visa was awarded) and for what crimes were they arrested?

For each of the last 8 years, how many “T” visa recipients testified against criminal defendants?

In each of the last 8 years, how many “U” visa recipients were subsequently arrested (after a visa was awarded) and for what crimes were they arrested?

In each of the last 8 years, how many “derivative beneficiaries of “U” visa holders were subsequently arrested (after a visa was awarded) and for what crimes were they arrested?

For each of the last 8 years, how many “U” visa recipients testified against criminal defendants?

Response: The Department of Homeland Security (DHS) does not track the number of arrests that took place after a T or U visa was awarded or the number of T or U visa recipients who testify in court against the criminal defendant. As these questions pertain to other agencies’ functions, DHS respectfully defers to the Department of State and the Department of Justice.

Question#:	26
Topic:	eligible
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: If a “U” visa applicant is in the U.S. illegally, is he or she still eligible for a “U” visa?

Response: All U visa petitioners are scrutinized to determine how they entered the United States. This is done through a review of the evidence and the information provided on the petition. Other checks are done of the alien’s background including fingerprint and IBIS checks. If a criminal investigation is warranted, it will be conducted by U.S. Immigration and Customs Enforcement (ICE). Administrative investigations, where needed, will be conducted by U.S. Citizenship and Immigration Services’ (USCIS) FDNS. An alien’s unlawful entry or presence in the United States does not automatically bar him/her from receiving U nonimmigrant status under the waiver authority at INA 212(d)(14). Certain waivers are available for those who entered illegally or who are unlawfully present. To receive an approval of the waiver, the alien must demonstrate that it is in the national or public interest to waive the illegal entry and/or unlawful presence.

Such waivers are not automatic, but may be granted in the exercise of USCIS’s discretion on a case-by-case basis. Application for Advance Permission to Enter as Nonimmigrant (Form I-192) must be used when a derivative family member is seeking such waiver of inadmissibility.

Question#:	27
Topic:	awarded
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: If a “U” visa applicant is in the U.S. illegally and that does not bar him from receiving a visa, does it factor into the determination of whether a visa is awarded? If so, to what extent? If not, why not?

Response: Please see response to Questions 20 and 26.

Question#:	28
Topic:	excused
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: For each of the last eight years, how many “U” visa applications sought to be excused from having to cooperate with law enforcement officials?

Response: None. There is no exception or exemption from cooperation with law enforcement officials for U petitioners. Per statute (INA section 214(p)) and regulation (8 CFR 214.14), U nonimmigrant petitioners must demonstrate cooperation with law enforcement in the investigation or prosecution of the qualifying crime of which they were a victim. The U nonimmigrant petitioner must include a Form I-918 Supplement B, U Nonimmigrant Status Certification, when applying for U nonimmigrant status. The U Nonimmigrant Status Certification is signed by a law enforcement official and states that the alien “has been helpful, is being helpful, or is likely to be helpful” in the investigation or prosecution of the criminal activity. U nonimmigrant petitioners are required to be helpful to law enforcement, if necessary, throughout the U nonimmigrant petition process and while in U nonimmigrant status.

If a U nonimmigrant petitioner or U nonimmigrant refuses to cooperate with reasonable requests from law enforcement for assistance in the investigation or prosecution of the qualifying crime, the law enforcement agency that certified the U Nonimmigrant Status Certification may contact U.S. Citizenship and Immigration Services (USCIS) and withdraw the certification. USCIS may also contact the law enforcement agency that certified, as appropriate. USCIS may then deny the U nonimmigrant petition or, if initially granted, USCIS may revoke the U nonimmigrant status. If a U nonimmigrant petitioner submits a petition without a U Nonimmigrant Status Certification, the petition will be denied automatically.

Question#:	29
Topic:	cooperate
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: For each of the last eight years, how many “U” visa recipients were excused from having to cooperate with law enforcement officials? Which governmental unit granted these exemptions? If it was not the Department of Justice, was the DOJ consulted before exemptions were granted? If the DOJ was consulted, on how many occasions did the DOJ (or another law enforcement agency) maintain that an exemption should not be granted, but was overruled? If the DOJ was not consulted in every instance, why wasn’t it?

Response: Please see response to Question 28.

Question#:	30
Topic:	visa applicant
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: For each of the last eight years, how many investigations were terminated or not commenced because a “U” visa applicant was excused from having to cooperate with law enforcement officials?

Response: There is no exception or exemption from cooperation with law enforcement officials for U visa petitioners, so there is no such statistic. (Please see above response to Questions 28 and 29.)

Question#:	31
Topic:	prosecutions
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: For each of the last eight years, how many prosecutions were terminated because a “U” visa applicant was excused from having to cooperate with law enforcement officials?

Response: There is no exception or exemption from cooperation with law enforcement officials for U visa petitioners or recipients, so there is no such statistic. (Please see above response to Questions 28 and 29.)

Question#:	32
Topic:	section 401
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: The second part of section 401 of the proposed legislation, the TVPRA (S.1301), also expands the exemption to the bar to asylum for applicants under 18 years of age who were previously denied asylum. The proposed language provides that alien minors who have previously been removed, or who departed voluntarily, should not have their removal orders reinstated, but should instead be placed in removal proceedings.

For each of the last eight years, how many alien minors who were previously removed from the U.S. were apprehended a second time for being in the U.S. illegally? How many were apprehended for being in the U.S. illegally a third time?

Are there any estimates on how many alien minors who were previously removed from the U.S. have re-entered the U.S. illegally, but have yet to be apprehended? If so, what are those statistics?

Response: DHS has provided data on the number of alien minors who were apprehended and who had a prior removal (this includes removals, voluntary returns, and voluntary departures). This data includes unaccompanied alien children (UAC) who have at least one prior removal but we are unable to capture the number of prior removals or the date of that removal given current data limitations. Please see chart below for each of the last eight years for the number of minor aliens with prior removals.

Fiscal Year	UAC Initial Book-ins	UAC Initial Book-ins with Prior Removal
2004	4,321	61
2005	6,536	110
2006	6,902	151
2007	6,597	152
2008	6,127	168
2009	5,594	151
2010	7,256	94
2011	6,162	82
2012 YTD	7,051	21

Question#:	32
Topic:	section 401
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

FY2004-FY2012 YTD initial book-in data is updated through 06/06/2012 (IIDS v 1.10 run date 06/08/2012; EID as of 06/06/2012).

FY2004-FY2012 YTD prior removal data is updated through 06/11/2012 (IIDS v 1.10 run date 06/13/2012; EID as of 06/11/2012).

Prior Removal data is for unique individuals per initial book-in fiscal year. If an individual had unique detention stays in two different Fiscal Years, they will show up under both Fiscal Years in the "UAC Initial Bookins" column. However, they will only show up in the Fiscal Year under the "Prior Removal" column if they have had a prior removal before the unique Fiscal Year bookin.

UAC Initial Bookins data is for total UAC initial bookins per unique detention stay ids. Initial Bookin data excludes cases when birth date is greater than or equal to initial bookin date (when Age<=0).

Removals data include Returns. Returns include Voluntary Returns, Voluntary Departures and Withdrawals Under Docket Control.

Starting in FY2009, ICE began to "lock" removal statistics on October 5th at the end of each fiscal year and counted only the aliens whose removal or return was already confirmed. Aliens removed or returned in that fiscal year but not confirmed until after October 5th were excluded from the locked data and thus from ICE statistics. To ensure an accurate and complete representation of all removals and returns, ICE will include the removals and returns confirmed after October 5th into the next fiscal year.

Question#:	33
Topic:	section 402
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Section 402 of the TVPRA (S.1301) amends Section 235(c)(2) of the TVPRA 2008 to address the situation of an unaccompanied minor in the custody of the Office of Refugee Resettlement who reaches the age of 18 prior to resolution of their immigration case. Such persons are typically transferred to adult immigration detention under the authority of U.S. Immigration and Customs Enforcement (ICE). Section 402 requires DHS to consider where to place the alien, with a preference for the least restrictive setting possible.

For each of the last eight years, how many alien minors were placed in the custody of the Office of Refugee Resettlement?

Response: The chart below reflects the number of minors placed in the custody of the U.S. Department of Health and Human Services' (HHS) Office of Refugee Resettlement (ORR) for the past eight years.

Minors Placed in ORR Custody by Fiscal Year	
Fiscal Year	Minors in ORR Custody
2004	5,148
2005	7,006
2006	7,696
2007	7,332
2008	6,568
2009	5,971
2010	7,403
2011	8,887
Total	56,011
Source: DHHS/ACF Efforts to Outcome (ETO) Database	

Question: For each of the last eight years, how many alien minors placed in the custody of the Office of Refugee Resettlement were determined to be violent or otherwise dangerous?

Question#:	33
Topic:	section 402
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Response: U.S. Immigration and Customs Enforcement (ICE) respectfully defers to HHS's Office of Refugee Resettlement (ORR) as this office is in the best position to provide this information.

Question: For each of the last eight years, how many alien minors in the custody of the Office of Refugee Resettlement turned 18 and were transferred to adult detention under ICE?

Response: The chart below reflects the number of minors who became age majority and were transferred from HHS's ORR to ICE for the past eight years.

Question: How many of those minors had criminal records before they came into custody? How many of those minors engaged in criminal and/or violent behavior while in the custody of the Office of Refugee Resettlement?

Response: The chart below reflects the number of minors who became age majority and were transferred from HHS's ORR to ICE for the past eight years. It also indicates those alien minors who engaged in criminal behavior prior to coming to ICE custody.

Minors who became Age Majority and Transferred from ORR to ICE by Fiscal Year		
Fiscal Year	Total ORR transfers to ICE (Aged Out)	Convicted Prior to ICE Custody
2004	53	2
2005	78	4
2006	95	5
2007	76	4
2008	183	9
2009	236	26
2010	102	13
2011	60	15
Total	883	78
Source: ICE Integrated Decision Support (IIDS), IIDS as of September 26, 2011; EID extract as of September 24, 2011 Convicted status reflects conviction of criminal charges only		

Question#:	33
Topic:	section 402
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: For each of the last eight years, how many aliens in ICE custody who were transferred to ICE by the Office of Refugee Resettlement engaged in violent and/or criminal behavior while in ICE's custody?

Response: Typically, if aliens are returning to ICE's Enforcement and Removal Operations (ERO) custody after being with ORR, they are either being removed from the United States or have reached the age of 18 and are being transferred to an adult facility. ERO does not have a mechanism to track whether these aliens have become violent or engaged in criminal behavior once they returned to ICE custody.

Question#:	34
Topic:	section 403
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Subsection (B)(ii) of section 403 of the TVPRA (S.1301) mandates the establishment of additional advocacy programs at numerous locations. It states: ADDITIONAL SITES.—Not later than 3 years after the date of the enactment of the Trafficking Victims Protection Reauthorization Act of 2011, the Secretary shall establish and implement child advocate programs at immigration detention sites at which more than 50 children are held in immigration custody.

What will the cost be to implement this provision?

Response: The Department of Homeland Security respectfully defers to the Department of Health and Human Services (HHS), Office of Refugee Resettlement, to provide the cost to implement this provision as HHS is the sole agency responsible for the long-term care and custody, including detention, of unaccompanied alien children, as well as the agency authorized to appoint child advocates.

Question#:	35
Topic:	section 404
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Supporters of section 404 of the TVPRA (S.1301) maintain that under current law, when an unaccompanied alien minor who was also a victim of crime is awarded a “U” visa, that minor loses eligibility for certain benefits available to children who are considered unaccompanied minors under law. Section 404 would make “U” visa recipients who are minors and who were formerly considered unaccompanied minors eligible for federal foster care and certain benefits available to refugee minors.

Do alien minors, who are given “U” visas, receive any public assistance? If so, what types of assistance? If so, for each of the last eight years, how much have U.S. taxpayers paid (directly or indirectly thru grants to state governments) for the public assistance given to alien minors who are given “U” visas?

On an annual basis, how much will implementing this provision cost U.S. taxpayers, in terms of the increase in the amount of public assistance?

Response: DHS does not provide public assistance benefits to U visa recipients or their derivatives; therefore, the Department does not collect such data on U visa recipients.

Question#:	36
Topic:	section 405
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Section 405 of the TVPRA (S.1301) requires the GAO to conduct a study on the implementation of provisions of the TVPRA 2008 with regard to DHS screening of children. For example, the GAO will assess whether DHS personnel are adequately screening children to determine whether they may be victims of trafficking or persecution. The GAO will also assess whether children are properly cared for while in the custody of the DHS and repatriated in an appropriate manner.

Is there any documented evidence that DHS is inadequately screening minor aliens to determine whether they are the victims of trafficking? If so, summarize that evidence and provide a copy of the document.

Is there any documented evidence that DHS is inadequately caring for minor aliens in its custody? If so, summarize that evidence and provide a copy of the document.

Is there any documented evidence that DHS repatriates minor aliens in an inappropriate manner? If so, summarize that evidence and provide a copy of the document.

The proposed legislation also requires that the “Comptroller General [be given] unrestricted access to all stages of screenings and other interactions between Department of Homeland Security personnel and children encountered by the Comptroller General.” What difficulties or safety concerns might such access raise?

Response: The Department of Homeland Security (DHS) is not aware of any documented evidence regarding non-compliance with the Trafficking Victims Protection Reauthorization Act (TVPRA) in regard to the screening of, caring for, or repatriation of minor aliens. A recent DHS Office of the Inspector General (OIG) audit report entitled “OIG-10-117: CBP’s Handling of Unaccompanied Alien Children,” published on September 9, 2010, did not reveal any evidence regarding non-compliance and reflected rather favorably on U.S. Customs and Border Protection’s efforts. DHS is happy to cooperate; however, the presence of oversight personnel during actual operations will cause privacy and safety concerns.

Question#:	37
Topic:	alien minors
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: How many alien minors have been transferred to Department of Health and Human Services (HHS) custody by the DHS during each of the last eight years? What were their ages at the time of transfer? What has been the cost for each of the last eight years of housing and otherwise providing for these minors?

Response: Please see the attached QFR 37 addendum.

Question: What has been the cost for each of the last eight years of housing and otherwise providing for these minors?

Response: DHS respectfully defers to Health and Human Services (HHS), Office of Refugee Resettlement (ORR) to provide the cost to implement this provision as HHS ORR is the sole agency responsible for the long-term care and custody, including detention, of unaccompanied alien children (UAC).

The FY 2009 to FY 2011 UAC costs to U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) prior to HHS ORR taking custody are provided in the following table.

FY 2009-FY 2011 ICE ERO UAC Costs						
	FY 2009		FY 2010		FY 2011	
Cost Type	Cost	No. of UACs	Cost	No. of UACs	Cost	No. of UACs
Processing*	\$1,612,422	2,049	\$1,782,738	2,844	\$800,810	2,186
Air Transportation*	\$3,563,925	3,075	\$4,820,963	2,775	\$3,557,663	1,692
Ground Transportation*	\$448,533	817	\$384,764	755	\$232,535	450
Total Transportation Costs	\$4,012,458	3,892	\$5,205,727	3,530	\$3,790,198	2,142
Initial Detention*	\$190,333	2,049	\$166,988	2,844	\$113,396	2,186
Additional Detention*	\$1,623,950	1,646	\$1,429,449	2,496	\$1,679,980	2,175
Total Detention Costs						

Question#:	37
Topic:	alien minors
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

	\$1,814,283	3,695	\$1,596,437	5,340	\$1,793,376	4,361
Total Costs	\$7,439,163		\$8,584,902		\$6,384,384	
<u>*See attached definition sheet.</u>						

Question#:	38
Topic:	claiming
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: What procedures does the DHS employ to determine whether an alien claiming to be a minor, is in fact a minor? Have the standards changed or been relaxed during the last 8 years? If so, when and how were they changed? If the standards have not been expressly changed during the last 8 years, has the manner in which they have been applied or interpreted changed? If so, when and how were they changed?

Response: U.S. Immigration and Customs Enforcement (ICE), in accordance with the age determination provision of the TVPRA of 2008, 8 U.S.C. § 1232(b)(4), follows the procedures for age determination that the Department of Health and Human Services (HHS) issued in September 2010. The HHS age determination procedures amended ICE practices relating to age range determination. Previously, age determination procedures required the use of the higher end of an age range determination. The new policy requires that if a healthcare practitioner recommends a medical age range determination—for example, an age range of 16-19 years of age—ICE now uses the lower end of the age spectrum (designating the alien as 16 years of age). There has been no other substantive change in this process over the last several years.

The TVPRA age determination provision requires that age determination procedures developed by HHS take into account multiple forms of evidence. Even prior to September 2010, DHS utilized multiple forms of available evidence taken into consideration when making an age determination, including available documentation, statements, and other agency information. DHS makes each age determination based on the totality of all available evidence.

Under the *Flores v. Reno* settlement agreement, if DHS reasonably believed that an individual was an adult despite his or her claims to be a minor, the individual was treated as an adult until proven otherwise. As such, DHS could require such an individual to submit to a medical or dental examination by a medical professional to verify his or her age. Under the new guidance, medical age determinations that are ambiguous, debatable or borderline are resolved in favor of determining the alien as a minor.

In the context of the initial jurisdiction provision of the TVPRA of 2008, USCIS asylum officers are instructed to confirm that an asylum applicant was under 18 years of age at the time of filing the Form I-589, Application for Asylum and for Withholding of Removal. Where the file includes a Form I-213, Record of Deportable Alien, including an apprehending agent's notation of the date of birth, this serves to indicate the age that

Question#:	38
Topic:	claiming
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

the applicant claimed to be at the time of apprehension and assists the asylum officer to calculate the applicant's age on the date that the asylum application was filed. Where there is evidence that the applicant was in the custody of the HHS Office of Refugee Resettlement, this also indicates that the applicant was under 18 years of age at the time of apprehension. Where the evidence indicates that the applicant was under 18 years of age on the date that the asylum application was filed, unless there is clear, contradictory evidence in the file, jurisdiction should not be refused on the basis of age. As with other forms of evidence, an asylum applicant's credible testimony may establish his or her age without corroborating documentation. Corroborating evidence may be requested if it is reasonably available. Upon passage of the TVPRA of 2008, the USCIS Asylum Division refined and formalized this guidance for determining the age of an asylum applicant, and this guidance has been in effect since that time.

Question#:	39
Topic:	procedures
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: What procedures does the DHS employ to determine whether a minor alien has a criminal record (in the U.S. or anywhere else)? Have the standards been changed or relaxed at any time within the last 8 years? If so, when and how were they changed? If the standards themselves have not been expressly changed during the last 8 years, has the manner in which they have been applied or interpreted changed? If so, when and how were they changed?

Response: The same standards applicable to adult aliens are used to determine whether a minor alien has a criminal record. DHS conducts checks of relevant law enforcement databases to determine if the minor alien has any criminal arrests or convictions. There has been no change to the DHS standards used to determine whether alien minors have a criminal record.

Question#:	40
Topic:	backgrounds
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: If DHS investigates minors' backgrounds, for each of the last 8 years, how many minors were determined to have criminal records and what crimes had they committed?

Response: Please see attached addendum to QFR 40.

Question#:	41
Topic:	released
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: At any time within the last 8 years, has an alien minor with a criminal record been released into the U.S., either as a minor or an adult? If so, how many such individuals have been released, when were they released and what crimes had they committed?

Response: DHS respectfully defers to Health and Human Services (HHS) Office of Refugee (ORR) for information related to alien minors who may be released from its care, as HHS ORR is the sole agency responsible for the long term care and custody of unaccompanied alien children.

DHS reviews the individual circumstances for each case it encounters regarding custody. The majority of minors who age out of HHS ORR's program and are now adults are likely eligible for one of ICE's alternative to detention programs and would not be placed in detention. Minors who are out and were in secure HHS ORR facilities, as a result of some form of criminality or other public safety concern, would likely be ineligible for release. Minors who age out who are ineligible for release are placed in detention pending resolution of their immigration proceedings in accordance with ICE's detention classification system. We cannot provide further statistical information based on release records because ICE does not systematically track juvenile convictions because convictions do not factor into a minor's immigration case.

Question#:	42
Topic:	legal status
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: In each of the last 8 years, how many aliens who had been granted legal status in the U.S. as minors were subsequently arrested (either as a minor or as an adult) and for what crimes were they charged with?

Response: DHS does not collect this information.

Question#:	43
Topic:	relative
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: What procedures does the DHS employ to determine whether an alien claiming to be a relative of an applicant for a “T” or “U” visa, is in fact the applicant’s relative and is eligible for derivative beneficiary status? Have the standards changed or been relaxed during the last 8 years? If so, when and how were they changed? If the standards have not been expressly changed during the last 8 years, has the manner in which they have been applied or interpreted changed? If so, when and how were they changed?

Response: The alien must demonstrate by a preponderance of evidence that the individual being claimed as a relative is in fact related to the principal. The burden to establish the qualifying family relationship is on the alien. USCIS requires birth certificates and/or marriage certificates when determining parent/child or spousal relationships. The standards have not been relaxed in the last eight years. The standards have remained the same.

If the applicant is abroad, the Department of State conducts consular processing and requires proof of identity and relationship before the applicant can be issued a visa for entry into the United States.

Question#:	44
Topic:	trafficked
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: There is a great disparity between the number of victims claimed to exist and the actual number of victims rescued.

The Department of State has claimed in the past that as many as 50,000 victims per year were trafficked into the United States, although it later reduced that number to 14,500 victims, and that as many as 800,000 victims per year are trafficked around the world. The GAO has called those figures into question. And according to the latest DOJ figures available to the Committee, there have been only about 1900 victims discovered in the United States from Fiscal Year 2001 to 2009.

What is the most reliable estimate of the number of victims trafficked each year in the United States?

What has the Administration done to try to pin down the number of victims?

If there is no reliable figure for the number of victims, how can the Administration—and Congress—determine the appropriate measures to fight this crime?

Response: There is no widely accepted estimate for the number of human trafficking victims in the United States. U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations (HSI) recognizes that current statistics on human trafficking are based upon demographic projections. HSI focuses and uses statistics derived from HSI investigations and the victims identified in those cases. The difficulty in determining a reliable estimate of trafficking victims in the United States is due to the hidden nature of the crime; moreover, trafficking victims rarely self-identify as such.

Question#:	45
Topic:	cost
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: For each of the last eight years, what was the cost of the public assistance given to “U” visa recipients?

For each of the last eight years, what was the cost of the public assistance given to the derivative beneficiaries/relatives of “U” visa recipients?

Response: DHS does not provide public assistance benefits to U visa recipients; therefore, the Department does not collect such data on U visa recipients.

Question#:	46
Topic:	removal
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: If a “U” visa applicant’s derivative beneficiary is in the U.S. illegally, is the beneficiary allowed to remain in the U.S.? Are removal proceedings commenced against the beneficiary?

Response: Derivative beneficiaries are subject to the same scrutiny given to principal petitioners to determine how they entered the United States. This is done through a review of the evidence and the information provided on the derivative’s petition. Other checks are done of the derivative’s background including fingerprint and IBIS checks. If a criminal investigation is warranted, it will be conducted by U.S. Immigration and Customs Enforcement (ICE). Administrative investigations, where needed, will be conducted by U.S. Customs and Immigration Services’ USCIS FDNS. A derivative’s unlawful entry or presence in the United States does not automatically bar him/her from receiving derivative U nonimmigrant status under the waiver authority at INA 212(d)(14). Certain waivers are available for those who entered illegally or who are unlawfully present. To receive an approval of the waiver, the derivative must demonstrate that it is in the national or public interest to waive the illegal entry and/or unlawful presence.

Such waivers are not automatic, but may be granted in the exercise of USCIS’s discretion on a case-by-case basis. Application for Advance Permission to Enter as Nonimmigrant (Form I-192) must be used when a derivative family member is seeking such waiver of inadmissibility.

ICE may initiate removal proceedings if USCIS denies a U petition.

Question#:	47
Topic:	USCIS regulations
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: According to the immigration statute (INA §204(c)), related USCIS regulations, and the USCIS Adjudicator’s Field Manual, if the USCIS has denied a marriage-based petition because of suspected marriage fraud, it must deny any subsequent immigrant petition by the petitioner. Would it be possible for the VSC to approve a VAWA self-petition to a person whom the USCIS previously denied a petition because of suspected marriage fraud? If so, how many times has that occurred in each of the last three years?

Response: The section 204(c) prohibition against marriage fraud does impact the adjudication of the VAWA Self-Petition. However, an independent determination should be made as to whether non-conclusive evidence of marriage fraud in another immigration petition should result in the denial of the VAWA Self-Petition. Case law concerning section 204(c) dictates that USCIS must make an independent finding on whether there is substantial and probative evidence to indicate marriage fraud. See *Matter of Tawfik*, 20 I & N Dec. 166, 170 (BIA 1990). In addition, there are statutory limitations on what information can be used by USCIS when making an adverse determination (i.e. a denial of the self-petition or referral for removal proceedings) on a VAWA self-petition. 8 U.S.C. § 1367 prohibits any officer of the Department of Homeland Security from making an adverse determination on a VAWA Self-Petition if the adverse information was solely provided by certain specified sources, including the alleged abuser. If the initial finding of marriage fraud resulted from information provided solely by the alleged abuser, USCIS is statutorily prohibited from using that information or finding in making an adverse determination on the VAWA Self-Petition.

Question#:	48
Topic:	VAWA
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Would it be possible for the VSC to approve a VAWA self-petition to a person where law enforcement has concluded that the person had filed a false claim of spousal abuse? If so, how many times has that occurred in each of the last three years?

Response: If information about a false reporting of a domestic incident was known to VSC, that evidence can adversely impact the eligibility for a VAWA Self-Petition. VSC does not have any statistics to provide regarding how often this may have happened in the last three years.

Question: Would it be possible for the VSC to approve a VAWA self-petition to a person where a state court, as part of divorce or custody proceeding, had concluded that the person's claim of spousal abuse was a false one? If so, how many times has that occurred in each year of the last three years?

Response: If such information was known to VSC, the evidence could be used in making an adverse determination on a VAWA Self-Petition. VSC does not have any statistics to provide regarding how often this may have happened in the last three years.

Question#:	49
Topic:	documentation
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Since the VSC relies entirely on documentation and does not conduct face-to-face interviews with petitioners, how does the VSC compensate for this lack of knowledge about the petitioner?

Response: VSC weighs the alien's credibility based on all the evidence submitted with the VAWA Self-Petition, all evidence in the alien's administrative file and all other information available in electronic systems about the alien and his/her interaction with USCIS and ICE. In addition, VSC has a team of specially trained officers who only work on victim-based adjudications. This specialization allows them to develop an expertise both in the assessment of how much weight to give evidence and in the intricacies of determining what evidence is prohibited from use by the restrictions provided in 8 U.S.C. § 1367. VSC also has a close partnership with the Fraud Detection and National Security Unit at VSC which liaises with similar units at USCIS offices across the country in identifying and determining fraud trends.

Question#:	50
Topic:	special considerations
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Are there any special considerations or internal instructions regarding battered spouse petitions that allow VSC adjudicators to reconsider information from a previous petition indicating potential marriage fraud?

Response: VSC adjudicates the majority of VAWA Self-Petitions when in possession of the alien's complete administrative file (A-file). The alien's prior interactions and submissions (other petitions and claims) are contained in the A-file. Any adverse information in the A-file that was part of another immigration proceeding or filing involving that alien will be reviewed and assessed as part of the adjudication of the VAWA Self-Petition.

Question: Are there any special considerations or internal instructions regarding battered spouse petitions that describe what type and scope of corroboration would allow the VSC adjudicators to consider information from the alleged abusive spouses indicating potential marriage fraud?

Response: See response to question 47.

Question#:	51
Topic:	mandatory
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Is it mandatory when reviewing a VAWA petition to review any previous case files involving the immigrant petitioner? If not, why not?

Response: USCIS makes every effort to review an alien's complete administrative file containing all previous petitions and applications for status prior to issuing a decision on the VAWA Self-Petition. In certain limited circumstances, review of the entire file may not be possible. In such instances, VSC may request certified copies of the file, consult with local counsel, and/or request additional information prior to making a final decision. Additionally, supervisory review is required to review the case and sign off on any final decision.

Question: Is it mandatory when reviewing a VAWA petition to review any previous criminal files for immigrant petitioners, including criminal complaints filed by the petitioner against a citizen spouse? If not, why not?

Response: It is not mandatory to review criminal complaints filed by the self-petitioner against the citizen spouse. However, VSC reviews all evidence submitted with the petition and all other evidence in the A-file.

Question: Is it mandatory when reviewing a VAWA petition to review the files of any divorce proceedings and/or child custody proceedings involving the immigrant petitioner? If not, why not?

Response: It is not mandatory to review divorce proceedings and/or child custody proceedings involving the petitioner. However, VSC reviews all evidence submitted with the petition and all other evidence in the A-file.

Question#:	52
Topic:	FDNA
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: What is the role of the Benefits Fraud Referral Process of the Office of Fraud Detection and National Security (FDNA) in the USCIS, if any, with respect to the adjudication of VAWA-based petitions?

Response: A standard process governs the referral of all immigration benefit applications or petitions referred to Fraud Detection and National Security (FDNS) Units. Once the referral is received, FDNS investigates the basis of the referral in accordance with statutes, regulations, and policies that affect eligibility for the benefit being sought. In certain programs, there are statutory restrictions on the sources and types of information that USCIS may consider when investigating claims made in an application or petition. FDNS is mindful of these limits, as well as limits on permitted use and disclosure of information relating to an alien who is the beneficiary of an application/petition for relief under VAWA and other programs, and takes great care when investigating and reporting their findings to Adjudications. While FDNS is mindful of the statutory restrictions, it will explore allowable sources of information to develop leads and investigations. FDNS does not adjudicate applications or petitions, but rather performs administrative investigations and reports its findings to specially-trained adjudicators. On confirming fraud, FDNS will refer certain cases to ICE for criminal investigation and possible prosecution. For those cases that do not meet criteria for referral to ICE, USCIS will deny the benefits sought and issue a Notice to Appear, seeking removal of the alien from the United States.

Question#:	53
Topic:	fraud
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: What role should ICE play regarding the investigation and prosecution of alleged immigration fraud?

Response: U.S. Immigration and Customs Enforcement’s (ICE) Homeland Security Investigations (HSI) is the lead agency responsible for investigating allegations of immigration fraud. Immigration-related fraud is closely connected to other immigration-related crimes, such as human smuggling (<http://www.ice.gov/human-smuggling/>) and human trafficking (<http://www.ice.gov/human-trafficking/>), critical infrastructure protection, worksite enforcement (<http://www.ice.gov/worksite/>), visa compliance enforcement, and national security investigations. These investigations are complex and challenging, often involving benefit fraud with sophisticated schemes and multiple co-conspirators. Typically, and as a direct result of HSI’s criminal investigations, the fraud scheme is dismantled, the facilitators are criminally prosecuted, and their assets are seized.

ICE has four Benefit Fraud Units (BFUs). The BFUs were created as a means of identifying and targeting, at the earliest possible point (i.e., when a petition or application is received at a U.S. Citizenship and Immigration Services center), the most significant and egregious immigration benefit fraud violators, such as organizations and facilitators that engage in large-scale schemes involving multiple applications or individuals and pose a threat to national security or public safety. ICE is also a part of the Document and Benefit Fraud Task Forces (DBFTF), which builds upon existing partnerships to bring together investigators from a variety of agencies with expertise in different aspects of investigating document and benefit fraud.

USCIS’s Fraud Detection and National Security Directorate also works closely with ICE to investigate and address alleged immigration fraud.

Question#:	54
Topic:	illegal activities
Hearing:	The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking
Primary:	The Honorable Amy Klobuchar
Committee:	JUDICIARY (SENATE)

Question: Can you tell us if the criminals and groups that are involved in human trafficking are often involved in other illegal activities, such as smuggling drugs or guns into the country?

Response: U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations (HSI) would need to review human trafficking investigations on a case-by-case basis to determine which investigations included other crimes in addition to human trafficking. Anecdotally, HSI can say that there are human trafficking organizations that utilize drugs or weapons in order to hold their victims against their will.