Form I-918-012 Revision – Response to 60-day FRN Public Comments

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Comment Period: November 9, 2023 – January 8, 2024

Comm-ent #	Comm-enter ID	Comment	USCIS Response
1.		**Commenter: S Bailey**	
	0098/0102	Please remove maiden name from forms. Birth name. Previous name. To be more inclusive.	USCIS thanks the commenter for this suggestion regarding more inclusive terminology for this field. This language is standard across all USCIS forms.
		I-918 Supp B - Page 1 - START HERE - N/A or None in each question that is not applicable is overburdensome - if no apartment number, is N/A required? If not middle name, is N/A required? This requirement was in place previously and caused many unnecessary issues.	Thank you for this comment. In April 2021, USCIS announced that it will not reject filings (including the Form I-918) if petitioners leave a blank space in an optional field on the form. A required field that is left blank may result in USCIS rejecting the form or may result in delays in the petitioner's case. However, to avoid duplication, USCIS will remove this language from the Form I-918, Supplement B itself, and retain it in the Form I-918, Supplement B instructions.
		Page 1, part 2 #4 - The Law Enforcement Certification Guide does not require that a name/signature be provided to USCIS. If this question is required, provide an opportunity for the certifier to add their name and signature to USCIS.	Thank you for this comment. Having the name and signatures of certifying officials on file helps USCIS maintain the integrity of the U visa program and provides efficiency in case processing. We will adjust the Form I-918 Supplement B instructions to provide specific guidance to certifying agencies how to provide this information to USCIS directly. We will consider additional revisions to the U visa Law Enforcement Certification Guide as necessary.

		Page 2, part 3, #2 and 3 - Police report number court case number	Thank you for this comment. We will retain the current field with a more general "case number" heading.
		Page 4, part 3, #3 - qualifying crimes can be listed in alphabetical order	Thank you for your comment. The crimes in the current form are listed in alphabetical order on the form; however, they appear out of order in the document because of formatting issues. In the final form, the list of qualifying criminal activities will appear in alphabetical order in two columns.
		Page 4, part 4, #5 and 6 - subjective - could a victim of domestic violence been seen as culpable for the crime against her or him?	Thank you for this comment. USCIS is aware that victims of domestic violence may be accused of committing domestic violence themselves by their abusers as part of the abuser's attempts to assert power and control over the victim. When evidence suggests these allegations were fabricated by the victim's abuser, they do not preclude certifying officials from completing a certification for the victim or preclude the victim from qualifying for U nonimmigrant status. U visa regulations state that a person is not eligible for a U visa if they are culpable of the qualifying crime(s) being investigated or prosecuted. See 8 CFR 214.14(a)(14)(iii). Certifying officials may still complete a certification for a victim and note concerns about culpability on the form for USCIS to consider. USCIS will determine the petitioner's eligibility for a U visa and will consider all relevant factors and evidence submitted with the Petition for U Nonimmigrant status, in accordance with

			the DHS directives on following a victim-centered approach.
		Page 5, part 5 #2 - whether victim received medical treatment is not relevant - the requirement is whether there was injury. Many individuals do not seek medical treatment for different reasons - no insurance, cost, etc.	Thank you for this comment. USCIS will revert back to the language in the current Form I-918B and instructions for this revision.
		Page 5, part 6 #3 – yes or no is sufficient	The current Form I-918, Supplement B contains space for certifying officials to provide an explanation regarding the helpfulness of the petitioner. This information often assists adjudicators in their analysis of the case to understand how the victim was helpful to the investigation or prosecution of the qualifying criminal activity. USCIS will delete Question 3. in Part 6. to avoid confusion that the enumerated selections are the only way to demonstrate helpfulness.
		Page 9, part 6 #2 - statement that original signature is required, if so	According to USCIS policy, USCIS will consider a photocopied, faxed or scanned copy of the original handwritten, ink signature valid for filing purposes. A stamped or typewritten name in place of a handwritten, ink signature is not considered valid for filing purposes.
2.		**Commenter: Legal Resource Center**	
	0099	**I a.** Shorter Length for Form I-918 and Form I-918A: The ILRC commends USCIS for reducing the length of both Form I-918 and Form I-918 Supplement A ("Form I-918A").	Thank you for your comment. This revision effort was designed to support Executive Order 14012 which directs responsible Federal agencies to identify strategies that promote inclusion and identify barriers that impede access to immigration benefits.

		Shorter forms are more user-friendly, particularly for pro se applicants, and more efficient for the agency.	
		I b. Streamlining Form Sections: We also appreciate the measures the agency has taken to streamline the form, which makes the form less intimidating and easier to access for survivors of trauma.	Thank you for your comment. This revision effort was designed to support Executive Order 14012 which directs responsible Federal agencies to identify strategies that promote inclusion and identify barriers that impede access to immigration benefits.
		I c. Gender Inclusive Options and Language: We applaud the agency for its use of gender inclusive options on Form I-918 and Forms I-918A and I-918B. We have commended USCIS for this change on other forms revisions and reiterate our thanks here. Having the option of "Another Gender Identity" is inclusive for all applicants and we urge the agency to make this change to all immigration benefit forms. Relatedly, we applaud the gender-neutral use of "qualifying family member" as opposed to "he or she."	Thank you for your comment. Including a third gender marker on Form I-918, Form I-918A and Form I-918B supports Executive Order 14012 to promote inclusion and identify barriers that impede access to immigration benefits.
		I d. Safe Address Guidance: We are also appreciative of the safe address guidance on the form itself. This change brings the form in line with the USCIS Policy Manual for which updated guidance was published in April 2023.2 However, we urge USCIS to go further and provide this information on all forms where survivors of crime may need to protect their addresses (e.g. Form I-485, Application to Register Permanent Residence or Adjust Status).	Thank you for your comment. We will take this suggestion under consideration as we continue to revise and update our forms.

		II a. USCIS should remove questions that ask applicants to draw legal conclusions. Question 8 in Part 2 of Form I-918 and Form I-918A should be eliminated entirely, and the agency should revise the introduction language under the heading "Criminal Acts and Violations" such that applicants are not required to draw legal conclusions. By asking applicants if they have committed a crime for which they were not "arrested, cited, charged with, tried for that crime, or convicted," this question asks applicants to understand the local, state, and federal penal codes everywhere they have lived and to draw a legal conclusion that their actions rise to the level of criminality. USCIS should also clarify in this section that traffic citations do not need to be included. Over-broad questions run the risk that erroneous or incorrect information will be submitted necessitating Requests for Evidence (RFEs) that slow down adjudication. Given the broad nature of Question 8, there is also a risk that relevant information will be omitted unintentionally, which could lead to a finding of fraud during an adjudication or even later at adjustment or naturalization. Questions like this disadvantage pro se applicants in particular, as they require legal expertise.	Thank you for your comment. USCIS will not make changes to the Form I-918 or instructions based on this comment. Question 8 in Part 2 regarding committing criminal acts for which a petitioner was not arrested does not require the applicant to draw legal conclusions but rather include factual information about their criminal history. This information is relevant to determining inadmissibility as well as the exercise of discretion and will be considered in the totality of the circumstances. The Form I-918 instructions state that petitioners do not need to submit documentation relating to traffic fines and incidents that did not involve an actual physical arrest if the penalty was only a fine of less than $500 or points on their driver's license. However, petitioners must submit such documentation if the traffic incident resulted in criminal charges or involved alcohol, drugs, or injury to a person or property. This proposed question appears on the existing Form I-918 and reflects that Congress has established multiple criminal grounds of inadmissibility for which no conviction is required. In order for a noncitizen to demonstrate that they are admissible to the United States, they have the burden to prove that they have, among other such grounds, not committed a crime involving moral turpitude or a violation of controlled substance laws, even if not convicted (or arrested, detained, charged, etc.). There are multiple other

			grounds of inadmissibility which likewise do not require convictions.
		II b. USCIS should amend the forms to ensure that juvenile records are not included in eligibility inquiries. USCIS should cease the consideration of juvenile records in applications for U nonimmigrant status. To that end, USCIS should make clear on Form I-918, Form I-918A, and all instructions that juvenile arrests, charges, and dispositions need not be disclosed, and juvenile records need not be provided. Across the United States, juvenile justice systems – civil systems that adjudicate violations of the law by children – recognize the significant developmental differences between children and adults and accordingly focus on early intervention, community based resources, and rehabilitative efforts rather than punishment. In fact, most juvenile justice systems, including the federal system, have confidentiality provisions to protect young people from collateral consequences of juvenile court involvement that can occur when information and records from juvenile court proceedings are publicly available. Requiring people to disclose their youthful violations of the law to USCIS is at odds with the law and policy undergirding juvenile justice systems. Further, immigration law does not support consideration of juvenile justice records as a matter of discretion in	We appreciate the concerns raised and the suggestions offered. USCIS will not make changes to the Form I-918 or instructions based on this comment. USCIS is committed to fair and careful adjudication of all cases, with particular care and attention focused on the special considerations required of cases involving juveniles. USCIS has existing guidance regarding specialized treatment of juvenile delinquency in discretionary determinations. In the USCIS Policy Manual Volume 1, Part E, Chapter 8, "Discretionary Analysis," we address "[f]indings of juvenile delinquency" as one of the factors that are generally considered when conducting a discretionary analysis. Footnote 62 of this Chapter reads: > USCIS considers findings of juvenile delinquency on a case-by-case basis, based on the totality of the evidence, to determine whether a favorable exercise of discretion is warranted. Therefore, an adjustment applicant must disclose all arrests and charges. If any arrest or charge was disposed of as a matter of juvenile delinquency, the applicant must include the court or other public record that establishes this disposition. Even where juvenile conduct did not constitute a conviction under Section 101(a)(48)(A) of the

		immigration adjudications. The seminal case on the exercise of discretion in immigration adjudications remains Matter of Marin. In Matter of Marin, the BIA lists several factors that could be deemed adverse for purposes of discretionary determinations: "the nature and underlying circumstances of the exclusion ground at issue, the presence of additional significant violations of this country's immigration laws, the existence of a criminal record and, if so, its nature, recency, and seriousness, and the presence of other evidence indicative of a respondent's bad character or undesirability as a permanent resident of this country."3 Juvenile delinquency adjudications do not fit anywhere within this rubric. First, juvenile justice systems are civil in nature and accordingly state laws forbid the consideration of juvenile delinquency adjudications as "crimes" or youth adjudicated delinquent as "criminals." Second, evidence of a juvenile record simply is not evidence of "bad character." Even the Supreme Court has recognized that youthful violations of the law may not be indicative of adult character and behavior.4 In recognition of the distinctions between criminal and juvenile proceedings, the BIA held that juvenile adjudications are not treated as convictions for purposes of immigration law. This differential treatment must be extended to the exercise of discretion, especially considering that delinquency does not appropriately fit into the existing legal framework for discretionary determinations. To better align USCIS policy with both state laws and immigration laws, the language in the proposed Form I-918, Form I-918A, and related instructions should be	Immigration and Nationality Act, it may still be relevant for inadmissibility purposes, and USCIS must consider it. For example, under "Juvenile Delinquency" in Volume 7, Part F, Chapter 7, "Special Immigrant Juveniles," the USCIS Policy Manual indicates that certain grounds of inadmissibility do not require a conviction, but rather conduct *alone* (even without a conviction) may be sufficient to trigger an inadmissibility ground. *See, e.g.*, INA § 212(a)(2)(C) (inadmissibility concerning controlled substance trafficking that is based on a "reason to believe" standard). This is one reason USCIS does not exclude juvenile criminal histories from the inadmissibility questions in our immigration forms.

		amended to affirmatively exclude juvenile arrests, charges, and adjudications. Specifically, the introduction language to Part 2 "Criminal Acts and Violations" should be altered in the following way: For Item Numbers 7.-31. [7-29. for I-918A], you must answer "Yes" to any question that applies to you, even if your records were sealed or otherwise cleared, or even if anyone, including a judge, law enforcement officer, or attorney told you that you no longer have a record. You must also answer "Yes" to the following questions whether the action or offense occurred in the United States or anywhere else in the world. However, do not include offenses that were handled in a juvenile court system.	
		II c. USCIS should reduce the expanded questions about unlawful presence and immigration violations. The proposed Forms I-918 and I-918A ask more questions in general about entries and exits. While it is important to help applicants flag potential immigration issues for which they should seek a waiver, some of the added questions are unnecessary and redundant. For example, the new Question 5 in Part 2 asks if the applicant has ever departed the United States after having been ordered excluded, deported, or removed. However, Question 4 asks whether the applicant has been issued a final order; Question 3 asks for removal proceedings with date of action; and the section begins by asking for a list of all entries and departures. Thus, Question 5 is unnecessary and redundant.	Thank you for your comment. USCIS will not make changes to the Form I-918 or instructions based on this comment. These questions are intended to solicit different information. For example, Question 5 is designed to elicit whether an individual has *departed* the United States after an order and Question 4 relates to whether any order of removal has been issued, regardless of someone's departure. The prior questions ask about whether there have been any immigration proceedings *and* all entries and exits, regardless of when those entries and exits occurred. These questions are designed so that individuals understand all the relevant information USCIS needs about their immigration history, rather than asking one question that may be confusing to petitioners.

		Similarly, the new Question 6 in Part 2 asks specifically whether the applicant has entered the United States without being inspected and admitted or paroled. However, on the same page, applicants are required to fill out a chart with all entries and manners of entries. Thus, this question is entirely repetitive and should be removed.	Thank you for this comment. This question will be removed.
		Moreover, the current question regarding whether someone has been denied a visa or denied admission to the United States has been split into two questions. Given how rare it is for U visa petitioners to be denied a visa prior to applying for U nonimmigrant status and the potential difficulty of parsing the difference between these two types of denials for pro se petitioners, we recommend re-combining these questions to streamline the application.	Thank you for this comment. This question will be combined and revised to match the question as it is drafted in the current version of Form I-918 and Form I-918As.
		The new Question 3 regarding the type of immigration proceedings the petitioner was in should include an "unknown" option. This option is critical for petitioners, particularly those who are unrepresented, who may not know what type of proceedings were brought against them. The new Question 4 and Question 5 should also include a similar "unknown" option for petitioners who may not know that they had an expedited removal order or a removal order in absentia. Here, too, such an option is important to make sure that petitioners with incomplete information can answer the question to the best of their ability without incurring suspicions of fraud. Moreover, USCIS should rely on its own agency records to determine a U petitioner's immigration history and not assume that	Thank you for this comment. This selection will be added to Item Numbers 2-4 in Part 2.

		conflicting information provided by a petitioner is willful or fraudulent. In addition, the new Question 26 in Part 2 is redundant and overbroad. It asks whether the petitioner has ever submitted fraudulent or counterfeit documentation to any U.S. government official. If this question is trying to solicit information about the document fraud inadmissibility ground at INA § 212(a)(6)(F), it is overbroad as that ground requires the person to be the subject of a final order for a violation of INA § 274C. See current Form I-918 Part 3 Question 22 ("Are you now under a final order or civil penalty for violating section 274C of the INA (producing and/or using false documentation to unlawfully satisfy a requirement of the INA)?"). If this new question is instead trying to solicit information about fraud more generally, it is unnecessary, as the following new Question 27 asks whether the petitioner has ever "lied about, concealed, or misrepresented any information." New Question 26 should thus be eliminated. The new Question 28 asks if the petitioner has ever claimed to be a U.S. citizen in writing or any other way. The inadmissibility ground at INA § 212(a)(6)(C)(ii) requires that the false claim be made for a purpose or benefit under the INA or any other federal or state law. We agree that this new question could help identify the false claim to U.S. citizenship ground of inadmissibility at the time of the initial U visa petition but note that the current wording is	Thank you for this comment. USCIS will retain the current language in Form I-918, Part 3, Item Number 22. Thank you for this comment. This question was included in order to more fully screen for and assess inadmissibility grounds that may be relevant to the adjudication of the Form I-918. Petitioners are provided an opportunity to include additional information in Part 8 Additional Information section if they are unsure if the facts in their case amount to a false claim, and USCIS officers may determine if the information provided is relevant to the

		overbroad and could lead to confusion for petitioners and misreporting. We also urge USCIS not to use incorrect information on the questions in this section, particularly from pro se applicants, to assume fraudulent intent or deny otherwise eligible petitions.	applicant's admissibility. USCIS assesses each petition on a case-by-case basis, based on the totality of the evidence, to determine whether an inadmissibility grounds applies.
		III a. Reduce the expanded questions and space devoted to questions around culpability of the victim. Proposed Form I-918B expands the questions about potential culpability of the victim. This expansion in and of itself gives undue attention to the rare situations where a victim is culpable for the crime committed against them. Moreover, Questions 5 and 6 in Part 4 around potential culpability in the qualifying criminal activity solicits information, without guidelines, from certifiers to make a determination of culpability even where a record does not exist. Specifically, Question 5 allows for the certifying agency to explain "why [they] feel the victim may be or is culpable." The breadth of this question, without qualification, may cause issues for applicants because it allows for an agency official who might not have the proper training to assign culpability where there may be none or not to recognize situations that arise from being the victim of a crime. We appreciate the instructions note that oftentimes a perpetrator will accuse the victim of a crime, as part of the power and control asserted by the abuser in domestic violence cases, for example, nevertheless, the addition of this question on Form I-918B may unnecessarily solicit subjective and unfounded allegations of culpability or backstories about the crime. The response to this question will depend on the certifying agencies' training in	Thank you for this comment. USCIS will retain this question but refer certifiers to use Part 10. Additional Information to provide details if necessary to support the burden reduction goals of this revision.

		domestic violence dynamics in addition to how well the applicant can communicate with the certifying agency to whom the crime was reported. There are oftentimes language barriers between the certifying agency who created the report and the U petitioner. The agency should thus reduce the expanded questions about culpability.	
		III b. Streamline the questions related to "helpfulness of victim" and remove duplicate questions around helpfulness. The agency should revise Form I-918B so that certifying agencies do not have to answer similar questions around the applicant's helpfulness. Question 2 and Question 3 of Part 6 of Form I-918B should be streamlined and consolidated into one question. If the purpose of Part 6 is to identify and determine the "helpfulness of the victim," the agency can obtain this information by streamlining and leaving Question 1, "does the victim possess information concerning the qualifying criminal activity listed in Part 4" and a consolidated Question 2 and Question 3 to identify the helpfulness of the victim. A consolidated Question 2/3 could still allow the certifying agency to inform USCIS on how the victim was helpful and avoid redundancy.	Thank you for the comment. USCIS has made edits to this section to avoid redundancies as suggested.
		III c. Eliminate unnecessary questions on Form I-198B. As noted in the instructions, the purpose of Form I-198B is to "provide evidence that the petitioner is a victim of a qualifying criminal activity and was, is, or is likely to be helpful in the detection, investigation, prosecution of that activity, or in the conviction or sentencing of the perpetrator." To do this, it is necessary for this certification	Thank you for this comment. The location of the qualifying crime is necessary information for USCIS. The location of the certifying agency is not always the same location or jurisdiction as the crime. USCIS uses this information to determine whether a crime constitutes a qualifying criminal activity, as part of that analysis depends on the laws of the jurisdiction where the crime occurred.

		to contain questions that help the certifying agency give information on the crime, who is certifying and where they work, and how the petitioner helped in reporting or investigating the crime. Not all questions added to the proposed Form I-918B help serve this purpose and instead unnecessarily lengthen the form and burden certifiers. On amended Form I-918B, USCIS has provided space for the certifying agency to address the following requirements: - Part 2, Information about the Certifying Agency and Officer - Part 3, Case Information - Part 4, Qualifying Criminal Activity Category - Part 6, Helpfulness of the Victim Within these sections, USCIS should streamline what information is collected and remove repetitive and unnecessary questions. For example, in Part 4 regarding the qualifying criminal activity and where it occurred, USCIS should eliminate the space for where the crime occurred. Where the activity occurred can be collected with the certifying agency information and with a simple answer to Question 7, "did the qualifying criminal activity occur in the United States."	
		USCIS should also eliminate the space given in the new Question 2 in Part 6 to explain how the petitioner was	In the current Form I-918B there is a space for certifying officials to provide additional information regarding

		helpful. If the certifier checks that the petitioner was helpful, that should be sufficient. USCIS should not second guess the certifier's assessment by asking for a detailed description that will burden the certifier.	helpfulness. USCIS will streamline this section to better align with the current format.
		In addition, the agency can eliminate the new Part 5, "Known or Documented Injury to the Victim." The additional questions regarding medical attention and injuries are likely to be only partially known, at best, by the certifier. The certifier is told to answer the question based on the interaction with the applicant, which may have been limited in scope and duration. Details on the medical attention and injuries suffered should be left to the applicant who can submit their medical records, evidence of treatment, etc.	Thank you for this comment. USCIS has made edits and will revert to the language in the current Form I-918B.
3.		**Commenter: ASISTA, API-GBV, Her Justice, FNUSA, ICWC, NIWAP and Tahirih Justice Center**	
	0100	**I A.** As an initial matter, we recommend that the federal government adopt a more transparent process for seeking comments on proposed immigration form revisions, especially those related to humanitarian relief. Many immigrant survivors of violence, along with busy practitioners who represent them in these applications, are unaccustomed to navigating the federal register site to locate the most up to date revisions published for comment. In the current collection, the proposed revisions are located in a sidebar on the lower right section of the	USCIS provides opportunity for comment on information collections in compliance with the Paperwork Reduction Act of 1995. USCIS publishes the information collection Federal Register Notice and supporting documents on federalregister.gov and regulations.gov. Comments and agency responses are published on reginfo.gov. This process is standard across the U.S. government for form updates and rulemakings. The Office of Information and Regulatory Affairs (OIRA) uphold this standard for all U.S. Departments and agencies. OIRA provides more information on their website about the information

		webpage labeled "enhanced content," showing 10 documents related to the current information collection. Among those documents are links labeled "i-918supa," leading to a post from March 24, 2023, and "Form I-918 Supplement A, Petition for Qualifying Family Members of U-1 Recipient," leading to a document posted on September 18, 2020. Persons who click the link reading "see all 69 supporting documents" are then brought to a page listing all form revisions proposed under the docket USCIS-2010-0004 in random order, requiring users to further winnow down the selection by date to see the current revisions. This way of presenting the proposed revisions is inadequate for the purpose of gathering responses from affected persons. We recommend that the federal register website provide clear and user-friendly instructions for locating the relevant immigration form revisions produced for review in each agency information collection.	collection review process, including submitting comments and how comments are used, on OIRA's website www.reginfo.gov "FAQ/Resources" tab. You may also find their contact information on the "Contact Us" tab.
		I B. Moreover, where revisions include both changes of format and changes to content, both are indicated in red, making the type of change more difficult to identify. We recommend using a different color for purely formatting changes (such as the transition from two columns of questions to one column or full-page formatting) so that users can more quickly and efficiently participate in the process of review and comment.	USCIS appreciates this suggestion on showing a distinction between formatting and content changes. USCIS agrees that there is a need to better illustrate changes in formatting vs. content, but the use of different colors may not be the best option. As an alternative, USCIS will consider adding descriptive notes in the "Reason for Revision" section of a TOC that will include formatting changes.

		I C. Finally, we recommend that USCIS provide reasoning for significant changes to forms produced for comment, to avoid uncertainty over how additional information collected by the forms will be used. One of the forms included in this collection, the I-918B, contains extensive content changes to both the form and instructions, on which practitioners, immigrant survivors, and other members of the public including potential law enforcement certifiers heavily rely. These changes will likely impact certifier policies and relationships between certifiers, service providers, and immigrant survivors themselves, that are crucial to implementation of the U visa program. We respond to the specific proposed changes below, but recommend that USCIS provide reasoning for changes that significantly impact the access of immigrant survivors to U visa status.	USCIS makes changes to information collections based on changes to statutes, regulation, policy, Executive Order(s), stakeholder/community feedback, and public comment.
		II A. Part 1, Question 9 (I-918)/Part 3, Question 7 (I-918A): We applaud USCIS for the proposed addition of a gender inclusive identification option to Forms I-918 and I-918A. In 2021, ASISTA recommended this change in furtherance of the April 10, 2012, U.S. Citizenship and Immigration Services issued Policy Memorandum, "Adjudication of Immigration Benefits for Transgender Individuals; Addition of Adjudicator's Field Manual (AFM) Subchapter 10.22 and Revisions to AFM Subchapter 21.3 (AFM Update AD12-02)," and January 19, 2017 USCIS Policy Memorandum, "Revision of Adjudicator's Field Manual Subchapter 10.22 - Change of Gender Designation on Documents Issued by U.S. Citizenship and Immigration Services." We commend	Thank you for your comment. Including a third gender marker on Form I-918, Form I-981A and Form I-918B supports Executive Order 14012 to promote inclusion and identify barriers that impede access to immigration benefits.

		USCIS for recognizing, through this proposed addition, the value of accurate gender documentation to immigrant survivors.	
		II B. Part 4, Victim's Personal Statement (I-918): We do not oppose the addition of space for a victim's personal statement in the Form I-918 but recommend the addition of language in the form and instructions warning immigrant survivors against the use of representatives who are not either licensed attorneys or DOJ-accredited representatives to apply for U nonimmigrant status. We appreciate the increased accessibility to pro se petitioners that the additional space for the required victim statement represents. Many legal providers report challenges meeting capacity for the large numbers of U visa eligible noncitizen survivors in need of service. However, the analysis required for identifying and waiving grounds of inadmissibility to admission in U nonimmigrant status is complex, and in many cases requires thoughtful preparation by competent counsel. Failure to correctly identify inadmissibility grounds may result in incomplete waivers, which can create difficulties for U visa beneficiaries at the time of adjustment of status or naturalization. To better address the capacity problems faced by immigration legal providers, particularly in rural areas, USCIS should continue its efforts to process U visa petitions more rapidly. The bona fide determination (BFD)	Thank you for your comment. USCIS will not make any changes to the form or instructions in response to this comment. As this is a general warning applicable across form types, USCIS has information on its website for individuals to help prevent them from becoming victims of scams. See https://www.uscis.gov/avoid-scams

		represents a positive innovation that benefits immigrant survivors and allows for service providers to expand their services to accept more and complex cases featuring difficult questions of inadmissibility. Without competent representation, otherwise eligible immigrant survivors could be denied relief or experience a traumatic loss of status at later points in their immigration journeys. For these reasons, we recommend that USCIS include language in the Form I-918 instructions advising pro se petitioners to avoid working with unlicensed or unaccredited legal representatives, particularly if they answer yes to any of the inadmissibility questions contained in Part 2.	
		II C. Part 2 (I-918); Part 5 (I-918A), Chart of Entries and Exits Since April 1, 1997: We agree that it could be helpful to identify entry-related inadmissibilities at the time of the initial U and U derivative visa petitions, but caution USCIS against using incorrect information, especially reported by pro se applicants, to allege misrepresentation or deny otherwise eligible petitions. Depending on their experiences before and after entries, immigrant survivors may have experienced trauma that impacts their memories of prior events, including entries. Whenever possible, USCIS should rely on records accessed by biometrics information to assess a U petitioner's inadmissibility, and not reflexively conclude that conflicting	Thank you for your comment. USCIS will not make any changes to the form or instructions based on this comment. USCIS assesses each petition on a case-by-case basis, based on the totality of the evidence including biometrics results, to determine whether an inadmissibility ground applies. Additionally, when determining whether inadmissibilities apply, USCIS considers possible trauma experienced by survivors, along with any nexus to applicable inadmissibilities.

		information provided by a petitioner is due to lack of credibility or suggests an intention to defraud the immigration system.	
		II D. Part 2, Question 28 (I-918); Part 5, Question 28 (I-918A): Have you EVER falsely claimed to be a U.S. citizen (in writing or in any other way)?: We agree that it could be helpful to identify the false claim to US citizenship ground of inadmissibility at the time of the initial U visa petition, but again, caution USCIS against using incorrect information, especially reported by pro se applicants, to allege misrepresentation or deny otherwise eligible petitions. USCIS should recognize that this question, along with many other questions triggering inadmissibility in Part 2, involve legal conclusions and can be easily misunderstood by pro se applicants. Similarly, we urge USCIS to eliminate questions that require legal conclusions from petitioners related to culpability for criminal offenses and uncharged conduct.	Thank you for this comment. This question was included in order to more fully screen for and assess inadmissibility grounds that may be relevant to the adjudication of the Form I-918. USCIS requires the petitioner to include factual information about any false claim to U.S. citizenship without requiring them to draw any legal conclusions. Petitioners are provided an opportunity to include additional information in the Additional Information section if they are unsure if the facts in their case amount to a false claim, and USCIS officers may determine if the information provided is relevant to the applicant's admissibility. USCIS assesses each petition on a case-by-case basis, based on the totality of the evidence, to determine whether an inadmissibility grounds applies. Recognizing the complexity of inadmissibility grounds, USCIS has added a link to the Form I-918 and Form I-918A instructions with a reference to the USCIS Policy Manual page where stakeholders can go for more information. Information regarding the False Claim to U.S. Citizenship grounds can be found at https://www.uscis.gov/policy-manual/volume-8-part-k.

		III A. The expanded length of the I-918B form and instructions are counter to the goals of the U visa program and may introduce further confusion and inefficiency to the certification process: The proposed revisions to the form I-918B lengthens the form by two pages, and includes more space for certifiers to provide written answers about the immigrant survivor's culpability for the crime of which they are a victim, their injury, degree of helpfulness, and unspecified negative information about the victim. These expanded questions provide certifiers a larger role in determining the petitioner's eligibility and deservingness for the U visa, which exceeds the scope of their role in the U visa program. We discuss further the negative impact of these additional questions below, but note here that the expansion of the form is not conducive to participation in the U visa program by reluctant LEAs. The proposed revision to the instructions is lengthened by three pages and includes added language mostly drawn from the DHS U Visa Law Enforcement Certification Guide. The proposed revision also includes links to the DHS U Visa Law Enforcement Certification Guide on pages 1 and 2 although, curiously, not to the instruction on page 5 for providing information about designated officials to USCIS. We applaud DHS for updating the U Visa Law Enforcement	Thank you for your comment. We acknowledge the added length to the Form I-918 Supplement B and instructions, and have made revisions where possible to address this concern. USCIS's administration of the U visa program includes providing training and technical assistance to certifying officials nationwide. Through this work, we are aware that certifying agencies may have different levels of familiarity with USCIS resources on certification practices, like the DHS U visa Law Enforcement Certification Guide. For this reason, USCIS included additional clarifying language in the instructions regarding direct and indirect victims among other topics the agency believed most germane to the Form I-918, Supplement B submission process. We will adjust the Form I-918 Supplement B instructions to provide specific guidance to certifying agencies how to provide this information to USCIS directly.

		Certification Guide in 2022, but suggest that adding duplicative information to the Form I-918B instructions is inefficient and potentially confusing to certifiers. Certifiers, especially those unfamiliar or uncomfortable with the U visa program, may become easily overwhelmed and even exasperated or repelled by lengthy forms and instructions and multiple versions of similar guidance. As advocates have developed guidance for certifiers as well, there is simply no need for USCIS to expand on its existing and more streamlined instructions to include repetitive information. We recommend that USCIS revise the Form I-918B instructions to refer LEAs to the DHS Visa Law Enforcement Certification Guide for background information about the U visa program, definitions of victim, best practices for submitting the certification, and instructions for withdrawing support for the victim's U visa petition after the certification has been submitted. This approach would be more consistent with the Paperwork Reduction Act of 1995 as well as the more recent Executive Order on Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government directing agencies to reduce paperwork burdens and administrative hurdles.5 By incorporating by reference and using the link in the form and form instructions, USCIS can facilitate consultation of the full DHS U Visa Law Enforcement Certification Guide by certifiers with questions about how to participate in the U Visa program. Further, if USCIS wishes for certifiers to submit their information to a central database, it should include this short instruction (or	

		one with similar wording) from the U Visa Law Enforcement Certification Guide directly to the Form I-918B, Part 2, Question 4: "For U visas, you can [update] USCIS when your certifying agency adds or removes a certifying official by emailing a copy of a signed letter from the head of your agency delegating certifying authority to LawEnforcement_UTVAWA.VSC@USCIS.dhs.gov."	
		III B. Additional questions to certifiers fail to address long standing barriers and exacerbate anti-immigrant bias: Advocates for immigrant survivors have long worked with LEAs to encourage their participation in the U visa program and develop policies that support immigrant victims to step forward out of the shadows to report crimes against them. Rather than addressing LEA concerns about certifying helpfulness, the additional questions and explanation fields in the proposed new form I-918B will more likely lead LEAs further astray as to the limited scope of their role in the U visa program, cause confusion, and impede efforts by advocates for immigrant survivors to maximize the benefits of the U visa program. Advocates have found the greatest barriers to certification to be anti-immigrant animus, failure to understand the kind of qualifying criminal activity that may form the basis of a U visa petition, and inability of the immigrant survivor to communicate in their primary language to the LEA6 – none of which are ameliorated by the revised I-918B. In 2013, the National Immigrant Women's Advocacy Project (NIWAP) conducted a national survey of service providers	USCIS has expanded its outreach and training to certifying agencies and updated its U Visa Law Enforcement Resource Guide to educate and inform on the agency's trauma informed, victim centered approach. In the agency's training to certifying agencies and in the U Visa Law Enforcement Resource Guide, USCIS consistently communicates that noncitizens who have been victimized often distrust law enforcement, and fear arrest and deportation; fear for themselves and family members; worry about immediate needs (food, shelter, family); have medical needs, including psychological support; are confused about the U visa process; and may face language and cultural barriers. We urge certifying agencies to develop rapport and establish trust with noncitizen victims by referring the victim to a victim assistance specialist who can connect the victim to support services; explaining the certifying agency's role, answering the victim's questions , and addressing their fears and urgent needs; be sensitive to cultural differences and language barriers and using a competent interpreter when needed; conduct interviews in a neutral location, only after the victim's urgent needs

		to identify trends in police responses to immigrant crime victims. NIWAP's survey discovered that the majority of "reasons for not signing certifications seem to reflect misunderstandings and misperceptions certifying agencies have about legal parameters and requirements about the U Visa and the certification process." Reasons for declining to issue a certification included that the perpetrator as not prosecuted or identified, the crime happened long ago, the victim did not suffer injuries, and that the victim was unhelpful. As to helpfulness, the NIWAP study posits inadequate language access as a significant barrier to communication between immigrant victims and LEAs, and further notes that assistance with the *detection* of a qualifying crime should be sufficient to meet the helpfulness requirement. In 2017, the New York City Department of Investigation (DOI) and Office of Inspector General for the New York Police Department (OIG-NYPD) audited the NYPD's U visa certification activity and found that reasons given for declining to issue a U visa certification were primarily that the underlying offense was not a qualifying crime, there was insufficient information from which to determine the qualifying crime, and that the victim was not helpful. Upon review of the denials, DOI and OIG-NYPD recommended that NYPD adopt a more trauma-informed approach to determining helpfulness and consider abuse-related reasons why a victim might become less responsive over the course of an investigation.	have been met; and be patient and giving the victim time to stabilize. USCIS takes into consideration a victim's ability to communicate with the certifier agency in their primary language and if domestic violence or the experience of trauma may have inhibited their participation. Petitioners may address the issue of helpfulness in their personal statements by explaining any factors, like trauma or language barriers, that may have created difficulties in communicating with certifying officials. If documentation submitted with the petition and/or the petitioner's statement do not resolve questions related to helpfulness, USCIS may issue a Request for Evidence to obtain additional information.

		None of the additional questions or instructions added to the proposed I-918B and instructions address language access or trauma-related reasons for limited communication with certifiers. The only mention of abuse in either the form or instructions is a note on page 2 of the instructions reminding certifiers that victims of domestic violence may be accused of domestic violence by their abusers. Given the expansion of the questions pertaining to helpfulness in Part 6 of the proposed I-918B revision, we are disappointed not to see guidance related to language access or domestic violence and trauma on the form or in the related instructions. Rather than adding duplicative questions about helpfulness, we recommend adding a note directly to the form advising certifiers of the following: When determining whether the victim was helpful, please take into account the victim's ability to communicate with the certifier agency in their primary language at any point in the detection, investigation, or prosecution of the qualifying criminal activity and if domestic violence or the experience of trauma may have inhibited their participation. Note that assistance with the detection, investigation, or prosecution of an offense make certification appropriate at any point in time.	
		III C. Soliciting negative information about victims from certifiers is harmful to immigrant survivors and frustrates the goals of the U visa program:	Thank you for this comment. One of the U visa requirements is that the victim must be admissible to the U.S. However, an important aspect of the U nonimmigrant status program is that USCIS may exercise discretion to waive most inadmissibility grounds for a noncitizen seeking a U visa if it is in the public or national

		Part 8 of the proposed I-918B provision invites a certifier to provide "supplemental information" that may be relevant to USCIS adjudication, "(for example, related to arrest and criminal history.)" We oppose the addition of this field as unnecessary and injurious to petitioners. While the decision to issue a certification is statutorily left to the discretion of an LEA, advocates have long sought to educate certifiers that the U visa is ultimately decided by USCIS, that USCIS will necessarily conduct a searching review of the petitioner's criminal history and grounds of inadmissibility before approving or denying a U visa petition, and that the role of the certifier is a limited part of the process. While criminal histories may be a reason for some LEAs to decline certification, adding this question is not a victim centered method of encouraging certification. Instead, USCIS should continue to support efforts by advocates, and collaborations of advocates and law enforcement agencies, to educate certifiers about the U visa program.	interest to do so. See INA sec. 212(d)(3)(A)(ii), 8 U.S.C. 1182(d)(3)(A)(ii); see also INA sec. 212(d)(14), 8 U.S.C. 1182(d)(14) (authorizing the waiver of any inadmissibility ground except for participation in Nazi persecution, genocide, or the commission of any act of torture or extrajudicial killing). While this waiver authority is broad, USCIS may nonetheless deny waiver requests from those with serious criminal histories, who pose national security risks, or for any other reason that DHS deems necessary and appropriate, in its discretion. USCIS has amended the supplemental language field to be broader in scope such that certifiers may provide any additional supplemental information which may be relevant to the individual case. USCIS has expanded its outreach and training to certifying agencies and updated its U Visa Law Enforcement Resource Guide to educate and inform on the agency's victim centered approach. In the agency's training to certifying agencies and in the U Visa Law Enforcement Resource Guide, USCIS consistently communicates the following: • USCIS has sole discretion on determining if a victim is admissible to the U.S. • USCIS does not require certifying agencies to run background or criminal history checks on people asking for a. certification.

			• The fact that a victim has a criminal history does not automatically preclude approval of a U visa petition.
		Moreover, we continue to oppose the use by USCIS of uncorroborated allegations to deny otherwise eligible petitioners relief on discretionary grounds. Such information, as contained in police reports for example, are excluded from federal criminal proceedings as unreliable hearsay evidence, and are not considered part of the record of conviction that can be reviewed to determine the scope of culpability and collateral consequences of a particular offense. Continued reliance on one-sided and unvetted police reports/complaints for the truth of their assertions to deny U visas to immigrant survivors of violence is out of step with the prevailing treatment of this evidence across adjudication systems. Where the goal of an adjudicator is to determine facts based on reliable evidence, uncorroborated police complaints have no place. As this question solicits police reports or other unreviewed statements about a petitioner's character or past actions, it should be eliminated.	If necessary, USCIS may request police reports to assess whether the petitioner committed acts that may be relevant to the exercise of discretion. USCIS will consider these police reports in conjunction with all available evidence, including a petitioner's statement, supporting affidavits, and other evidence in the file. USCIS considers each U petition on a case-by-case basis, based on the totality of the evidence, to determine whether a favorable exercise of discretion is warranted.

		When enacting the U visa program in the Victims of Trafficking and Violence Protection Act in 2000, Congress sought to "encourage law enforcement officials to better serve immigrant crime victims and to prosecute crimes committed against [them]." A twin goal of the creation of the U visa program was to "[offer] protection to victims of such offenses in keeping with the humanitarian interests of the United States." We urge USCIS to consider that better service to immigrant crime victims includes understanding that they may have past contacts with the criminal legal system growing out of trauma, poverty, discrimination, coercion, or simply as a result of mistakes, and not to deny the transformative relief of U visa status to immigrant survivors who have already experienced the harm of system-based violence based on unreliable evidence provided by law enforcement.	
		III D. Provision on disclosure of information should be added to the Form I-918B: The proposed revision also includes on Page 8 of the instructions a prohibition on disclosure of information under 8 U.S.C. § 1367 and 8 C.F.R. 214.14(c) to anyone other than an official of DHS, DOJ, or DOS. We applaud the inclusion of this language in the instructions, but recommend instead that it be inserted directly onto the form just above the signature line of the certification, to	As noted, the Prohibition on Disclosure of Information related to 8 U.S.C 1367 protections is located on the Supplement B instructions, specifically that information concerning U nonimmigrant status petitioners and their qualifying family members is protected under 8 U.S.C. 1367 and 8 CFR 214.14(e) from unauthorized disclosure to anyone other than an officer or employee of the Department of Homeland Security (DHS), the Department of Justice (DOJ), or the Department of State (DOS) who has a need to know. The disclosure of any information relating to a protected individual beyond

		better alert certifiers of these special protections for immigrant survivors.	DHS, DOJ, or DOS to anyone other than that individual or their authorized representative is prohibited except in certain limited circumstances as provided by law. As form instructions are incorporated into the regulations requiring its submission, the notification in the Form I-918 and Form I-918A instructions serves as sufficient notice of 8 U.S.C 1367 protections. See 8 CFR 103.2.
4.		**Commenter: NIWAP Inc.**	
	0101	Law enforcement certification terminology causes confusion. The current and proposed versions of the certification are difficult and confusing for judges and judicial officers to complete. The form and instructions continually make references to the I-918B form as a "law enforcement certification" which creates confusion for non-law enforcement certifiers. The full range of government agencies that can sign U visa certifications under U visa statutes, regulations, and policies includes: • Judges • Law enforcement • Prosecutors • Child protective services • Adult protective services • The EEOC • State labor agencies • Other government agencies with authority to detect, investigate, prosecute, convict or sentence perpetrators of criminal activities.	Thank you for this comment. The I-918 Supplement B is framed as "U Nonimmigrant Status Certification" in recognition that certifying officials may also include judges, prosecutors, child protective services and other certifying agencies. Nowhere in the Form I-918 and Form I-918A instructions nor the Supplement B instructions do we refer to the Supplement B as solely a law enforcement certification**.**

		Change language in the U visa certification form to refer to "government agency certification" and "government agency certifiers." Alternatively, make it much clearer in the I-918B instructions that the terminology includes all certifiers despite the fact that the form continuously references law enforcement certification. Perhaps could be accomplished up front in the instruction form in a large square box that calls attention to this notification.	
		Part 2. Agency Information Suggested Amendments: NIWAP suggests that this section be amended slightly on both the form and the instructions to specifically address judicial certifiers. On the form itself "Name of Head of Certifying Agency" should be amended to read "Name of Head of Certifying Agency (Not applicable for judicial certifiers)". The instructions should also be amended to add a short paragraph titled "For Judicial Certifiers" that explains how judges complete this section of the form. The instructions should clearly state that judicial officials only complete the certifying agency and name of certifying official sections of this part. Judges are directly statutorily authorized to certify. The Head of Agency section in this part does not apply to judicial certifiers.	Thank you for your comment. We have made revisions to the Form I-918 Supplement B form to provide additional instruction and guidance to judicial certifiers.
		Part 6. Certification Amendments: The most important revisions that NIWAP proposes to form I-918B has to do with the language in the certification block. Judges do not investigate or prosecute criminal	Thank you for your comment. We have made revisions to the certification on the Form I-918 Supplement B form to be more inclusive of judicial certifiers.

		activity so they cannot sign the certification form as written and must amend the certification in the form to comply with judicial ethics codes. The current certification as drafted has the effect of undermining access to judicial certification, leads to legally incorrect interpretations regarding U visa certifications, and makes it difficult for NIWAP and our national faculty to train and convince judges that U visa certification is something that state court judges can legally and ethically do. We suggest the form be amended to read as follows to facilitate judicial certification: Part 6. Certification Certifiers must complete one of the following certifications: ___ I am the head of the agency listed in Part 2. or I am the person in the agency who was specifically designated by the head of the agency to issue a U Nonimmigrant Status Certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual identified in Part 1. is or was a victim of one or more of the crimes listed in Part 3. I certify that the above information is complete, true, and correct to the best of my knowledge, and that I have made and will make no promises regarding the above victim's ability to obtain a visa from U.S. Citizenship and Immigration Services (USCIS), based upon this certification. I further certify that if the victim unreasonably refuses to assist in	

		the investigation or prosecution of the qualifying criminal activity of which he or she is a victim, I will notify USCIS. ___ I am a judicial official and am authorized by INA Section 101(a)(15)(U) to sign certifications. Based upon (check all that apply) ___ My issuance of a protection order ____My finding of probable cause ____My findings in a _____ case1 ____ My presiding over a court case and hearing evidence2 ____ My review of court records ____ A preponderance of the evidence ____ Other _____ I certify, under penalty of perjury, that the individual identified in Part 1. is or was a victim of one or more of the crimes listed in Part 3. I certify that the above information is complete, true, and correct to the best of my knowledge, and that I have made and will make no promises regarding the above victim's ability to obtain a visa from U.S. Citizenship and Immigration Services (USCIS), based upon this certification.	
5.		**Commenter: WhoPoo App**	
	0103	Comment not relevant to Form I-918-012 Revision	