

**U Visa Sample Waiver (I-92) Language for Cover Letter
“COMPLEX” I-192 SAMPLE ARGUMENT**

[Note to Practitioners: We recommend filing the I-192 application concurrently with the I-918 Application for U Nonimmigrant Status. The below language is a sample legal argument for the portion of a combined I-918/I-192 cover letter where the I-192 seeks to waive “complex” grounds of inadmissibility, including criminal grounds. Sample evidentiary exhibits are also included.]

Ms. A. seeks to waive any inadmissibility under INA 212(a)(6)(A)(i), INA 212(a)(7)(A)(i) and INA 212(a)(9)(B) for being present in the United States without a valid visa and any unlawful presence that accrued after her overstay of a Tourist visa.¹ Additionally, she seeks to waive any inadmissibility under INA 212(a)(2)(i)(I) due to a criminal conviction under 18 U.S.C. §1546(a) for the one-time use of a false social security card that was given to her by her abusive husband.

Ms. A. Seeks to Waive any Inadmissibility under INA 212(a)(2)(i)(I) due to a Criminal Conviction under 18 U.S.C. §1546(a) for the One-Time Use of a False Social Security Number that was Given to her by her Abusive Husband.

To properly explain the circumstances that led to Ms. A.’s criminal conviction, it is important to understand the years of domestic violence that preceded it.

Ms. A. met her husband, Mr C., in Bolivia when she was fifteen years old. Less than three years after the couple began dating, Ms. A. learned that she was pregnant. Mr. C. attempted to force Ms. A. to have an abortion, but under pressure from his family, he ultimately agreed to support Ms. A.’s wishes to have the child. The couple also decided to get married. Two days after Ms. A. and Mr. C. were wed, Mr. C. left for the United States with his family. Before he left, he asked Ms. A. to join him, which she eventually did.

Ms. A.’s Daughter, Daughter, was born in the United States on June 24, DATE. Mr. C. became physically abusive almost immediately thereafter. He would continue this abuse for the next eight years. Mr. C. regularly punched Ms. A. on her head, face, chest, back, stomach and arms. On days when he was wearing his heavy leather boots, he would throw her to the floor – usually by her hair – and repeatedly kick her on her lower back, stomach and head. The beatings left Ms. A. bruised and battered, and years later, she continues to experience severe pain in her head as well as light-headedness as a result.

On the morning of September 23, DATE, Mr. C. became enraged during an argument with Ms. A.. He threw her on their bed, choked her, and hit her face, head and body. The beating lasted for approximately three hours. Mr. C. then left the couple’s home; afraid of what he would do when he returned, Ms. A. called the police. Mr. C. was arrested on charges of assault and battery of a family member (Exhibit F, Tab 2(i)),

¹ The circumstances surrounding Ms. A.’s entry to the United States, her application for the Tourist Visa, and her remaining in the United States are described in detail in the declaration that was attached to Ms. A.’s Application for U Nonimmigrant Status, which is enclosed herein as Exhibit F, Tab 1.

U Visa Sample Waiver (I-92) Language for Cover Letter
“COMPLEX” I-192 SAMPLE ARGUMENT

abduction (Exhibit F, Tab 2(ii)), and willfully or maliciously preventing another person from summoning law enforcement (Exhibit F, Tab 2(iii)). Ms. A. cooperated fully with the police and prosecutors in the ensuing investigation, and as a result, Mr. C. was sentenced to six months in jail. This incident, combined with the years of preceding domestic abuse, is the basis of Ms. A. pending U visa application.

Mr. C. was enraged about Ms. A.'s participation in the criminal process that led to his arrest and embarked on a campaign of retaliation. Knowing that further physical abuse would have negative repercussions, he decided to harm his wife in a more subversive way – through abuse of the legal system. After his release, he continued his pattern of violence and manipulation by initiating several false criminal charges against Ms. A. Ms. A. was arrested, jailed, and charged with extortion, based on a complaint initiated by Mr. C., in which he claimed that Ms. A. had unlawfully withheld his passport and other immigration papers. She was also charged with Use of Profane Language over the Public Airways, based on a complaint initiated by Mr. C.'s sister.

Ms. A. was found not guilty of extortion and was given a Deferred Disposition on the Profane Language charge, which was amended to a misdemeanor charge of Trespassing After Being Forbidden. She was cleared of these charges after the judge understood that the complaints initiated against her were part of the cycle of abuse that she had suffered for years.

Unfortunately, despite the fact that Ms. A. had spent almost six months in jail for crimes that she did not commit, her ordeal was far from over. She was transferred from Virginia State custody into federal custody and charged with Aggravated Identity Theft. This charge was based on Ms. A.'s one-time use of a false social security card, which had been provided to her by Mr. C. Ms. A. used the card, not knowing that the number belonged to another person, in order to obtain a job at Chipotle so that she could provide for her young Daughter. Ms. A. took responsibility for her actions, pleading guilty to the reduced charge of Fraud and Misuse of Immigration Documents under 18 U.S.C. §1546(a) and was sentenced to time served. See Exhibit H.

Ms. A.'s conviction for Fraud and Misuse of Immigration Documents may constitute a crime involving moral turpitude under INA 212(a)(2)(i)(I). It is not, however, a violent or dangerous crime, therefore discretion should be generously exercised. Matter of Jean, 23 I&N Dec. 373 (A.G. 2002). Moreover, at the time she used the social security card, she was unaware that the number belonged to another person; when she received the card from her abusive husband, he informed her that the number on the card was a random one. She did not intend to harm another person by using the number, which should also be a mitigating factor. Lastly, the circumstances surrounding Ms. A.'s use of the social security card also serve to temper the severity of the offense. Ms. A. used the card only one time – in order to obtain a job. She did so because at the time, she was the sole provider for DAUGHTER, as she was receiving no support from her abusive husband, and needed to work in order to put food on the table and a roof over her Daughter's head.

**U Visa Sample Waiver (I-92) Language for Cover Letter
“COMPLEX” I-192 SAMPLE ARGUMENT**

It is in both the National and Public Interest for Ms. A. to be Permitted to Remain in the United States

The U.S. Citizenship and Immigration Services (“USCIS”) has general authority to waive many grounds of inadmissibility for nonimmigrants. See INA § 212(d)(3)(B), 8 U.S.C. 1182(d)(3)(B). Moreover, the Battered Immigrant Women Protection Act of 2000 created a waiver specific to U nonimmigrant status. Under this waiver, the Secretary of Homeland Security has the discretion to waive numerous grounds of inadmissibility for U visa applicants.²

In determining whether to grant a waiver of inadmissibility, the Secretary of Homeland Security must determine whether such a waiver would be in the public or national interest. INA §212(d)(14), 8 U.S.C. 1182(d)(14). In other words, the adjudicator must determine if the grant of a waiver appears to be in the best interests of the United States. See Matter of Mendez-Moralez, 21 I&N Dec. 296 (BIA 1996).

It is Generally in the Public Interest to Permit Individuals Who Assist Law Enforcement in the Investigation and Prosecution of Perpetrators of Violent Crimes to Remain in the United States

Allowing Ms. A., a victim of domestic violence who assisted the police in punishing the perpetrator of several serious crimes, to remain in the United States is in the national and public interest. Were it not for Ms. A.’s reporting to and subsequent cooperation with law enforcement, her husband would never have learned that abusive behavior is not tolerated in the United States. He likely would have continued to perpetrate acts of violence against not only Ms. A., but other members of the public as well. Ms. A.’s helpfulness to law enforcement therefore promotes the public and national interest of maintaining safer communities.

It is also generally in the public interest to allow applicants to overcome inadmissibility and obtain U nonimmigrant status. According to former USCIS Director Emilio Gonzalez, the U visa was created because “many immigrant crime victims fear coming forward to assist law enforcement because they may not have legal status.”³ The purpose of the U visa – to “curtail criminal activity, protect victims, and encourage [victims] to fully participate in proceedings that will aid in bringing perpetrators to justice”⁴ – cannot be fully realized without generous adjudication of accompanying waivers of inadmissibility. If victims of crime with inadmissibility issues fear that they will not be granted legal status, they will not come forward, perpetrators of violent crimes will not be punished, and public safety will suffer. It is therefore in the national and

² The only grounds of inadmissibility that are not waivable are the grounds applicable to participants in Nazi persecutions, genocide, acts of torture or extrajudicial killings. Ms. Alvarez does not fall into any of these categories.

³ U.S. Citizenship and Immigration Services Press Release, “USCIS Publishes New Rule for Nonimmigrant Victims of Criminal Activity,” available at http://www.uscis.gov/files/pressrelease/U-visa_05Sept07.pdf.

⁴ Id.

**U Visa Sample Waiver (I-92) Language for Cover Letter
“COMPLEX” I-192 SAMPLE ARGUMENT**

public interest to allow victims like Ms. A., with non-violent criminal convictions and other minor inadmissibility issues, to remain in the United States.

The Criminal Conviction Underlying Ms. A.’s Inadmissibility is the Direct Result of her Husband’s Continuing Pattern of Domestic Violence

The criminal conviction that is the basis of Ms. A.’s inadmissibility resulted from a continuing pattern of domestic violence that is the basis for the underlying immigration relief she seeks. Mr. C. physically brutalized Ms. A. for nearly a decade. When he was punished for his actions, he manipulated the legal system to continue to harm his wife with impunity. The social security number at issue in her conviction was given to her by Mr. C. The law enforcement agents who arrested Ms. A., found the social security card in question, and turned her over to federal authorities were sent to her home by Mr. C. . Deeming Ms. A. inadmissible as a result of a criminal conviction initiated as part of the cycle of domestic abuse would be contrary to the intentions of the Battered Immigrant Women Protection Act upon which Ms. A.’s U visa application is based.

Allowing Ms. A. to Remain in the United States with her U.S. Citizen Daughter and Other Family Members Would Foster the Principle of Family Unity

Family unity also supports the proposition that it is national and public interest to permit Ms. A. to remain in the United States. Ms. A. has a young Daughter, DAUGHTER, who is a United States citizen. See Exhibit Q. Ms. A. has been the primary, and oftentimes sole, caregiver to DAUGHTER since her birth; she is an extremely committed mother, who despite suffering years of domestic violence, has done everything in her power to protect and care for her Daughter.

Mr. A. is a caring and thoughtful mother. She has personally sacrificed to ensure that her Daughter receives every advantage that she herself did not have. She fought valiantly to enroll and keep DAUGHTER in a private Catholic school, so that she could receive a quality education and learn the Christian values that Ms. A. holds so dear. See Exhibits S and T. She is an active participant in DAUGHTER’s education, meeting with her teachers and principal on a regular a basis and ensuring that her Daughter succeeds academically. Understanding the value of a well-rounded education, Ms. A. also supports DAUGHTER’s extracurricular activities, such as her participation in religious activities and the Upward Soccer Program. See Exhibits V and Y.

In addition to her Daughter, Ms. A. also has several family members – all of whom are U.S. Citizens or Lawful Permanent Residents – in the area of Virginia where she lives. Her aunt and cousins, who live in Fairfax, Virginia, have provided a support system to Ms. A. since her arrival in the United States. They continued to stand by her while she was incarcerated, visiting her in detention and undertaking visitation with DAUGHTER in Ms. A.’s stead. After her release, Ms. A. lived with her aunt until she was able to get her own apartment through the Homestretch program; she regards her aunt and cousins as closely as her immediate family and it would be greatly upsetting to both Ms. A. and her Daughter if they were forced to be separated from them.

**U Visa Sample Waiver (I-92) Language for Cover Letter
“COMPLEX” I-192 SAMPLE ARGUMENT**

Ms. A. is a Spiritual Woman who Continuously Strives to Better Herself and be an Asset to her Community

As a result of Mr. C.’s abuse, Ms. A. and her Daughter were forced to seek refuge at a women’s shelter; they were accepted into HOUSING PROGRAM, a transitional housing program, on DATE. While at HOUSING PROGRAM, Ms. A. was an exemplary resident, impressing her case manager with her commitment to her Daughter and the great strides she made to improve herself. Exhibit I. Ms. A. began to learn English almost immediately after entering the United States, but was never satisfied with just getting by with the language skills she acquired on an ad hoc basis. She yearned to improve, and has been taking English as a Second Language (ESL) courses in order to perfect her English skills. See Exhibits N and I. Similarly, Ms. A. is also in the process of obtaining her GED, in the hopes to one day study business or physical therapy in college. See Exhibit M. Ms. A. has consistently strived to better herself and be a true participant in and asset to the country that has given her so much.

Ms. A. also contributed to her community during the many months that she was wrongfully incarcerated, spending her time crocheting baby clothing for women at Alexandria hospital. See Exhibit O. Her religious beliefs flourished in prison as well. Ms. A. had always been a committed Catholic, faithfully attending mass at St. Paul’s Catholic Church (see Exhibit P), and her experience in prison only reinforced her commitment to God. An asset to her community, Ms. A. is a generous and spiritual woman, and it is in the public interest to grant her waiver of inadmissibility.

Ms. A. and her Family, Particularly her Young United States Citizen Daughter, Would be Subjected to Extreme Hardship if They Were Forced to Return to Bolivia.

Ms. A. has lived in the United States since DATE, when she was only eighteen years old. The United States is the only home that she has known in her adult life. Although she has survived nearly a decade of abuse at the hands of her husband and his family, she has emerged as a productive member of American society. Tearing her away from her home, a place where she has the support of loving family members, legal protection, and institutional resources such as the HOUSING PROGRAM program, would be devastating to her.

Ms. A. continues to suffer the ongoing impact of the years of abuse she survived. She struggles with depression and has regular nightmares about her Daughter being snatched away or the police coming to take her away in the middle of the night. She is under the care of a therapist for Post Traumatic Stress Disorder (PTSD) and is currently taking the antidepressant Zoloft. See Exhibit Z. It would be extremely disruptive and damaging to Ms. A. to discontinue her mental health treatment at this time, and if she were not permitted to remain in the United States, she almost certainly could not receive comparable treatment or services in Bolivia.

U Visa Sample Waiver (I-92) Language for Cover Letter “COMPLEX” I-192 SAMPLE ARGUMENT

Moreover, Ms. A.’s Daughter DAUGHTER, who is a United States citizen, would also be subjected to extreme hardship if Ms. A. was not granted admission to the United States. If DAUGHTER were forced to return to Bolivia with Ms. A., she too would be separated from the only home she has ever known. DAUGHTER has never been to Bolivia and speaks only limited Spanish. She only knows an American way of life and would be extremely traumatized if she were made to live in a strange new country.

Alternatively, it would be terribly destructive for DAUGHTER if her mother was sent to Bolivia and she remained in the United States. During the nine months that Ms. A. was wrongfully incarcerated and forcibly separated from her Daughter, DAUGHTER was depressed and not herself. She missed her mother. Forcing Ms. A. to return to Bolivia without DAUGHTER would cause psychological and emotional damage to the eight-year-old girl.

An ongoing custody dispute involving DAUGHTER serves to increase the uncertainty surrounding her ability to maintain contact with her mother if Ms. A. were not permitted to remain in the U.S. On DATE, the day after Ms. A. was released from custody, the Fairfax County Juvenile and Domestic Relations Court awarded her temporary joint custody over DAUGHTER. During the time Ms. A. was incarcerated and therefore separated from her Daughter, DAUGHTER was in the custody of Mr. C., a man who had been convicted of abusing a member of his family. A hearing date to determine final custody of DAUGHTER has been set for DATE. See Exhibit AA. Not allowing Ms. A. to remain in the country would preclude her from participating in these hearings and regaining permanent custody of her Daughter, and would ensure the success of Mr. C.’s designs to use the legal system to harm Ms. A.

Lastly, there is a strong likelihood that Mr. C.’s family would harm Ms. A. upon her return to Bolivia. Mr. C.’s sister SISTER, who has been an active participant in the abuse of Ms. A., recently travelled to Bolivia in order to falsely accuse Ms. A. of telling United States officials that she was married to Mr. C.’s SISTER claims that Ms. A. and Mr. C. were never married and that her statements constitute fraud. As a result of SISTER’s lies to Bolivian officials, it is likely that Ms. A. would be arrested upon her return to Bolivia. Her ability to obtain a fair trial, to clear her name of the false charges once again being initiated by Mr. C.’s family, would be limited in Bolivia, where corruption is rampant. In fact, a 2007 Department of State report states that 25 percent of transactions with low-level courts required some form of bribe.⁵ Ms. A. also fears that if unable to use the legal process to hurt her, Mr. C.’s family will simply hire someone to have her killed.

In sum, Ms. A. suffered the abuses of her husband for eight long years. Through his fists, ugly words, and abuse of the legal process, Mr. C. has brought untold amounts of misery on his wife. However, despite the years of domestic violence, Ms. A. remained strong, and has emerged as a committed young mother who has faith in God and a

⁵ <http://www.state.gov/g/drl/rls/hrrpt/2007/100629.htm>

**U Visa Sample Waiver (I-92) Language for Cover Letter
“COMPLEX” I-192 SAMPLE ARGUMENT**

yearning to improve herself and her community. Forcing her to leave this community, in particular, her U.S. citizen Daughter DAUGHTER, would cause extreme hardship to Ms. A. and her family. Therefore, it is in the national and public interest to allow Ms. A. to remain in the United States.

The Secretary of Homeland Security has the discretion to waive numerous grounds of inadmissibility for U visa applicants. As Ms. A. did not commit a violent or dangerous crime and her conviction was a result of a continuing pattern of domestic abuse, USCIS should exercise the discretion permitted by the regulations and waive Ms. A.'s inadmissibility.

Thank you for your assistance in this matter. If you have any further questions or require any additional information, please do not hesitate to contact me at the number listed below.

Yours sincerely,

Attorney

For your reference, the following evidence was submitted with this application in addition to the I-918 Application and I-192 form and fee waiver. A separate declaration is typically not necessary as the relevant facts and arguments can be included with the Declaration in support of the I-918 Application.

- Disposition Sheet, indicating that Ms. A. was sentenced to time served for the crime of Fraud and Misuse of Immigration Documents on June 25, 2008
- Letter from Ms. Harriet Johnson, Case Manager at the HOUSING PROGRAM Transitional Housing Program, confirming Ms. A.'s participation in the program
- Certificate issued by the HOUSING PROGRAM Program on DATE, indicating that Ms. A. completed the HOUSING PROGRAM Orientation Program
- Certificate issued by the HOUSING PROGRAM Program on DATE, in recognition of Ms. A.'s good housekeeping and ability to remain debt free
- Certificate of Achievement awarded to Ms. A. by the Center for Multicultural Human Services in recognition of her successful completion of a support group for victims of domestic violence

U Visa Sample Waiver (I-92) Language for Cover Letter
“COMPLEX” I-192 SAMPLE ARGUMENT

- Letter informing Ms. A. that she has passed the Official GED Practice Test, making her eligible to take the GED test. *Please note that, as indicated in the declaration attached herein as Exhibit E, Ms. A. passed the final GED test in October, but as of the date of this submission, the final paperwork was not available.*
- Certificate of Completion presented to Ms. A. by the United Methodist Church English as a Second Language (ESL) program
- Certificate of Achievement presented to Ms. A. after she achieved 300 hours of “Life Skills Programming,” by crocheting clothing for newborn children at a hospital in Alexandria, Virginia
- Letter from the Parish Priest at St. Joseph’s Catholic Church, welcoming Ms. A. to the church, with certified translation
- Birth Certificate for DAUGHTER A., issued by the Commonwealth of Virginia
- Photographs of Ms. A. and her Daughter DAUGHTER
- Letter from School accepting DAUGHTER A. as a student for the XXX year
- Letter from School awarding tuition assistance to Ms. A.’s Daughter, DAUGHTER
- Certificate presented to Ms. A. in recognition of her successful completion of parenting classes at the Center for Multicultural Human Services
- Certificate of Achievement awarded to DAUGHTER A., in recognition of her hard work in the first grade at Elementary School
- Certificate of Excellence awarded to DAUGHTER A. by the Upward Soccer Program in recognition of her “excellent character and sportsmanship”
- Letter from the Health Center, confirming that Ms. A. is being treated for Post-Traumatic Stress Disorder
- Notice Continuing Custody Hearing until DATE