

# **Immigration Remedies, Rights and Resources for Undocumented Survivors**



**Los Angeles  
Center for  
Law and Justice**

\*This is an informational session only and the information provided is meant to be general and for educational purposes only. Nothing in this presentation is meant to be legal advice. If you have specific questions about your own case please speak to a licensed attorney.

# WHAT ARE WE HOPING TO LEARN?

- *A basic understanding of:*
  - *forms of immigration relief available to undocumented survivors and*
  - *their rights and how they can take steps to protect themselves from the threat of removal and*
  - *why it's so critical to connect with a reputable immigration attorney as soon as possible*
- *Practical tips to help undocumented survivors:*
  - *collect evidence that might be helpful in an immigration petition*
  - *find immigration-related resources*



# VAWA REQUIREMENTS

- *Legal Status of Batterer*
- *Legal Marriage*
- *Good Faith Marriage*
- *Resided with Batterer*
- *Domestic Violence*
- *Good Moral Character of Applicant*



## VAWA BENEFITS

- Deferred Action
- Employment Authorization (“work permit”)
- Children under 21 included for spousal VAWA applicants
- Public Benefits and federal financial aid once Prima Facie Notice Received
  - See All County Information Notice 01-07-15 and GEN-10-07
- May apply for lawful permanent residency (“greencard”)
  - For LPR abuser relative: when priority date is current in visa category
  - For U.S. Citizen abuser: immediately

**CASE  
EXAMPLE**

*Sue is married to an undocumented man with whom she has been living for 5 years. He has been physically abusing her for 3 years. She has 2 police reports of DV and they have 2 children together. She has several convictions on her criminal record and some don't appear to be related to the DV.*

*Would she qualify for a VAWA self-petition?*

# U VISA

*Provides a path to legal status for survivors of serious crimes who have suffered harm as a result*

**AND**

*cooperated with law enforcement*

# U VISA

## REQUIREMENTS

- Applicant suffered qualifying criminal activity
- **physical or mental** abuse as a result
- possesses information regarding that activity
- has been, is being, or is likely to be helpful in the investigation **OR** prosecution of that activity
- criminal activity violates laws of U.S. or occurred in the U.S.





## U VISA BENEFITS

- *Lawful U nonimmigrant status for 4 years*
- *Employment Authorization (“work permit”)*
- *May apply for lawful permanent residency (“greencard”) after 3 years*
- *Certain family members can be included*
- *Public Benefits once U visa (USCIS Form I-918) Receipt Notice received*

## CASE EXAMPLE

- *June entered the U.S. with her mother when she was just a baby. When she was a teenager her mother needed to return to her country of birth. Her uncle offered to care for her so she could remain in the U.S. June began living with her uncle and cousins. Her uncle told her she needed to babysit their two children, as well as clean the entire home, and do the laundry by herself for everyone living in the household. He also made her work long hours in the family restaurant for no pay. June's work day lasted from 6am until midnight each day and she regularly had to miss school to work. Her uncle constantly controlled her movement and told her she was lazy and ungrateful. He said she would have to pay for the blender she accidentally broke when she was making food for the family and always reminded her that she'd be homeless if she didn't "earn her keep."*
- *What type of crime has she survived?*

# T VISA

*Provides a path to legal status for survivors of a severe form of trafficking in persons (“human trafficking”)*

**AND**

*who report to law enforcement  
(and meet other requirements)*

# T VISA REQUIREMENTS

- SUFFERED **SEVERE FORM** OF HUMAN TRAFFICKING

\* *Severe = Meets the Federal Definition of HT*

- COMPLIED WITH **REASONABLE REQUEST FROM A LAW ENFORCEMENT AGENCY** FOR ASSISTANCE IN THE INVESTIGATION OR PROSECUTION OF HUMAN TRAFFICKING

- **PHYSICALLY PRESENT IN THE U.S. ON ACCOUNT OF THE TRAFFICKING**

\* *Does not require trafficker to have brought survivor into U.S.*

- **WOULD SUFFER EXTREME HARDSHIP INVOLVING UNUSUAL AND SEVERE HARM** IF REMOVED FROM THE UNITED STATES



# *T Visa Benefits*

- Lawful “T” nonimmigrant status for 4 years*
- Employment Authorization (“work permit”)*
- Access to Public Benefits (once determined to be a trafficking survivor so before T Visa is filed)*
- Ability to apply for lawful permanent residency (“greencard”) in 3 years, or less if DOJ letter obtained*
- Certain family members included*

# COMMON MISUNDERSTANDINGS ABOUT HUMAN TRAFFICKING

- *Smuggling ≠ Trafficking*
- *The survivor does NOT need to cross international or state lines*
- *Trafficking survivors are born both inside and outside the U.S.*
- *Physical restraint or kidnapping is NOT required*
- *Trafficking is NOT limited to forced sex work—it includes forced or coerced labor of any kind*
- *Trafficking is NOT limited to illegal businesses and underground industries*
- *Traffickers can be intimate partners or family members*

*What about undocumented people who aren't eligible for any form of immigration relief?*

*Do they have rights?*

**YES!**

**EVERYONE LIVING IN THE U.S. HAS CERTAIN BASIC RIGHTS UNDER THE U.S. CONSTITUTION**

- ✓ **You have the right to remain silent.**
  - ✓ **You might want to carry a know-your-rights card & show it if an officer stops you.**
  - ✓ **Exercising your right to remain silent will protect your immigration options but lying will hurt them.**
  - ✓ **If you do have valid immigration documentation, you might want to carry a copy.**



- ✓ *You have the right to speak to an attorney.*
- ✓ *You have the right to review documents before you sign.*
- ✓ *You have the right not to open the door to your home.*
  - ✓ *ICE must have a warrant signed BY A JUDGE (NOT a DHS official) to enter your home.*
  - ✓ *ICE must show you the warrant, which can be held up at the window or slid under the door*
  - ✓ *If you are worried ICE will arrest you, you might choose to tell the officer if you have a medical condition or children.*

## Be prepared and CREATE a SAFETY PLAN

- ✓ *Memorize the phone number of a friend, family member or attorney that you can call if detained.*
- ✓ *Make a plan for those you take care of if you are detained, such as children or older adults.*
- ✓ *Gather valuable documents and keep them safe with a friend or family member.*
- ✓ *Make sure your loved ones know how to find you if detained by ICE. If you have an “alien registration number” (A# listed on all immigration documents), make sure it is written down in a safe place and keep it with someone you trust.*

## A FEW IMMIGRATION -RELATED RESOURCES

- *Where should someone look online for general immigration-related information?*

[www.uscis.gov](http://www.uscis.gov)

- *What if someone wants to check the status of a pending application?*

<https://egov.uscis.gov/casestatus/landing.do>

*(google “USCIS case status”)*

– *You will need the receipt # to obtain info.*

**SOME  
RESOURCES  
FOR THOSE  
DETAINED BY  
ICE OR IN  
COURT**

- *What resources are available to locate someone who is detained by ICE?  
<https://locator.ice.gov/odls/homePage.do> (google “ICE detainee locator”)*
- *What resources are available if someone needs information re: an upcoming Immigration Court hearing?  
Call Immigration Court (EOIR) 1-800#  
1-800-898-7180*

# GET THE RIGHT HELP!

- *BE CAREFUL TO AVOID dishonest immigration consultants, usually known as “notarios.”*
- *If you need assistance with an immigration issue, please be sure to obtain an appointment with a reputable immigration attorney to learn more about your options.*
- *It’s especially important for those in removal proceedings or who have undocumented children to get a full consultation with an attorney as soon as possible, especially given deadlines in their cases!*



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# **THANK YOU**

***for taking the time to learn  
more about how to support  
undocumented survivors***