SPEAKERS & AGENDA

OVERVIEW OF IMMIGRATION BENEFITS FOR VICTIMS
Tricia Ravenhorst, SC Coalition Against Domestic Violence & Sexual Assault

ICE ENFORCEMENT PRIORITIES & IMMIGRATION COURT
Rebekah Niblock, Charlotte Center for Legal Advocacy

U VISAS & U CERTIFICATIONS
Rebekah Hiatt, SC Victim Assistance Network

T VISAS & CONTINUED PRESENCE
Anne Ross, Tri-County Human Trafficking Task force

VAWA SELF-PETITIONS & WAIVERS FOR CONDITIONAL RESIDENTS
Jennifer Pinilla, Pinilla Law

SPECIAL IMMIGRANT JUVENILE STATUS
Olivia Jones, Olivia Jones Law
WHAT IS YOUR LEVEL OF KNOWLEDGE OF IMMIGRATION BENEFITS FOR VICTIMS OF CRIME?
ENFORCEMENT PRIORITIES & REMOVAL DEFENSE

Rebekah Niblock
Staff Attorney, Immigrant Justice Program
Charlotte Center for Legal Advocacy
rebekahn@charlottelegaladvocacy.org
VICTIMS WITH REMOVAL DEFENSE CONCERNS

Victims with Prior Final Orders of Removal

- Remained undocumented in US after entry of *in absentia* order of removal or granted permission for Voluntary Departure and failed to leave
- Remained legally in US after grant of ICE Stay of Removal; ICE Order of Supervision; or Deferred Action
- Re-entered the US after a prior removal order

Pending Removal Proceedings

- Detained & released at the border; waiting for immigration court hearing
  - Unaccompanied minors -- custody of Office of Refugee Resettlement; place in foster home or group home
- May be required to check in with ICE & update address
EXISTING PROTECTIONS UNDER VAWA

Prohibited Disclosure of Victim-Based Applications

- Federal agencies prohibited from disclosing the existence or contents of a VAWA-protected immigration case

Prohibited Sources of Information

- Prohibited from seeking or using info. provided solely by a perpetrator or his or her family members to make adverse determinations

Prohibited Enforcement Locations

- domestic violence shelter
- victim services program
- family justice center
- supervised visitation center or
- courthouse if appearing in connection with criminal case or protection case
NEW ENFORCEMENT PRIORITIES

• April 2022 – New federal priorities - “Doyle Memo”
  • Priority cases: a) threats to national security; b) threats to public safety & c) threats to border security
  • Non-priority cases: dismissal encouraged

• August 2021 – ICE Policy Directive - Using a Victim-Centered Approach with Noncitizen Crime Victims
  • “A victim-centered approach encourages victim cooperation with law enforcement, engenders trust in ICE agents and officers, and bolsters faith in the entire criminal justice and civil immigration systems.”

• Homeland Security Investigations (HSI), New Human Trafficking & Exploitation Group
  • Abbey E. Kepf, Supervisory Special Agent (Charleston)
  • Victim Advocate – Robin Chapman (Charlotte)

• May 2022 – S. 1032 (pending in Senate) - SC Immigration Enforcement Unit proposed move to SLED
  • Lt. Jade Roy (also head of SLED Human Trafficking Unit)
Charlotte Immigration Court - North & South Carolina
  • Mix of Virtual and In Person Hearings

Prosecutorial discretion trends: If not an enforcement priority, government can move to unilaterally dismiss proceedings.

Free removal defense resources for SC residents

  • American Immigration Lawyer’s Association - Pro Bono Room: Respondents Can Obtain Legal Advice/Guidance, Friend of the Court
  • Catholic Charities – New Rock Hill office is open – Attorney Rakia Turner
  • Lighthouse Immigration Services – Charleston – Attorney Dana Fields
  • SCCADVASA Contract Attorney Program (for interpersonal violence victims)
U Visas

Rebekah Hiatt
SC Victim Assistance Network
rebekah@scvan.org
CAN A QUALIFYING VICTIM FILE AN APPLICATION FOR A U VISA WITHOUT A CERTIFICATION FROM LAW ENFORCEMENT?
U Visa

- 10,000 per year
- 158,000 + cases pending

-preponderance of the evidence standard

BASIC REQUIREMENTS

- victim of a qualifying criminal activity
- suffered substantial physical or mental abuse
- have information about the criminal activity
- were helpful, are helpful, or are likely to be helpful to law enforcement in the investigation or prosecution of the crime.
  - unless under 16 or unable because of disability; parent or next friend may help
- crime occurred in the United States or violated U.S. laws.

BENEFITS

- While pending - deferred action & work permit for “bona fide” applicants; protection from deportation
- After approval - Lawful status & work permit for 4 years
- Eligible to sponsor certain family members
- Eligible to apply for green card after 3 years in U status

FORMS

Form I-918 – Petition for U Nonimmigrant Status
Form I-918, Supp. B – LEA certification REQUIRED
Form I-192 – to waive grounds of inadmissibility
U Qualifying Crimes

- Abduction
- Abusive Sexual Contact
- Blackmail
- Domestic Violence
- Extortion
- False Imprisonment
- Female Genital Mutilation
- Felonious Assault
- Fraud in Foreign Labor Contracting
- Hostage
- Incest
- Involuntary Servitude
- Kidnapping
- Manslaughter
- Murder
- Obstruction of Justice

- Peonage
- Perjury
- Prostitution
- Rape
- Sexual Assault
- Sexual Exploitation
- Slave Trade
- Stalking
- Torture
- Trafficking
- Witness Tampering
- Unlawful Criminal Restraint
- Other Related Crimes**†

*Includes any similar activity where the elements of the crime are substantially similar.
†Also includes attempt, conspiracy, or solicitation to commit any of the above and other related crimes.
VICTIMS CAN SPONSOR NON-OFFENDING FAMILY MEMBERS:

<table>
<thead>
<tr>
<th>Unmarried &amp; under 21</th>
<th>All victims</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parents</td>
<td>Spouse</td>
</tr>
<tr>
<td>Children</td>
<td>Children under 21</td>
</tr>
<tr>
<td>Siblings under 18</td>
<td></td>
</tr>
</tbody>
</table>

PARENTS OF A CHILD VICTIM CAN FILE AS “INDIRECT VICTIM”:

**Common Example**

- Direct victim is a US citizen child; no visa needed
- Parents are non-citizens
- Parents provide information & are helpful
- Law enforcement signs U Certification Forms for parents
<table>
<thead>
<tr>
<th>FORM I-918B – U CERTIFICATION</th>
<th>FORM I-198 – U VISA APPLICATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Pre-requisite for filing a U visa application</td>
<td>• Filed by the victim with USCIS</td>
</tr>
<tr>
<td>• Simply verifies qualifying crime &amp; victim “helpfulness”</td>
<td>• MUST include a U Certification Form I-918B signed within last 6 months</td>
</tr>
<tr>
<td>• Certifying agencies include:</td>
<td>• Victim <strong>must also</strong> prove that they have suffered substantially as a result of the crime &amp; are not a threat to public safety</td>
</tr>
<tr>
<td>• investigating agency (police, DSS, EEOC, DOL)</td>
<td></td>
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<tr>
<td>• prosecuting agency</td>
<td></td>
</tr>
<tr>
<td>• judge</td>
<td></td>
</tr>
<tr>
<td>• Must be signed by agency head (or their official designee)</td>
<td></td>
</tr>
<tr>
<td>• No law requires agencies to sign</td>
<td></td>
</tr>
</tbody>
</table>
Common reasons for rejection of Form I-918B even if victim is eligible:

- There was no arrest
- where’s the incident report?
- forwarding to prosecutor first
- only sign for certain crimes
- won’t sign until adjudicated
- worried about what defense will do with the information
- that case is closed, we don’t need victim’s help now
- that case is too old

WE JUST DON’T DO THAT
Policy Updates & Resources

• June 2021 – “bona fide” applicants to receive 4 years of deferred action & a work permit

• SCVAN South Carolina U Certifier Database

• 2019 U Law Enforcement Certification Guide

Processing Times

• For “Bona Fide” Application Determination: Processing cases from 2016

• For Wait List Determination: Processing cases from 2016

• For Final U Visa approval: est. 10 years
New U Visa
Bona Fide
Determination
Process

Eligibility:
• All pending & new U Visa applications
• Application establishes a “prima facie” case
• Applicant living in the US
• Not a threat national security or public safety & no “adverse discretionary factors”

How to ask for BFD?
• USCIS automatically initiates review – no request is necessary
• If granted, a work permit application must be filed if not already submitted with application.

Processing Time?
• USCIS processing cases “first in, first out”
• Currently processing cases filed in 2016
SCVAN’s South Carolina U Certifier Directory

- Modeled after national database
- Crowd-sourced information that pools the field’s collective knowledge.
- Includes – name of certifying officers; where to send requests, & updated policies and practices.
- Directory is free to all practitioners.
- Send updates to rebekah@scvan.org
U VISA LAW ENFORCEMENT RESOURCES

2011

U Visa Law Enforcement Certification Resource Guide
for Federal, State, Local, Tribal and Territorial Law Enforcement

2019

U VISA LAW ENFORCEMENT RESOURCE GUIDE
For Federal, State, Local, Tribal and Territorial Law Enforcement, Prosecutors, Judges and other Government Agencies
Intake Line for Victims:
803-509-6552 (English)
864-312-6456 (Spanish)
www.scvanlegal.org

Technical Assistance for Advocates & Attorneys Only
Rebekah Hiatt
rebekah@scvan.org
803-542-1312
T Visas & Continued Presence

Anne Ross
Charleston Pro Bono Legal Services
Tri-County Human Trafficking Task Force
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POLL QUESTION

IS A LAW ENFORCEMENT CERTIFICATION FORM REQUIRED TO FILE A T VISA APPLICATION?
T Visa

- 5,000 per year
- preponderance of the evidence standard

BASIC REQUIREMENTS

- a victim of trafficking as defined by federal law
- physically present in US or at a port because of trafficking
- comply with reasonable requests from law enforcement for assistance in the investigation & prosecution
  - Unless under 18 or inability because of trauma
  - removal from the U.S. would cause an extreme hardship involving unusual and severe harm

BENEFITS

- Lawful status & work permit for 4 years
- Eligible to sponsor certain family members
- Eligible to apply for green card - the earlier of
  - Closure of the criminal case & issuance of DOJ Case Closure Letter
  - 3 years in T status

FORMS & EVIDENCE

- Form I-914 – Petition for T Nonimmigrant Status
- Form I-914, Supp. B – LEA certification preferred, but not required
- Form I-192 – to waive grounds of inadmissibility
Benefits to Victim

- lawful immigration status & a work permit for 2 years
- Public benefit eligibility with HHS Certification Letter
- Protection from deportation
- Renewed if criminal case remains open; victims in federal cases can obtain Deferred Action after case closure

When can this be submitted & processing time?

- Immediately upon law enforcement/prosecution approval
- 6-12 weeks (or less)

Who Can Help Submit Application?

- Federal Victim/Witness Coordinators – HSI & FBI
- State & local law enforcement can ask HSI or FBI to submit application
- Immigration attorneys can help victims gather info. & sign forms
Policy Updates & Resources

- Oct 2021 – DHS - Victim-Centered Human Trafficking Investigations Policy
  - HSI Victim-Centered Investigative Unit in SC

Processing Times

- For Continued Presence: 1 – 3 months
- For Final T Visa Approval: 21 months
VAWA Self-Petitions & Waivers for Conditional Residents

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DOES AN ABUSED FAMILY MEMBER OF A US CITIZEN OR LEGAL PERMANENT RESIDENT HAVE TO REPORT TO LAW ENFORCEMENT PRIOR TO FILING FOR A GREEN CARD UNDER VAWA?
BASIC REQUIREMENTS
• Abuser is a US Citizen spouse, former spouse, son/daughter or parent or LPR spouse, former spouse or parent
• Spouses must show “good faith marriage”
• Shared residence with abuser in US
• “Good moral character”
• Battery or Extreme Cruelty

BENEFITS
• While pending
  • Prima facie cases – eligible for certain public benefits
  • Interim Employment Authorization while pending
• Legal Permanent Resident Status
• Maintain eligibility for early naturalization

FORMS
Form I-360 – VAWA Self-Petition OR
Form I-751 – VAWA Waiver for Conditional Permanent Residents (for spouses with a 2 year green card)
Trends

• Significant delays in interim work permits
• Increase in emergency calls from victims with pending marriage-based applications
  • Need for rapid filing & change of address to avoid denial of pending green card applications or loss of status
  • Need to file secretly before leaving spouse

Processing Times

• Temporary work permit: 10 months
• Form I-360 Approval: 2 + years
• Green card approval: 1.5 + years
• I-751: 15 months
Special Immigrant Juvenile Status (SIJS)

Olivia S. Jones
Olivia Jones Law
olivia@oliviajoneslaw.com
Special Immigrant Juvenile Status (SIJS)

- Immigration Law
- Family Law
POLL QUESTION

WHO IS CONSIDERED A CHILD UNDER US IMMIGRATION LAW?
“Juvenile”

For immigration purposes, under age 21
For family court purposes, under age 18
Special Immigrant Juvenile Status (SIJS)

- Immigration remedy for children who have been abused, abandoned, or neglected by a parent.
- Can create eligibility for permanent residency (green card).
- Requires a state family court order.
Criteria for SIJS

Under age of 21
• Unmarried (can be divorced or widowed)

Living in the U.S.

Consent from DHHS if in DHHS custody

Victim of:
• Abuse
• Abandonment
• Neglect
• Or similar basis under state law

AND
• Not in best interest to return to country of nationality or last habitual residence

**Request for SIJS must be bona fide: primary reason is not for immigration benefit, but rather to obtain relief from parental abuse, neglect, abandonment, or a similar basis under state law.**
Contents of Complaint and Order

**Family Court must make finding that:**

- child dependent upon the family court; or
- child is placed under the custody of a state agency or department, or an individual or entity appointed by the court; and
- reunification with one or both parents is not viable due to abuse, abandonment, neglect, or a similar basis under State law. (Termination of parental rights is not required).
Definitions – controlled by state law

**Abuse/Neglect**

- S.C. Code Ann. § 63-7-20 (6)

**Abandonment**

- "a parent or guardian wilfully deserts a child or wilfully surrenders physical possession of a child without making adequate arrangements for the child's needs or the continuing care of the child.” S.C. Code Ann. § 63-7-20 (1)
Get Family Court Order

1. File initial pleadings in Family Court:  
   - Summons 
   - Complaint 
   - Coversheet 
   - Redacted Identifiers

2. Serve notice on Defendant(s)

3. Have a hearing (request an interpreter if needed)

4. Get Order granting custody and listing out SIJS-specific findings
Tips

• Possible to get order for child over 18 but under 21: need temporary order before 18th birthday. S.C. Code Ann. § 63-3-510 (B); see also S.C. Code Ann. § 63-3-530 (A)(17).

• Can do orders by consent.

• Interpreters are free for any hearing. Notify scheduling clerk/Form SCCA263.
Processing Times & Trends
• For I-360 Approval: 8 months
• For Final Approval of Green Card: 1.5 years

Policy Updates & Resources
• May 17, 2017 – SC Approved Medicaid Coverage for Juveniles with pending & approved SIJS Petitions
• Immigration Court Updates – No longer ordering children removed; Waiting for SIJS Eligibility
• May 2022 – Updated USCIS Policy Manual
  • Deferred action & work permits for approved SIJS petitioners
  • Age-out protection for applicants who turn 21
  • Victims not required to contact abusers
  • Right to attorney &/or trusted adult in interview
QUESTIONS
### SC LEGAL RESOURCES FOR IMMIGRANT SURVIVORS

<table>
<thead>
<tr>
<th>Organization</th>
<th>Services</th>
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</thead>
<tbody>
<tr>
<td>Catholic Charities Immigration Services</td>
<td>• Immigration applications; NEW – INCLUDES REMOVAL DEFENSE (Rock Hill office)</td>
</tr>
</tbody>
</table>
| Charleston Pro Bono Legal Services                | • full-time HT attorney  
• affirmative immigration, victim’s rights, other civil |
| Charleston Legal Access                           | • affirmative immigration, victim’s rights, other civil                   |
| Lighthouse Immigration Legal Services             | • affirmative immigration, removal defense, other civil                   |
| SC Coalition Against Domestic Violence & Sexual Assault (SCCADVASA) | • contract attorney program  
• affirmative immigration, removal defense, victim’s rights, other civil |
| SC Department of Social Services                  | • funding for private attorneys for victims in foster care               |
| SC Legal Services                                 | • affirmative immigration (not U visas), other civil                      |
| SC Victim Assistance Network                      | • affirmative immigration (not U visas), victim’s rights, other civil     |
REGIONAL COUNCILS

Upstate IVC In-Person Meeting - September 15, 2022

STATEWIDE GATHERINGS — IN-PERSON

Aug 25, 2022 10:00 AM — 12:00 PM — Language Access

December 8, 2022, 10-12 - Trailblazer Award Ceremony

Sign Up for Meeting Announcements
www.scivc.info

Contact — Marie McDonald
Human Trafficking & Language Access Coordinator
mmcdonald@sccadvasa.org