



# **Humanitarian Forms of Immigration Relief**

March 9, 2018

# Review: 2017 Policy Changes

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Since January 2017, President Trump has signed multiple executive orders increasing internal enforcement

- 10,000 more ICE agents
- New enforcement priorities
- Mandatory detention
- Expanded expedited removal



# What Can Our Communities Do?

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Communities face increased risk & **MUST**:

- ❑ Know their rights
- ❑ Prepare an Emergency Plan
- ❑ Join a local community organization
- ❑ Speak to a trusted attorney for a comprehensive legal screening





# Common Forms of Humanitarian Relief

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- U visas & T Visas
  - ▣ Available to some victims of crimes or human trafficking
- VAWA
  - ▣ Available to some victims of gender-based crimes
- Asylum
  - ▣ Granted to those who have fled persecution on account of race, religion, nationality, and/or membership in a social group or political opinion



# U & T Non-immigrant Visas

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- Created in 2000 by Victims of Trafficking and Violence Protection Act
  - ▣ Strengthen the ability of law enforcement agencies to investigate and prosecute criminals, while protecting victims
- U visas for victims of a “qualifying crime” who suffered substantial physical or mental harm
- T visas for victims of trafficking
  
- Victims **MUST** cooperate with law enforcement



# U Visa Eligibility

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- ❑ Victim of “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
- ❑ Crime occurred in US or violated US laws
- ❑ Admissible to the US
- ❑ Valid for 4 years – eligible to apply for green card after 3 years

# Qualifying Crime



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USCIS enumerates the following crimes as qualifying the victim for a U visa:

- Abduction
- Blackmail
- Abusive sexual contact
- Domestic violence
- Extortion
- False imprisonment
- Female genital mutilation
- Felonious assault
- Fraud in labor contracting
- Slave trade
- Trafficking
- Witness tampering
- Torture
- Perjury
- Hostage
- Incest
- Involuntary servitude
- Kidnapping
- Manslaughter
- Murder
- Obstruction of justice
- Peonage
- Prostitution
- Rape
- Sexual assault
- Sexual exploitation
- Stalking
- Unlawful criminal restraint
- Other related crimes



# T Visa Eligibility

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- ❑ Victim of and present in US due to trafficking
- ❑ Comply with any reasonable request from law enforcement agency for assistance
- ❑ Would suffer extreme hardship if removed
- ❑ Admissible to US
- ❑ Strongly encouraged to obtain a declaration from a law enforcement officer as primary evidence
- ❑ Valid for 4 years – eligible to apply for green card after 3 years

# What is Trafficking?

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- “Trafficking” depends on the type of work and the use of force, fraud, or coercion to obtain or maintain work.
- Two major categories under federal law:
  - ▣ Sex trafficking: recruitment, harboring, transportation, provision, or obtaining of a person for the purposes of a commercial sex act is induced by force, fraud, coercion, or the person is under 18.
  - ▣ Labor trafficking: recruitment, harboring, transportation, provision, or obtaining of a person for labor services through the use of force, fraud, or coercion for the purpose of involuntary servitude, peonage, debt bondage, or slavery.

# Cooperating with Law Enforcement

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- Both U and T Visas require cooperation with local law enforcement
- Risk management for undocumented residents
  - ▣ Do NOT disclose immigration status when reporting crime unless advised to do so by trusted attorney
  - ▣ Request an interpreter when talking to police
  - ▣ Talk to a local victim advocacy organization with experience working with immigrants
  - ▣ Speak with a trusted attorney

# Family Members

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- Certain family members can derive U and T visas
  - ▣ Principal applicant must have their visa petition approved before petitioning for family
- Principal under 21 can petition their spouse, children, parents, and unmarried siblings under 18
- Principal 21 or older can petition their spouse & children



# U and T Visa Caps

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## U Visa:

- 10,000 visas per year
  - No caps for family members

## T Visa:

- 5,000 per year
  - No caps for family derivative visas

## Waitlist:

- If annual cap reached, USCIS will create waiting list
  - Granted deferred action and work authorization



# Applying for a Green Card

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Both U and T visas holders are eligible to apply for a green card if:

- Continuously present in the US for at least 3 years
- Have not unreasonably refused to provide assistance to law enforcement since visa approved



# Violence Against Women Act (VAWA)

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- Allows victims of domestic violence, child abuse, or elder abuse to “self-petition” for a green card
  - ▣ Victims can obtain both safety and independence from their abuser
  - ▣ Applies equally to women and men
  - ▣ No cap on number of self-petitions that can be filed
- Cancellation of removal allows victims of abuse to stop active deportation proceeding



# VAWA Self-Petition Eligibility

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- Suffered abuse from a citizen or LPR spouse, parent, or child
  - ▣ Divorced spouses may petition if termination was related to abuse and application is filed within 2 years of termination
- Parent of child abused by citizen or LPR spouse
- Entered into marriage in good faith
- Have resided with the abuser
- Shows good moral character

# VAWA Cancellation of Removal Eligibility

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- Has been battered or subjected to extreme cruelty by a U.S. citizen or lawful permanent resident spouse or parent
- Physical presence in the United States for 3 years
- Good moral character
- Removal would cause extreme hardship
- Certain inadmissibility grounds do not apply or qualifies for a waiver of inadmissibility

# Helpful Resources

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- USCIS Fact Sheets:
  - Victims of Criminal Activity: U Nonimmigrant Status
  - Victims of Human Trafficking: T Nonimmigrant Status
  - Resources for Victims of Human Trafficking & Other Crimes
  - Battered Spouse, Children & Parents
- AIC: Violence Against Women Act (VAWA) Provides Protections for Immigrant Women and Victims of Crime
- Friends of Farmworkers, Services for Victims of Labor Trafficking

# Disclaimer

The Pennsylvania Immigration & Citizenship Coalition is a diverse coalition of over 50 member organizations across the state. PICC is committed to educating and engaging allies to be more effective advocates for pro-immigrant legislation. Our biweekly #StoptheHate Conference calls are the main platform for allies to learn how they can take action to advance immigrant rights. All presentations produced by PICC and its partners are intended for informational purposes only and do not constitute legal advice.

# Questions?

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