Immigration Executive Orders

1. Border Security and Immigration Enforcement Improvements
   • (Border Enforcement Executive Order - Issued Jan. 25, 2017)

1. Enhancing Public Safety in the Interior of the United States
   • (Interior Enforcement Executive Order - Issued Jan. 25, 2017)

2. Protecting the Nation from Foreign Terrorist Entry into the United States
   • (Travel Ban for Refugees and those from 7 Muslim-Majority Countries Executive Order - Issued Jan. 27, 2017)
Travel Ban Executive Action

Content:

• 7 country travel ban: Iran, Iraq, Libya, Somalia, Sudan, Syria, Yemen
• Complete halt to refugee processing and resettlement for 120 days
• Limit refugee numbers to 50,000 for the FY
• Complete ban of Syrian refugees

Developments:

• Litigation pending in multiple jurisdictions; Washington and 9th Circuit resulting in current TRO across country
• Potential New Executive Order?
Interior Enforcement
Executive Order

• Revives “Secure Communities” Program

• Encourages cooperation between immigration and federal and state law enforcement [287(g) agreements]

• Calls for taking away some funding from “sanctuary jurisdictions”

• Calls for more immigration agents (10K)

• Calls for increased fines & penalties for those “unlawfully present” and those who facilitate their presence
# Changes in Enforcement Priorities

<table>
<thead>
<tr>
<th>Priorities based on existing law</th>
<th>Other new priorities</th>
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<tbody>
<tr>
<td>Individuals who are subject to:</td>
<td>• Those with pending criminal cases and/or prior criminal convictions</td>
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<tr>
<td>• criminal grounds of inadmissibility and deportability</td>
<td>• Those convicted or charged with ANY criminal offense, or have committed any act that constitutes a chargeable offense</td>
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<tr>
<td>• security and related grounds of inadmissibility and deportability</td>
<td>• Those with final orders of removal</td>
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<td>• suspected of fraud or material misrepresentation to obtain a visa or other document or entry to the U.S</td>
<td>• Those who have committed fraud or misrepresentation in applications before a government agency;</td>
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<td>• Those who “abused” a program related to receipt of a public benefit</td>
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<td>• Those believed to pose a threat to public safety or national security</td>
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Interior Enforcement DHS Memo

• Terminates all prosecutorial discretion guidance and memos except for DACA

• Those who appear to be most at risk:
  • those in detention or jail,
  • those with a criminal history or potential criminal charges
  • people who’ve been ordered deported in the past & lost or forfeited any appeals
Interior Enforcement DHS Memo

• Eliminates Privacy Act protections for anyone who is not an LPR or USC.
  • Impact on Survivors

• Establishes Victims of Immigration Crime Engagement (VOICE) Office at DHS
• U.S.-Mexico border wall
• Calls for detention while cases pending
• Expediting determinations of claims of eligibility
• Promptly removing those whose claims are rejected
• Potential expansion of expedited removal
• Severely limits use of parole
• Effects on Unaccompanied Minors
• Cooperating with State and local law enforcement (287g agreements)
• Add more Border Patrol Agents (5K)
Possible Add’l Executive Orders: NOT YET SIGNED

• “Protecting Tax Payer Resources by Ensuring Our Immigration Laws Promote Accountability and Responsibility”
  • Address expansion of definition of public charge

• “Protecting American Jobs and Workers by Strengthening the Integrity of Foreign Worker Visa Programs”
  • Closer inspection of non-immigrant visa programs

• “Ending Unconstitutional, Executive Amnesties”
  • Ending DACA
  • Rescinding DAPA
Immigrant Victims Can:

- Access Emergency Medical Care
- Police Assistance
- Have Their Perpetrators Criminally Prosecuted
- Obtain Community Based Services Necessary to Protect Life and Safety
- Protection Orders
- Shelter and Domestic Violence Services
- Child Custody and Support and Public Benefits for Their Children
Undocumented Survivors
Impact on the Ground
• Early Marriage
• War and Other Dangers in Country of Origin
• Language Barrier
• Discriminatory Treatment of Women
Scarce Resources
SCREENING FOR RELIEF
Immigration Options for Immigrant Crime Victims

- T (Trafficking) Visa
- U (Crime Victim) Visa
- Self-Petitioning under VAWA
- Cancellation of Removal under VAWA
- Battered Spouse Waiver
- Gender-based Asylum
- Special Immigrant Juvenile Status (SIJS)
Factors to Consider When Determining Relief Generally

- Age
- Derivatives
- Immigration history
- Processing Times
- Criminal history
- Marital status
- Access to Benefits
- Importance of confidentiality
VAWA Petition

**Requirements**
- Subjected to Battery or Extreme cruelty
- By USC or LPR spouse or parent, or by USC son or daughter
- Residence
- Good Faith Marriage (if based on marriage)
- Good Moral Character

**Benefits**
- Work authorization upon approval
- Road to green card status (timing depends on status of abuser)
- Can include minor children in application (both here and abroad)
U Visa

Requirements

- Substantial physical or emotional harm being a victim from a listed criminal activity
  - Including domestic violence, sexual assault, incest, stalking, abusive sexual contact

- Possesses information about that crime

- Criminal activity must occur in US or violate US law

- Law enforcement certification (was helpful, is helpful, likely to be helpful) in the investigation or prosecution

- Admissible or eligible for waiver

Benefits

- Work authorization based on DA once case is on waitlist (Long Delay in processing and in visa issuance)

- Eventual 4 year visa

- After 3 years in U status, eligible for green card

- Certain family members (both in US and abroad) may be eligible for benefits
T Visa: Requirements

• Victim of a severe form of trafficking in persons
  – (sex trafficking or forced labor)
• Physically present in the US, American Samoa or Northern Mariana Islands on account of trafficking
• Complied with any reasonable request for assistance in the investigation or prosecution of the trafficker or is under 18 years old or trauma exception (can prove with certification or other evidence)
• Would suffer extreme hardship if removed
• Limited to 5,000 per year, remaining qualified applicants will be “waitlisted”
T Visa: Benefits

• Public benefits, including specialized benefits

• Permission to remain legally in the U.S. with Employment Authorization for 4 years

• Apply for Legal Permanent Resident status (green card) after 4 years or at end of prosecution

• Spouse, child(ren), parent(s) and/or siblings may also qualify for visas and to apply for Legal Permanent Residency to avoid extreme hardship
VAWA Confidentiality

Applies to:

• VAWA based cases (including cancellation,)
• DV-based waivers for conditional residents
• U visas
• T visas
• Work Permit applications for abused Spouses of A, E (iii), G and H visa holders

When it does not apply:

• SIJS
• Asylum
• DACA
VAWA Confidentiality Protections

Non-Disclosure

• Protect’s victim’s information when case filed with DHS

Relying on Information Provided by Abuser

• DHS, DOJ, or DOS cannot take adverse determination of admissibility or deportability in a victim’s case based on information SOLELY provided by abuser or abuser’s family member

Limitation on Immigration Enforcement

• Enforcement actions shall not be conducted at shelters, family justice centers, courthouses (when victim there for victim related matter) unless certified in advance that the action was NOT conducted solely based on information provided by the abuser.
Exceptions to Confidentiality

• Exceptions: 8 USC 1367(b)

• Disclosure to law enforcement for a legitimate law enforcement, national security purpose or for judicial review of a determination in a manner that protects the confidentiality of such information

• Congressional oversight and data collection
  • Omitting personally identifying information

• Disclose to agencies for purposes of determining eligibility for benefits

• Adult victim waived confidentiality protections

• May communicate with non-profits with prior written consent of victim to help them obtain victim services
ENHANCING SAFETY PLANNING

For clients, For Cases, For your Agency
Safety planning - System risks AND risks posed by perpetrator/abuser

Perpetrator/Abuser generated:
- Immigration related coercion
- Law enforcement & criminal legal system as protection?
- Civil legal system (family law, protective orders) as protection?
- Victim services
- Financial resources/housing?

System (immigration) generated:
- Enforcement priority categories
- 287(g), Secure Communities, LE collaboration w/ DHS
- Immigration relief available?
- Public charge
- Increased ICE/CBP presence?
Know Your Rights

- **In Public Places**
  - Right to ask if one is “free to go”
  - If they say YES: Say, “I don’t want to answer your questions” or “I’d rather not speak with you right now.”
  - Don’t answer questions about your immigration status or where you were born. Do not hand over any foreign documents, such as a passport, consular IDs, or expired visas
  - Right to walk away if not being detained

- **If Detained**
  - Right to Remain Silent
  - Right to say “I want to speak to attorney”
  - Right to refuse consent to a search
  - Right to refuse to sign documents
  - No right to lie or show false documents or resist arrest
  - Understand that providing proof of foreign citizenship or informing ICE where one was born can be used as basis for deportation
What should clients carry with them?

• Carry the contact information of your attorney or legal representative.

• Carry a know-your-rights card that you can show to ICE or the police if you are stopped. For example: https://www.ilrc.org/red-cards

• Valid license, work permit or green card if you have one. DO NOT Carry False Documents.
KNOW YOUR RIGHTS

AT YOUR DOOR

• If agents show up at door, find out if police or ICE

• If ICE agents do not have a warrant signed by a judge (not ICE), they cannot enter a home without permission from an adult.
  • See Dropbox for Samples
  • Ask to see warrant and have them slip it under door. If not signed by a Judge, you do not have to let them in.

• If asking for household member, ask them to leave contact information. You do not have to tell them where the person is and you should not lie.
If ICE is inside your home (or shelter) to make an arrest

• Tell them if there are children or other vulnerable residents at home if true
• Ask them to step outside unless they have a warrant signed by a judge. Again, an administrative warrant is not enough to enter your home (I-200, or I-205)
• If they came inside without your permission, tell them “I do not consent to you being in my home. Please leave.”
• If they start to search rooms or items in your home, tell them “I do not consent to your search.”
• If ICE is arresting you, tell them if you have medical issues or need to arrange for childcare, if that is the case
What to Do If Detained

• Same rights against self-incrimination, you don’t have to share any information about where you were born, your immigration status, or any criminal history

• Ask to speak to an attorney instead of answering questions

• Contact attorney/legal services as soon as possible

• Do NOT Sign Anything (Even if there is pressure to do so!)
  • Until you’ve had opportunity to consult with attorney
  • Some people may be eligible for release on bond

• Have a plan in place for your family if detained
Safety Planning - Safeguarding Documents

• Create Emergency Contact Sheets with information for family members in the U.S. and in home country

• Organize Documents
  • Identity documents including passports for children
  • Medical (including immunization records) and financial
  • School Records
  • Immigration Papers
  • Criminal records if applicable
  • Physical presence documents

• Memorize or safeguard their “alien registration number” or A# if they’ve had prior contact with ICE or USCIS
Family Safety Planning

• Child Care Plan: Who will care for children if parent is detained?
  • ILRC Caregiver Affidavit
    • Provide affidavit to caregiver, with copies of child’s records and contact info
    • Consult with Family Law Attorney whether more formal document like power of attorney may need to be prepared for long-term care

• Emergency contact sheet at schools

• Provide all medical information for child including insurance cards, SSNs

• Make sure your family members can find you if you are detained. They can use the ICE detainee locator (https://locator.ice.gov/odls/homePage.do)

• Financial Issues
Agency Safety Planning

- Be pro-active; identify internal challenges
- Rely on confidentiality obligations (i.e. VAWA, FVPSA, VOCA, state law, privilege) to not provide information
- Be aware of difference between DHS issued warrant vs a Court-issued warrant (which would need to be signed by a judge)
- Develop internal protocols to respond effectively to clients at risk of detention and removal, including authorization of release of portions of her file
- Provide a business card to client with a direct number
- Train your staff on handling ICE calls
- Keep “positive equities” for clients on file
Systems Advocacy

• Coordinated Community Response (CCR)
• Strengthening collaborations with immigrant advocacy organizations
• Improved protocols and training for U visa certifications
• Language Access
• Access to Services Necessary for Life or Safety
• Gathering stories to highlight impact
• Other
Re-Framing the Narrative

1) Addressing the myth that immigrants perpetrate more crimes AIC One-pager on Crime in Dropbox

1) Educating the public that limiting victim and witness trust in law enforcement undermines public safety

1) Elevating a Human Rights framework for why access to safety and justice is important for ALL victims
Enhanced Collaborations

• Coordinated Community Response
  • Review issues of access to courts, LE, and services for immigrant victims
  • Offer trainings on VAWA provisions and confidentiality issues

• Collaborations with immigrant advocacy organizations and immigration attorneys in your community
  • Know your rights presentations
  • Leveraging relationships with law enforcement
  • Understanding implications of Secure Communities, Sanctuary Cities, or 287(g) programs in your jurisdiction
    • NILC Report in Dropbox
Improving Protocols for U visa Certification

• Meet with Law Enforcement to discuss U visa certification protocols

• Review model codes and policies

• Resources in Dropbox:
  • DHS U and T visa certification guidance
  • NIWAP’s OVW and BJA funded toolkit on certification

• Expand access to legal assistance for immigrant victims
Ensuring Language Access

• Ensuring “Meaningful Access” to services for individuals with Limited English Proficiency (LEP) under Title VI of the Civil Rights Act

• Organizations that receive federal funds are not allowed to discriminate based on race, color, or national origin
  • Protection against national origin discrimination includes LEP individuals

  www.LEP.gov

• Develop and implement Language Access Plans for service providers, law enforcement, courts, etc..

  http://nationallatinonetwork.org/lep-toolkit-home
Access to Services Necessary for Life or Safety

- DOJ, HUD and HHS issued a joint letter in August, 2016, to remind recipients of federal funds that services that meet the 3-prong test established in PRWORA must be made available regardless of immigration status:
  1) Necessary for the protection of life or safety;
  2) Provided in-kind
  3) Not means tested

- Includes shelters, transitional housing, child protection and adult protective services, etc..
Gathering Stories

• Important to monitor the impact of immigration enforcement actions and policies on immigrant survivors and their children

• Provide information regarding specific cases (protecting client confidentiality) using the survey form available at this link:

Our Agencies

Casa de Esperanza: National Latin@ Network for Healthy Families and Communities:
www.casadeesperanza.org and www.nationallatinonetwork.org

ASISTA Immigration Assistance:
www.asistahelp.org

Tahirih Justice Center:
www.tahirih.org

Asian Pacific Institute on Gender-based Violence:
http://www.api-gbv.org
NIWAP Resources

- PowerPoint presentations and materials for this webinar at [www.niwap.org/go/vawaconfidentiality](http://www.niwap.org/go/vawaconfidentiality)

- NIWAP Technical Assistance:
  - Call (202) 274-4457
  - E-mail [niwap@wcl.american.edu](mailto:niwap@wcl.american.edu)

- Web Library:
  - [http://niwaplibrary.wcl.american.edu/](http://niwaplibrary.wcl.american.edu/)
Additional Resources

Immi (online resource developed by IAN and Probono Net):
https://www.immi.org

Collected Resources on Executive Orders:

Informed Immigrant:
https://www.informedimmigrant.com

We Belong Together & Immigration Advocates Network:
www.womenstepforward.org

Immigrant Legal Resource Center:
www.ilrc.org

Immigrant Defense Project:
www.immdefense.org

VAWnet (NRCDV):
http://vawnet.org/sc/immigrant-women-and-domestic-violence

http://vawnet.org/sc/immigrant-women-and-sexual-violence