WEBINAR SERIES ON ROUTES TO IMMIGRATION STATUS FOR NON-CITIZEN CRIME SURVIVORS

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GOALS

As a result of this webinar, you will be able to better:

1. Selected evidentiary issues and procedural steps of your U visa
2. Help U visa derivatives
3. Address your client’s safety issues and concerns
Policy and Procedural Updates
Can be done via email or phone for represented cases

Response times
- VAWA Hotline phone: 5-7 days
- Email Hotlines: up to 14 days
- Mail (usually for pro se applicants): can be 6 months.

Use one method to contact them (email recommended)

Importance of Subject lines
PROCEDURAL ISSUES

- Change of Address
  - Send to VSC directly. If represented, contact hotline. If applicant pro se or if representation ends, file AR-11 to VSC

- New Appeal Process
  - Appeals are still mailed to VSC but forwarded within 2 days to AAO.
  - Where to file supplemental briefs?
ADJUDICATION TRENDS

- **Numbers**
  - Approx, 140,000 applications pending (principals and derivatives)
  - Waitlisted 24,000 (principals & derivatives) of those
  - USCIS U visa data sets

- **New Model in U visa issuance**
  - Issuance of U visas throughout ¾ of fiscal year so that initial adjudication for I-918s can be done throughout

- **Date Range for New U visas**
  - approximately May 2013 to about February 2014
Oldest cases transferred
- 3K principal cases (11K including derivatives)
- Expect another transfer this fiscal year

Logistic issues
- Envelopes/RFE response

Customer Service
- For now, Customer service inquiries should still go through VSC
PAROLE POLICY

- CIS Ombuds recommendation to establish parole policy for those on the U visa waitlist

- Recommendation accepted by USCIS in 2016, but no formal policy or process out yet.

- Become familiar with existing Humanitarian Parole Policies and Procedures
Common issues in framing a U visa case
AVOIDING RFEs

- **Check for credibility issues**
- **Pre-emptive action**
  - Any discrepancies at all?
    - Among documents you are supplying
      - Tax returns, addresses, dates
  - If yes, explain up front
    - If there was confusion, why
    - If not “material” why not material
AVOIDING RFEs

- If your client mentions accessing a system, you MUST either supply documents from that system or explain why you don't have them
  - If exist but not helpful, explain why not helpful (i.e., applicant too afraid to reveal crime)
  - If don’t exist, provide what you can and explain why credible
  - “Credible evidence” is standard but “best evidence” is what’s most credible
Complicated crime/certification issues

- Framing criminal activity
  - If not listed at all in certification or police reports?
  - If lists non-qualifying crime that falls in existing category?
  - If there are discrepancies (police reports, charging documents, certification?)

- Category v. “any similar activity”
Who is the victim?

Direct Victims

- Direct victims – victim “directly and proximately harmed by qualifying criminal activity” (e.g. DV)

- “Bystanders”- suffered unusually direct injury as a result of the criminal activity (e.g. Murder witness)
Indirect Victims

When direct victim died because of murder or manslaughter or the direct victim is incompetent, incapacitated

- USCIS will consider age at time criminal activity occurred

Indirect victims can be:

- Spouses
- Unmarried children under 21
- If victim is under 21, parents and unmarried siblings under 18
  - (eg. Minor daughter victim of sexual abuse)
Stephen is 13 years old USC citizen and lives with his aunt and uncle. One day, he was assaulted by his Uncle George. Stephen’s aunt, Lucinda walks in and sees what’s going on and tries to pull George away from Stephen. In the process she is knocked to the ground, causing her to have a concussion. Lucinda calls the police, separates from George and helps in the investigation of the case.

- How would this change if Stephen did not have papers?
- How would this change if Lucinda were his mother?
Screening for Inadmissibility

- Prior encounters with ICE
  - Prior orders of removal
  - Severe prior immigration violations
- Encounters with the criminal system
  - Arrests
  - Charges
  - Convictions of certain crimes (aggravated felonies)
- Encounters with Department of Transportation
  - Using false papers to obtain license
  - Attempting to use false papers to obtain drivers license
  - Renewing license with REAL identity after obtaining immigration relief
INADMISSIBILITY ISSUES

- USCIS does not want a new I-192 if there are inadmissibility issues that arise AFTER the U grant except as it relates to traveling abroad and triggering ULP.

- What about unidentified inadmissibility at U filing?

- What about inadmissibility issues that arise if an applicant is on the waitlist?
Working with Derivatives
ADVISALS...IN WRITING

- Ethical concerns
- Criminal activity
- Leaving the country
- About to “age out”
- Falling in love
- Others?
CHALLENGING DERIVATIVES ISSUES

- Passports
  - Custody issues
  - Fingerprints
- Criminal issues
- Your consular derivative shows up at your office!
- “Kids” having babies
Enhancements to Safety Planning
SAFETY PLANING

- Emergency Contact Sheet
- Client should know/memorize their A#
- Safeguard important paperwork
- Medical and Financial Information
SAFETY PLANNING-CONT.

- Attorney should have their attorney’s and/or advocate’s name and contact information on their person.

- Clients may need to decide who could take care of their children (long or short term):
  - Guardianship?

- Become informed about the process and the players.

- Share Know Your Rights Materials.
I am a victim of domestic violence/sexual assault. I am working with my advocate __________________________ (phone number) and my attorney ________________________________ (phone number).

Please do not ask me questions and call them instead.

My children are ________________________________ (alone, I am a single mother, I need to pick them up from day care daily, etc) _______________________________________

My (or my children’s medical needs are ____________________________________________

_________________________________________________________________

OTHER IMPORTANT INFORMATION ____________________________________________
ONE-ON-ONE ADVOCACY

- Be pro-active; identify internal challenges
  - Develop internal protocols to respond effectively to clients at risk of detention and removal including authorization release of portions of her file
  - Provide a business card with a direct number
  - Train your staff answering ICE calls
  - Keep “positive equities” on file
    - Medical issues for kids and self including trauma counseling
    - Records to sustain potential immigration remedies
      - Pictures, police reports, no contact orders, G-28, signed I-246, birth certificate, notice of receipt (Form I-707), FOIA, etc.
RESOURCES

Website:  www.asistahelp.org

Questions or technical assistance?
Questions@asistahelp.org

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