



Presented: April 10, 2025

Domestic Violence 201: Working with and Supporting Non-US Citizen Survivors of Domestic Violence





Ground Rules:

- **We are recording for future viewing;**
- **Please remain on mute unless asking a question;**
- **Please ask your questions in the chat box;**
- **Please do not ask case-specific questions and do not provide any client-identifying information;**
- **This is not individual legal advice; and**
- **Information is effective as of 04/10/2025.**



COMMUNITY LEGAL AID SOCIETY, INC.

CLASI is a private, non-profit law firm dedicated to providing equal justice since 1946. We provide free civil legal services to help Delawareans become safe and self-sufficient.



CLASI's Mission

Combat injustice through civil legal advocacy on behalf of vulnerable & underserved Delawareans via:

- Individual Representation
- Community Education
- Policy work

CLASI's Offices

New Castle County

- Community Service Building – Wilmington

Kent County

- 840 Walker Road – Dover

Sussex County

- Georgetown Professional Park - Georgetown

Overview of Presentation

- . Basics of Immigration Law
- . Benefits of Status; Barriers of Lacking Status
- . Victim/Survivor-Based Immigration Remedies
- . Other Immigration Remedies
- . Hot Topics & Safety Planning
 - . Overview of Issues and Barriers for Non-Citizen Survivors
- . Interactive discussion: Hypothetical



Basics of Immigration Law



Basics of Immigration Law

United States Citizens

- Persons born in the United States;
- Persons born abroad to United States Citizen parent(s); or
- Persons born abroad who have naturalized to become a United States Citizen.

Non-United States Citizens

- Lawful Permanent Residents (LPR; “green card holder”);
- Non-immigrants: persons with temporary immigration status (visitor’s visa, U visa, student visa, temporary work visa); or
- Individuals lacking immigration status (unlawful entry, overstay/expiration of prior lawful status).

Benefits & Barriers



United States Citizens

- Eligible for public benefits (Food Stamps/SNAP, TANF, Medicaid, SSI, Public Housing, etc.);
- Ability to obtain and work using a Social Security number;
- Ability to obtain a State ID or Driver's License; and
- Ability to remain in the United States, and not be deported.

Non-United States Citizens

- Certain non-Citizens *may* be eligible for public benefits, depending on status and length/duration of lawful status;
- Certain non-Citizens *may* be eligible to obtain a Social Security number and/or lawfully work in the United States;
- Certain non-Citizens *may* be eligible to apply for state ID or Driver's License; and
- Possibility of removal/deportation.

Benefits & Barriers

Victim/Survivor-Based Immigration Remedies

- **U Nonimmigrant Visas** for survivors of crime
- **Violence Against Women Act** relief for survivors of family violence
- **T Nonimmigrant Visas** for survivors of human trafficking
- **Special Immigrant Juvenile Status** for youth victims of abuse, abandonment, or neglect by parent(s)



U Nonimmigrant Status

Eligibility Requirements

1. **Victim** of a qualifying crime within the United States;
2. **Injured** – either physically or psychologically – as a result of the crime(s) committed against them;
3. Have **information** about the criminal activity; and
4. Have previously been, are currently being, or are likely to be **cooperative** in the future in the investigation or prosecution of the crime(s) committed against them.

Requirement: Victim of Qualifying Crime

Victim

- Direct victim – the person directly harmed by the criminal activity, or a bystander to a crime who suffers unusually direct injury.
- Indirect victim – immediate family member of the deceased, incompetent, or incapacitated direct victim.

Qualifying Crime

- Violated U.S. laws and occurred in the United States
- Federal, State, or local crimes or bad acts

**U Nonimmigrant
Status**

U Nonimmigrant Status

Requirement: Qualifying Crimes

- Rape / Sexual Assault
- Torture
- Trafficking
- Incest
- Domestic Violence
- Abusive Sexual Contact
- Sexual exploitation
- Kidnapping / Abduction
- Felony Assault
- Manslaughter
- Murder
- Slave Trade
- Female Genital Mutilation
- Hostage
- Unlawful criminal restraint / False imprisonment
- Blackmail / Extortion
- Peonage / Involuntary servitude
- Perjury / Witness tampering / Obstruction of Justice
- Attempt, conspiracy, or solicitation to commit any of the above crimes
- Related crimes or “any similar activities” which violate Federal, State or Local law

Requirement: Injury

Injury or harm to the victim's person

Harm to, or impairment of, the emotional or psychological soundness of the victim

“Substantial” considers:

- Nature, severity, and/or duration of conduct and harm;
- Aggravation of pre-existing conditions.

Result of the single criminal event which gives rise to the claim;
or

Result of a pattern or series of acts taken together which may be considered physical or mental abuse.

**U Nonimmigrant
Status**

U Nonimmigrant Status

Requirement: Information

The victim must possess information about the crime.

The victim – or where the victim is deceased, incompetent, incapacitated, or under 16 years old, the victim's parent, guardian or next friend – must:

- Possess credible and reliable information about the crime;
- Possess knowledge of the details and facts regarding the criminal activity.

Requirement: Cooperation

The victim – or where the victim is deceased, incompetent, incapacitated, or under 16 years old, the victim's parent, guardian or next friend – must:

- Have been helpful; or
- Currently be helpful; or
- Be likely to be helpful in the future.

in the detection, investigation, or prosecution of the crime(s)

- There is no requirement that the perpetrator/accused be identified or arrested.
- There is no requirement that the case be prosecuted or that the prosecution secure a conviction.

**U Nonimmigrant
Status**

U Nonimmigrant Status

Requirement: Cooperation

Cooperation is being helpful and assisting the police, prosecutor, or Court, including:

- Reporting the crime;
- Petitioning for a PFA and appearing for the hearing;
- Cooperating with a DSCYF/DFS Child Abuse investigation;
- Answering questions asked by the police, prosecutor, or Court.

A victim cannot refuse to provide “reasonably requested” assistance throughout the time they hold U Visa Status.

Should a victim subsequently refuse to be helpful, then the agency may choose to contact DHS and retract the U Visa Certification.

DHS may contact the certifying Law Enforcement Agency to confirm victim’s cooperation.

Requirement: Cooperation

Form I-918 B Law Enforcement Certification must have been signed:

- Within the past six months preceding the victim's filing of the U Visa petition with DHS;
- By a certifying official:
 - Head of the certifying agency or a person with supervisory responsibilities in the agency who has been specifically designated by the head of the agency; or
 - A judge; or
 - A prosecutor.

**U Nonimmigrant
Status**

U Nonimmigrant Status

Benefits: If U Status Granted

- Four years of valid non-immigrant status
- Employment Authorization Document (“work permit”)
- Four years of valid non-immigrant status to qualifying and non-offending derivative family members of the victim, regardless of whether the derivatives are in the United States or reside abroad
 - U-1: Direct Victim
 - U-2: Lawful Spouse of Victim
 - U-3: Unmarried Child, under age 21, of Victim
 - U-4: Parent of a Child Victim (U-1 <21)
 - U-5: Unmarried Sibling, under age 18, of Child Victim
- Note: a derivative family member cannot be a perpetrator of the qualifying criminal act which rendered U-1 victim eligible
- Possibility of Lawful Permanent Residency upon application, after maintaining three years in U Nonimmigrant status

Challenges

Differing I-918B policies depending on jurisdiction

Processing times

Wait list

Ineligibility for benefits

**U Nonimmigrant
Status**

Violence Against Women Act (VAWA) Relief

Eligibility Requirements

1. The Self-Petitioner has an **eligible/qualifying relationship** with the Abuser;
 - Abused spouse of a USC or LPR
 - Abused child (biological, adopted, step) of USC/LPR
1. The Abuser has **eligible immigration status**;
 - USC or LPR
2. The Abuser subjected the Self-Petitioner to **abuse, battery, extreme cruelty**;
3. The Self-Petitioner **resides** in the United States, and has resided with the Abuser; and
4. The Self Petitioner is a person of **good moral character**.

Benefits

Depending on the abuser's immigration status, the VAWA Self-Petitioner may be able to concurrently file an application for Lawful Permanent Residency ("green card"), as well as an application for a temporary work permit.

If approved by DHS, Permanent Residency via VAWA provides the following:

- Ability to live, work and travel to/from the US;
- Eligibility to naturalize and become a USC in 3-5 years.

Violence Against Women Act (VAWA) Relief

T Nonimmigrant Status

Eligibility Requirements

1. Victim of a severe form of human trafficking in persons;
 - Recruiting/transporting/harboring of persons
 - By means of force/fraud/coercion
 - For the end of forced labor or commercial sex
2. Physical presence in the United States on account of trafficking;
3. Unless the victim is under 18 years of age, cooperation with Federal, State or local law enforcement authorities in the investigation or prosecution of the traffickers; and
4. Victim would suffer extreme and severe hardship upon removal from the United States.

Benefits

- Four years of valid non-immigrant status
- Employment Authorization
- Four years of valid non-immigrant status to non-offending qualifying derivative family members of the victim, regardless of whether the derivatives live in the US/abroad
 - T-1: Primary victim
 - T-2: Spouse
 - T-3: Unmarried children under age 21
 - T-4: Parents (if child victim is under age 21)
 - T-5: Unmarried siblings under the age 18 (if child victim is under age 21)
- Note: a derivative family member cannot be a perpetrator of or involved in the trafficking
- Possibility of Lawful Permanent Residency after three continuous years maintaining T Non-immigrant status.

T Nonimmigrant Status

T Nonimmigrant Status

Benefits & Challenges

- Benefits
 - Eligibility for benefits
 - Case management
 - Processing times
- Challenges
 - Conflicting views on what constitutes “trafficking”
 - Processing times

Special Immigrant Juvenile Status (SIJS)

Eligibility Requirements

1. A child;
 - Unmarried, under 21 years of age
2. Physically present in the United States;
3. Declared dependent by a state juvenile court, where the court has legally placed the child in the custody and care of:
 - An agency of the state (DSCYF); or
 - An individual appointed by the court (non-offending parent, guardian)
4. Whose reunification with one, or both, parent(s) is found by the state juvenile court to not be viable due to abuse, abandonment, neglect, or similar basis under State law (Delaware: dependency); and
5. It is not in the child's best interest to return to their country of last residence.

Predicate Order – Common Issues

- Predicate Order
 - Child must have a predicate order from the State Juvenile Court making the specific findings listed in **#3, #4, and #5**.
- Common Issues
 - Jurisdiction;
 - Perfecting service of parent(s) abroad;
 - Age-out, priority scheduling, etc.;
 - Language / interpretation issues; and
 - Backlog/oversubscription at USCIS.

Special Immigrant Juvenile Status (SIJS)

Special Immigrant Juvenile Status (SIJS)

Benefits

- Upon filing of SIJS, in Delaware, the child is eligible for Medicaid/CHIP
- Child is able to file an application for Lawful Permanent Residency (“green card”), as well as an application for a temporary work permit
- If approved by DHS, Permanent Residency via SIJS provides the following:
 - Ability to live, work and travel to/from the US
 - Eligibility to naturalize and become a USC in 5 years
- However, child will **never** be able to file a family petition for parents or siblings to immigrate to the United States

Employment-based status

Family-based status

Humanitarian-based status

Other

**Other Remedies
Available**

Other Remedies Available

Family-Based Relief

- USCs can sponsor certain relatives to emigrate
 - Spouse
 - Child (unmarried and < 21 years old)
 - Sons & daughters (married & unmarried, >age 21)
 - Parent
 - Sibling
- LPRs can sponsor certain relatives to emigrate
 - Spouse
 - Child (unmarried and < 21 years old)
 - Unmarried sons & daughters (>21 years old)
- If petition approved, apply when eligible on [visa bulletin](#)
- Note: limited/no “amnesty” or inadmissibility waivers

Other Remedies Available

Asylum

- Indefinite humanitarian status afforded to individuals who can demonstrate:
 - They were persecuted in their home country; or
 - They fear future persecution in their home country;
 - The persecution was, or would be, on account of one of five protected grounds:
 - *Race
 - *Religion
 - *Nationality
 - *Political opinion, or
 - *Social group.
- After holding asylum status for one year, the asylee can apply for Lawful Permanent Residency.

Temporary Protected Status (TPS)

- DHS designates a foreign country for TPS due to conditions in the country that:
 - temporarily prevent the country's nationals from returning safely
 - *ongoing armed conflict
 - *an environmental disaster
 - *other extraordinary conditions
 - or where the country is unable to handle the return of its nationals adequately.
- TPS is a temporary benefit that does not lead to LPR status or give any other immigration status.

**Other Remedies
Available**

Other Remedies Available

Temporary Protected Status (TPS)

- To be eligible for TPS, one must:
 - Be a national of a country designated for TPS
 - Have been continuously physically present in the US since the effective date of the most recent designation date of your country; and
 - Have not been convicted of any felony or two or more misdemeanors committed in the US

Temporary Protected Status (TPS)

- Afghanistan
- Burma/Myanmar
- Cameroon
- El Salvador
- Ethiopia
- Haiti **
- Honduras
- Nepal
- Nicaragua
- Somalia
- Sudan
- South Sudan
- Syria
- Ukraine
- Venezuela **
- Yemen

**Other Remedies
Available**

Other Remedies Available

Deferred Action for Childhood Arrivals (DACA)

- Arrival in the United States under the age of 16; and
- Continuous residence in the United States for at least 5 years prior to June 15, 2012 (i.e. since June 15, 2007), and physically present in the U.S. on June 15, 2012; and
- Are currently:
 - In school; or
 - Have graduated from high school/obtained a GED; or
 - Have been honorably discharged from USAF
- Have not been convicted of a felony offense, a “significant misdemeanor offense,” multiple misdemeanors, or otherwise pose a threat to national security or public safety; and
- Under the age of 31 on June 15, 2012.

Deferred Action for Childhood Arrivals (DACA)

- Ongoing litigation about whether is DACA is unlawful on procedural and substantive grounds.
- While appeals pending:
 - Individuals who have had DACA can continue to renew
 - Individuals who are / would be new initial applicants should consult with an immigration attorney

Other Remedies Available

Hot Topics & Safety Planning

- . Overview of Issues and Barriers for Non-Citizen Survivors



Changes to Immigration Policies: Executive Orders & Laws

Recent Changes

- Laken Riley Act
- Initial Rescissions of Harmful Executive Orders and Actions
- Citizenship Executive Order (EO)
- Invasion 1.0 EO
- National Emergency EO
- Securing the Border EO
- Invasion 2.0 EO
- Foreign Terrorist Organizations EO
- National Security Threats EO
- Rescission Sensitive Locations Policy

What does it do?

Mandates federal detention of undocumented immigrants ***accused*** of certain crimes:

- Theft / shoplifting
- Burglary
- Assaulting an officer
- Any crime causing death/serious bodily injury

*No opportunity to seek release/bond while immigration case is pending

Laken Riley Act

Laken Riley Act

What does it do?

Gives states broad ability to sue the federal government over immigration decisions the states do not like, including:

- Force continued detention
- Seek removal/deportation

What does it do?

EO reverses close to 100 EOs issued by the Biden Administration:

- End Biden Administration's Enforcement Priorities
- End Task Force focused on reunification of families separated at the border between 2016-2020

Initial Rescissions of Harmful EOs

Citizenship EO

What does it do?

Orders government agencies to stop issuing citizenship documents to children born in the U.S. on/after 02/19/2025 if:

- Father was not a USC or LPR; and
- Mother is undocumented or has temporary status

Update:

EO paused temporarily by federal court judges, who called it “blatantly unconstitutional” because the 14th Amendment to the Constitution guarantees everyone born inside the US is a US Citizen

Citizenship EO

Invasion 1.0 EO

What does it do?

Declares an “invasion” of the country at the Southern border.

Denies entry to “invaders,” even if seeking asylum.

What does it do?

- Declares a national emergency due to the “invasion.”
- Directs US military to assist at the border, including building a border wall.

**National Emergency
EO**

Securing the Border EO

What does it do?

Focuses on “closing” the border by:

- Ending temporary parole programs (Cuba, Haiti, Nicaragua, and Venezuela)
- Stop using CBP One App
- Restart the “Remain in Mexico” program for asylum seekers

What does it do?

Criminalize immigrants by:

- Expanding scale of immigration detention and facilities
- Withholding federal funding from “sanctuary cities” that do not collaborate with immigration agents
- Expanding expedited removal
- Increasing use of 287(g) agreements
- Giving other federal law enforcement agents the power to arrest and deport

Invasion 2.0 EO

Invasion 2.0 EO

What does it do?

(Continued):

- Contemplating registry that would require noncitizens to register and get fingerprinted
- Reviewing Biden Administration priorities on TPS, Parole, and work permits
- Reviewing and suspending funding for nonprofit organizations that provide services to immigrants
- Increasing number of immigration agents

What does it do?

Declare certain “cartels” as terrorist organizations (e.g. MS-13)

- Would make it easier for the government to detain and deport immigrants who have interacted with these groups in the past.

References possibility of President using the “Alien Enemies Act” (1798):

- Gives president broad ability for increased rapid mass deportations in times of war or “invasion”

Foreign Terrorist Organizations EO

National Security Threats EO

What does it do?

Focuses on “extreme vetting” by:

- Identifying countries for a possible travel ban
- Subjecting people to increased vetting and screening
- Prioritizing resources for taking away citizenship of US Citizens (denaturalization)

What does it do?

Policy governs when and where ICE can engage in enforcement activities

- Schools, Houses of Worship, medical settings, courthouses, shelters, faith based ceremonies

Settings previously off limits absent health and safety emergencies.

Now ICE has more ability to go into these locations to question and arrest people.

Sensitive Locations Policy Rescission

Understanding Our Rights

Fourth Amendment

- Know Your Rights (KYR) based on the location and situation.
- Educational resources on KYR

Why do we do KYR education?

- Prevent arrests
- Hold government accountable
- Help Delawareans understand and navigate risks
- Knowledge = power

KYR & Fourth Amendment Rights

KYR & Fourth Amendment Rights

Fourth Amendment Refresher

- In the home
- At work
- In the car
- At school (K-12)
- In hospital
- In public

What does the 4th Amendment do?

- People have 4th Amendment protections where they have a reasonable expectation of privacy, depending on their location
- Limits the government's power to search and arrest

Fourth Amendment

In the home

- Greatest Fourth Amendment protections

Required for ICE to enter a home:

- Signed judicial warrant; or
- Consent

In the home

- Greatest Fourth Amendment protections

What should I do if ICE is at my door?

- Don't open it
- Ask for warrant (slide under door)
- State "I don't give consent to enter"
- ***Record***
- Ask to speak to a lawyer
- Remain silent

In the car

- Administrative warrant for arrest; or
- Arrest based on evidence that can explain suspicion

What should I do if ICE pulls me over?

- Tender Driver's License, registration, and proof of insurance
- Remain silent
- Ask to speak to lawyer
- State you do not consent to the search

At work

- Public spaces vs. Private spaces

Required for ICE to enter private spaces

- Signed judicial warrant; or
- Employer Consent
- Note:
 - *ICE can enter any public spaces without a warrant
 - *ICE can only arrest with an admin warrant or evidence to support reasonable suspicion for arrest

At school (K-12)

- Generally regulated entry
- Private vs. public space

Required for ICE to enter private spaces

- Signed judicial warrant; or
- School official's Consent
- Note:

*Best practice for districts/DOE to create access policies: identify & limit who has authority to permit entry, and only do so when legally required

In Healthcare Setting

- Private vs. public space

Required for ICE to enter private spaces

- Signed judicial warrant; or
- Practice/Hospital official's consent

Best practices

- Separate areas where patients enter/register from waiting/receive treatment
- Establish a policy and protocol for ICE presence

In Public

- Arrests in public require a warrant or a reason based on evidence

ICE approaching in public

- Don't answer questions
- Ask "Am I free to go?"
- If yes – walk away
- If no – indicate you are remaining silent and ask for a lawyer

Preparing Delawareans

- [ILRC Red Cards](#) with KYR language in English & other languages
- [ACLU KYR Videos](#) in English & other languages
- [DE DOJ](#) KYR One-Pagers and Resources
- Connect with allied partners and community groups for education sessions and resources

KYR Resources

Action Plans

Helping Delawareans Prepare

- Document gathering / Safety Planning
- Child Care Directives
- Power of Attorney Documents
- Legal Consultation & Representation

Organization & Document Gathering

- Medications, Rx, Assistive Devices
- Emergency contact list
- Memorize important number (family, lawyer, community/advocacy)
- Store documents (medical, work, rent, immigration, children) in one place

Action Plans

Action Plans

Child Care Directives

- Limited Power of Attorney Document to indicate a parent's or both parents' wishes in an emergency situation
- Communicate with child care / school about alternate caretakers
- Copies of important documents and the POA with trusted agent

Power of Attorney Documents

- Designated agent can effectuate business and make decisions about property and assets/debts in your absence

Action Plans

Action Plans

Legal Consultation

- In Delaware:
 - CLASI
 - [AILA](#) Private Attorney Search
- Nationally:
 - [IAN](#) Non-Profit Attorney Search

Interactive Discussion: Hypothetical



HYP0 #1

Maria

Maria is from Guatemala.

She speaks Mam, and some Spanish.

In Guatemala, her husband, Hector, abused her.

Police in Guatemala do not respond to DV calls.

Maria's mother encouraged her to come to the US, where she would be safe and have a better life.

Maria left Guatemala, and left her children in common with Hector in the care of her mother in Guatemala.

Maria began her journey on foot to the US; she traveled with a large group of people unrelated to her.

Maria

While traveling, just before crossing the border, the adult male “leader” of the group took several of the women aside, told them he would guide them across the border in a smaller group if they agreed to work for him once they crossed the border, and then demanded their identity documents.

He kept Maria’s passport and Birth Certificate, which were her only identity documents.

Maria was sexually assaulted by the leader right after she crossed the border into the US.

She was able to escape the leader, and was then detained by ICE.

HYP0 #1

HYP0 #1

Maria

While detained by ICE, Maria reported that her smuggler raped her and kept her identity documents, and the local law enforcement authorities were alerted.

Maria was later released from ICE custody and came to live with distant family/acquaintances in Delaware.

Maria is in removal (deportation) proceedings in Immigration Court.

Maria

While living in Delaware, Maria met Peter, a US Citizen, who became her intimate partner.

Initially Peter supporter her, but quickly became controlling and engaged in DV against Maria.

Part of partner's abuse is telling Maria he can get her deported because he is American.

Peter also controls Maria's access to money and resources, including basic necessities. Without money or resources, Maria took food from the local supermarket without paying, and was arrested by local law enforcement.

HYPOTHESIS #1

Maria

After being released on arrest for a shoplifting charge, Maria calls the DV hotline for information, help, and support.

HYP0 #1

HYP0 #1

What issues might Maria have?

What issues might Maria have?

- Immigration
 - Immigration Court / Deportation
 - Immigration Relief
 - Detention/Pending criminal charges
- DV Relief in Delaware
 - PFA
 - Criminal DV
 - VCAP
- Emotional issues / concerns
 - PTSD
- Medical care, needs, and coverage
 - Is she eligible for Medicaid?
- Identity documents
- Language barriers

How do you propose addressing these issues?

HYPOTHESIS #1

Questions? Thank you!

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