

Learning Objectives

TODAY'S OBJECTIVES:

- UAT'S UBJECTIVES: Know where to find the latest updates on the impact of COVID-19 on immigration practice Strategize for continued, trauma-informed lawyening in light of social distancing and quarantine policies Recognize the fundamental eligibility and filing elements for T visa relief

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COVID-19 Updates

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COVID-19 Updates

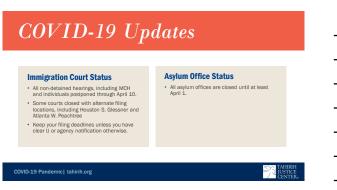
Tahirih staff, by default, will be working remotely until at least March 27, 2020. Calls will be forwarded and messages checked regularly, but response time may be impacted.

WHAT WE KNOW TODAY:

- HAT WE KNOW TODAY: National emergency, may states and localities are issuing emergency declarations. Bay Area counties are under shefter-in-place order. CCC recommends no gatherings of groups of more than 10 people for the next 8 weeks and limiting discretionary travel. Crisis holtines and most crisis related services, such as shefters, continue to operate. Survivors, like advocates, are figuring it day to day.

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COVID-19 Updates

USCIS Field Offices

- All Field Offices and ASC offices are closed until April 1
- Contact USCIS Contact Center for emergency requests for assistance.
- This does not affect filing deadlines for affirmative applications, such as VAWA, T, U visa, asylum, and SUS filings.

•	Check with local ERO offices.		
	•	Washington (Fairfax, Richmond,	
		Norfolk, VA): Check ins for March and	
		April will postponed and rescheduled.	
	•	Baltimore has posted a notice that all check ins to be rescheduled on or after May 1	

ICE/ERO Check Ins



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COVID-19 Strategies What if I have an asylum interview? If you have an asylum interview scheduled after offices reopen but you or your client is sick, consider a reschedule request: Houston.Asylum@uscis.dhs.gov ZARRescheduleRequest@uscis.dhs.gov

Trauma-Informed Strategies



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Trauma-Informed Strategies

Adjusting for Virtual Meetings with Clients:

- Use videoconferencing platforms when possible.
 Use videoconferencing platforms when possible.
 Shorten meetings.
 Encourage your client to eat before the meeting and have water available.
 Have meetings in a private setting and use headset, even though you're alone.
 Be transparent and collaborative with your client about the goals for the meeting.
 Make a plan for what to o if you get disconneeted.
 Use grounding techniques based on what's on screen.
 Be OK with silence and offering space for breaks and emotional responses.

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Trauma-Informed Strategies

Adjusting for Other Considerations:

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 If you will be meding with a citer in person out of need, prepare multiple copies of all relevant documents for signature.
 Use FedEx or other shipments with pre-paid return envelopes to have documents signed in for possible in person.
 In some circumstances, wet ink signatures might not be needed. Consult with your meltor atomey.
 Consider sending a taxi or Uber/Lyft for clients who would otherwise need to take public transportation.
 Be flexible and stay in contact with your clients.

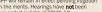
Latest Updates in Immigration Law & Policy

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MPP (Remain in Mexico)

SUPREME COURT RULING

PREME COURT RULING The 9th (ricuit on 2/28 issued a permanent injunction on MPP. Almost immediately, the 9th Circuit stayed lis decision. The administration requested an emergency stay from the Supreme Court Supreme Court granted stay on March 11 MPP will remain in effect pending litigation on the merts. Hearings have not been suspended in light of COVID-19.





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Recent BIA Decisions

Matter of W-E-R-B-, 27 I&N Dec. 795 (BIA 2020)

· Related to serious nonpolitical crimes bar

Matter of Jimenez-Cedillo, 27 IN Dec. 782 (BIA 2020)

• Md. Crim. Code 3-324(b) violation (sexual solicitation of a minor) is categorically a crime involving moral turpitude.

Other Asylum Litigation News

9th Circuit on Asylum Ban

 Affirmed the lower court's preliminary injunction of the

asylum ban on individuals

who enter between ports of

Between Ports of Entry

entry).

9th Circuit on Third Country Transit Asylum Ban

 Declined to stay injunction on implementation of transit asylum ban on those who were subjected to metering before July 16, 2019.

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Recent Circuit Decisions



 Initial grant of asylum had terminated, because an individual "loses his asylee status when he voluntarily and successfully adjusts to LPR status"

Barrientos v. CoreCivic, Inc., _____F.3d___, 2020 U.S. App. LEXIS 6158 (11th Cir. Feb. 28, 2020) * The TVPA applies to private for-profit contractors operating federal immigration detention facilities in suit alleging forced labor.

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Administrative Updates

Proposed Rule to Raise EOIR fees

- BIA Appeal \$110 → \$975
- \$50 Asylum application fee
 Increases to motion to reopen and other EOIR filing fees

Immigration Practice Manual

- Limits pre-hearing briefs to 25 pages
 File a motion to increase page limit
- Incorporate by reference
 Attach statements of law
- Don't restate facts in affidavit
 Consult with mentor attorney
- Law & Policy Undates Ltabirib erd

T Visa Nuts & Bolts TAHIRIH JUSTICE CENTER

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T Visa Nuts & Bolts

TODAY'S OBJECTIVES:

- Understand the basic analysis of severe forms of human trafficking
- severe forms of numari transcring and T visa benefits
 Evaluate and establish the elements of T visa eligibility
 Be equipped with key practice tips for successful T visa applications



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Severe Forms of Human Trafficking



Defined at 22 U.S.C. § 7102(11) and includes specific definitions for sex and labor trafficking.

Trafficking Elements



Minor Sex Trafficking Elements





T Visa Eligibility

ELEMENT	EXCEPTION
Is or has been a victim of a severe form of trafficking	None
Is physically present in the United States on account of trafficking	None
Complied with any reasonable request for assistance in the investigation or prosecution (if over 18)*	Inability to cooperate due to physical/psychological trauma
Would suffer extreme hardship involving unusual and severe harm if removed from the United States	None
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T Visa Eligibility

 "PRESENT
 Applicant is present in the US, or at a port of entry, on account of the trafficking

 "Initial entry does not have to be related to the trafficking*
 Initial entry does not have to be related to the trafficking trafficking cocurred is directly related to the original trafficking (including any exit/reentry)

 • USC children*
 • Access to trafficking related services

 • Continued cooperation with law enforcement
 • Continued cooperation with law enforcement

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Preparing the T Visa Petition

- Cover letter outlining eligibility; brief if novel/complex issue
- Forms: G-28, I-914, I-914A, I-914B or explanation, I-192, I-912
- ID: Copy of ID page of Passport
- Declaration
- Evidence in support of each element, including country conditions
 evidence and letters from therapists or advocates
- Proof of relationship for derivatives
- Positive discretionary factors
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Practice Pointers on RFEs

Troubling Language "Past Trafficking" RFEs IOUDIMINE LATISUAGE AFEs often indue troubling language such as incorrect statements of law, victim-bianning language, and overbroad/boilerplate language Consider including an argument about discretion, why the person shouldn't be issued an NIA and flagging any other forms of relief that the person is eligible/has applied for, and citing to the preamble to the T visar equivalence. Cite physical presence language of 8 CFR 214.11(g)(1)(iv) and Explain that the survivor is still accessing crucial victims' services, advocate that trauma is the reason the survivor is still in US Vs Fear of retaliation No resources to leave US Need to cooperate with law enforcement agency

Criminal Record RFEs

Consider potential self-incrimination on the part of the individual survivor

· Potential denial by USCIS based on discretion for failing to provide record Ties to trafficking victimization Whether criminal activity alleged would render client inadmissible

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Practice Pointers

Smuggling v. Trafficking RFEs

- Conflation of smuggling and trafficking; applicant "consented" to trafficking.
- Structure the affidavit and argument to begin at the point of when the smugging (consensual agreement) unred into the trafficking "Attempted" trafficking also qualifies for a T-visa: argue that the person would have ended up in the trafficking situation but for the escape/help from law enforcement

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Practice Pointers

Mental Health Record RFEs

- Weigh value of evidence in support of eligibility with inadmissibility risks related to "harm to self or others"
- · Before filing, evaluate what you include in the initial application

- Ber responsive to RFE and determine what you will provide
 inconsistent statements?
 Raing uncessary grounds of admissibility?
 Making uncessary grounds of admissibility?
 Making uncessary grounds of admissibility?
 Ensure mental health professional understands the purpose of the psychological evaluat
 Ensure mental health professional understands the purpose of the psychological evaluat

Trauma-Informed Lawyering



- Go back to basics of <u>trauma-informed</u>
 <u>lawyering</u>
- Patience, understanding, nonjudgment
 Remember the impact of trauma on memory, recall, and trust
- Attend to barriers like economic instability where possible (e.g. provide transportation
- via taxi or rideshare) • Offer space for choice and decision-making
- for survivors to reclaim agency and power

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How You Can Help Survey work is amplified by the power of many. As Pro Bono Network members, there are many ways to contribute your time, resources, and expertise. **Decourse: Decourse: Decour**

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