

Welcome! Please log your attendance here.



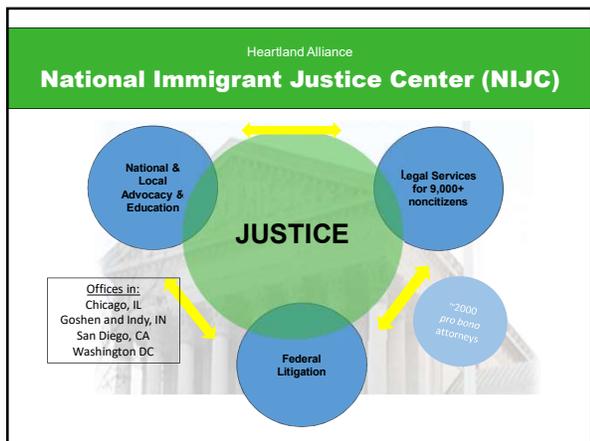
NATIONAL IMMIGRANT JUSTICE CENTER
A HEARTLAND ALLIANCE PROGRAM

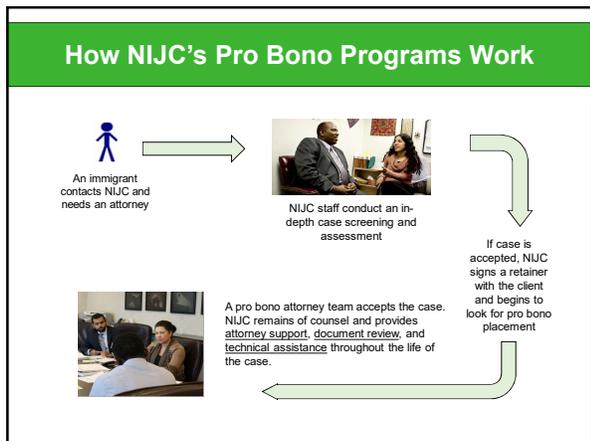
Trauma-Informed, Pro Bono Representation of Survivors of Human Trafficking

October 2023
immigrantjustice.org

Agenda

1. About NIJC's Pro Bono Projects
2. T Nonimmigrant Status ("T Visa") Overview
3. Trauma & Tips for Working with Survivors
4. T Visa Application Preparation
5. Client Meetings and Next Steps





Our Partnership	
NIJC's Role	Pro Bono Attorney's Role
<ul style="list-style-type: none"> • Case screening and acceptance • Provide pro bono training and materials • Pro bono attorney support and technical assistance • Malpractice insurance coverage 	<ul style="list-style-type: none"> • Attend training • Prepare and file application(s) • Represent client for duration of case or obtain substitute counsel within the firm • Provide NIJC with copy of filing, receipt & approval notices • Contact NIJC with any questions or concerns about case • <u>Keep NIJC informed of filing dates, requests for evidence and case decisions</u>

Human Trafficking Overview

Brief Definition:

- Human traffickers use force, fraud, or coercion to compel their victims to perform labor, services, and/or commercial sex acts against his/her will.

The Actors:

The Trafficker(s) → The Victims/Survivors

Push & Pull Factors: Root Causes of Exploitation

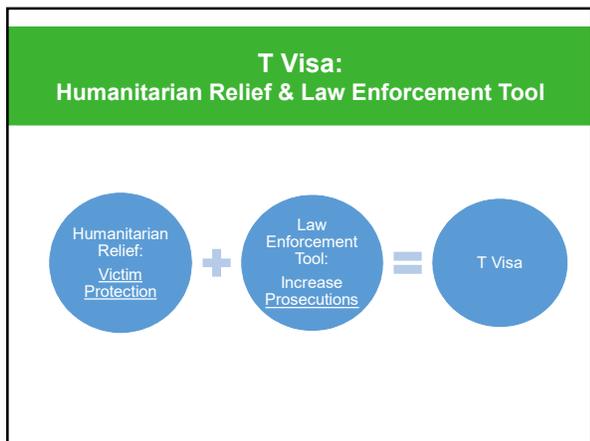
Push Factors:

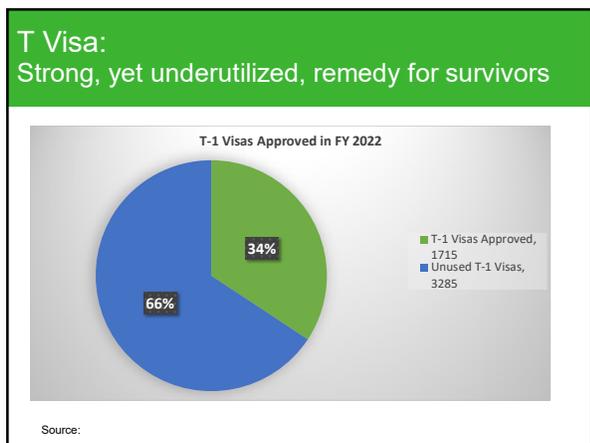
- Violence (physical, sexual, emotional)
- Poverty
- Lack of emotional security
- Trauma in home country
- Unstable housing & homelessness
- No sponsor after immigration detention

Pull Factors:

- Promises of well-paid work
- Trafficker provides sense of Support
- Hopes of self-reliance
- Trafficker presents opportunity to flee domestic violence or abuse

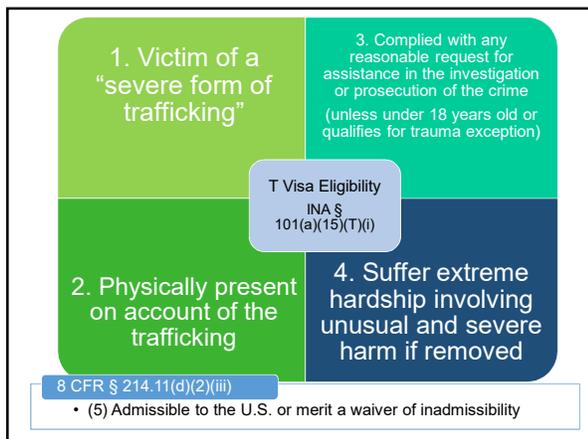
T Visa Benefits and Eligibility





What benefits does a T Visa recipient obtain?

-  Live and work in U.S. for 4 years as T nonimmigrant
 - Obtain a social security number
 - Apply for derivative status for certain family members
-  Can apply for green card
 - After either 3 years in T status or upon conclusion of investigation of crime
-  Eligible for certain state and federal benefits
 - Illinois law grants state funded benefits to anyone who is applying for or has filed for T Visa, if meet other requirements
 - Upon approval, eligible for federal benefits



**Element #1:
Defining "Severe Form of Trafficking"
22 U.S.C.A. § 7102(9)**

- (A) **sex trafficking** in which a commercial sex act is induced by **force, fraud, or coercion**, or in which the person induced to perform such act has not attained 18 years of age; or
- (B) [**labor trafficking**] the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of **force, fraud, or coercion for the purpose of** subjection to involuntary servitude, peonage, debt bondage, or slavery.

**Act-Means-Purpose Model:
Victim of "Severe Form of Trafficking"**

Act	Means**	Purpose***
Induce Recruit Harbor Transport Provide Obtain Patronize* or Solicit*	Force Fraud or Coercion	Commercial Sex (Sex Trafficking) Or Involuntary Servitude, Peonage, Debt bondage, or Slavery (Labor Trafficking)
<small>*only applies to sex trafficking 22 U.S.C.A. §7102(10)</small>	<small>** If victim under 18 is induced to perform a commercial sex act, it is human trafficking regardless of whether there is any force, fraud or coercion.</small>	<small>***Can be both labor and sex.</small>

**FORCE, FRAUD or COERCION
Defining "Coercion"**

- a) threats of serious harm to or physical restraint against any person;
- b) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
- c) the abuse or threatened "abuse of the legal process."

22 U.S.C.A. § 7102(3)



**Element #2:
Physically Present in the U.S. on Account of Trafficking**

Ask:
• "Why is applicant here today?"

NOT
• "Was the applicant trafficked into the U.S.?"

Present

- Still present in US after escape
- Brought into the U.S. to cooperate w/ LEA or civil litigation
- Left, but
 - Continued Victimization
 - New Incident of Victimization

Not Present

- Fleeing to the U.S. to escape trafficking abroad
- Voluntary left after trafficked in the U.S.
- Deported/removed from the U.S.

8 C.F.R. § 214.11(g)(3) (2017)

**Support for
Presence "On Account of Trafficking"**

- Fear of retaliation from trafficker in home country
- Need to access trafficking specific services in the U.S.
- No resources to leave the U.S.
- Need to continue to cooperation with law enforcement
- Need to access available legal remedies including civil remedies
- Continuing to experience severe adverse consequences as a result of the trafficking

8 C.F.R. § 214.11(g)(4) (2017)

**Element #3:
Complied with LEA's Reasonable Requests for Assistance**

- Law enforcement includes federal, state and local law enforcement
- Need only comply with "reasonable requests" for assistance
- Reasonableness depends on the totality of circumstances, the nature of the victimization, and specific circumstances of the applicant
- Law enforcement declaration (Form I-914, Supp. B) is not required and "is not given any special evidentiary weight."

8 C.F.R. § 214.11(b)(3) and (d)(3)

Exemptions for Law Enforcement Cooperation

Age	Trauma
<ul style="list-style-type: none"> • Applicant is under 18 "at the time at least one of the acts of trafficking occurred." 	<ul style="list-style-type: none"> • Applicant is unable to cooperate due to physical or psychological trauma <ul style="list-style-type: none"> • Re: Initial report • Re: Following report, must stop cooperating b/c of trauma, making the request unreasonable

INA § 101(a)(15)(T)(i)(III)(bb)(2012); 8 C.F.R. § 214.11(b)(3)(ii)(2017)

**Element #4:
Extreme Hardship if Removed**

8 C.F.R. § 214.11(i)

Admissibility

T Visa applicant must be admissible to the U.S. or otherwise obtain a "waiver of inadmissibility," 8 CFR 214.11(d)(2)(iii)

The statutory grounds of inadmissibility are listed at INA § 212(a). Common examples:

- lack of passport;
- entry without inspection;
- criminal convictions;
- fraud / misrepresentation;
- false claims to U.S. citizenship, including unlawful voting and falsification of I-9 form for employment;
- prior deportations

Waivers of Inadmissibility for T Applicants

If an applicable ground of inadmissibility has been triggered, the applicant must establish she/he merits a waiver of inadmissibility. Two part waiver analysis:

- INA 212 (d)(13)
 - USCIS determines whether there is a **connection** between the inadmissibility to **trafficking victimization**
- INA 212(d)(3)
 - USCIS determines whether a discretionary waiver of the inadmissibility should be granted in the **national interest**

INA § 212(d)(3), (d)(13); 8 C.F.R. § 212.16

Trauma & Tips on Working on Survivors

Trauma is...

any dangerous, frightening, and overwhelming event or series of events witnessed or experienced by any member of a family.

Science of Trauma



- Trauma impacts the way the brain processes an event
- Impacts ability to organize and recall event
- May not be able to recall key portions of traumatic event because those details were not key to surviving the event

Common Types of Client Trauma

 • Fear of Deportation	 • Financial Insecurity
• Social Marginalization	• Trauma from Victimization
• Separation from Family	• Trauma from Home country
	

Effects of Trauma

- Impaired Sense of Safety
- Hyperarousal
- Dissociation
- Difficulty Controlling Emotions
- Lack of Trust
- Appear jumpy, have frequent outbursts, confrontational
- Indifferent to legal proceedings or “checking out”
- Skip appointments
- Memory lapses, especially about the trauma
- Difficulty making decisions
- Decreased ability to concentrate



Tips for Working With Survivors of Trauma

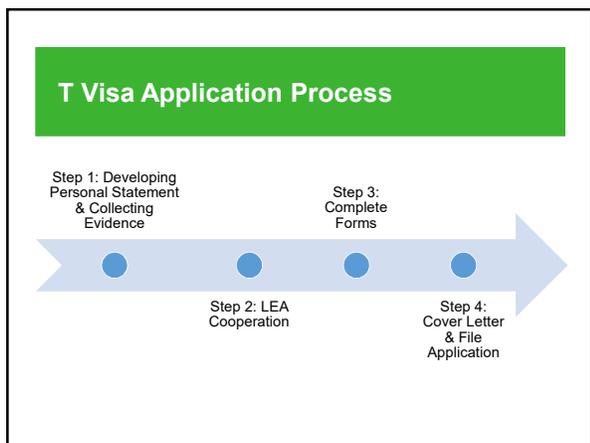
- Transparency**
 - Be reassuring and realistic about what you can do.
- Predictability**
 - Let them know what will happen next
 - Meeting agendas
- Client Control**
 - Provide them with choices and options
 - Where to sit, how to review affidavits, etc.
- Reliability**
 - Follow through on commitments, responsibilities and appointments.
- Support**
 - Empathize
 - Acknowledge that their feelings are rational in light of past experiences

Working with Social Service Providers

- Client needs often exceed the scope of our representation, and they can benefit greatly from working with a social service agency
- A social service case manager can connect a client to key resources such as:
 - Government benefits: SNAP, Housing Assistance, Healthcare
 - Employment training
 - Safety planning
 - Orders of protection



T Visa Application Preparation



Burden of Proof

- “The burden is on the applicant to demonstrate eligibility for T-1 nonimmigrant status.”
- USCIS considers all credible and relevant evidence when making eligibility determinations.

8 C.F.R § 214.11(d)(5)

Components of T Visa

All Submissions	<ul style="list-style-type: none"> <input type="checkbox"/> Cover Letter <input type="checkbox"/> Form G-28: Notice of Appearance as Attorney <input type="checkbox"/> Form I-914: Petition for T nonimmigrant status <input type="checkbox"/> Proof of LEA Cooperation <input type="checkbox"/> Applicant's Personal Statement <input type="checkbox"/> Identity Documents <input type="checkbox"/> Case Manager Letter <input type="checkbox"/> U.S. Dep't of State TIP Report 	If applicable
	<ul style="list-style-type: none"> <input type="checkbox"/> Form I-192: Waiver of Inadmissibility with signed addendum <input type="checkbox"/> Form I-912: Fee Waiver Request <input type="checkbox"/> Form I-914, Supp. B: Law Enforcement Certification <input type="checkbox"/> Form I-914, Supplement A: Petition for Derivative Applicant <input type="checkbox"/> Other supporting evidence 	

Form I-912 Request for Fee Waiver

- Receipt of means-tested benefit
 - Proof of receipt of VTTC (state) benefits
- Income below 150% of the federal poverty guidelines
 - Income tax return or W2
 - Recent pay statements
- Financial hardship
 - Statement from client
 - Statement from case manager
 - Medical bills, etc.

T-1 Petitioner's Personal Statement

The most important piece of evidence!

- Statement of the client in his/her own voice
- Should address all elements of T eligibility
- Balancing detail
- Present facts in light most favorable to client
- Chronological
- Avoid using the term "force," "forced," or "coerced" in it's colloquial form

See NIJC's one-hour pro bono webinar: "Client Counseling and Affidavit Preparation," available at <http://immigrantjustice.org/nijc-pro-bono-seminars>, for more tips on drafting an affidavit.

Drafting the Personal Statement



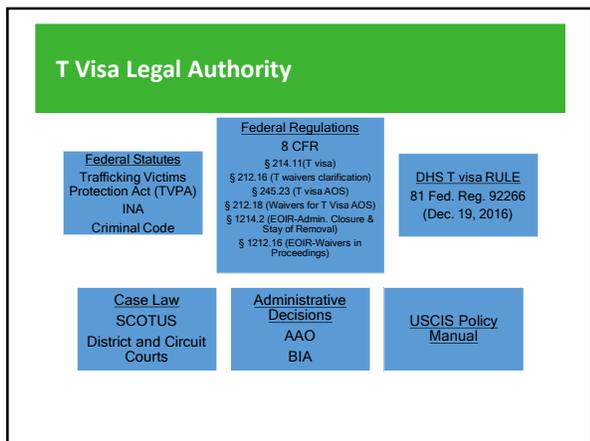
- Talk to your client about their trafficking experience
 - Ask "what," not "why"
 - Ask open ended questions
- Think creatively about supporting evidence
- Map "characters"
- Draw timeline, maps, or visuals to assist client

Law Enforcement Advocacy

- Reporting the crime
- Attending interviews and responding to LEA inquires
- Advocating for Continued Presence and/or law enforcement certification on Form I-914, Supplement B

Cover Letter

- Cover letter outlines legal argument of how applicant meets each element of T Visa
 - Summarize the facts
 - State the legal standard and apply the facts for each T visa element
 - Include pin cites to specific paragraphs of client statement or page numbers of other evidence
- Cover letter and personal statement reflect the same information
- Cite legal authority

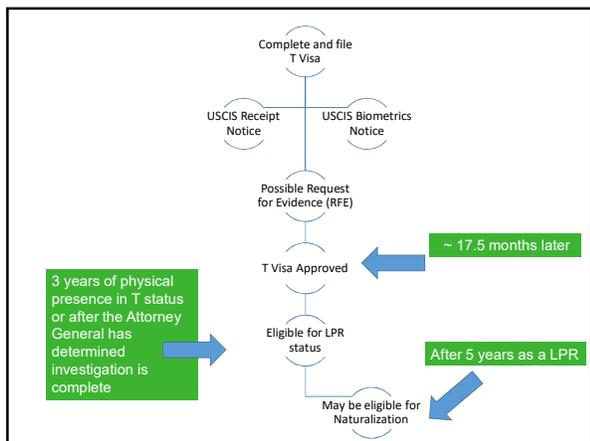


Submitting the Application Packet

- Filing should be indexed but **avoid using tabs!** USCIS prefers that documents are identified by page number. Use a two-hole punch at the top of the packet and fasten everything together with a metal two-pronged fastener. **Do not use side-binding or a plastic cover sheet.**
 - **Scan filing packet and send NIJC a file copy!**
- Requests for a T visa should be sent via certified mail or overnight delivery service to: <https://www.uscis.gov/I-914>

U.S. Citizenship and Immigration Services
Vermont Service Center
Attn: T Visa Unit
38 River Road
Essex Junction, VT 05479

Post - Filing



Contacting Vermont Service Center (VSC)

Inquiry Email: HotlineFollowUpI918I914.Vsc@dhs.gov

- Generally USCIS will not respond to inquires regarding case status if in normal processing times
- Consult with NIJC point of contact before sending
- Attach an executed G-28 to the inquiry and include your name, organization's name and phone number in addition to the client's name, date of birth, A number, receipt number for the application, and the nature of the inquiry

Next Steps

Case Expectations	
Date	To be completed
November 2023	Complete at least one client meeting to begin case preparation
December 2023	NIJC Office Hours – Affidavit drafting
February 2024	NIJC Office Hours - Law enforcement reporting
March 2024	First draft of cover letter and statement to NIJC (Erika) for review Initiate LEA report
April 2024	Full filing to NIJC (Erika) for review
May 2024	Case filed – send NIJC (Erika and Brandon) a file copy

Today's Client Meeting
<ol style="list-style-type: none"> 1. Introductions between the pro bono team and client 2. Figure out a plan for communication and next steps, including: <ul style="list-style-type: none"> ▪ Confirming current contact information ▪ Best days/times to meet 3. Review confidentiality 4. Give client opportunity to ask questions 5. Sign retainer/engagement letter

November Client Meeting
<ol style="list-style-type: none"> 1. Review case file and manual before meeting 2. Reiterate introductions, your role, and confidentiality 3. Review T visa process 4. Optional, begin a less intensive section of the statement, such as the background/childhood or services currently receiving in the U.S.

NIJC Staff Contact

Case specific questions:

Erika Asgeirsson, Supervising Attorney, Counter-Trafficking Project

P: 312-660-1362

easgeirsson@heartlandalliance.org

Brandon Jaimes, Paralegal, Counter-Trafficking Project

P: 312-660-1489

bjaimes@heartlandalliance.org

General Pro Bono Matters:

Ellen Miller, Pro Bono Manager

P: 312.660.1415

emiller@heartlandalliance.org

NIJC relies on philanthropy to do our work and grow as an organization

Your gift to NIJC empowers our team to:

- Respond to emerging issues
- Invest in staff
- Support pro bono programs
- Provide trauma-informed advocacy



The Difference YOU Can Make

 \$10,000 Helps an asylum seeker with a complex case	 \$5,000 Defends an asylum seeker against deportation in immigration court	 \$2,500 Sponsors a legal clinic for asylum & refugees to obtain lawful permanent residency
 \$1,000 Enables 10 cases completed about their legal rights	 \$500 Files a young immigrant's application to rene DACA	 \$100 Provides a legal consultation to help a family together

You can give today! [Immigrantjustice.org/donate](https://immigrantjustice.org/donate)

If you have questions about making your gift to NIJC, please contact: Carrie Schwarz, Associate Director of Philanthropy — cschwarz@heartlandalliance.org, 312.235.4617

Thank You!

 /ImmigrantJustice  @nijc

 /ImmigrantJustice 

 Immigrantjustice.org/action

 [Immigrantjustice.org/donate](https://immigrantjustice.org/donate)

Thank You!

Your feedback helps to ensure our pro bono programs remain most effective.
Please complete a brief survey using this QR code (required for CLE Credit).