Using a Victim-Centered Approach

Overview

U.S. Immigration and Customs Enforcement (ICE) issued a directive — Using a Victim-Centered Approach with Noncitizen Crime Victims — governing ICE’s immigration enforcement action policies involving noncitizen crime victims, including victim-based immigration benefits and continued presence in 2021.

Victim-Centered Approach

Federal law enforcement agencies broadly adopted a victim-centered approach where equal value is placed on the identification and stabilization of victims and on the deterrence, investigation and prosecution of perpetrators. The goal of a victim-centered investigation and prosecution is to focus the investigation and prosecution around the victim while minimizing any undue stress, harm, and trauma to the victim.

- Applying a victim-centered approach minimizes the unlikelihood that enforcement actions may deter noncitizens who are victims of crimes from contacting law enforcement, participating in investigations and prosecutions, pursuing justice, or seeking benefits.
- Maintaining a victim-centered approach encourages victim cooperation with law enforcement, engenders trust in ICE officers, and bolsters faith in the criminal justice and civil immigration systems.
- As a result, ICE established this policy to encourage noncitizens who are victims of crime to seek assistance and report crimes committed against them despite their undocumented status.

Victim-Centered Policy

In accordance with this policy, ICE officers will exercise prosecutorial discretion in appropriate circumstances to facilitate access to justice and victim-based immigration benefits for noncitizen crime victims.

Absent exceptional circumstances, ICE officers will refrain from taking civil immigration enforcement actions against noncitizens who are known beneficiaries of victim-based immigration benefits or those known to have pending applications for such benefits. In addition, when necessary and appropriate, ICE will coordinate with U.S. Citizenship and Immigration Services (USCIS) to seek expedited adjudication of victim-based immigration applications and petitions.

Additionally, ICE officers may encounter noncitizens who are victims of crime that are not yet the beneficiary of victim-based immigration benefits or do not currently have pending applications. To facilitate the ability for eligible noncitizens to apply for victim-based benefits, ICE officers will look for evidence that a noncitizen may be a victim of a crime, such as being
the beneficiary of an order of protection or being the recipient of an eligibility letter from the Office of Trafficking in Persons.

**Applicants For and Beneficiaries of Victim-Based Immigration Benefits**

When noncitizens have pending or approved applications or petitions for victim-based immigration benefits, ICE will refrain from taking enforcement actions against the applicant or petitioner until USCIS makes a:

- Final determination for pending T visa applications or Special Immigrant Juvenile Classification petitions
- Negative bona fide determinations or waiting list determinations for pending U visa petitions
- Negative prima facie determinations for pending Violence Against Women Act (VAWA) petitions

**Victim-Based Immigration Benefits**

Immigration benefits adjudicated by USCIS for noncitizen crime victims and their qualifying family members, including T nonimmigrant status (T visa) for qualifying human trafficking victims, U nonimmigrant status (U Visa) for qualifying victims of crime, VAWA relief for qualifying domestic violence victims, Special Immigrant Juvenile classification (SIJ) for qualifying children who have been abused, neglected, or abandoned by one or both parents.

**Continued Presence**

Continued Presence is an ICE-approved immigration designation requested by law enforcement nationwide for victims of human trafficking. This designation allows trafficking victims to remain lawfully in the United States temporarily and work during the investigation into the human trafficking-related crimes committed against them and during any civil action under 18 U.S.C. 1595 filed by the victims against their traffickers.