



# UNDERSTANDING ICE'S VICTIM-CENTERED APPROACH

Explaining ICE's new policy toward  
immigrant survivors of crime

**FEBRUARY 2023**

## WHAT IS ICE'S VICTIM-CENTERED APPROACH DIRECTIVE?

In August 2021, U.S. Immigration and Customs Enforcement (ICE) announced a new “victim-centered approach” for immigration enforcement. ICE agents are directed to show leniency toward immigrants who are survivors of crime. Specifically, ICE agents are instructed to consider an immigrant’s survivor status when deciding whether or not to:

- ▶ Stop, question, or arrest an immigrant
- ▶ Release an immigrant from custody
- ▶ Require an immigrant to appear before an immigration judge
- ▶ Grant parole to an immigrant
- ▶ Deport an immigrant or delay deportation

### **NOTE**

*THE VICTIM-CENTERED APPROACH IS NOT LAW AND IS NOT ENFORCEABLE IN COURT. WHILE ICE HAS BEEN DIRECTED TO TAKE THIS APPROACH, THE AGENCY'S OFFICERS ARE KNOWN TO OPERATE IN UNPREDICTABLE AND DIFFERENT WAYS. WE CANNOT ENSURE THAT ICE OFFICERS WILL ALWAYS FOLLOW THE GUIDANCE.*

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## **WHO IS PROTECTED BY THE VICTIM-CENTERED APPROACH?**

The victim-centered approach is intended to protect immigrants (and qualifying family members) who are:

- Survivors of human trafficking
- Survivors of assault, rape, or other crimes
- Children who have been abused, abandoned, or neglected by a parent
- Survivors of domestic violence

This includes immigrants who have applied for or currently receive a survivor-based immigration benefit, including:

- **T visa** for survivors of human trafficking
- **U visa** for survivors of certain crimes who have suffered physical or mental harm
- **Special Immigrant Juvenile Status (SIJS)** for children who have been abused, abandoned, or neglected
- **VAWA (Violence Against Women Act)** benefits for survivors of domestic violence

Under the ICE policy, more limited protections may also be available to those who qualify for these types of immigration benefits but have not yet applied.

## **I AM A SURVIVOR OF A CRIME. HOW DOES THIS NEW POLICY AFFECT ME, AND WHAT SHOULD I DO TO MAKE SURE I AM PROTECTED?**

ICE should not take enforcement actions against immigrants who are protected by this policy, unless exceptional circumstances exist.

**Arrests & Immigration detention:** ICE should consider whether a person has been a survivor of a crime when determining whether to make an arrest. If an immigrant is

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approved for a survivor-based benefit, they should be considered for release from detention. If you are a survivor of crime, inform ICE right away.

**Immigration court proceedings:** If you are in immigration court proceedings, your court proceedings may be temporarily suspended while your application for a survivor-based immigration benefit is pending. Once approved, immigration court proceedings may be terminated. If you have a case before the immigration court, inform the judge that you are a survivor of crime and whether you have applied for a survivor-based immigration benefit.

**Immigrants who have deportation orders:** Under the policy, ICE should not deport anyone with a pending application for a survivor-based benefit. Unfortunately, this policy does not cover immigrants who have already been deported.

## **HOW DOES ICE IDENTIFY IMMIGRANT CRIME VICTIMS?**

ICE should ask immigrants directly and access available records and databases for evidence of crime victimization. A person can generally be identified as an immigrant crime victim through immigration databases if they currently receive a survivor-based immigration benefit, or they have a pending application for a survivor-based benefit.

If you do not have a pending or approved application for a survivor-based benefit, ICE should also consider if you have obtained a protective order or a letter from the U.S. government certifying that you are a victim of a human trafficking. If you have not yet applied for survivor-based benefits, you may want to consider submitting other available evidence of crime victimization to ICE, such as police reports.

## **WHAT WILL ICE DO IF I HAVEN'T REPORTED THE CRIME TO LAW ENFORCEMENT YET?**

If ICE identifies an immigrant crime victim who has not reported the crime to law enforcement but desires to do so, ICE is directed to:

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1. Notify the appropriate local, state or federal authorities, or provide contact information for those authorities;
2. Inform the immigrant that they may qualify for immigration benefits;
3. Provide contact information for immigration legal service providers.

## **DOES THE POLICY STILL APPLY IF MY APPLICATION FOR A SURVIVOR-BASED IMMIGRATION BENEFIT IS DENIED?**

Immigrants whose victim-based immigration benefits have been denied are subject to potential enforcement actions and are no longer protected by the policy. However, even if the application was denied, ICE is directed to consider the circumstances of the victimization when deciding whether or not to take enforcement action.

To learn more about the [\*\*ICE victim-centered approach directive\*\*](#) and access additional resources for immigrant survivors of crime, see [\*\*ASISTA’s resources for survivors and advocates\*\*](#) and ILRC’s [\*\*community resources page\*\*](#).

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Are you a California Community College (CCC) or a California State University (CSU) student? If so, you qualify for <b>FREE</b> immigration legal services!		Discover more community explainers, toolkits, & alerts about immigration law.	
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