

# Changes to the Immigration Court System are UNDERMINING PROTECTIONS FOR SURVIVORS OF VIOLENCE



## DECISIONS IN MATTER OF CASTRO-TUM & MATTER OF L-A-B-R-

These decisions by the Attorney General (AG) limit the ability of Immigration Judges (IJs) to hold deportation proceedings to allow survivors' applications for protection to be adjudicated first. In *Matter of Castro-Tum*, the AG essentially barred IJs from using "administrative closure" to put deportation proceedings on indefinite hold. In the past, IJs could "stay" proceedings for survivors awaiting decisions on applications for protection, which could take years due to government backlogs. *Castro-Tum* has been overturned for cases arising in the 4th Judicial Circuit but is still in effect elsewhere. In *Matter of L-A-B-R-*, the AG limited what constitutes "good cause" to support a request for a continuance (extension) in deportation proceedings. This will result in some IJ's improperly denying survivors' requests. These decisions put survivors at risk of deportation before they can prove they are eligible for protection.



## IMMIGRATION JUDGE QUOTAS

The Dept. of Justice (DOJ) is now requiring IJs to clear at least 700 cases a year, have fewer than 15% of their decisions overturned on appeal, and finish cases within just days after holding a hearing. These demands compromise a fair process for survivors who need adequate time to plead their case and whose cases, in the context of gender-based asylum, often present nuanced legal issues. The focus on quantity over quality will increase the speed and number of deportations of survivors who have a legitimate claim to protection in the U.S.



## BOARD OF IMMIGRATION APPEALS (BIA) RULE CHANGES & EXECUTIVE OFFICE FOR IMMIGRATION REVIEW (EOIR) REORGANIZATION

DOJ has made dramatic changes to BIA rules that would permit rapid decisions on cases, including those involving survivors of violence. This will make near-certain that the appellate court will not adequately consider claims for protection. It will also lead to rapid changes in immigration law through precedent-setting decisions, even if the decisions lack the support of a majority of BIA judges. In August 2019, DOJ published an interim final rule that among other concerns, establishes aggressive BIA case review goals and allows the EOIR Director to review and decide cases that have been pending longer than 90 days.



## MOUNTING BACKLOGS, WAIT TIMES

Survivors of domestic violence, sexual assault, human trafficking and other violence are experiencing egregious delays in the processing of their applications. The immigration court backlog has now exceeded one million cases, including because of Administration docket-management decisions. It now takes a minimum of 1.5 years for United States Citizenship and Immigration Services (USCIS) to adjudicate a VAWA self-petition or a T-visa application. The delays for U-visa applications have skyrocketed as the initial adjudication process now takes over 4 years, and due to annual visa caps, the issuance of an actual U-visa can take years longer. Other policy decisions are shifting available resources to enforcement and to the border. Asylum-seekers can face waits of several years for a decision on their cases. Coupled with other barriers like a lack of work authorization, these delays can be devastating to survivors who face economic hardship, and can subject them to additional risks of violence, exploitation, and manipulation.



## VIDEO ADVISORIES REPLACE INTERPRETERS

The Administration has begun replacing live language interpretation for litigants in immigration court with one-size-fits-all video advisories about immigration court processes. Reliance on videos complicates IJs' jobs, and delays proceedings as judges struggle to make sure petitioners understand their rights. Moreover, it can pose particular barriers for survivors of domestic violence, sexual assault, human trafficking, and other trauma to communicate with the court if they do not have the assistance of an interpreter to speak to the violence they endured.