

Immigration Updates: Practical Advice for Advocates and Organizations

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Meet your Presenters



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Poll: Check-in With CLINIC Affiliates

- Has your organization's funding for immigration legal services been affected by the Presidential Orders?
 - Yes
- *Has any of your legal staff been furloughed or are they facing a potential furlough?
 - Yes
 - No
- Have you heard of ICE detentions in sensitive locations, such as schools, or at courthouses, including immigration courts?
 - Yes
 - No

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Today's Learning Goals:

- Remember CLINIC's Resources & Services Exclusive for Affiliates & Available to the
- Learn updates affecting asylum seekers and refugees.
- Understand the latest updates and changes from USCIS.
- Discuss policy changes affecting parolees, including the termination of parole programs and the expansion of expedited removal.
- Review how recent policy changes affect noncitizens in removal proceedings.
- Learn CLINIC's latest advocacy efforts to combat Trump's agenda.
- Discuss effectively communicating with clients, staff, and stakeholders, including ethically advising clients, and the importance of maintaining ethical caseloads for

New Webpage on Responding to the New Administration



Responding to the New Administration

- Public Resources:

- Removal Toolkit
 Practice Pointer: Preparing for a Second Trump Administration
- Community Education Materials

Updates on Asylum Seekers and Refugees

Border Shutdown: 212(f) Proclamation

- Reports of CAT Assessment Notices for "Alien/s" Whose Entry Has Been Suspended and/or Restricted Pursuant to INA §§ 212(f) or 215(a).
 - Sample 212(f) CAT Screening Notes Released by AILA.
- Deportations to Third Countries of Individuals granted Withholding/CAT.
 - Practice Advisories National Immigration Litigation Alliance
 - Protecting Noncitizens Granted Withholding of Removal or CAT Protection Against Deportation to Third Countries Where They Fear Persecution/Torture (with appendices) I January 2025
- MPP back in force and CBP ONE suspended. Announcement of CBP Home App.

CLOSED BORDER

Recap: Ban on Refugee Processing

Who is Affected?

- All priority referral categories (Priority 1, Priority 2, and Priority 3).
- Central American Minor (CAM) Program.
- Follow-to-join refugees (FTJ-R)
 Advisable to file I730 w/in 2 years & consider
 - other avenues too!

 Reopening Limited FTJ-R p
- Afghan relocation CARE suspended (potentially closing soon).
 See CLINIC'S TIPs on Afghans & CARE.
- Organizations receiving USRAP funding, including many CLINIC affiliates!

Who should not be directly affected?

- Follow-to-Join asylees (FTJ-A)
- I-130/IV consular processing
- Refugees inside the U.S.
- Afghan/SIV applications, interviews, & application processing at embassies and $% \left(1\right) =\left(1\right) \left(1\right)$ consulates.
 - SIV holders can book own travel.
 - Benefits impacted.
- Resource: International Refugee Assistance Project (IRAP).

Reporting: New Trump Travel Ban

- Executive Order 14161 "Protecting the U.S. from Foreign Terrorists & National Security Threats," set deadline March 21, 2025, whereby federal agencies must identify countries with "deficient" visa vetting. What "deficient" means is unclear as U.S. government vetting is already very thorough.
- Expected to pave the way for a renewed travel ban, potentially affecting nationals from multiple Muslim-majority countries.
- Draft recommendation circulating inside the executive branch proposes a "red" list of countries per Trump Administration Prepares to Revive and Expand Travel Bans - The New York Times
 - Trump First Administration issued several different bans, affecting countries such as: Iran, Iraq, Libya, Somalia, Sudan, Syria, Venezuela, Chad. See Archive: First Trump Administration Travel
 - Speculation: this ban could include Afghanistan & Pakistan, among other countries.
- Only reports but carefully consider warning potentially affected clients and/or family members and keep up with the news. Expect litigation like Trump 1.0!

Recent FTO Designations

- Feb. 20, 2025: Federal Register notice designating new Foreign Terrorist Organizations (FTOs)
- Which organizations are included in the new designation?

 - Mara Salvatrucha (also known as MS-13).
 - Cartel de Sinaloa (also known as Sinaloa Cartel, Mexican Federation, Guadalajara Cartel).
 Cartel de Jalisco Nueva Generacion (also known as New Generation Cartel of

 - Jalisco, CJNG, Jalisco New Generation Cartel).
 - Jansou, Livio, Jansou new Generation Larten;
 Carteles Unides diso known as United Cartels, Tepalcatepec Cartel, Cartel de Tepalcatepec, The Gridel Abuelo, Cartel de Los Reyes).

 Cartel del Noreste (also known as CDN, Northeast Cartel, Los Zetas).

 - Cartel del Golfo (also known as CDG, Gulf Cartel, Osiel Cardenas-Guillen Organization).
 La Nueva Familia Michoacana (also known as LNFM).

TRIG bars to asylum & withholding of removal if "engaged in terrorist activity," including provided "material support." INA § 212(a)(3)(B)(iv)(VI).

Case Examples

- Luis, a fruit vendor in El Salvador, is forced at gunpoint to pay extortion money, known as "la renta," to MS-13 to continue operating his stand.
- *Carlos, a restaurant owner, serves food to members of the Cartel de Jalisco Nueva Generación when they occasionally visit his establishment.
- Vanessa, a mother from Mexico, pays a ransom to the Sinaloa Cartel to secure the release of her kidnapped son.
- ■Pablo, a Venezuelan asylum seeker, pays Tren de Aragua as part of his journey to the United States.

Are there any available exceptions or exemptions?

Available Exemptions

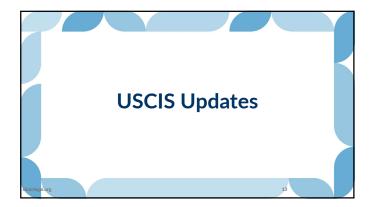
- 3 Situational Exemptions:
- 1. Duress: reasonable fear serious harm/death.
- 2. Certain Limited Material Support (CLMS): Routine commercial/social transaction.

 - Material support given under pressure not rising to duress.
- 3. Insignificant Material Support (IMS):
 - minimal in amount & believed to have little/no impact.

Exceptions?

- No de minimis amount exception for having provided material support to a terrorist organization. Matter of A-C-M-, 27 I&N Dec. 303 (BIA 2018).
- No duress exception. Matter of M-H-Z, 26 I&N Dec. 757 (BIA 2016).
- Tier III groups require proof by clear and convincing evidence the knew or should have known organization was a terrorist group.
- Available arguments for broader knowledge exception to include Tier I FTOs.

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New Form Editions - 1/20/2025 Acceptance Form I-918 - Petition for U Nonimmigrant Status, (plus I-918A and I-918B) 05/05/2025 Form I-485 - Application to Register Permanent Residence or Adjust Status 04/03/2025 (including I-485A and I-485J) Form I-192 - Application for Advance Permission to Enter as a 04/03/2025 Nonimmigrant Form G-325A - Biographic Information (for Deferred Action) 04/03/2025 Form I-134 - Declaration of Financial Support 04/03/2025 Form N-400 - Application for Naturalization 04/04/2025 Form I-131 - Application for Travel Documents, Parole Documents, and 04/04/2025 Arrival/Departure Records Form I-914 - Application for T Nonimmigrant Status, (plus I-914A and I-03/24/2025

USCIS Proposed New Collection of Info

On March 3, DHS proposed updates via publication in the FRN to several forms to collect 24 new data elements, including residence and contact info of applicants' parents, spouses, siblings, and children.



- **Forms Affected**: N-400, I-131, I-485, I-589, I-590, I-751, I-730, I-131A, I-90
- -60-day comment period due May 2, 2025.
- DHS requested IRS provide addresses of undocumented individuals. As of now, IRS has declined.



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- USCIS launched a registry page on its website requiring all "aliens" to register with the government citing INA § 262 (8 U.S.C. 1302).
 - Applies to individuals ${\bf 14}\,{\bf years}$ or older who were not previously registered.
 - Failure to register may lead to criminal and civil penalties (fines/misdemeanor charges).
 - New Form <u>G-325R</u> will be used for registration via an **online process** (details pending).
 - Registration ≠ Immigration Status (Does not provide work authorization or benefits). • Registered individuals over 18 must carry proof of registration.
- New Interim Final Rule Published: Comments on the new rule are due by April 11, 2025, and comments on the Form G-325R due by May 12, 2025.
- · Helpful Resources:
 - FAQ: The Trump Immigration Registration Requirement NILC.
 - Practice Alert: DHS to Publish the Alien Registration Form and Evidence of Registration Interim Final Rule

Who Must Register?

Not Yet Registered

- Undocumented individuals (no inspection, admission, or
- Some Canadian visitors (land entry without registration).
- People who entered EWI and have applied for or were granted asylum, (TPS), or DACA but were not granted an EAD or advance parole.
- Children w/ pending petition for an immigration benefit or Immigrants issued NTAs. other derivative beneficiaries of immigrant petitions present in the U.S. who have not been granted an EAD.
- Children who turn 14 years old within 30 days of their birthday, even if they were previously registered by a parent or legal guardian.

Already Registered

- · LPRS.
- 212(d)(5) parolees, even if terminated.
- Nonimmigrants issued Form I-94/I-94W.
- · Immigrants issued visas prior to arrival.
- · Immigrants with EAD cards.
- · Applicants w/pending AOS.
- · Holders of Border Crossing Cards.

Memo on Issuance of NTAs

- Feb. 28, 2025, U.S. Citizenship and Immigration Services (USCIS) Memo.
- USCIS can issue NTA to applicant if:
 - benefit request is denied/withdrawn when criminal grounds for removal are present.
 - for denied/withdrawn TPS applications if not in lawful status.
 - fraud or misrepresentation is found, even if application is denied for other reasons.
 - noncitizen is not lawfully present after benefit denial (no protection for U/T/VAWA
 - naturalization applicant was inadmissible at the time of adjustment/admission.
- DACA recipient information will not be used to initiate removal proceedings!
- ■Check out CLINIC's New Resource: USCIS Issues New NTA Guidance Memo. See also Practice Alert: USCIS Policy Memo on the Issuances of NTAs.

Key Updates Affecting UCs

- ORR Updates Background Check and ID Document Procedures for Sponsors, Household Members, and Adult Caregivers of Unaccompanied Children.
 - <u>Field Guidance</u>: Now Requires Fingerprinting & Clearance for All Adult Sponsors, Household Members & Caregivers Before UC Release.
- "USCIS Memo Updating Procedures Determining Initial Jurisdiction Over UC Asylum Applications:
- Implements J.O.P. settlement agreement.
- Applies to J.O.P. class members, previous UC determinations, and certain cases without UC status.
- Valid Until: At least Feb. 24, 2028
- Supersedes 2009 & 2013 guidance on "initial jurisdiction" under the TVPRA.

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19

Expansion of Expedited Removal & Policy Changes Impacting Parole & TPS

Expansion of Expedited Removal

- Previously:
 - "Arriving aliens" or
 - Anyone apprehended within 14 days of arrival and 100 air miles of horder
 - And inadmissible under INA 212(a)(6)(C) (fraud or misrep) or INA 212(a)(7)(A)(i)(not in possession of valid entry documents)
- Now:
 - "Arriving aliens" <u>or</u>
 - Anyone physically present in the United States for less than two years
- And inadmissible under INA 212(a)(6)(C) or INA 212(a)(7)(A)(i)
- DHS Notice, "Designating Aliens for Expedited Removal"

Expansion of Expedited Removal - Cont'd

- **■**Guidance Regarding How to Exercise Enforcement Discretion
 - Review cases of noncitizens and consider enforcement action, including potentially terminating parole and/or full removal proceedings and initiating expedited removal:

Category 1: All those in expansion "Designating Aliens for Expedited Removal"

<u>Category 2:</u> Any noncitizen DHS is aware of who does not meet category (1) but was granted a categorical parole (such as the CHNV program).

- Internal ICE email* suggests that ER can be used against noncitizen who was apprehended and released at any time in past
 - At a port of entry (as "arriving alien")
 - EWI, within 14 days of arrival and 100 air miles of border
- Priority: those w/out pending affirmative asylum applications

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* As reported by Reuters and Washington Post

Expansion of expedited removal, cont'd

- Internal ICE Email, cont'd:
 - Also: noncitizens granted withholding of removal or CAT protection and
 - ICE to reevaluate these cases for possible expedited removal to third countries
 - Noncitizens not previously removed due to a finding by ICE that removal would not be possible in the foreseeable future to the noncitizens' countries of origin.
 - ICE to reevaluate these cases for possible expedited removal given this administration's "significant gains" in negotiating acceptance by those countries unwilling to accept their citizens in the past.

22

Parole and the Impact of Expanded ER

- Jan 20, 2025 Executive Order, "Securing Our Borders" directed DHS secretary to terminate all categorical parole programs.
 - Also cease use of CBP One
- <u>Jan. 21, 2025 DHS directive</u> phase out all Biden-era parole programs
- <u>■Update on Form I-134A | USCIS</u>
 - "Due to the Jan. 20, 2025 Executive Order, Securing Our Borders, USCIS is pausing acceptance of Form I-134A, Online Request to be a Supporter and Declaration of Financial Support, until we review all categorical parole processes as required by that order."
- Websites for the following categorical processes have been deleted and instead link directly to the Update website: Processes for Cubans, Haitians, Nicaraguans, and Venezuelans; Uniting for Ukraine; and Family Reunification Parole Processes.

Parole and the Impact of Expanded ER, cont'd

Remember Guidance:

Category 2: Any noncitizen DHS is aware of who does not meet category (1) but was granted a categorical parole (such as the CHNV program).

■Internal ICE Email

■ Specifically targets parolees: "paroled as arriving aliens; processed for "Parole + ATD"; and "Parole with Conditions."





25

Expedited Removal and Parolees – Potential Target?

- Marcus, a CHNV parolee whose parole expires on 3/2026
- Aryana, who arrived at the United States through CBP One and was given two-year parole
- Keri, who entered without inspection more than two years ago, was apprehended within 14 days and 100 air miles of the border, and paroled for one year
- Simin, who presented himself at a POE more than two years ago without documents, and was paroled for one year

26

Temporary Protected Status

- Revocations of TPS for Venezuela
- For those who registered under the 2023 designation, TPS designation expires on April 2, 2025. DHS has determined to terminate this designation. By 7/12/2025, DHS will decide whether to extend or terminate the 2021 Venezuela TPS designation
- Note some overlap with the parole/TPS designations- many individuals who came under CHNV in 2022 and early 2023 later registered for TPS

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Expansion of expedited removal, cont'd

- How to guard against this?
 - If clients have been in the U.S. for more than two years, have them carry proof of that physical presence with them.
 - If clients entered with a visa and overstayed, have them carry proof of entry
 - If clients possibly subject to expedited removal and have a fear of return, consider having them file an application for asylum
 - If clients are already in removal proceedings, fight any effort by DHS to dismiss proceedings
 - Review clients' cases to see if any other relief available

Are There Options Once Client is in ER? Generally, no. Can get asylum case review by IJ if pass credible fear interview But NO review of ER order by IJ or federal judge unless noncitizen claims they're a USC, LPR, refugee or asylee

EOIR Updates Key Highlights

ICPM and New Memos



- ICPM Online
- Several new PMs:
 https://www.justice.gov/eoir/eoirpolicy-manual/memoranda-pm-list
 o 25-16: Making it harder for
 respondents to benefit from PD.

 - o PM 25-17: Expedite Asylum Cases win 180 days to max extent possible.
 - PM 21-13: Limit continuance "good cause shown" & "exceptional circumstances."
 - o PM 25-18: Limiting "Friend of the Court."

EOIR Regulations on Case Efficiency and Docket Management

- Remember! EOIR regs on termination and administrative closure even in the absence of the possibility of prosecutorial discretion.
 https://www.cliniclegal.org/resources/removal-proceedings/frequently-asked-questions-new-doj-regulations-efficient-case-and_
- DHS announcement to review all pending EOIR cases if amenable to ER. Requires a motion to dismiss & IJ approval before any ER initiation.
 See Template Opposition to DHS Motion to Dismiss to Pursue Expedited Removal | NIPNLG.
- Great Resources:
 - **Removal Toolkit Motions to Terminate and Administratively Close Sample Documents | Catholic Lega | Immigration Network, Inc. (CLINIC). **Policy Brief: The Trump Administration's Assault on Immigration Courts.
- cliniclegal org



Latest Advocacy Efforts to Combat Trump's Agenda

Regulation and Form changes

- Generic Clearance for the Collection of Certain Information on Immigration Forms (Due May 2)
- -Alien Registration Form and Evidence of Registration (Due Apr 11 rule / May 12 - form)
- New form editions, as mentioned earlier
- Just announced: Proposed revisions to R&A application forms, EOIR-31 and EOIR-31A, with a 60 day comment period
- -Advocacy Training deep dive on Public Comments on March 26

Types of Advocacy

- Letters to the Administration from CLINIC or a sign-on letter from affiliates.
- ■If the change is a regulation, Public Comments
- Congressional Outreach affiliates and the public call their members of
- ■Public pressure campaign Social media campaign, publishing an op-ed in a newspaper, pitching stories to newspapers
- Litigation

Does Advocacy work?

- Advocacy works in different ways under different administrations.
- Submitting a letter or public comment
 - o Effort to educate the administration and change their mind
- Effort to build the administrative record to support future litig.
 Congressional Outreach
 - Effort to encourage legislative action or oversight hearings
- Oversight hearings still possible, or contribute to public pressure campaigns
 Litigation
- - Requires an administrative record to demonstrate that the administration considered then ignored important information.

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Trump Administration Reverses Course, Will Restart Legal Aid for Migrants

How to Be Involved in CLINIC's Advocacy

- If you want more interaction, Join the CLINIC Action Network Listserv
 - o Email <u>advocacy@cliniclegal.org</u> and request to join the CAN Listserv
- Attend Advocacy's Quarterly Affiliate Roundtables o Next roundtable: March 28!



Program Management Response

Upcoming Webinar & Resources
4/29/25 Webinar: Program Management Response to Trump 2.0 Upcoming Resources: Responding to Funding Challenges Factors to Contemplate when Considering Downsizing & Program Closure Navigating Changes under Trump 2.0: Practical Guidance for Advocates and Programs Navigating EOIR Directives under Trump 2.0: Practical Guidance for Advocates and Programs
39

Trauma-Informed Practices: Communication and Ethical Caseloads

Transparent Communication is How SAMHSA Promotes Trauma-Informed Care Trauma-informed approaches recognize and intentionally respond to the lasting adverse effects of experiencing traumatic events. SAMHSA defines a trauma-informed approach through six key principles: 1. Safety: participants and staff feel physically and psychologically safe. 2. Peer support: peer support and mutual self-help are key as vehicles for establishing safety and hope, building trust, enhancing collaboration, and utilizing their lived experience to promote recovery and healing. 3. Trustworthiness and Transparency: Organizational decisions are conducted with the goal of building and maintaining trust with participants and staff. 4. Collaboration and Mutuality: importance is placed on partnering and leveling power differences between staff and service participants. 5. Cultural, Historical, & Gender Issues: culture and gender-responsive services are offered while moving beyond stereotypes/biases. 6. Empowerment, Voice and Choice: organizations foster a belief in the primacy of the people who are served to heal and promote recovery from trauma.

Don't withhold or inappropriately delay!



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Communicate!Transparently, Deliberately, Timely, & Consistently



- ■Be Genuine & Appropriately Vulnerable
- Remember Everyone's Humanity!
- Recognize Difficulties & Be Realistic
- Provide Clear Explanations
- Focus on Facts & Potential Solutions
- **¬**Space for Questions/Feedback − & Respond!
- ■Be Consistent Provide Updates

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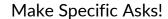
Communicating with Staff

- Remember, their livelihood is at stake
 - They deserve updates!
- Seek their feedback before making decisions
 - On-the ground experience is invaluable!
- Respond to their concerns specifically
 - If you don't have the answer now, set a specific time by which you'll get back to them

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Communicating with Funders

- Transparency about lost funds
- ■Instill stability & confidence





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- Full explanation of risks & benefits
- Ensure understanding
- Use informed consents
- You do not (and cannot) represent everyone

Equip (with information)

&

Empower

(to make decisions)

Ethically Advising Clients

- Model Rule 1.4(b)- A lawyer shall explain a matter to the extent reasonably necessary to permit
 the client to make informed decisions regarding the representation.
- Model Rule 2.1 In representing a client, a lawyer shall exercise independent professional
 judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but
 to other considerations such as moral, economic, social and political factors, that may be
 relevant to the client's situation.
- Model Rule 1.2(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.
- *Determine whether your state's ethical duties differ from the model rules.

4

Ethically Advising Clients

- ■INA § 274(a)(1)(A)(iv): making it a crime "to encourage or induce a foreign national..... to reside in the United States knowing that residence is or will be in violation of the law."
- 8 CFR 1003.102 (n): Grounds for Sanctions where a practitioner "Engages in conduct that is prejudicial to the administration of justice or undermines the integrity of the adjudicative process. Conduct that will generally be subject to sanctions under this ground includes any action or inaction that seriously impairs or interferes with the adjudicative process when the practitioner should have reasonably known to avoid such conduct."

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It cannot be emphasized enough:

WE CANNOT DO EVERYTHING

and it is in the interest of our dignity and wellbeing that we focus on the things that we \underline{do} have control over rather than those we \underline{do} not.

Wellness as a Framework for Program Management

- Balancing Conflicting Priorities

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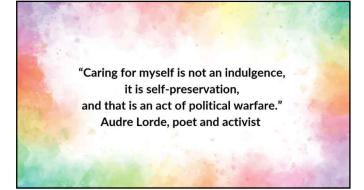


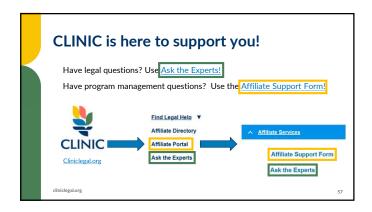
Manageable Caseloads Determine current client obligations Estimate time commitment Implement clear case selection criteria Limited scope representation 100% ready rule Cultivate partnerships & Referral systems Communicate with funders about barriers to meeting deliverables

Expand Services Strategically Community Outreach Clinics Know Your Rights Safety Planning

Perform Comprehensive Legal Screenings (upcoming tool to be published!) Consider re-screening clients who have lost/may lose status Clients with less stable forms of relief Managers/Supervisors should: Identify and encourage/require trainings to maintain competence Provide ongoing support Empower staff to fight back Promote — and provide time and space for — wellness







Resources

- USCIS Issues New NTA Guidance Memo (includes draft consent form which we are also having translated into Spanish: https://www.cliniclegal.org/resources/humanitarian-relief/uscis-issues-new-nta-guidance-memo
- Draft Letters to Clients Regarding Immigration Enforcement (English and Spanish). <u>Draft Letters to</u> Clients Regarding Immigration Enforcement (English and Spanish) | Catholic Legal Immigration Network, <u>Inc. (CLINIC)</u>
- Frequently Asked Questions on the Designation of New Foreign Terrorist Organizations and Its Impact on Asylum Seekers (includes appendices with screening questions and sample documents from the EOIR exemption process). https://www.cliniclegal.org/resources/asylum-and-refugee-law/frequently-asked-questions-designation-new-foreign-terrorist
- CLINIC Practice Advisory Overcoming Obstacles Representing Afghans in Proceedings

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