Executive Summary

June 9, 2011

USCIS Unauthorized Practice of Immigration Law Initiative

Introduction

The unauthorized practice of immigration law (UPIL) is a serious national problem that adversely impacts individuals throughout the country. Anyone who is in need of an immigration benefit, either for himself or a family member, can be harmed by UPIL, including U.S. citizens, lawful permanent residents, nonimmigrants, refugees and asylees, and undocumented aliens. U.S. Citizenship and Immigration Services (USCIS) will combat this pervasive problem through its UPIL Initiative. The UPIL Initiative will bring together members of immigrant communities, community organizations, and federal, state, local law enforcement agencies in order to:

- Better inform the public on how to identify and avoid immigration services scams and find legal advice and representation when seeking immigration benefits;
- Increase the number of BIA recognized organizations and accredited representatives; and
- Provide information on how to report individuals and businesses that engage in the unauthorized practice of immigration law and provide a forum for information sharing among federal, state, and local law enforcement agencies charged with sanctioning or prosecuting those who engage in the unauthorized practice of immigration law and immigration services scams.

Background

In January 2010, the USCIS Office of Public Engagement began development of the UPIL initiative by hosting a national engagement session on UPIL in Washington, DC to solicit individual feedback from stakeholders regarding the nature and scope of the UPIL problem. Following the national engagement session, USCIS selected seven partner cities to participate in the initiative: Atlanta, Baltimore, Detroit, Fresno, Los Angeles, New York and San Antonio. These cities were selected based on their geographic and ethnic diversity and because they represent a mix of well-established and recent immigrant gateways and cities with varying degrees of existing UPIL efforts and resources. Ultimately, USCIS intends to implement the initiative nationwide.

USCIS subsequently hosted engagement sessions in each of the seven partner cities to enable community members, community organizations, and government officials to share their individual views regarding how best to achieve the stated aims of the UPIL initiative. The engagement sessions helped foster improved coordination and resource sharing among interested stakeholders. In addition, the engagement sessions helped to inform future public education, capacity building, and enforcement efforts on a nationwide basis.

Scope of the Problem

UPIL encompasses a wide variety of activities, ranging from scammers who intentionally defraud their victims by posing as licensed attorneys, immigration experts, or government officials, to well-intentioned

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friends and family members who unintentionally provide inaccurate advice on immigration law or procedures that ends up harming the people they are trying to help.

Some stakeholders in the partner cities stated that the UPIL problem was widespread and pervasive, noting that many immigrants are unfamiliar with the U.S. immigration system, and are therefore susceptible to being deceived by scammers who tell them that they qualify for immigration benefits for which they are actually ineligible. For immigrants who do not speak English, language is a significant barrier to understanding the U.S. immigration system and the process for applying for immigration benefits. This problem is particularly prevalent among immigrants who may be illiterate even in their native languages.

Common Immigration Services Scams

The typical immigration services scam involves a scammer deceiving immigrants into believing that they qualify for an immigration benefit for which they are actually ineligible. In some instances, the scammer will file benefit applications on behalf of their victims, knowing that the applications will be denied. In other instances, the scammer will take the victim's money, but file nothing with USCIS. The amount of money taken from immigrants in such scams can vary from a few hundred dollars to tens of thousands of dollars.

Scammers often set up businesses in areas with large immigrant populations, typically within their own ethnic communities, and may charge lower fees than licensed attorneys in order to lure victims to their scams. Conversely, some scammers charge exorbitant fees, based on fraudulent claims that they have a special relationship with the government or can obtain immigration benefits faster than normal. Often, these individuals advertise by word of mouth, through flyers, the internet, and paid advertisements in the phone book, newspaper, and on the radio.

A common immigration services scam that occurs in Spanish-speaking immigrant communities involves notarios, who are referred to as notaries within the U.S. In many Latin American countries, in order to be a licensed notary, an individual must also be a licensed attorney, which is not the case in the U.S. Scammer "notarios" exploit immigrants' misunderstanding of this difference in order to defraud them.

Other common immigration services scams involve tax preparers who offer "immigration services," and travel agents who offer to provide advice, for a fee, on how to stay in the U.S. after one's nonimmigrant visa has expired.

Scammers are increasingly using the Internet to lure victims to their scams. Many scam websites look very professional and often have domain names that are very similar to those of federal government websites. These sites often charge for USCIS forms, use online wizards to make complex decisions about which USCIS forms to select, and charge for materials that are available for free from USCIS. In some cases, attorneys are complicit in immigration services scams, selling their names and license numbers to paralegals, notaries, and others who then advertise themselves as attorneys.

Public Education

The primary aim of the education component of the initiative is to provide the public with the information they need to be able to make informed choices when seeking legal advice and representation on immigration matters. This will include information on how to verify the eligibility of any individual who claims to be a licensed attorney or non-attorney representative accredited by the Board of Immigration Appeals (BIA), and how to recognize, and avoid, individuals and businesses that are engaged in UPIL.
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Content of Public Education Materials

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Some stakeholders identified several main messages that should be communicated through a public education campaign and emphasized that messaging must be culturally relevant and resonate with the immigrant community. Others noted that public education efforts should focus on strengthening the credibility of USCIS and the government in general as a reputable source of information.

Some stakeholders indicated that more information needs to be made available to immigrant communities regarding benefits eligibility (e.g., which forms need to be filed, the relevant fee amounts, etc.) for the most commonly sought after immigration benefits, including adjustment of status, naturalization, and employment authorization. In addition, some stakeholders emphasized the importance of alerting people that all official government websites end with ".gov," not ".com" or ".net." Several stakeholders suggested that initiative's public education materials should include tips on how and where to file benefit applications and petitions, including reminders that all forms should be unexpired, filled out completely and signed before being submitted to USCIS.

Some stakeholders also suggested the need for more information on how to find qualified legal advice on immigration law and procedures, and to beware of claims made by "immigration experts" that seem too good to be true.

Others highlighted the need to develop education materials written in plain language, with more images than words, in order to make the materials easier to understand for non-English speakers. Another suggestion was to use simplified immigration terms, e.g., "work permit" instead of employment authorization document, and "travel permit" instead of advance parole. Suggested translations for the public education materials included Amharic, Arabic, Chinese, Creole, French, Hmong, Korean, Lao, Nepali, Russian, Somali, Spanish, Thai, Vietnamese and Urdu.

Some stakeholders also suggested that USCIS should clearly define what constitutes UPIL and stress that UPIL is against the law. Materials should distinguish between who can and cannot provide legal advice and represent individuals before USCIS; define what constitutes legal advice and representation; define the role of notaries public and immigration consultants in the United States; and clarify that BIA accredited representatives are authorized, but not employed, by the federal government to provide low-cost immigration legal services. Some stakeholders reported that both immigrants and practitioners would benefit from information on laws that prohibit UPIL and information on how to report having been a victim in every state.

Mechanisms for Disseminating Information

Stakeholders indicated that word of mouth, especially through family, community leaders, faith based organizations and churches, is the best way to disseminate information. Media and social media were also viewed as powerful vehicles for information dissemination; suggestions included using Facebook and Twitter to share information and playing videos and announcements on YouTube, radio and TV, with a focus on Spanish and other language television stations. Other suggestions for effective public education tools included comic strips and television shows that tell a victim's story. In general, public service announcements that both educate the public on how to identify and avoid immigration services scams and warn scammers of the potential consequences of defrauding individuals by engaging in UPIL were viewed as potentially being highly effective. Some stakeholders suggested that victim testimonials would be an effective medium for sharing the message, and others suggested having high level government officials or local politicians record public service announcements (PSAs) on this issue or partnering with other federal agencies to develop joint PSAs on UPIL-related issues affecting immigrant communities.

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Some stakeholders suggested making public education materials available at social service agencies, schools, parent teacher association meetings, cash checking and money transfer businesses, post offices, civil surgeons' offices, airports, hospitals medical clinics and libraries. Making such materials available to refugee resettlement agencies and "English as a second language" (ESL) classes was also recommended as a means of reaching immigrants, and several stakeholders suggested working with local ESL programs to incorporate information on UPIL into the educational curriculum used by ESL educators. Another suggestion was to include a warning about UPIL on all USCIS correspondence and within the USCIS "Welcome to the U.S.: Guide for New Immigrants" publication, as well as the naturalization preparation materials distributed at USCIS application support centers and by a video on UPIL that could be played in airports and bus terminals. Some stakeholders pointed out that, in developing a public education campaign regarding UPIL, USCIS should keep in mind that many immigrants, particularly recent immigrants, elderly immigrants, and migrant workers, may not have access to the Internet.

Some stakeholders also suggested increasing the number of USCIS presentations on the UPIL problem, through public information sessions hosted by USCIS, particularly in rural communities, and presentations to high school and college students, who can share information with their families, and by making UPIL a recurring agenda item at USCIS stakeholder meetings. It was also recommended that public information materials regarding UPIL be made available to foreign embassies and consulates in the U.S., and U.S. embassies and consulates overseas, as well as to the National Association of Social Workers and other national associations representing professionals who may work directly with immigrant communities. Another suggested mechanism for raising the visibility of this issue was for government agencies, community organizations, attorneys, and others to write editorials and opinion pieces on the UPIL issue in national, local, and ethnic newspapers. Some stakeholders suggested that USCIS should ensure that there is dedicated staff at the National Customer Service Center to address questions related to UPIL.

Capacity Building

USCIS has an interest in having only authorized representatives appear before the agency, and the public has an interest in having eligible representatives available to assist them with matters relating to immigration benefits. The primary aim of the capacity building component of the initiative is to identify and implement methods by which USCIS may appropriately assist community based organizations to build their capacity to represent more people who seek immigration benefits from USCIS.

Some stakeholders stated that people needing immigration benefits are often unaware of the resources that are currently available and that organizations or individuals providing immigration services need more information on how to become authorized providers. Others suggested increasing the number of BIA-accredited representatives who can provide low-cost legal services and indicated that the current shortage of authorized low-cost immigration service providers contributes to the UPIL problem by increasing the likelihood that individuals in need of an immigration benefit will turn unwittingly to scammers for help.

Some stakeholders encouraged USCIS to make the list of BIA-recognized organizations available in field offices, and to explore the possibility of sending the list along with USCIS receipt notices and requests for evidence. Others noted that there is a need for greater diversity among the types of recognized organizations and, in particular, a need for greater ethnic diversity among BIA-accredited representatives. Some participants recommended that information on disciplined practitioners and disbarred attorneys should be made available in multiple languages, particularly Spanish, Chinese, Creole and Russian.

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Some stakeholders suggested existing grant programs should be used to advance the aims of the initiative, citing grants for immigrant integration, combating elder abuse, and consumer protection as potentially relevant ways to fund outreach and investigations of UPIL cases. In discussing the challenges associated with obtaining BIA recognition, some organizations cited lack of funding and lack of general understanding of the BIA recognition and accreditation process. Others stated that more information on the recognition and accreditation process, and more engagement with both USCIS and the BIA, would be helpful. Some stakeholders proposed establishing a national UPIL committee to include representatives from the American Immigration Lawyers Association, community based organizations, and law enforcement agencies from various geographic locations around the country, and creating a resource center for those assisting individuals after they have become a victim of UPIL.

Enforcement

The primary aim of the enforcement component of the initiative is focused on ensuring that victims of immigration services scams know how and where to file complaints with federal, state, and local law enforcement authorities.

Some stakeholders stated that multiple obstacles exist that discourage victims of UPIL or immigration services scams from filing complaints with law enforcement authorities. These stakeholders indicated that victims often fail to see the value in filing a complaint because there is no guarantee that they will be granted the immigration benefit that they were seeking, or may fear that they will end up in removal proceedings if they file a complaint. Victims may also fear media attention, scrutiny by family members, peers, and Immigration and Customs Enforcement (ICE). Cultural barriers prevent some victims from trusting law enforcement authorities.

Some stakeholders indicated that victims of UPIL are more likely to report the fact that they have been victimized to an attorney, BIA-accredited representative, or their congressional representatives.

Some participants mentioned that law enforcement often lack adequate resources to pursue these types of cases. This problem is compounded by the fact that law enforcement officials may find it difficult to find victims who are willing to participate in the investigation and prosecution of such cases for the reasons previously stated, and that perpetrators often close their businesses, destroy records and move out of state before law enforcement officials are able to take action.

Some stakeholders indicated that victims will file complaints only if they can do so anonymously, or if they are provided some guaranteed immigration relief or protection from deportation.

Several stakeholders expressed concern that USCIS was construing the UPIL problem too broadly and that enforcement efforts could negatively impact law students, non-profit organizations, and others that are seeking to assist immigrants. Some stakeholders asked whether the initiative's enforcement efforts would distinguish between individuals who were intentionally scamming immigrants and well-intentioned individuals who may unintentionally be operating outside of the scope of federal regulations.

Some stakeholders suggested deterrence measures, including publishing the names of convicted scammers and disciplined attorneys on the UPIL portion of the USCIS website. Others emphasized the need for improved information sharing among federal agencies and with state and local law enforcement partners. Several stakeholders suggested that community based organizations should work closely with state and local law enforcement on this issue and provide law enforcement with the names of individuals and businesses engaged in UPIL. Some stakeholders requested that law enforcement, community

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organizations, and government partners form a working group in each pilot city to continue working on these issues and to develop a standard mechanism for addressing UPIL cases.

One stakeholder suggested that an independent government agency be created to accept UPIL and immigration services scam complaints, similar to the Department of Justice, Office of Special Counsel, which accepts and addresses unfair immigration related employment practices or the ICE office that accepts anonymous complaints about employers who violate the requirements governing the I-9 process. Other stakeholders suggested disseminating a joint enforcement message by having relevant federal, state and local agencies join Congressional press conferences and outreach events.

Some stakeholders also suggested that USCIS implement the following measures to help victims of UPIL and immigration services scams:

- Allow victims to withdraw their applications or petitions;
- Allow fee waivers for victims who submit subsequent applications or petitions;
- Send RFEs both to applicants and attorneys or representatives so that the applicant has access to his or her own paperwork;
- "Stop the clock" when it becomes apparent during an adjudication that an applicant or petitioner has been a victim of UPIL, thereby enabling the victim to assist with an investigation or prosecution of the scammer without affecting his or her benefit eligibility; and
- Instruct National Customer Service Center representatives and field office staff to inform applicants and petitioners that they are not immigration experts.

Several stakeholders also suggested that USCIS field offices should establish a referral system to ensure that UPIL cases are reported to appropriate local, state, or federal law enforcement authorities. Such a system should help ensure that personally identifiable information will not be released to the Federal Trade Commission or any other government agency without their consent. In addition, it was suggested that USCIS should maintain a list of unauthorized practitioners who are submitting forms to USCIS and track UPIL complaints in order to be able to distinguish one-time offenders from repeat offenders. It was also suggested that federal agencies should establish a standard information sharing and tracking system to identify repeat or egregious UPIL offenders in assist with the investigation and prosecution of such cases. Some stakeholders also suggested establishing a system by which people could report having been a victim of UPIL through community organizations, which could then be referred to the appropriate law enforcement agency, eliminating the need for victims to interact directly with law enforcement.

Some stakeholders suggested that USCIS explore the possibility of administrative remedies, including considering making U or S visas available to victims of UPIL or immigration services scams who assist law enforcement in an investigation or prosecution.

Suggestions were made pertaining to specific revisions to USCIS forms, including adding a warning about UPIL at the end of each form; making forms available in multiple languages; simplifying forms so that it is easier for applicants and petitioners to represent themselves; and adding a section to forms where the applicant or petitioner certifies that he or she did not receive any legal advice or assistance.

These engagements have given USCIS a more comprehensive understanding of the scope of the UPIL problem and these recommendations will help to guide the UPIL initiative moving forward.

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