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Cartels as FTOs

Executive Designations, TRIG Consequences, and Protection Claims in a High-Enforcement Era

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Abstract: This article examines how the Trump administration's cartel and gang terrorism designations can operate as a force multiplier in immigration adjudication by converting familiar migration-corridor facts into terrorism-related inadmissibility and protection-bar problems. It argues that executive designation does not change the Immigration and Nationality Act's text, but it can simplify the terrorist-organization predicate and shift disputes toward recipient identity, knowledge, and the characterization of payments or services as "material support." The article maps that designation pivot across inadmissibility, removability, and asylum/withholding/convention against torture consequences, and applies it to recurring fact patterns, including ransom and extortion payments, checkpoint tolls and corridor payments, and voluntary paid-passage arrangements later tied to designated organizations. It then offers a practitioner framework for separating coerced survival contact from voluntary facilitation, explains the exemption architecture that functions as the principal relief valve in many TRIG cases, and identifies bounded post–*Loper Bright* pressure points for preserving statutory arguments and building an evidence-ready record.

Introduction

Along cartel-controlled routes, a small payment can be the price of passage. A client reports handing cash at a checkpoint after an explicit demand—pay or suffer harm. Before the designation pivot, such facts often functioned mainly as country conditions context: territorial control and the failure of local protection. In a designation environment, the same payment can instead be framed as a potential terrorism-related inadmissibility ground (TRIG) for "material support" if adjudicators can tie the payee to a designated organization.[1]

The Immigration and Nationality Act's (INA's) terrorism provisions are indifferent to ideology.[2] They can attach to a person who opposed a group's aims and acted only to survive.[3] Precedent has read "material support" broadly and generally has not recognized an implied duress exception in cases before the immigration courts.[4] The practitioner problem is record design: avoiding overbroad admissions about recipient identity and knowledge, preserving a coherent coercion narrative from the first interview forward, and building an evidentiary posture for discretionary exemptions if a TRIG is alleged.

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This article describes the executive mechanism that created the designation pivot, maps designation status to the INA's terrorism attachment points, and applies that map to three recurring fact patterns: (1) extortion and ransom payments, (2) checkpoint tolls and corridor payments, and (3) voluntary paid passage (including paid smuggling arrangements) and paid passage with compelled services. It then offers a practitioner framework for distinguishing coerced survival contact from voluntary facilitation in a way that is legally grounded, evidence-ready, and sensitive to the record constraints of credible fear and asylum interviews. Finally, it explains the discretionary exemption architecture that functions as the principal relief valve in coerced contact cases, identifies bounded post–*Loper Bright Enterprises v. Raimondo* interpretation pressure points, and provides an intake-to-record toolkit integrated into continuous prose.[5]

Timing matters. The Department of Homeland Security's (DHS's) final rule on fear screenings authorizes asylum officers, in specified circumstances, to consider the potential application of certain mandatory bars earlier in the process where evidence is "easily verifiable."[6] The Department of Justice's (DOJ's) companion interim final rule addresses parallel issues in credible fear and reasonable fear review.[7] Early interview records can therefore become determinative of payee identity, knowledge narratives, and the characterization of payment as "support" before counsel has an opportunity to stabilize terminology or correct errors. That reality elevates intake discipline and prompt record supplementation.

Executive designation of cartels and transnational criminal gangs as "terrorist" organizations can operate as a force multiplier in immigration adjudication.[8] Foreign policy determinations supply formal predicates that expand TRIG consequences across inadmissibility, removability, and protection bars, including for coerced contact and for voluntary paid-passage agreements later attributed to a designated organization.[9] In that environment, careful record-building, exemption strategy, and post–*Loper Bright* statutory interpretation become central to fair and consistent outcomes.[10]

The Executive "Designation Pivot"

In January 2025, the Trump administration issued Executive Order 14157.[11] The order directed the Secretary of State and other executive components to recommend organizations for designation as Foreign Terrorist Organizations (FTOs) and/or Specially Designated Global Terrorists (SDGTs) under existing authorities.[12] What is unusual here is not the existence of FTO authority, which long predates 2025, but the administration's use of an executive order to direct those existing FTO and SDGT authorities toward cartels and transnational criminal gangs. The immigration law significance is not that the INA's text changed, but that the designation supplies an external, executive determination that can satisfy or simplify the "terrorist organization" predicate for TRIG analysis.[13] In Tier I cases, the dispute often shifts away from whether a group qualifies and toward recipient identity, knowledge, and the form of alleged support.

On February 20, 2025, the Department of State published a notice designating eight entities—including MS-13, Tren de Aragua, and several cartels—as FTOs.[14] These FTO designations were accompanied by parallel SDGT designations.[15] For immigration practice, the publication date matters because TRIG consequences often turn on whether the relevant group is formally within Tier I at the time support is alleged and adjudicated.[16] The February 2025 tranche created a new baseline risk for cartel-contact narratives that previously were screened primarily through criminal and smuggling frameworks.

The designation program then expanded through 2025 to include additional organizations across the hemisphere, including groups based in Haiti and Ecuador.[17] The continuing cadence underscores a simple practical point: counsel should treat designation status as a check-current, verification step close to filing, interview, and hearing dates.

Designations do not rewrite conduct grounds unrelated to terrorism, including the alien smuggling provisions of the INA. Smuggling remains a conduct ground keyed to assistance for "any other alien" to enter or attempt entry unlawfully; it rises or falls on its own elements and waivers.[18]

Designations instead change how existing terrorism-related provisions apply by supplying a formal organization predicate and expanding the evidentiary ecosystem around recipient identity.[19] The practical consequence is sequence: TRIG questions can be treated as threshold statutory bar questions early in screening and then mitigated, if at all, through the discretionary exemption architecture.[20] That architecture is not judicially created; it is an executive branch authority embedded in the statute and implemented through published exercises and agency guidance.

Legal Machinery: Designations to Immigration Consequences

TRIG consequences attach in three places: inadmissibility, removability, and protection bars.[21] For inadmissibility, INA § 212(a)(3)(B) renders an applicant inadmissible for engaging in terrorist activity, defined to include providing material support to a terrorist organization.[22] For removability, INA § 237(a)(4)(B) mirrors that structure for noncitizens admitted to the United States.[23] For protection, the terrorism-related bars preclude asylum and withholding, though deferral under Convention Against Torture (CAT) may remain available depending on posture.[24]

Tier structure is the predicate tool.[25] Tier I, Tier II, and Tier III are statutory categories, not simply a list of names. Tier I covers organizations designated under INA § 219; Tier II covers organizations otherwise designated, upon publication in the Federal Register, by the Secretary of State; and Tier III covers groups of two or more individuals that engage in the listed terrorist activities even if they have never appeared on a public list. Tier I status therefore often reduces litigation over whether an organization qualifies and shifts disputes toward recipient identity and whether the applicant had knowledge or reason to know of the group's nature. Tier III cases can look different because the statutory material support provision preserves a clear-and-convincing knowledge carveout for support to Tier III organizations.[26] Timing matters as much as category: a group may be litigated in one record as a Tier III organization at the time of payment and later appear as a formally designated Tier I organization, which is why the record must identify what the group was alleged to be at the time support occurred, not only what it is called later.

The INA's definition of terrorist activity includes providing "material support," and it enumerates multiple forms of support: funds, transportation, communications, and other services.[27] Precedent has treated this provision broadly, often without a quantitative threshold and generally without an implied duress exception.[28] In this posture, coercion evidence remains essential, but it rarely operates as a complete defense; it does work in exemptions and in preserving record integrity.

Published decisions illustrate why counsel should plan for exemption strategy rather than assume courts will recognize a duress defense.[29] In *Alturo v. U.S. Attorney General*, the Eleventh Circuit treated repeated "war tax" payments to the Colombian FARC (Revolutionary Armed Forces of Colombia) as material support even though the petitioner described the payments as extortion.[30] The Fourth Circuit's published cases now run in both directions: *Barahona v. Holder* and *Viegas v. Holder* reflect the circuit's earlier broad treatment of coerced or low-level support, while *Ozurumba v. Bondi* shows a more recent willingness to scrutinize whether the record and the statutory term "material" actually support the agency's conclusion.[31] The Third Circuit has emphasized that even compelled support can trigger the bar absent an executive waiver.[32] These cases are not cartel-specific, but they function as doctrinal building blocks once cartels are formally designated and the organization predicate is easier to establish.

Procedure matters. DHS's fear screening rule and DOJ's companion rule can surface mandatory bars early, and "easily verifiable" country conditions materials can influence that early screen.[33] Those early notes become baseline evidence for later asylum adjudication and for credibility assessments, making early record hygiene central to any TRIG strategy.

Recurring Payment and Cartel Contact Fact Patterns

The designation pivot becomes concrete in recurring payment, passage, and compelled-service narratives.[34] Many are overtly coercive; some involve a voluntary paid-passage arrangement that becomes legally salient once the payee is tied to a designated organization. This section presents three hypotheticals and shows how each can trigger TRIG inquiry in a designation environment. It also preserves a necessary separation: alien smuggling and TRIG are distinct statutory nodes with different elements and relief consequences, and payment narratives should not be treated as an automatic intersection of both.[35]

Hypothetical A (ransom and extortion): A client is kidnapped while traveling and is released only after relatives pay a ransom. The client also describes paying a smaller "protection fee" once after being threatened at a checkpoint. The client does not know the group's formal name, but believes the kidnappers were affiliated with a now-designated cartel based on symbols, territorial control, and local reputation. The question for counsel is not whether the event is traumatic—those facts are evident—but which facts belong in the record to assess TRIG risk without over-admitting recipient identity or knowledge.[36]

Ransom, extortion, and "toll" payments can be characterized as the transfer of funds to a qualifying organization or its agents, even where the payment is coerced and made solely to avoid harm.[37] Because precedent generally does not recognize an implied duress exception, coercion evidence typically does its work as credibility support and as the factual foundation for discretionary exemptions—not as a statutory negation.[38] The sensitive record questions tend to be "who was paid" and "what did the client actually know at the time," not whether the client was a victim.

Hypothetical B (corridor checkpoint tolls): A client crosses a cartel-controlled corridor to reach a port of entry and is required to pay a small fee at multiple checkpoints. Refusal is met with threatened violence and visible harm to others. The client paid cash to masked men and cannot identify them by name. The question is how counsel should develop "who was paid" and "why payment was unavoidable" without speculation that could later be framed as an admission of Tier I support.[39]

Checkpoint toll narratives are high-risk in a designation environment because the statutory support definition includes funds and transfers of funds, and Tier I status can fix the organization predicate once identity is established.[40] The recurring battleground is proof of recipient identity—what the client actually perceived—plus the coercion narrative: threat severity, inability to avoid, frequency, and amount. These facts must be built in a way that maps to published exemption criteria and avoids broad labels that collapse multiple actors into a single "cartel" identity.[41]

Hypothetical C (paid passage—voluntary agreement, then compelled services): A client voluntarily pays for illicit passage through a smuggling corridor and later is forced to provide transportation and temporary shelter for several days under threat. The client believes some portion of the fee ultimately went to a designated cartel, but the direct payee was an intermediary. The question is how counsel should separate alien smuggling exposure from TRIG material-support exposure, and what evidence is needed for each.[42]

Pattern C requires two separations. First, alien smuggling under INA §§ 212(a)(6)(E) and 237(a)(1)(E) is conduct-based and turns on knowingly assisting "any other alien" to enter or attempt entry unlawfully; it carries its own proof questions and limited waivers.[43] Second, TRIG material support is recipient-focused and turns on whether funds, transportation, shelter, or other support was provided to a qualifying organization or its members.[44] Where the record supports that a client knowingly hired a smuggler acting as an agent of a designated organization and paid for transportation or passage, the TRIG analysis can be more direct: the statute enumerates both "funds" and "transportation," and there may be no coercion narrative to support duress-based relief.[45] In that posture, disputes tend to be recipient identity and what the client knew or reasonably should have known, followed by an assessment of whether any limited or insignificant support exemption category is plausibly available.[46] A recurring adjudication error is the "false intersection"—treating a single "smuggling fee" narrative as both smuggling and TRIG without element-specific proof. Counsel should evaluate each ground separately and then decide whether the facts actually intersect.

Across all three patterns, the key question is whether the record answers the statute's gates—tier, recipient identity, knowledge or reason to know, and form of support—before coercion evidence is used to support exemptions and credibility.[47] Collapsing these gates can force counsel into undoing overbroad admissions rather than building a coherent exemption posture.

Coercion Versus "Support": A Practitioner Framework

A workable framework starts with the statute's gates. The first question is tier: whether the alleged recipient is Tier I (FTO), Tier II, or Tier III.[48] The second is identity: what the client actually perceived—names used, symbols, location, and control—without speculation. The third is knowledge: what the client knew or should have known, including any Tier III carveouts. The fourth is form: whether the alleged support is funds, transportation, shelter, communications, or another enumerated service. Only after those gates are mapped should the analysis pivot to coercion factors, which usually matter most for exemptions and record integrity. Where the payment was voluntary, coercion may drop out as an organizing feature, making recipient identity, knowledge, and any available exemption categories the central focus.[49]

Coercion should then be captured in a factor structure that mirrors government-authored exemption criteria and related guidance. Relevant considerations include the severity and imminence of the threat, whether the threat was reasonably perceived, whether the harm threatened was serious, the availability of safe alternatives; duration and frequency, the amount and type of support, and any steps taken to avoid or minimize support when reasonably possible. Framed as a non-exhaustive set, these factors allow duress to be documented in a trauma-aware manner without turning the declaration into a policy argument.[50]

Recipient identity is often the decisive proof battleground. Designation status matters only if the payee can be tied to the designated organization. Counsel should therefore separate colloquial labels ("the cartel") from legally relevant tier status, avoid speculative naming, and build a record of observed indicia that can be corroborated through country conditions evidence. The record should also distinguish what the client knows from what is inferred; overstatement in early interviews can later be used to argue knowledge, intent, or credibility in ways that are difficult to unwind.[51]

Protection Claims Under Pressure

TRIG findings can bar asylum and withholding relief even where a client has a strong persecution narrative.[52] In coerced contact cartel cases, that reality often redirects strategy toward CAT deferral and toward exemption posture, requiring counsel to triage bars early without undermining the persecution account. The goal is not to concede bars prematurely; it is to anticipate the government's likely framing and to build a record that preserves all viable protection channels. Where the material support bar may become the sole obstacle, recent Second Circuit authority supports requesting a determination that the applicant would otherwise qualify for asylum or statutory withholding so that the DHS and United States Citizenship and Immigration Services (USCIS) waiver process remains available.[53]

Early interviews can lock in payee identity and knowledge narratives, and later inconsistencies can be framed as credibility problems.[54] When a fear-screening record uses imprecise terms—"cartel," "gang," "smugglers"—the ambiguity can later be resolved against the applicant, particularly if later filings attempt to refine or correct the account without an explanation. Accordingly, counsel should adopt a record-reconciliation plan: document misunderstandings and translation issues, clarify terminology, and supplement with declarations and corroboration that are consistent in sequencing, dates, and amounts.

The recommended approach is accuracy plus bounded knowledge. Clients should describe what they observed and what they reasonably believed at the time. Counsel then applies legal labels in briefing, with explicit distinctions between observed facts and inference. This approach reduces credibility risk, avoids accidental admissions that become difficult to correct, and preserves flexibility to pursue exemptions if TRIG is alleged.[55]

Exemptions and Waivers: The Practical Relief Valve

TRIG exemption authority resides in INA § 212(d)(3)(B)(i).[56] This article uses "exemption" as the more precise term for the authority in INA

§ 212(d)(3)(B)(i), although practitioners sometimes describe the same relief pathway as a TRIG waiver. It is exercised by the Secretaries of Homeland Security and State, in consultation with the Attorney General. The authority is discretionary and operates through published exercises that define categories of support and conditions for relief. In coerced contact cases, exemption posture is not an afterthought; it is often the only practical path around a mandatory bar once "material support" is alleged.[57] The same authority matters, in a different way, in straight paid-passage agreements: when a fee is credibly tied to a designated organization and coercion is not present, the record must be built to assess whether any limited or insignificant support category could apply and to calibrate expectations about discretionary relief.

The Second Circuit's decision in *Sufiyan v. Bondi* underscores that exemption strategy is not merely collateral to the merits. In *Sufiyan*, the court held that where the material support bar is dispositive, the Board of Immigration Appeals (BIA) cannot decline to decide whether the respondent would otherwise qualify for asylum or statutory withholding if that omission forecloses access to the DHS and USCIS waiver process.[58] At the same time, the court distinguished those but-for merits findings from factual determinations about duress, which remain for USCIS rather than the immigration judge or the BIA.[59] For practitioners, the lesson is procedural as much as substantive: when TRIG is likely to be the sole remaining obstacle, counsel should seek a clear merits determination on asylum and statutory withholding while building a duress-ready record for the executive waiver process. Three published Federal Register exercises of INA § 212(d)(3)(B)(i) exemption authority illustrate the architecture most relevant to coerced contact, payment-based cases. A 2007 exercise addressed duress-related scenarios. A 2014 set of exercises created "certain limited" categories. A 2022 exercise expanded discretionary exemption authority for certain limited or insignificant support in contexts that can include designated organizations, adding structured categories and exclusions that matter in practice.[60]

USCIS implementation memoranda supply practitioner-relevant structure. They operationalize threshold requirements, exclusions, and discretionary considerations, and they emphasize documentation: adjudicators are instructed to evaluate the applicant's circumstances and the nature of the support in light of the published categories. For counsel, the lesson is practical—build the record to mirror the exemption factors and to preserve a consistent account of identity, knowledge, coercion, and the form of alleged support.[61]

This architecture also disciplines the "coercion versus support" analysis. Where precedent forecloses an implied duress exception, the record should not treat coercion as an argument that the statute does not apply. Instead, coercion evidence should be presented as the factual basis for discretionary exemptions and as the credibility-safe explanation for why the applicant's contact was survival-driven rather than voluntary facilitation. Conversely, where a payment reflects a voluntary agreement rather than survival-driven compulsion, counsel should expect the government to press a facilitation framing and should focus on element-specific proof, recipient attribution, and any narrow exemption theory the published categories support.[62]

Common failure modes in exemption posture tend to be preventable. The recurring problems are inconsistent descriptions of who received the money, collapsing multiple actors into a single "cartel" label, under-documenting threat and lack of alternatives, and over-admitting recipient identity or knowledge in early interviews. These errors can convert an exemption-eligible fact pattern into a credibility dispute. The antidote is disciplined intake, restrained declarations, and early record reconciliation.[63]

Post–*Loper Bright*: Bounded Interpretation and Litigation Pressure Points

Loper Bright eliminates the deference framework associated with *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, requiring courts to exercise independent judgment on questions of statutory interpretation.[64] The change does not negate existing immigration precedents, but it can alter the posture of challenges to agency interpretations of TRIG terms. The practical value for practitioners is not prediction; it is issue preservation. A record built for exemption purposes can also preserve facts needed for later statutory meaning and evidentiary sufficiency arguments.

Potential pressure points include the meaning of "material" and the nexus implied by "affords" material support, particularly in borderline coerced-payment or compelled-service records where the alleged support is unavoidable, ambiguous, or weakly linked to a qualifying organization.[65] Under a post–*Loper Bright* posture, courts may scrutinize whether the record supports the agency's application of the statutory subclause used, including whether the recipient-identity inference is supported by substantial evidence. Practitioners should therefore identify, on the record, the precise statutory clause applied and object to overbroad assumptions about recipient identity and knowledge.

As the earlier Fourth Circuit cases suggest the bar's breadth, one post-2024 circuit decision provides a concrete example of post–*Loper Bright* scrutiny in a coerced-services record.[66] In *Ozurumba v. Bondi*, the Fourth Circuit vacated a material support determination where the applicant was compelled to cook meals for members of a terrorist organization.[67] Declining to defer to the BIA's approach in *Matter of A-C-M-* after *Loper Bright*, the court reasoned that the statute's word "material" requires support sufficiently substantial, standing alone, to help the organization accomplish its terrorist activities.[68] The case should be used cautiously: it is circuit-specific and record-dependent. The practitioner lesson is more general—build a record that distinguishes coerced survival conduct from facilitation, and preserve objections when the agency's reasoning collapses coercion into "support" without adequate proof of recipient identity and nexus.[69]

Issue preservation in this context is not complicated, but it must be intentional. When TRIG is alleged, counsel should ensure the record reflects the form of support alleged, frequency and amount, the client's actual knowledge at the time, the basis for any belief about affiliation, and the coercion facts that explain why the conduct occurred. These details support exemption posture and also enable later arguments that the statutory terms and evidentiary standard were misapplied.[70]

Practice Toolkit: Intake to Record to Strategy

This toolkit is presented as integrated guidance. It is designed to help counsel reduce avoidable TRIG exposure, prevent smuggling and TRIG conflation, and preserve discretionary exemption posture while maintaining credibility from the first interview forward. It is organized around five tasks: intake discipline, declaration architecture, record reconciliation, smuggling versus TRIG separation, and the minimum viable evidence packet.[71]

Intake discipline begins with non-leading, element-focused questions. Start with recipient identity without speculation: who demanded payment, what words were used, what identifiers were observed, and how the demand was enforced. Capture what the client knows versus infers, and whether the payment was voluntary paid passage or extracted under threat, and whether it was for personal passage or for another person—because those distinctions drive both smuggling analysis and TRIG exposure.[72]

Declaration architecture requires discipline. The declaration should anchor in observed facts, separate knowledge from inference, and describe coercion in concrete terms without embellishment. It should also track the statute's gates—organization predicate, recipient identity, knowledge or reason to know, and the form of alleged support—so that later briefing can remain consistent with the record. Where the narrative includes payment, the declaration should describe amount, frequency, method, and realistic alternatives in plain language, allowing coercion to be documented without converting the declaration into a policy argument.[73]

Record reconciliation should be an affirmative task, not a later reaction. Review fear screening notes, asylum records, and hearing testimony for terminology, dates, amounts, and statements that could be read as admissions of recipient identity or voluntary facilitation. Where material imprecision exists, correct it promptly through the mechanism available in posture, explain why the early account was incomplete (translation, trauma, label confusion), and keep the corrected narrative restrained and internally consistent.[74] If material support is likely to be the only barrier to asylum or statutory withholding, counsel should consider affirmatively asking the immigration judge or BIA to make a but-for eligibility determination while separately preserving duress facts for the DHS and USCIS waiver process.[75]

Smuggling and TRIG must be kept analytically distinct. Alien smuggling under INA §§ 212(a)(6)(E) and 237(a)(1)(E) focuses on knowingly encouraging, inducing, assisting, abetting, or aiding "any other alien" to enter or attempt entry unlawfully; it is not established by a person who merely paid for personal passage, absent assistance to others.[76] TRIG material support, by contrast, is recipient-focused and turns on whether funds, transportation, shelter, communications, or other enumerated support was provided to a qualifying organization or its members.[77] A voluntary paid-passage agreement can raise a direct TRIG issue if the fee is credibly attributable to a designated organization or its agent; counsel should therefore evaluate each ground element by element and resist the "false intersection," then decide whether exemption planning is required.

Minimum viable evidence should be treated as a standard practice packet in coerced contact, TRIG-adjacent cases. Even when corroboration is limited, the packet can include a bounded declaration, safely available communications, medical or psychological records, country conditions evidence linking observed indicia to a relevant group, and proof of reporting or attempts to avoid contact when reasonably possible. Where exemption posture is likely, the packet should mirror the exemption factors and be readable to a nonspecialist decision-maker.[78]

Conclusion

Executive designations can scale immigration consequences by interacting with existing TRIG provisions. In cartel-as-FTO cases, coerced payment and compelled-service narratives—and, at the opposite end, voluntary paid-passage agreements credibly tied to a designated organization—can shift from background facts to mandatory bar questions at the screening stage, before counsel has an opportunity to stabilize terminology or correct mischaracterizations about recipient identity. The shift does not require new INA text; it occurs through the interaction of designation predicates with existing statutory definitions.[79]

Neutral, practitioner-forward guardrails can improve consistency without undermining legitimate security screening. Useful guardrails include standardized, factor-driven assessment of coercion narratives; clearer guidance on proof of recipient identity in payment cases; and transparent, evidence-driven exemption pathways. Within those guardrails, adjudicators remain able to identify voluntary facilitation, including voluntary paid-passage agreements, while coerced survival contact is less likely to be treated as disqualifying support by default.[80]

The opening vignette illustrates the central practice point: the same payment narrative can be framed as disqualifying support or as coerced survival contact depending on statute, proof, and exemptions. Counsel's task is record discipline—building an accurate, evidence-ready account that allows adjudicators to apply the law consistently across intake, screening, and merits adjudication.[81]

Notes

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1. INA § 212(a)(3)(B)(iv)(VI), (vi), 8 U.S.C. § 1182(a)(3)(B)(iv)(VI), (vi) (defining "engage in terrorist activity" and "terrorist organization," including Tier I organizations designated under INA § 219).

2. INA § 212(a)(3)(B), 8 U.S.C. § 1182(a)(3)(B) (defining "terrorist activity" and "terrorist organization" without an ideological-motive requirement).

3. Sesay v. Att'y Gen. of U.S., 787 F.3d 215, 222-24 (3d Cir. 2015) (rejecting implied duress exception; waiver authority rests with the Secretary); Annachamy v. Holder, 733 F.3d 254, 267 (9th Cir. 2013) (same); Alturo v. U.S. Att'y Gen., 716 F.3d 1310, 1313-14 (11th Cir. 2013) (same).

4. Matter of A-C-M-, 27 I & N Dec. 303, 307-08 (BIA 2018) (material support includes acts with a logical and reasonably foreseeable tendency to promote, sustain, or maintain the organization, including to a de minimis degree); Matter of M-H-Z-, 26 I & N Dec. 757, 760-61 (BIA 2016) (no implied duress exception); INA § 212(d)(3)(B)(i), 8 U.S.C. § 1182(d)(3)(B)(i) (executive branch exemption authority); *cf.* Ozurumba v. Bondi, No. 24-2070 (4th Cir. 2025).

5. Loper Bright Enters. v. Raimondo, 603 U.S. ___ (2024).

6. Application of Certain Mandatory Bars in Fear Screenings, 89 Fed. Reg. 103,370 (Dec. 18, 2024) (codified in scattered parts of 8 C.F.R.).

7. Clarification Regarding Bars to Eligibility During Credible Fear and Reasonable Fear Review, 89 Fed. Reg. 105,392 (Dec. 27, 2024) (to be codified at 8 C.F.R. pt. 1208); *see also* Security Bars and Processing; Confirmation of Effective Date; Partial Withdrawal, 90 Fed. Reg. 61,035 (Dec. 30, 2025).

8. Exec. Order No. 14,157, 90 Fed. Reg. 8439 (Jan. 29, 2025); Public Notice 12,672, Foreign Terrorist Organization Designations, 90 Fed. Reg. 10,030 (Feb. 20, 2025).

9. INA § 219, 8 U.S.C. § 1189 (FTO designation authority); INA § 212(a)(3)(B)(vi)(I), 8 U.S.C. § 1182(a)(3)(B)(vi)(I) (Tier I includes organizations designated under INA § 219).

10. INA § 212(d)(3)(B)(i), 8 U.S.C. § 1182(d)(3)(B)(i) (discretionary exemption authority); *see also* Loper Bright Enters. v. Raimondo, 603 U.S. ___ (2024).

11. Exec. Order No. 14,157, 90 Fed. Reg. 8439 (Jan. 29, 2025).

12. *Id.* § 2(a)-(b); INA § 219, 8 U.S.C. § 1189 (long-standing FTO designation authority); Exec. Order No. 13,224, 66 Fed. Reg. 49,079 (Sept. 25, 2001) (preexisting SDGT framework).

13. INA § 212(a)(3)(B)(vi)(I)-(III), 8 U.S.C. § 1182(a)(3)(B)(vi)(I)-(III) (Tier I, II, and III definitions); INA § 219, 8 U.S.C. § 1189.

14. Public Notice 12,672, Foreign Terrorist Organization Designations, 90 Fed. Reg. 10,030-31 (Feb. 20, 2025).

15. Public Notice 12,671, Specially Designated Global Terrorist Designations, 90 Fed. Reg. 10,030 (Feb. 20, 2025).

16. INA § 212(a)(3)(B)(vi)(I), 8 U.S.C. § 1182(a)(3)(B)(vi)(I) (Tier I); INA § 219, 8 U.S.C. § 1189 (designation effective upon publication in the Federal Register).

17. *See, e.g.*, Public Notice 12,710, Foreign Terrorist Organization Designations of Viv Ansanm and Gran Grif, 90 Fed. Reg. 19,065-66 (May 5, 2025); Public Notice 12,813, Foreign Terrorist Organization Designation of Los Choneros and Los Lobos, 90 Fed. Reg. 43,020 (Sept. 5, 2025); Public Notice 12,829, Foreign Terrorist Organization Designation of Barrio 18, 90 Fed. Reg. 45,969 (Sept. 24, 2025); Public Notice 12,869, Foreign Terrorist Organization Designation of Cartel de los Soles, 90 Fed. Reg. 53,045 (Nov. 24, 2025); Public Notice 12,888, Foreign Terrorist Organization Designation of Clan del Golfo, 90 Fed. Reg. 58,775 (Dec. 17, 2025).

18. INA § 212(a)(6)(E), 8 U.S.C. § 1182(a)(6)(E); INA § 237(a)(1)(E), 8 U.S.C. § 1227(a)(1)(E); INA § 212(d)(11), 8 U.S.C. § 1182(d)(11) (limited waiver).

19. INA § 212(a)(3)(B)(vi)(I)-(II), 8 U.S.C. § 1182(a)(3)(B)(vi)(I)-(II) (Tier I and II organizations).

20. *See* INA § 212(d)(3)(B)(i), 8 U.S.C. § 1182(d)(3)(B)(i); Application of Certain Mandatory Bars in Fear Screenings, *supra* note 6.

21. *See* INA § 212(a)(3)(B), 8 U.S.C. § 1182(a)(3)(B) (inadmissibility); INA § 237(a)(4)(B), 8 U.S.C. § 1227(a)(4)(B) (removability); INA § 208(b)(2)(A)(v), 8 U.S.C. § 1158(b)(2)(A)(v) (asylum bar); INA § 241(b)(3)(B)(iv), 8 U.S.C. § 1231(b)(3)(B)(iv) (withholding bar).

22. INA § 212(a)(3)(B)(i)(I), (iv)(VI), 8 U.S.C. § 1182(a)(3)(B)(i)(I), (iv)(VI).

23. INA § 237(a)(4)(B), 8 U.S.C. § 1227(a)(4)(B).

24. INA § 208(b)(2)(A)(v), 8 U.S.C. § 1158(b)(2)(A)(v); INA § 241(b)(3)(B)(iv), 8 U.S.C. § 1231(b)(3)(B)(iv); 8 C.F.R. §§ 208.16-.18, 1208.16-.18.

25. INA § 212(a)(3)(B)(vi)(I)-(III), 8 U.S.C. § 1182(a)(3)(B)(vi)(I)-(III) (Tier I, II, and III definitions).

26. INA § 212(a)(3)(B)(iv)(VI)(dd), 8 U.S.C. § 1182(a)(3)(B)(iv)(VI)(dd) (clear-and-convincing knowledge carveout for Tier III organizations); *see also* Ozurumba v. Bondi, No. 24-2070 (4th Cir. 2025)

27. INA § 212(a)(3)(B)(iv)(VI), 8 U.S.C. § 1182(a)(3)(B)(iv)(VI).

28. Matter of A-C-M-, 27 I & N Dec. 307-08 (BIA 2018); Matter of M-H-Z-, 26 I & N Dec. 760-61 (BIA 2016); *see also* Annachamy v. Holder, 733 F.3d 254, 267 (9th Cir. 2013); Sesay v. Att'y Gen. of U.S., 787 F.3d 215, 222-24 (3d Cir. 2015).

29. *See, e.g.*, Matter of M-H-Z-, 26 I & N Dec. at 760-61; Annachamy, 733 F.3d at 267.

30. Alturo v. U.S. Att'y Gen., 716 F.3d 1310, 1313-14 (11th Cir. 2013).

31. Barahona v. Holder, 691 F.3d 349, 353-55 (4th Cir. 2012); Viegas v. Holder, 699 F.3d 798, 802-04 (4th Cir. 2012); *cf.* Ozurumba, No. 24-2070.

32. Sesay, 787 F.3d at 222-24.

33. Application of Certain Mandatory Bars in Fear Screenings, *supra* note 6; Clarification Regarding Bars to Eligibility, *supra* note 7.

34. *See* INA § 212(a)(3)(B)(iv)(VI), 8 U.S.C. § 1182(a)(3)(B)(iv)(VI) (material-support clause).

35. *Compare* INA § 212(a)(6)(E), 8 U.S.C. § 1182(a)(6)(E) (alien smuggling), *with* INA § 212(a)(3)(B), 8 U.S.C. § 1182(a)(3)(B) (TRIG inadmissibility).

36. *See* Matter of A-C-M-, 27 I & N Dec. 307-08 (BIA 2018) (material support analysis is recipient- and nexus-focused); Application of Certain Mandatory Bars in Fear Screenings, *supra* note 6 (early screening posture can make initial records consequential).

37. INA § 212(a)(3)(B)(iv)(VI)(cc), 8 U.S.C. § 1182(a)(3)(B)(iv)(VI)(cc) (material support includes providing "funds"); *see also* Alturo v. U.S. Att'y Gen., 716 F.3d 1310, 1313-14 (11th Cir. 2013).

38. Matter of M-H-Z-, 26 I & N Dec. 760-61 (BIA 2016); Exercise of Authority Under Section 212(d)(3)(B)(i) of the INA, 72 Fed. Reg. 26,138 (May 8, 2007).

39. See INA § 212(a)(3)(B)(iv)(VI), 8 U.S.C. § 1182(a)(3)(B)(iv)(VI) (support clause); INA § 212(d)(3)(B)(i), 8 U.S.C. § 1182(d)(3)(B)(i) (exemption authority).

40. INA § 212(a)(3)(B)(iv)(VI)(cc), 8 U.S.C. § 1182(a)(3)(B)(iv)(VI)(cc); INA § 212(a)(3)(B)(vi)(I), 8 U.S.C. § 1182(a)(3)(B)(vi)(I).

41. U.S. Citizenship & Immigr. Servs., PM-602-0191, *Implementation of the Discretionary Exemption Authority Under Immigration and Nationality Act (INA) § 212(d)(3)(B)(i) for the Provision of Certain Limited or Insignificant Material Support to Designated Organizations* (Aug. 10, 2022); *see also* Exercise of Authority Under Section 212(d)(3)(B)(i) of the INA, 87 Fed. Reg. 37,523 (June 23, 2022).

42. *See* INA § 212(a)(6)(E), 8 U.S.C. § 1182(a)(6)(E) (smuggling); INA § 212(a)(3)(B)(iv)(VI), 8 U.S.C. § 1182(a)(3)(B)(iv)(VI) (material support).

43. INA § 212(a)(6)(E), 8 U.S.C. § 1182(a)(6)(E); INA § 237(a)(1)(E), 8 U.S.C. § 1227(a)(1)(E); INA § 212(d)(11), 8 U.S.C. § 1182(d)(11).

44. INA § 212(a)(3)(B)(iv)(VI), 8 U.S.C. § 1182(a)(3)(B)(iv)(VI).

45. INA § 212(a)(3)(B)(iv)(VI)(cc), (dd), 8 U.S.C. § 1182(a)(3)(B)(iv)(VI)(cc), (dd) (funds and transportation); *see also* Matter of A-C-M-, 27 I & N Dec. 307-08 (BIA 2018) (de minimis support still qualifies).

46. Exercise of Authority Under Section 212(d)(3)(B)(i) of the INA, 87 Fed. Reg. 37,523 (June 23, 2022); *Implementation of the Discretionary Exemption Authority Under Immigration and Nationality Act (INA) § 212(d)(3)(B)(i) for the Provision of Certain Limited or Insignificant Material Support to Designated Organizations*, *supra* note 41.

47. *See* INA § 212(a)(3)(B)(vi), 8 U.S.C. § 1182(a)(3)(B)(vi) (tier definitions); U.S. Citizenship & Immigr. Servs. PM-602-0191, *supra* note 46.

48. INA § 212(a)(3)(B)(vi), 8 U.S.C. § 1182(a)(3)(B)(vi).

49. INA § 212(a)(3)(B)(iv)(VI)(dd), 8 U.S.C. § 1182(a)(3)(B)(iv)(VI)(dd) (Tier III knowledge carveout); Exercise of Authority Under § 212(d)(3)(B)(i) of the INA, 87 Fed. Reg. 37,523, *supra* note 46; USCIS PM-602-0191, *supra* note 46.

50. Exercise of Authority Under Section 212(d)(3)(B)(i) of the INA, 72 Fed. Reg. 26,138, *supra* note 38; U.S. Citizenship & Immigr. Servs. PM-602-0191, *supra* note 46.

51. *See, e.g.*, U.S. Citizenship & Immigr. Servs. PM-602-0191, *supra* note 46 (emphasizing adjudicator evaluation of circumstances and nature of support); Application of Certain Mandatory Bars in Fear Screenings, *supra* note 6 (screening-stage attention to mandatory bars in specified circumstances).

52. INA § 208(b)(2)(A)(v), 8 U.S.C. § 1158(b)(2)(A)(v); INA § 241(b)(3)(B)(iv), 8 U.S.C. § 1231(b)(3)(B)(iv).

53. Sufiyan v. Bondi, No. 22-6392, slip op. at 2-4, 20-25 (2d Cir. Mar. 12, 2026) (holding that the BIA erred by declining to determine whether the petitioner would be eligible for asylum or statutory withholding but for the material support bar, because without that determination he could not seek a waiver from DHS and USCIS).

54. Application of Certain Mandatory Bars in Fear Screenings, *supra* note 6; Clarification Regarding Bars to Eligibility, *supra* note 7.

55. *See* U.S. Citizenship & Immigr. Servs. PM-602-0191, *supra* note 46 (documentation and circumstance-based assessment); *see also* INA § 208(b)(1)(B)(iii), 8 U.S.C. § 1158(b)(1)(B)(iii) (credibility factors).

56. INA § 212(d)(3)(B)(i), 8 U.S.C. § 1182(d)(3)(B)(i).

57. Matter of S-K-, 23 I & N Dec. 936, 941-43 (BIA 2006) (describing exemption/waiver authority and the "material support" bar's breadth); Exercise of Authority Under Section 212(d)(3)(B)(i) of the INA, 72 Fed. Reg. 26,138, *supra* note 38.

58. Sufiyan, No. 22-6392, slip op. at 2-4, 20-25.

59. *Id.* at 27-29 (holding that whether the petitioner provided material support under duress is a factual question for USCIS to evaluate on the merits of a waiver application and is not something the immigration judge or BIA was obliged to determine in the first instance).

60. Matter of M-H-Z-, 26 I & N Dec. 757, 762 & n.5 (BIA 2016) (describing the waiver process as the only remedy and stating that USCIS may consider such a waiver only if the noncitizen has been determined otherwise eligible for the benefit or protection sought); Sufiyan, slip op. at 23-25; Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act, 72 Fed. Reg. 26,138, 26,138-39 (May 8, 2007).

61. Exercise of Authority Under Section 212(d)(3)(B)(i) of the INA, 79 Fed. Reg. 6913-15, *supra* note 38; Exercise of Authority Under Section 212(d)(3)(B)(i) of the INA, 79 Fed. Reg. 6913 (Feb. 5, 2014); Exercise of Authority Under Section 212(d)(3)(B)(i) of the INA, 87 Fed. Reg. 37,523 (June 23, 2022), *supra* note 46.

62. USCIS PM-602-0191, *supra* note 46; U.S. Citizenship & Immigr. Servs., *supra* note 41.

63. Matter of M-H-Z-, 26 I & N Dec. at 760-61; USCIS PM-602-0191, *supra* note 46; Exercise of Authority Under Section 212(d)(3)(B)(i) of the INA, 87 Fed. Reg. 37,523, *supra* note 46.

64. *See* USCIS PM-602-0191, *supra* note 46 (documentation focus); Application of Certain Mandatory Bars in Fear Screenings, *supra* note 6.

65. Loper Bright Enters. v. Raimondo, 603 U.S. ___ (2024); Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984).

66. INA § 212(a)(3)(B)(iv)(VI), 8 U.S.C. § 1182(a)(3)(B)(iv)(VI); *see also* Ozurumba v. Bondi, No. 24-2070, slip op. at 15-17 (4th Cir. Sept. 2, 2025).

67. *Id.*

68. *Id.* at 2-3.

69. Matter of A-C-M-, 27 I & N Dec. 303, 308 (BIA 2018); Ozurumba, No. 24-2070, slip op. at 15-17; Loper Bright, 603 U.S. ___.

70. *See id.*; USCIS PM-602-0191, *supra* note 46.

71. Application of Certain Mandatory Bars in Fear Screenings, *supra* note 6; USCIS PM-602-0191, *supra* note 46.

72. INA § 212(a)(6)(E), 8 U.S.C. § 1182(a)(6)(E); INA § 212(a)(3)(B)(iv)(VI), 8 U.S.C. § 1182(a)(3)(B)(iv)(VI).

73. USCIS PM-602-0191, *supra* note 46; Exercise of Authority Under Section 212(d)(3)(B)(i) of the INA, 72 Fed. Reg. 26,138, *supra* note 38.

74. Application of Certain Mandatory Bars in Fear Screenings, *supra* note 6; Clarification Regarding Bars to Eligibility, *supra* note 7.

75. Sufiyan v. Bondi, No. 22-6392, slip op. at 2-4, 20-29 (2d Cir. Mar. 12, 2026); *see also* Matter of M-H-Z-, 26 I & N Dec. 757, 762 & n.5 (BIA 2016).

76. Altamirano v. Gonzales, 427 F.3d 586, 592-94 (9th Cir. 2005) (discussing "encouraging" and "assisting" under INA § 212(a)(6)(E)); INA § 212(a)(6)(E), 8 U.S.C. § 1182(a)(6)(E).

77. INA § 212(a)(3)(B)(iv)(VI), 8 U.S.C. § 1182(a)(3)(B)(iv)(VI); Matter of A-C-M-, 27 I & N Dec. 303, 307-08 (BIA 2018).

78. U.S. Citizenship & Immigr. Servs. PM-602-0191, *supra* note 46; U.S. Citizenship & Immigr. Servs., *supra* note 41.

79. Exec. Order No. 14,157, *supra* note 8; Public Notice 12,672, *supra* note 14; INA § 212(a)(3)(B), 8 U.S.C. § 1182(a)(3)(B); Application of Certain Mandatory Bars in Fear Screenings, *supra* note 6.

80. *See* U.S. Citizenship & Immigr. Servs. PM-602-0191, *supra* note 46; Exercise of Authority Under Section 212(d)(3)(B)(i) of the INA, 72 Fed. Reg. 26,138, *supra* note 38.

81. *See* INA § 212(a)(3)(B), 8 U.S.C. § 1182(a)(3)(B); INA § 212(d)(3)(B)(i), 8 U.S.C. § 1182(d)(3)(B)(i).