Immigration Issues for Non-Citizens

> Immigration Law Unit The Legal Aid Society, New York



Executive Orders

- Interior Enforcement Order(1/25/17)
- Border Security Order (1/25/17)
- Order Excluding Muslims (1/27/17)
- Order on Transnational Criminal Organizations and Trafficking (signed 2/9/17)
- DACA y DAPA Order (not yet signed, as of 3/1/17)
- Foreign Workers Order (not yet signed, as of 3/1/17)
- Government Benefits Order (not yet signed, as of 3/1/17)
 - © 2017 The Legal Aid Society All Rights Reserved

Executive Orders - overview

- Everyone is a deportation priority
 Not just serious criminal convictions
 Includes government benefits fraud
- 10,000 ICE officers for interior enforcement
- 5,000 CBP officers for border enforcement
- Punish sanctuary states/localities for not cooperating with federal immigration authorities ^{© 2017 The Legal Ad Society AI Rights Reserved}



Executive Orders – overview (cont.)

- No FOIA privacy protections unless USC or LPR
- Build southern border wall
- Build detention centers along southern border
- End the "catch-and-release" policy for people who enter without permission
 People will be detained during their deportation cases

© 2017 The Legal Aid Society All Rights Reserved

Executive Orders – overview (cont.)

- Make asylum harder to get
- Block entry by refugees and people from certain Muslim countries
- Parents who help their children enter the US will be prosecuted as "smugglers"

Unaccompanied minors will lose status at 18yo, instead of 21yo

Deadline for asylum will be earlier

© 2017 The Legal Aid Society All Rights Reserved

Executive Orders – overview (cont.)

- Might end DACA (not yet signed)
- Might make it riskier to get federal welfare benefits (not yet signed)
- Might limit adjustment of status after advance parole (not yet signed)



What does "undocumented" mean?

You are undocumented if you :

- Are a visa overstay
 - Check when your I-94 expires, not when the visa expires
- Violated the terms of your visa
- Crossed the U.S. border without inspection
 - This includes entering with false documents

© 2017 The Legal Aid Society All Rights Reserved

Who can be removed (deported)?

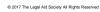
Anyone, other than US citizens, can be deported

Including:

Long-term permanent residents ("green card" holders)

People who entered on visas

People who entered without documents / without inspection

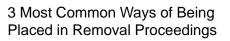


How does a removal (deportation) case begin?

- Must be served with a Notice to Appear
- Contains the reasons for which the person is supposedly removable

Contains the factual allegations against

the non-citizen



- If you are arrested
- Traveling in airports, or on buses near the U.S. border with Mexico or Canada
- Work site or Home Raids do not say anything, except to say that you want to talk to an attorney
- Filing an application with USCIS for a benefit for which you are not eligible

© 2017 The Legal Aid Society All Rights Reserved

Warning!

- Beware of "notarios" and other people who are not qualified immigration practitioners
- The applications that they prepare incorrectly could cause you to be removed (deported)

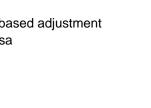
© 2017 The Legal Aid Society All Rights Reserved



Avenues to Obtain Lawful Status?

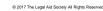
- Family-based adjustment
- Ten (10) year Cancellation of
- Removal
- Employment-based adjustment

- VAWA or U visa
- T visa
- Mage Asylum
- Registry



Family-based adjustment - depends

- Entered on visa
 - Spouse or minor unmarried child of US citizen
 **Parent of a US citizen 21 years old or older
- Entered without inspection, or if other family relationship
 - Need petition or labor certificate filed on or before April 30, 2001



I-601A Waiver of Unlawful Presence

- If ineligible to apply for green card in US, and have to interview at a US Consulate, normally barred from returning for 10 years
- Can ask for a waiver of the 10-year bar before traveling
- Need to show "extreme hardship" to certain family members
 - USC or LPR spouse or parent



Cancellation of Removal for Non-Lawful Permanent Residents

- In U.S. continuously for 10 years
- Good moral character
- Certain crimes make you ineligible
- Demonstrate exceptional and extremely unusual hardship to USC or LPR spouse, parent, or child



**Only available in removal proceedings

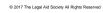
Domestic violence

- VAWA self petition
 - If married to US citizen or permanent resident or
 - If child of US citizen or permanent resident
 - If parent of US citizen or permanent resident
 - Suffered domestic violence



U Visa

- Victim of certain crimes
- Suffered Physical and mental abuse
- Possession of information about abuse
- Helped law enforcement (police, District Attorney, Family Court judge, ACS, etc) investigate or prosecute the perpetrator



U Visa

- Valid for 4 years
- Work authorization
- Apply for green card after 3 years
- Derivatives:
 - Spouse and children, for adultsParent and siblings, for children



Temporary Protected Status (TPS)

- If your country has been designated for Temporary Protected Status, you can temporarily obtain the right to live and work in the U.S. legally
- It does not lead to permanent legal residence
- We do not know if the new Administration will continue the current TPS designations



Special Immigrant Juvenile Status

- Inder 21yo
- Abused, neglected, or abandoned by one or both parents
- In foster care, guardianship, or have been adopted
- Must be unmarried
- Must not have certain criminal convictions



© 2017 The Legal Aid Society All Rights Reserved

Refugee/Asylum

- Credible fear of persecution in home country due to race, religion, national origin, membership in a particular social group, or political opinion
- Refugee apply while outside the U.S.
- Asylee apply within one year of coming to U.S.
- If granted, indefinite work permit and can apply for green card after one year



Detention

- Many immigrants are subject to mandatory detention under INA 236(c)
- Some are eligible for bond hearings before the Immigration Judge
- Others can request parole from ICE
- Demonstrate not a flight risk or a danger to society

© 2017 The Legal Aid Society All Rights Reserved

ICE Online Detainee Locator System

www.ice.gov/locator

Two ways to search:
 A-Number and country of birth, or
 Last name, first name and country of birth

Detention Hotline
 (212) 577-3456, Wed 1-5pm

© 2017 The Legal Aid Society All Rights Reserved

If you are stopped by the police or immigration

Do not give information about your immigration status.

- Do not lie
 Lying about your status carries serious punishment.
- Do not carry false documents.
- Do not carry papers from another country.
 The government can use this information in a deportation proceeding.



If you are stopped by the police or immigration (cont.)

- Memorize or carry with you the phone number of an immigration lawyer, a community service organization, and your country's consulate number.
- Do not sign anything without knowing what you are signing.
 - If you do not understand make sure to ask for an interpreter. You can be signing your right to a hearing or bail away.

© 2017 The Legal Aid Society All Rights Reserved

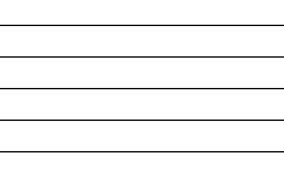
Levels of police encounters

- Conversation in the street
 - Police can stop for any reason, and may lie
 "Am I free to leave?" If yes, LEAVE!
- Stop / Detention / Stop & Frisk
 - Police can pat you down if it's a "stop"
 Right to remain silent
- In police custody / Arrest
 - Ask for a lawyer.
 - Right to remain silent STAY SILENT!

Know Your Rights

- Right to Remain Silent: do not speak to the police or to immigration agents, and do not sign anything, without first talking to an attorney.
- Do not open your door and do not let the police come in unless they have a search warrant.
- City agencies are not supposed to ask about your immigration status, unless it's necessary to see if you qualify for certain benefits.
- Police are not supposed to ask about your immigration status, unless it is relevant to their investigation
- Call your consulate if you are arrested.





Planning for your children, in case you are detained or deported

- Passport for your child
- Designation of Person in Parental Relation
 - School and medical decisions for child
- Power of Attorney
- Banking, apartment, decisions for parent
- Guardianship petition in Family Court

© 2017 The Legal Aid Society All Rights Reserved

Right to attend public school

- Age 5-21, regardless of student or parent's immigration status or language they speak
- The school may *not* inquire about your child's immigration status.
- The school *must* inquire about your child's home language

I ESL

- Bilingual education
 - © 2017 The Legal Aid Society All Rights Reserved

Documents to enroll your child in public school

- Proof of child's age (birth certificate, baptism card, or passport)
- Two proofs of address (for example, a lease, bills, etc.)
- Immunization record
- Latest report card/transcripts
- Copy of your child's Individual Education Plan (if applicable)



Bilingual services

- When enrolling your child, inform school of your preferred language(s)
- Let school know if you will need interpretation or translation services
 - Parent-teacher conferencesSchool suspension hearings

 - IEP meetings
 - Parent association meetings
- Dept. Education language access complaint line (718-935-2013) 2017 The Light All Society Al Right Reserved



Discrimination in School

- It is against the law for your child's school to discriminate against you or your child on basis of:
 - Race
 - Ethnicity
 - Country of origin
 - Religion
 - Immigration status

© 2017 The Legal Aid Society All Rights Reserved



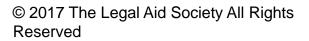
Discrimination in School (cont.)

To report discrimination or harassment by school personnel:

NYC Commission on Human Rights (212)-306-7050

© 2017 The Legal Aid Society All Rights Re

NYC Department of Education Office of Equal Opportunity (718)-935-3320.



Discrimination in School (cont.)

- To report discrimination or harassment by another student, contact:
 - The school's principal or the school's "Respect for All" Liaison; or
 - The Office of School and Youth Development, at <u>respectforall@schools.nyc.gov</u> or 212-374-6807

© 2017 The Legal Aid Society All Rights Reserved



Discrimination in School (cont.)

New York State Division of Human Rights:

■ 1-888-392-3644

any incidents of bias or discriminationat school or anywhere in New York State



