

## Immigration Issues for Non-Citizens

Immigration Law Unit  
The Legal Aid Society, New York

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## 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)

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## 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

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## 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

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## 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

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## 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)

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## 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

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## 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

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## How does a removal (deportation) case begin?

- Must be served with a Notice to Appear
  - Contains the factual allegations against the non-citizen
  - Contains the reasons for which the person is supposedly removable

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### 3 Most Common Ways of Being Placed in Removal Proceedings

- 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

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### 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)

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### Avenues to Obtain Lawful Status?

- Family-based adjustment
- Ten (10) year Cancellation of Removal
- Employment-based adjustment
- VAWA or U visa
- T visa
- Asylum
- Registry

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### 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

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### 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

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### 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

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## 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

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## 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

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## U Visa

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

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## 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

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## Special Immigrant Juvenile Status

- Under 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

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## 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

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## 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

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## ICE Online Detainee Locator System

- [www.ice.gov/locator](http://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

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## 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.

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## 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.

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## 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!

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## 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.

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## 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

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## 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
  - ESL
  - Bilingual education

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## 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)

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## 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 conferences
  - School suspension hearings
  - IEP meetings
  - Parent association meetings
- Dept. Education language access complaint line (718-935-2013)

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## 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

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## Discrimination in School (cont.)

- To report discrimination or harassment by school personnel:
  - NYC Commission on Human Rights  
**(212)-306-7050**
  - NYC Department of Education Office of Equal Opportunity **(718)-935-3320.**

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## 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 [respectforall@schools.nyc.gov](mailto:respectforall@schools.nyc.gov) or 212-374-6807

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## Discrimination in School (cont.)

- New York State Division of Human Rights:
  - **1-888-392-3644**
  - any incidents of bias or discrimination
  - at school or anywhere in New York State

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### **Legal Aid Society**

199 Water Street, 3rd Floor  
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