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Immigration Law: Know Your Rights!

Protecting the community from immigration enforcement

Immigration law and policy for the undocumented community

Building upon the legacy of the Asian Pacific American Legal Center

Disclaimer and Purpose

This is a **general overview** of current immigration law related to the needs of undocumented immigrants in the United States. This includes updates on administrative relief, information about federal immigration programs, and an overview of basic Constitutional rights.

The information disclosed in this presentation is NOT legal advice. While we make every effort to ensure that the information provided in this training is accurate and up-to-date, laws frequently change and are subject to interpretation.

If you wish to apply for any of the immigration relief programs mentioned in this presentation,

**PLEASE SEEK ASSISTANCE FROM AN AUTHORIZED
IMMIGRATION ATTORNEY OR D.O.J. ACCREDITED REPRESENTATIVE**



ABOUT U.S. IMMIGRATION LAW



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Where does immigration law come from?



- Legislative: the main source of immigration law
- Executive: decides how to implement or enforce immigration law
- Judicial: decides how to interpret immigration law



Implementation of Immigration Law



Crimes and Deportability

Admissibility (INA § 212)



Not lawfully admitted to the US:

- Crime involving moral turpitude
- Controlled substance
- Reason to believe the noncitizen is a drug trafficker
- Prostitution
- National security grounds

Removability (INA § 237)



Lawfully admitted to the US:

- Crime involving moral turpitude
- Controlled substance
- Aggravated felony
- Crime of domestic violence/child abuse
- Firearms offenses



Current Enforcement Priorities

- *January 25, 2017 Executive Order: “Enhancing Public Safety in the Interior of the United States”*
- The executive order prioritizes immigrants who:
 - Have been convicted of ANY criminal offense
 - Have pending criminal charges
 - Have committed acts that would be a crime (including unlawful entry to the United States)
 - Have committed fraud before a government agency
 - Have abused public benefits programs
 - Have a final order of removal
 - Are deemed to be a “risk to public safety or national security” by an immigration officer



ICE Directives

- Feb 21, 2017 Enforcement and Removal Operations (ERO) Memo
 - Effective immediately, EROs will take enforcement actions against all removable aliens encountered in the course of their duties
 - Under the terms of the Executive Order, DHS will no longer exempt classes or categories of removable aliens from potential enforcement



DACA Rescission September 5, 2017

- On September 5, 2017 DHS began the “phase out” of the Deferred Action for Childhood Arrivals (DACA) program.
- No new DACA initial applications, or advance parole for DACA recipients, will be processed. Limited DACA renewals were accepted until October 5, 2017.



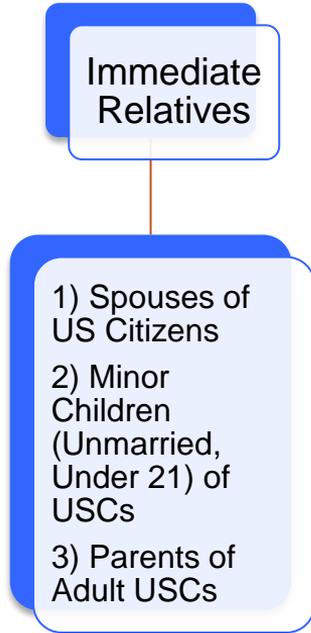
IMMIGRATION RELIEF: your first line of defense



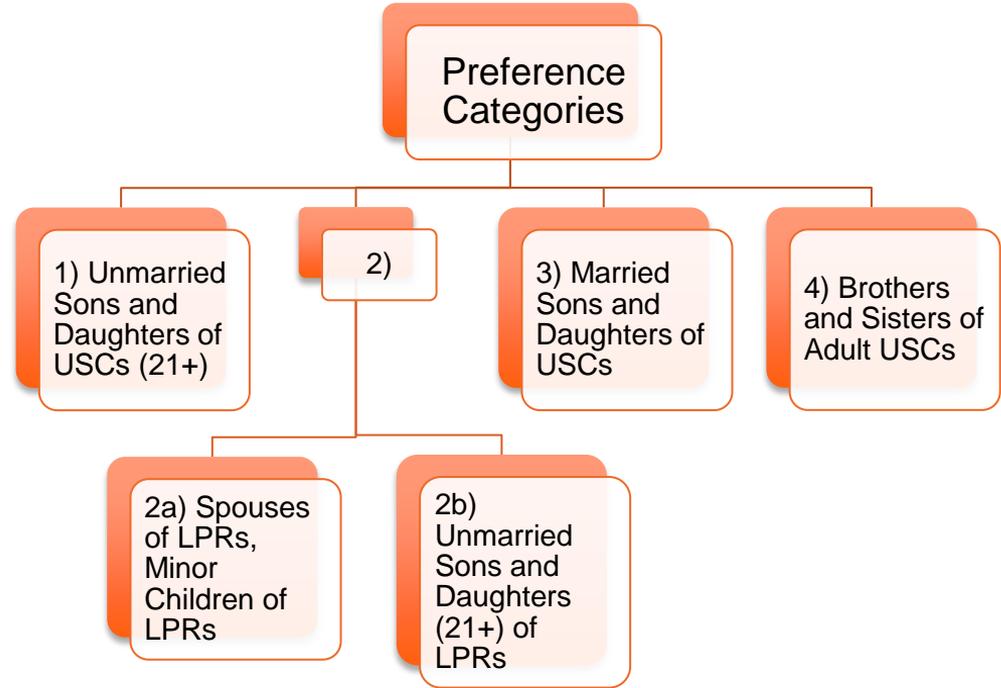
Routes To Permanent Immigration Status



Family-Based Petitions



Adjust status in US
(if lawfully admitted)



Consular Processing Outside US



Family Petitions

Department of State Visa Bulletin for October 2017

Family-Sponsored	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
F1	22DEC10	22DEC10	22DEC10	01MAR96	01JAN07
F2A	22OCT15	22OCT15	22OCT15	15OCT15	22OCT15
F2B	08NOV10	08NOV10	08NOV10	15JUL96	01JAN07
F3	22JUL05	22JUL05	22JUL05	22APR95	22FEB95
F4	08MAY04	08MAY04	01OCT03	01OCT97	01JUN94



Unlawful Presence and the Permanent Bar

- **Obstacles to leaving the United States, and to consular processing***
- **The unlawful presence bars (3- and 10-year bars):**
 - If an immigrant has been undocumented, then if they leave the U.S. they will be barred from coming back. The bars are for 3 or 10 years.
- **The permanent bar:**
 - If an immigrant is undocumented for at least one year and then leaves the U.S., (or if the immigrant is deported) and then re-enters or attempts to re-enter the U.S. then they are permanently barred from immigration relief.



Humanitarian Relief

- **U-Visa**
 - For victims of crimes
- **T-Visa**
 - For victims of human trafficking
- **VAWA Visa**
 - For certain victims of domestic violence
- **Special Immigrant Juvenile Status (SIJS)**
 - For young people under 21 who have been abused, neglected, or abandoned by one or both parents
- **Cancellation of Removal**
 - Relief from deportation for certain immigrants with qualifying relatives
- **Asylum**
 - Only for recent arrivals, protection from persecution in home country
- **Temporary Protected Status (TPS)***
 - Temporary status for people fleeing disaster in home country
- **DACA (Deferred Action for Childhood Arrivals)***
 - Temporary relief from deportation for immigrants who came to the U.S. as children.



Beware of Fraud!

- Make sure whoever is helping is an attorney or BIA recognized non-profit organization
- **Getting the wrong help can HURT!**
- If it sounds too good to be true, it probably isn't ☹️
- Report any unlawful preparer
 - <http://dcba.lacounty.gov/wps/portal/dca>
 - 800-593-8222
- Report any attorney malpractice
 - <http://www.calbar.ca.gov/Attorneys/LawyerRegulation/FilingaComplaint.aspx>
 - 800-843-9053



California Programs for Undocumented Immigrants



Education, Health, and Driver's Licences

Education

- AB 540
 - In-state tuition for undocumented immigrants who attended 3+ years of high school in California
- California DREAM Act
 - Financial aid for students that qualify for AB 540
- California Dream Loan
 - Loan from certain CSUs and UCs
- SB 1159
 - Allows undocumented students to apply for professional licenses

Health

- SB 75
 - Full-scope Medi-Cal for undocumented youth age 19 or under.
 - For adults over 19, only qualify for emergency Medi-Cal and special programs maternal healthcare

Driver's Licenses

- AB 60
 - Allows undocumented immigrants to receive driver's licenses



KNOW YOUR RIGHTS

Credit: CASA of Maryland, Detention Watch Network, National Immigration Project of the National Lawyer's Guild



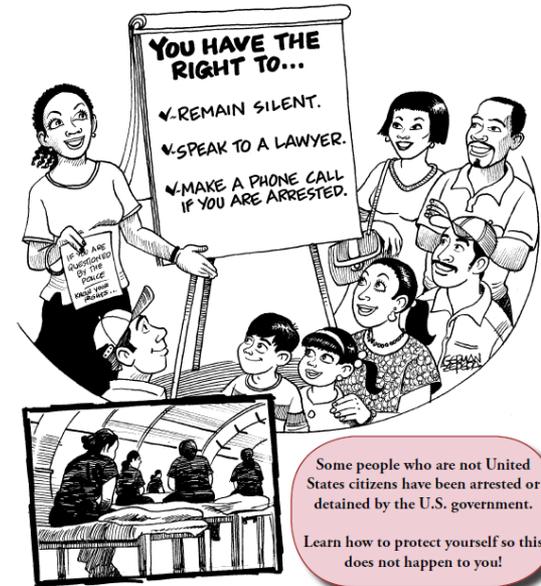
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PROTECTING YOURSELF

- Police Questioning
- Immigration Coming to Your Home
- Immigration Raids
- Accused of a Crime
- Being Arrested
- Safety Plan
- Your Rights

Know Your Rights!

LEARN HOW TO PROTECT YOU AND YOUR FAMILY DURING IMMIGRATION RAIDS



Some people who are not United States citizens have been arrested or detained by the U.S. government. Learn how to protect yourself so this does not happen to you!

* The contents of this booklet do not constitute legal advice. Consult an immigration attorney for legal advice.



POLICE ENCOUNTERS GENERALLY

There are three main stages of law enforcement encounters:

1. **Casual / Conversation** – No obligation to the officer, free to leave. May ask the purpose of questioning.
1. **Detention** – A stop, but not an arrest. Officer can ask for information about your identity but you cannot be arrested for not showing ID (depends on state). Police needs “probable cause” in order to arrest you, but only “reasonable suspicion” to stop and question, or to stop and perform certain searches in the case of automobiles.
1. **Arrest** – If the officer has evidence against you, you can be arrested on suspicion of a crime or immigration violation. This is when the officer has proof or “probable cause” for believing that you commit an illegal act. You have the right to remain silent and the right to request an attorney before answering questions. You are subject to search of your person or automobile.



IF YOU ARE QUESTIONED BY POLICE...

- You have the right to ask the officer if you are being arrested or detained.
 - If NO, ask the officer if you may leave. When the officer says that you may leave, *slowly and calmly* walk away.
 - If YES... assert your rights. You have the right to remain silent and the right to an attorney.
- If you are undocumented and being arrested or detained...
 - DO NOT answer any questions or say only “I need to speak to my lawyer”.
 - Show valid immigration documents if you have them.
 - DO NOT carry papers from another country.
 - DO NOT answer any questions about where you were born or how you entered the U.S.

Show them your Know Your Rights Card!
DO NOT LIE OR SHOW FALSE DOCUMENTS



IF IMMIGRATION COMES...



TO YOUR HOME

- You have the right to see a warrant. Officers do not have the right to enter your home without a *search warrant*, signed by a federal or superior court judge. Administrative ICE arrest warrants do not give officers the right to enter a home or private building.
- Do not open the door. If you let ICE inside, they can stay.
 - Slip the warrant underneath the door.
 - Request for names and badge numbers of the officers and say that you did not “consent” to a search.
 - Also get names and contact information of witnesses.

TO YOUR WORK

- Officer needs a warrant signed by a judge or employer’s permission to enter the workplace. BUT if someone lets them in, they may stay.
- They do not need a warrant if it is a public place.
- Stay calm. Do not run.



IF YOU WITNESS AN IMMIGRATION RAID...

- IF YOU CAN DO SO SAFELY, RECORD WHAT IS HAPPENING
 - Take photos, video, document and report raids and arrests
 - Obtain the names and phone numbers of any witnesses
 - Share information about the raid with your co-workers; contact your union official
 - If ICE agents or police enter without a warrant, report them
- TO REPORT A RAID
 - **Contact United We Dream's hotline at 1-844-363-1423 or text 877877.**
 - Report any incidents of raids or abuses / mistreatment by ICE, police or border patrol officers.



IF YOU ARE ARRESTED...

- FIND OUT WHO ARRESTED YOU
 - Name of officer & agency (Police Dept., FBI, ICE, County Sheriff...)
 - I.D. numbers, license plate numbers
- DON'T SIGN ANY DOCUMENTS BEFORE SPEAKING WITH A LAWYER
 - You **always** have the right to speak to a lawyer
 - Do not get tricked into signing anything
- CONTACT YOUR ATTORNEY OR A FAMILY MEMBER
 - Right to a phone call. Memorize important phone numbers (attorney, family member, union spokesperson)
- CONTACT YOUR CONSULATE (FOREIGN NATIONALS)
- ASK FOR BOND



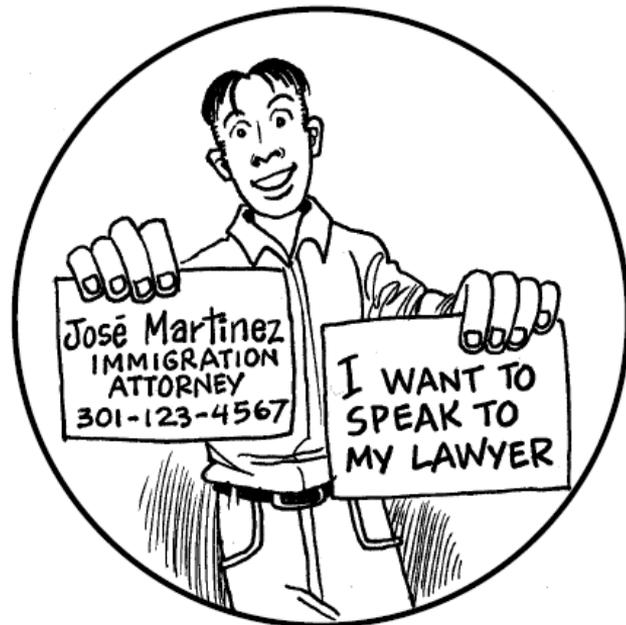
IF YOU ARE ACCUSED OF A CRIME...



- ASK AN ATTORNEY TO HELP YOU GET RELEASED FROM POLICE CUSTODY
 - Must be charged with a crime within 48 hours, or else release you.
 - If the police does file criminal charges, you need to be released if 1) charges are dropped 2) you are granted and post bail 3) you win your criminal case, or 4) you complete your sentence.
- IF YOU HAVE BEEN ACCUSED OF A CRIME
 - Consult with an immigration attorney to make sure that the crime will not affect your immigration status. This includes applying for naturalization or obtaining a green card.
- IF YOU ARE FACING DEPORTATION & YOU NEED AN ATTORNEY
 - Find an attorney who specializes in deportation defense.
 - Ask for a copy of the written contract with your attorney before payment.

DEVELOP A SAFETY PLAN

- MAKE A PLAN OF ACTION WITH YOUR CO-WORKERS
 - Talk with co-workers to see if they are willing to make a collective decision that everyone-regardless of their immigration status- will remain silent and ask to speak with an attorney in the event of a workplace raid.
- KNOW WHAT DOCUMENTS YOU SHOULD CARRY WITH YOU
 - Carry a card with the contact information of your immigration attorney and/or union representative.
 - Carry a card indicating that you wish to remain silent.
- MAKE A PLAN TO TAKE CARE OF YOUR FAMILY
 - If you have children or elderly relatives, decide who will take care of them and keep their phone numbers. In CA you can make a caregiver's affidavit to identify that person.
 - Designate someone you trust with Power of Attorney to make financial, legal or child care decisions if you are detained.



SAFETY PLAN PT. 2



- FIND AN IMMIGRATION ATTORNEY

- Find someone who specializes in deportation defense who can represent you. Memorize their name and phone number.
- Have names & phone numbers of several good immigration attorneys posted near the telephone at home



- HAVE A COPY OF ALL IMMIGRATION DOCUMENTS

- Keep copies of all immigration documents filed with immigration with a friend or family member you trust.
- Collect birth certificates, marriage certificates, and passports; Keep them in a safe place that your family can access.
- Make a list of names & contact info of any lawyer that has ever represented you



Know Your Rights! Red Cards – Role Play

If detained, or if immigration or the police come to your home:

- ✓ Hand the card to the official, (can slip it under the door) and remain silent
- ✓ The card explains that you are exercising your right to refuse to answer any questions and that you do not consent to a search.

Usted tiene derechos constitucionales.

- **NO ABRA LA PUERTA SI UN AGENTE DEL SERVICIO DE INMIGRACION ESTA TOCANDO A LA PUERTA.**
- **NO CONTESTE NINGUNA PREGUNTA DEL AGENTE DEL SERVICIO DE INMIGRACION SI EL TRATA DE HABLAR CON USTED.** Usted tiene derecho a mantenerse callado. No tiene que dar su nombre al agente. Si está en el trabajo, pregunte al agente si está libre para salir y si el agente dice que sí, váyase. Usted tiene derecho de hablar con un abogado.
- **ENTREGUE ESTA TARJETA AL AGENTE. NO ABRA LA PUERTA**

I do not wish to speak with you, answer your questions, or sign or hand you any documents based on my 5th Amendment rights under the United States Constitution.

I do not give you permission to enter my home based on my 4th Amendment rights under the United States Constitution unless you have a warrant to enter, signed by a judge or magistrate with my name on it that you slide under the door. I do not give you permission to search any of my belongings based on my 4th Amendment rights.



I choose to exercise my constitutional rights.

These cards are available to citizens and noncitizens alike.



If you see **ICE** in your community or know someone who was **detained**

CALL US FOR SUPPORT

1-844-878-7801



www.ICEOutOfCA.org



Immigration Screening Workshops

Advancing Justice – LA Provides Free Immigration Help:

- Tuesdays from 2pm-5pm at Karsh Center in Koreatown
- Thursdays from 3pm-6pm at Advancing Justice-LA
- Third Wednesday of the Month from 2pm-5pm at San Gabriel Valley Services Center in South El Monte

Services Available:

- General Immigration Consultations
- DACA and Advance Parole Application Advice
- Legal representation for DACA, advance parole, family petitions, U visas, VAWA visas, SIJS, etc.
- Removal defense, bond hearings for detained clients, post-removal remedies



THANK YOU!

**CALL (888) 349-9695 (ENGLISH) FOR AN
APPOINTMENT OR EMAIL**

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