

# Immigration Workshop!

## Know Your Rights

Immigrant Defense Project  
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# Who We Are



- Families for Freedom (FFF) is a nonprofit network of immigrant families facing and fighting deportation.
- Immigrant Defense Project (IDP) is a nonprofit organization that specializes in criminal-immigration issues.

# Agenda



- Are you at risk for being deported?
- How can you end up in the deportation system?
- What happens if you have to go to immigration court?
- How can you prepare for your immigration case?
- How can you avoid being deported?
- What happens after your immigration case?
- Questions?



# Basics of Deportation and the Criminal Justice Systems

# What is Deportation?

DEPORTATION is when a person who is **not a US citizen** is removed from the United States.

When noncitizens are deported, they usually **CANNOT** return to the United States for a certain amount of time.

# Are You at Risk of Being Deported?

*\*ANY ONE NOT A UNITED STATES CITIZEN IS AT RISK FOR BEING DEPORTED\**

## If you are DOCUMENTED

- Green card holders who have past convictions
- You came into the United States with a visa (such as a visitor visa, student visa, work visa) and you do not follow the terms of the visa:
  - For example, because you were convicted of a crime

## If you are UNDOCUMENTED

- You might be undocumented if:
  - You came into the US by illegally crossing the border or with false documents
  - Your visa or immigration status has expired
  - You were ordered deported in the past
    - Under immigration law, you could be considered a “fugitive” or an “absconder” if you didn’t show up for court or deportation



# Immigration & Customs Enforcement (ICE) in the Criminal Justice System

# Immigration Detainers/“ Holds”

- A detainer (or “hold”) happens when Immigration asks a jail to contact them before the jail releases you. This allows Immigration to pick you up from the jail.
- Detainers prevent your release. The jail can hold you for 48 hours (not including weekends and holidays) to let Immigration take custody of you.
- If Immigration does not pick you up within 48 hours, the jail should let you go. If the jail does not let you go, you can:
  - ▣ Ask your criminal lawyer to contact the jail’s legal department.
  - ▣ Ask the housing area officer and counseling services staff to contact the jail’s general office.
  - ▣ Ask family or friends to try calling 311.

# When Speaking to ICE in Jail:

You have the right to:

- ✓ Not say anything
- ✓ Not sign anything
- ✓ Ask to speak to your lawyer.

\*But remember: Don't lie.

# You Can Choose to NOT Speak with ICE

Form: 144 ICE (Rev. 11/09)

## Immigration and Customs Enforcement (ICE) Interview Consent Form

ATTACHMENT - I

Date: \_\_\_\_\_

Inmate: \_\_\_\_\_

Book & Case No: \_\_\_\_\_

Tier/ Housing Area: \_\_\_\_\_

An Immigration and Customs Enforcement (ICE) agent would like to interview you to ascertain if you are an alien not lawfully entitled to be or remain in the United States. You have the right to be represented by counsel of your choice at no cost to the government and you do not have to speak with the ICE agent at this time. Any statement you make may be used against you in a subsequent ICE administrative proceeding.

\_\_\_\_\_  
Correction Officer's Signature

\_\_\_\_\_  
Shield and ID number

For Inmate - Check One:

- I agree to attend this interview without my lawyer.
- I want to wait to have my lawyer with me for this interview.
- I do not want to be interviewed by Immigration and Customs Enforcement (ICE).

\_\_\_\_\_  
Inmate's Signature

## If You're Facing Criminal Charges:



- You should assume that any arrest or conviction might affect your immigration status.
- Get immigration advice before pleading guilty, even to a minor offense.

# To Protect Your Immigration Status, YOU CAN:

- Talk to your criminal lawyer
- Talk to a criminal-immigration expert
- Try to arrange a plea that protects your immigration status
- Consider going to trial
- Consider filing an appeal or trying to reopen an older criminal case



# Immigration Removal Proceedings (Immigration Hearings)

# Immigration Proceedings: Overview



- Bond hearing
- Master calendar hearing
- Individual hearing

# Bond Hearing

## What is bond and how do you get it?

- Bond is like bail. It lets you out of Immigration custody during your case.
- By paying bond, you promise Immigration that you will obey certain conditions. That includes showing up at all your immigration hearings.
- Deportation officers and immigration judges can offer bond.
- Show favorable factors – like family, permanent address, stable employment.
- Not everyone can get bond. But it's a good idea to ask for it anyway.

# Master Calendar Hearings

## What is a master calendar hearing?

- These are short immigration hearings.
- You might have several master calendars.

## What happens at a master hearing?

- Let the immigration judge know what you want to do in your immigration case.
- Set up schedules to file applications with the court.
- If you want to fight deportation, you can refuse to admit the immigration charges against you.
- You can ask the judge for more time to find a lawyer.
- You might also get ordered deported if:
  - ▣ You ask to be deported, or
  - ▣ You do not have any applications that you can file with the immigration court.

# Individual/Merits Hearing

- If you have an application to file with the immigration court, you will return to court for an individual or merits hearing. This is your immigration trial.
- Immigration and Customs Enforcement (ICE) and the immigration judge might ask you questions. You can have witnesses testify for you.
- The immigration judge will make a decision on whether you should be allowed to stay in the United States. These decisions can be appealed by you or by the Government.

# Hearings When You Are Locked Up:

## Institutional Removal Program (IRP):

- These are immigration hearings that are held while you are in prison serving your criminal sentence.
- Many of these hearings are done in state/federal prisons by telephone or video conferencing.
- You have the right to object to these video and telephone hearings.
  - ▣ But they will likely still happen.

# Immigration Lawyers

The judge will not give you a free lawyer in immigration court.

But you have the right to get a lawyer yourself.

- ▣ Get a lawyer who specializes in deportation
- ▣ Understand and sign retainer agreements
- ▣ Make sure the lawyer looks at all of your immigration documents
- ▣ Keep a record of your conversations with the lawyer and make written notes for yourself
- ▣ Keep copies of everything
- ▣ Make sure YOU understand what's going on in your case. Don't just leave all the work to your attorney!

# Key Documents You Will Need to Fight Your Immigration Case

These can include (but are not limited to):

- Certificates of disposition (a certified copy provided by the criminal court)
- Plea agreements
- Criminal lawyer's contact information
- Notice to Appear (immigration charging document)
- Record of your trips outside of the US
- Copy of your immigration applications and decisions

# What Your Loved Ones Can Do

- Help you collect key documents
- Contact lawyers and service providers like Families for Freedom and Immigrant Defense Project
- Download and help you fill out application forms for immigration court ([www.uscis.gov](http://www.uscis.gov) or [www.doj/eoir](http://www.doj/eoir) )
- Write letters showing favorable factors in your case.
  - ▣ Favorable factors can include your family and community ties.
- Testify for you at immigration court hearings.

# Applications to Avoid Being Deported – “Relief” from Removal

- Adjustment of Status (applying or reapplying for a green card)
- Waivers
- Persecution-based relief
- Special Visas
- Citizenship
- Voluntary Departure (leaving on your own)

# Adjustment of Status – Applying or Reapplying for a Green Card

- Must have spouse or child 21 years old that is a US citizen. Or, if you are a minor (under 21 yrs old), you must have a US citizen parent.
- Certain criminal convictions will prevent you from applying for a green card
  - ▣ Examples include most drug offenses, many theft offenses, some assault offenses
- Usually, you need to have entered the US legally (with a visa or green card)

# Waivers For Green Card Holders

- Cancellation of Removal for Lawful Permanent Residents (Green Card Holders):
  - ▣ 7 years living continuously in US after a legal entry
  - ▣ 5 years as green card holder
  - ▣ Positive factors outweigh negative factors
  - ▣ Certain criminal convictions will prevent you from applying for this waiver
- 212(c)
  - ▣ Can “forgive” convictions before 1996 that would make you deportable.
    - Must have pled guilty to the crime.

# Waiver: For Non-Green Card Holders

- Cancellation of Removal for Non-Lawful Permanent Residents
  - ▣ 10 years living continuously in US
  - ▣ “Good moral character”
  - ▣ “Extreme hardship” to spouse, children, or parents who are US citizens or green card holders
  - ▣ Many convictions will prevent you from applying.

# Persecution-Based Applications

- Asylum, Withholding of Removal, and Convention Against Torture:
  - ▣ Ask judge to not deport or remove you because you are afraid of being persecuted or tortured in your native country
  - ▣ Being afraid of having economic troubles or hardships does not count.

# Special Visas

By working with law enforcement, you might be able to get a temporary visa to stay in the US. Law enforcement agencies must work with you to do the applications.

- ▣ S Visa

- ▣ For providing important information on a criminal organization

- ▣ T Visa

- ▣ For victims of human trafficking

- ▣ U Visa

- ▣ For victims of certain serious crimes

# Citizenship

- Some people are US citizens but do not know it
- This is possible if:
  - ▣ Your parent(s) were US citizens when you were born,  
OR
  - ▣ You got your green card when you were a minor, and your parent(s) became US citizens before you turned a certain age (usually 18)
- If you are a US citizen, Immigration CANNOT deport you
- Be sure to tell your immigration lawyer or the immigration officer or judge if you think you are a US citizen.

# Voluntary Departure

- Voluntary departure is a request to the immigration judge to not give you an order of deportation. Instead, you agree to leave on your own.
- If you are allowed to leave voluntarily, you may have to buy your ticket from Immigration if you are in custody.
- Once you leave, you may be prevented from coming back to the US.

# If You Lose Your Immigration Case...

- You can file an appeal within 30 days of losing your immigration case
- You can file a motion (a written request) to reopen or to reconsider your immigration decision
- If you are in custody: Custody Review:
  - You have the right to 90-day, 6 month, and 1-year reviews of your immigration custody
  - Immigration cannot detain you indefinitely unless they can show that they will deport you in the near future or you are a threat to the community

# Early/Conditional Parole for Deportation Only (E/CPDO)

- Lets you serve less time in New York State prison.
- Board of Parole can release you early – but only to let Immigration deport you
- Need to serve at least half of your minimum sentence
- Procedure:
  - ▣ Get ordered deported by an immigration judge or signing an order to deport you
    - This means giving up or using up all immigration appeals
  - ▣ Ask Parole Board to grant you ECPDO or CPDO.

# Can You Return to the US After Being Deported?

- ❑ Unfortunately, it's very hard to return to the US after being deported
- ❑ Every deported person is prevented from coming back to the US for a certain number of years
- ❑ Sometimes, you can file an application ("waiver") to ask for permission to come back to the US
- ❑ Some criminal convictions prevent you from ever coming back to the US
- ❑ If you return to the US without permission, you can be criminally charged for entering illegally and you can be sentenced to serve time in a federal prison.

# Advocate For Your Rights Now and After Your Case Is Decided:

- Write down your history to share with others
- Have your loved ones write affidavits and letters showing your “favorable factors”
- Get politicians and media to tell your story
- Get help from your consulate, they can:
  - ▣ Help protect your rights
  - ▣ Provide you with legal and re-entry resources
  - ▣ Issue a travel document or passport

# Organizing for Change



You and your loved ones can help change the laws that tear apart our families and communities. You can have a say in creating a humane immigration system.

Here are some things you can do to fight for your rights:

- Support: In unity there is strength and power. You and your loved ones can help other families in similar situations.

# Organizing for Change (continued)



- Educate: Pass this information on to others!
- Listen to Families for Freedom's monthly radio show: (every first Tuesday at 10am on WBAI 99.5).
- Join campaigns to advocate for reform to keep our families together.
- Help inform consulates about how deportation is destroying our communities in the U.S. and abroad.

# Organizing for Change (continued)

- Organize: Join us to win change!
  - ▣ We partner with our communities to fight for humane immigration reform, including:
    - Eliminating mandatory detention and deportation
    - Restoring judicial discretion and due process in the system
  - ▣ We urge politicians to address the harsh impact immigration laws have had on our families.
  - ▣ We advocate against overly aggressive ICE enforcement.

# Resources

- For criminal-immigration advice and help:
  - ▣ Immigrant Defense Project: 212-725-6422
  - ▣ Families for Freedom: 646-290-5551
  
- For free lawyers to represent you:
  - ▣ Legal Aid Society: 212-577-3300
  - ▣ Legal Aid accepts a limited number of cases.

YOUR TURN...

Questions?



**THANK YOU!**