

**DEPORTATION 101:**  
Detention, Deportation,  
and the Criminal Justice System

**February 26, 2005**

*Immigrant Rights are Human Rights!*

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# DEPORTATION 101:

Detention, Deportation, and the Criminal Justice System

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# DEPORTATION 101:

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## AGENDA

### Introduction and Context

Agency Structure  
A Chronology of Deportation  
Who is at Risk for Deportation?  
Trigger Sites for Deportation  
**MAP**: The Criminal Justice System  
**MAP**: The Deportation System

### Immigration in the Criminal Justice System

MAP: Immigration in the Criminal Justice System  
*Roleplay!* Rikers Immigration Interview  
Immigration Impact of Criminal Convictions  
Pleading Guilty: Strategies to Minimize Immigration Consequences

### BREAK

### Detention and Deportation

First 24 Hours of Detention  
Deportation Defense: Bond and Forms of Relief  
*Case Study*  
Imminent Deportation  
Post-Order Custody Review  
Returning After Deportation  
Detention Abuse  
Resources

### Case Campaigns

Targets and Prosecutorial Discretion  
Favorable Factors  
Tactics  
*Roleplay!* Calling a Congressional Office  
Review and Q&A

### Evaluations



# IMMIGRANT APARTHEID

## Deportation Timeline (with New York focus)

TIME	EVENT
1981-1990	<b>Total Deportations: 213,071 (30,630 for criminal or narcotics violations)<sup>1</sup></b>
1986	<p><b>Amnesty</b> Under Ronald Reagan, Congress passed the Immigration Reform and Control Act (IRCA), giving legal permanent residency to 3 million undocumented immigrants who has continuously resided in the U.S. since Jan 1,1982. IRCA was a trade off, also creating new employer sanctions (penalties) for employers who hired immigrants without employment authorization.</p>
1996	<p><b>Anti-terrorism and Effective Death Penalty Act (AEDPA) and Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA)</b> The 1996 laws replaced a largely discretionary system with <i>mandatory detention</i> and <i>mandatory deportation</i>.<sup>2</sup> The grounds of deportation are expanded to include most offenses, and most of the new deportation grounds are applied <i>retroactively</i> (to crimes occurring before the laws' passage). Furthermore that deportation is mandatory: you have no right to prove to a judge that you are rehabilitated, have community ties, or deserve to stay in the U.S. The Attorney General can place asylum seekers and certain criminal aliens into <i>expedited removal</i> – expulsion without court hearing. The ability of federal courts to review deportation cases is severely restricted. Under new mandatory detention provisions, an immigration judge may not release the immigrant on bond even if s/he poses no risk of flight or threat to society. Mandatory detention applies to noncitizens with any of a broad array of convictions, asylum seekers at ports of entry, and legal residents with past convictions who are attempting re-entry to the US after a brief trip abroad. Deportation becomes a point of no return, with lifetime bars to re-entry for those deported for any drug-related offense and “aggravated felonies.” Others face bars of 20, 10, or 5 years. The penalties for illegal re-entry are increased too. Since 1996, funding for deportation has steadily grown.</p>
June 25, 2001	<p><b>INS v. St. Cyr</b> Supreme Court ruled 5-4 that long-term greencard holders who pleaded guilty to crimes before 1996 should remain eligible to apply for 212(c) relief (a pardon granted by the immigration judge).<sup>3</sup> After the passage of the 1996 laws, the Justice Department retroactively stripped this relief from thousands of greencard holders with old crimes and deported them. The Justice Department maintains that the ruling cannot be used to bring these people back; nor can it be applied to those who went to trial.</p>
June 28, 2001	<p><b>Zadvydas v. Davis &amp; Ma v. Reno</b> Supreme Court ruled that Justice Department cannot indefinitely detain deportable immigrants who have final orders of deportation but cannot be deported. Instead, after a reasonable period of time (6 months), they must be granted supervised released. The rulings turned on two men: Zadvydas, a stateless man born in a German displaced persons camp; and Ma, whose home country Cambodia had no repatriation agreement with the U.S. at the time of the decision. Since the ruling, the U.S. has created such an agreement and deported Ma along with dozens of other Cambodians settled here in the wake of the Vietnam War.</p>
March 27, 2002	<p><b>Hoffman Plastic Compounds, Inc. v. NLRB</b> Supreme Court ruled that Jose Castro, a laborer fired for challenging abusive labor conditions, has no right to be paid for services he already delivered <i>because he is undocumented</i>. The largely unnoticed decision, in which immigration status totally eclipses a human being’s dignity as a laborer, stirred controversy worldwide, with the Mexican government even appealing to the Inter-American Court of Human Rights.</p>

Sept 2001 – August 2002	<p><b>Post 911 “Special Interest” round-ups</b>          Shortly after 9/11, the FBI and INS arrest at least 1,200 South Asians, Arabs, and North Africans.<sup>4</sup> Their arrests were marked by heavy-handed and well coordinated tactics of entering people’s homes at early hours of the morning and carting them away in front of their families to several detention centers in NJ and Brooklyn.</p> <p>These men were initially held indefinitely, in secret, without charge, and with their immigration hearings closed to the public. Most were ultimately charged with visa overstays and minor immigration violations; and others with marriage fraud, illegal reentry, and other relatively low-level criminal offenses. The majority of this group has been deported.</p>
December 2001	<p><b>Operation Tarmac</b>          INS raids airports around the country with other law enforcement agencies, arresting more than 1,000 undocumented immigrants and immigrants with past convictions. Some of those arrested are charged criminally with document fraud.</p>
January 2002	<p><b>Alien Absconder Apprehension Initiative</b>          Immediately after September 11th, the Justice Department initiated a hunt for noncitizens with old deportation orders - “absconders.” There are over 400,000 within our borders. The names of absconders are placed into the National Crime Information Center database, created in 1930 for police to see if an arrestee has outstanding warrants in any other state. Now when an immigrant gets pulled over by a traffic cop, he could be deported in literally hours if his name appears. No matter if he has citizen family, decades of residency, or property. Absconders often do not know they fall into the category, or how it is different from being plain undocumented. The Absconder Apprehension Initiative may be the first time in US history that a half million people are fugitives without knowing it.</p>
October 2002	<p><b>Special Registration (NSEERS)</b>          Engineered by the Bush administration in November 2002, this executive branch program has two parts: “Call in” and “Port of Entry” registration.<sup>5</sup> The “Call in” required non-permanent resident men and boys age 16 and over from 25 primarily Muslim countries and North Korea to register with the immigration service. Nationwide 80,000 complied and 14,000 were placed in deportation (3,000 from New York). Those who did not register face potential criminal prosecution. They may also be denied the ability to adjust to lawful status and be deported on the grounds of “special registration non-compliance.” Port of Entry registration required this same group of men to undergo fingerprinting and interview whenever leaving or entering the U.S. The government publicized Registration only on their immigration website and in the Federal Register. Community institutions took on the burden of educating men and boys who had to register that the program existed. Entire neighborhoods chose to leave the country, afraid of persecution at the hands of the Department of Justice (DOJ).</p>
March 1, 2003	<p><b>Department of Homeland Security Act</b>          The Immigration and Naturalization Service (INS) is dismantled, and its responsibilities subsumed into the Department of Homeland Security (DHS). The DHS constitutes the largest reorganization of the federal government in 50 years.<sup>6</sup> Immigration functions are split into 3 separate bureaus of enforcement, border patrol, and services.</p>
April 29, 2003	<p><b>Demore v. Kim</b>          This Supreme Court case reviewed the constitutionality of <i>mandatory detention</i> – the indefinite incarceration of a noncitizen while in deportation proceedings, regardless of whether s/he is a risk of flight or threat to society, solely because the noncitizen belongs to a blanket category (in this case, “aggravated felons”). The Petitioner was Hyung Joon Kim, a South Korean who immigrated to the U.S. at age 6, became a greencard holder, and got convictions for burglary and petty theft as a young man. He was placed in deportation proceedings after completing his sentence, and held without a bond hearing as an “aggravated felon” (mandatory detention under INA §236(c)). He successfully challenged the constitutionality of the detention, and a federal court ordered the INS to release him.</p> <p>The Justice Department appealed this decision up to the Supreme Court, and the Court decided 5/4 to reverse the federal court’s ruling and uphold the constitutionality of mandatory detention based on class. This was the first time since Japanese internment that the Supreme Court upheld the government’s right to blanket incarceration.</p>



October 2003	<p><b>Operation Predator</b></p> <p>A major initiative designed to apprehend and deport non-citizens with past child sex-related offenses (who had served their time). “Predator” used the same tactics as the Absconder Initiative and the “Special Interest” sweeps, including visits to the workplace and home. Gathered information from Megan’s Law databases of sex-offenders</p> <p>DHS claims that the program is “designed to protect young people from...predatory criminals...and those who exploit young people.” The operation targets include people with sex offenses that include low-level statutory rape convictions (consensual relationships with minors) from their teenage years for which they served no time.</p>
September 17, 2003	<p><b>Executive Order 41</b></p> <p>NYC Mayor Bloomberg signed this executive order. It prohibits New York City agencies from inquiring into the immigration status of individuals and from sharing such information with federal agencies, <i>unless the immigrant is suspected of illegal activity</i>. This loophole is expansive, leaving city agencies (namely the New York Police Department and the Department of Corrections) at liberty to collaborate with federal immigration authorities in many instances.</p>
March 2004	<p><b>Operation Endgame</b></p> <p>The most recent strategic plan from Homeland Security’s Bureau of Immigration and Customs Enforcement. Endgame sets out a ten-year goal to “remove all removable aliens” from the United States.</p>
May 2004	<p><b>NYS Parole Raids</b></p> <p>500 officers from New York’s Division of Parole and the federal immigration office teamed to identify and detain non-citizen parolees for deportation.<sup>8</sup> According to Scott Steinhardt, NYS Parole spokesman, the purpose was “solely to ensure the safe and timely transition of offenders to federal custody.” The first round up (May 2004) targeted 138 immigrants - most of whom are Black and Latino and many of whom had green cards. Some parole officers called parolees and former parolees, asking them to report for visits that were not routine. Raids in September 2004 and January 2005 followed. The New York City Department of Probation also began cooperating with federal immigration authorities in identifying non-citizens in their system for deportation.</p>
November 9, 2004	<p><b>Leocal v. Ashcroft</b></p> <p>Unanimous Supreme Court decision holding that state drunk driving offenses that require mere accidental or negligent conduct are not “crimes of violence” for immigration purposes and therefore cannot be “aggravated felonies.” <i>Leocal</i> provides helpful guidance for noncitizens convicted of other offenses that require less than reckless conduct but that, before <i>Leocal</i>, arguably fell under the “crime of violence” definition.</p>
December 12, 2004	<p><b>Intelligence Bill</b></p> <p>The bill that was meant to legislate the recommendations of the 911 Commission, but became an embarrassing battle when Republicans tried to tag on irrelevant immigration provisions into the national security bill. 911 families spoke out against the party move, and ultimately Republicans were forced to drop certain anti-immigrant provisions, like nationwide immigration requirements on drivers licenses, and the suspension of habeas corpus for immigrants in deportation. But the bill did deliver two devastating blows: it doubles the border patrol, and adds 40,000 new detention beds to the deportation system. In the current Congress, the leftover provisions are being championed by politicians including Congressman James Sensenbrenner.</p>
January 12, 2005	<p><b>Clark v. Martinez &amp; Benitez v. Rozos</b></p> <p>Supreme Court ruling that the government cannot indefinitely detain “Mariel” Cubans and other noncitizen “parolees” who have final orders of deportation but cannot be deported because the country of origin will not accept their return. This ruling extended the rationale in <b>Zadvydas v. Davis</b> (2001, see above) to noncitizens who, like Mariel Cubans, were never lawfully “admitted” into the United States.</p>
January 12, 2005	<p><b>Jama v. INS</b></p> <p>Supreme Court rules 5-4 that the government may deport someone to another country even without that country’s consent to accept him. In this case, the court held that the immigration laws did not prevent the government from deporting Mr. Jama, a Somali national, to Somalia despite the civil war in the country and the resulting lack of a central government there to accept his return.</p>
1996-2003	<p><b>Total Deportations: 1,238,121 deportations (517,861 for criminal violations)<sup>9</sup></b></p>

# IMMIGRATION ENFORCEMENT: GOVERNMENT STRATEGIES, FUTURE TRENDS



Collaboration between local government and Bureau of Immigration and Customs Enforcement (ICE)

Enforcement presence in immigrant communities in public and private spaces

\$ for Enforcement

Mandatory deportation grounds

Mandatory detention grounds

Detention bed space

Use of criminal justice system (especially through stop & frisk style racial profiling, and targeting of the underground economy which most poor/working communities rely upon for livelihood)



Immigration judge's discretion to grant relief

Favorable grants of relief, where discretion is available

Legal protections available to detainees (e.g. rights to appeal)

<sup>1</sup> Immigration and Naturalization Service (INS). Table 69: Aliens deported by administrative reason for removal: fiscal years 1981-90. *Fiscal Year 1988 Statistical Yearbook*. <http://uscis.gov/graphics/shared/aboutus/statistics/enf98.htm>

<sup>2</sup> See Nancy Morawetz. *Understanding the Impact of the 1996 Deportation Laws and the Limited Scope of Proposed Reforms*. (113 Harv. L. Rev. 1936 (2000)). See also Aleinikoff, Martin and Motomura. *Immigration and Citizenship: Process and Policy* (1998). See also Section 440(a) of the INA as revised under AEDPA, and again under IIRAIRA.

<sup>3</sup> See J. Traci Hong. *St. Cyr and Accrual of Lawful Unrelinquished Domicile*. American Immigration Law Foundation Practice Advisory. October 25, 2001.

<sup>4</sup> See Office of Inspector General Report (<http://www.usdoj.gov/oig/igspecr1.htm>)

<sup>5</sup> Asian American Legal Defense and Education Fund. *Special Registration: Discrimination and Xenophobia as Government Policy*. November 2003.

<sup>6</sup> See [http://www.americanpoliticaldevelopment.org/townsquare/print\\_res/homeland\\_security/full\\_report.pdf](http://www.americanpoliticaldevelopment.org/townsquare/print_res/homeland_security/full_report.pdf).

<sup>7</sup> BICE Website- [http://www.ice.gov/graphics/enforce/ops/predator\\_content.htm](http://www.ice.gov/graphics/enforce/ops/predator_content.htm)

<sup>8</sup> Daniela Gerson. "Parole System Used to Deport Immigrants." *The Sun*. June 15, 2004.

<sup>9</sup> Department of Homeland Security. Table 43. Aliens Removed By Criminal Status and Region and Country of Nationality (1993-2003). Fiscal Year 2003 Yearbook of Immigration Statistics. <http://uscis.gov/graphics/shared/aboutus/statistics/ENF03yrbk/ENF2003list.htm>

## 1996 Laws

	1988	1990	1996	2001	2005
Laws passed	Omnibus Anti-Drug Abuse Act	- Immigration Act of 1990 - Refugee Act	- Anti-terrorism and Effective Death Penalty Act (AEDPA) - Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA)	USA Patriot Act	<b>Real ID?</b>
Deported	25,829	30,039	69,680	176,984	<b>?</b>
Voluntary Departure	911,790	1,022,533	1,573,428	1,253,782	
Total Exiled	937,519	1,052,572	1,643,108	1,430,766	

### What did the 1996 laws do?

You can get deported for almost any crime. → **Expanded grounds of deportation**

- Expanded definition of “aggravated felon”
  - 1988 definition includes murder, rape, any drug trafficking crime, or any illicit trafficking in firearms or destructive devices
  - 1996 definition includes fifty more classes of crime, some of which are neither “aggravated” nor a “felony” by criminal law standards (e.g. shoplifting); also almost any crime for which you served at least 1 year in prison
  - Being an “aggravated felon” after 1996 means you have no rights to prove to a judge that you are rehabilitated and have community ties
- Made new deportation laws for people deemed “terrorists”

You cannot ask any judge for a pardon. → **Mandatory deportation**

- “aggravated felon” who served less than 5 years in prison could apply for relief under 1990 immigration laws. But in 1996 Congress took relief application away from all people whom the INS labels “aggravated felons”

You cannot ask any judge for release on bond. → **Mandatory detention**

- aggravated felons
- immigrants with convictions for firearms, drugs, and other “particularly serious crimes”
- asylum seekers – people who comes to the US to escape persecution
- “inadmissible” immigrants with past convictions who are re-entering the US after trip abroad

Deportation becomes a point of no return. → **Lifetime bars to re-entry**

- Restrict re-entry to the US (aggravated felons can never come back; others have 10, 5 or 3 year bars)
- Increase penalties for illegal re-entry.

Immigrants do not have the right to a day in court. → **No discretion**

- Attorney General can place asylum seekers and certain criminal aliens into expedited removal proceedings.
- Immigration courts cannot hear a person’s case if that person is subject to mandatory detention and deportation.
- Federal courts cannot review most decisions of the immigration authorities.

People suffer punishments that did not exist at the time of their crime. → **Retroactivity and Double Jeopardy**

Tax money is poured into tearing families apart. → **Expensive**

- Local governments help federal government to enforce immigration laws.
- Federal government pours billions into detention and deportation systems.
- 2003 immigration budget: **enforcement \$781,883,000**    **services \$143,541,000**



## Definitions

<p><b>ABSCONDER</b></p> <p>A person with a prior deportation order that knowingly or unknowingly did not leave the country. Most absconders do not realize that they are absconders and merely believe that they are undocumented. They are one of the most vulnerable categories of deportable immigrants. Many local law enforcement agencies categorize them as fugitive felons for arresting purposes. Once detained, absconders can be deported immediately and do not get a hearing in front of an immigration judge. Attorney General Ashcroft launched the "Absconder Apprehension Initiative" in January 2002 to locate and expel all absconders, and began with those from "Al Qaeda" countries. The government has categorized more than 400,000 noncitizens from across the world as alien absconders.</p>
<p><b>AGGRAVATED FELONY</b></p> <p>A federal category of criminal aliens. Originally created in the 1988 Anti-Drug Abuse Act, "aggravated felony" originally included murder, rape, any drug trafficking crime, or any illicit trafficking in firearms or destructive devices. Congress expanded the category numerous times over the years, and the 1996 laws expanded it to include more than fifty classes of crime, some of which are neither "aggravated" nor a "felony" by criminal law standards (e.g. misdemeanor shoplifting with a one year sentence). A person convicted of an "aggravated felony" after 1996 is subject to mandatory detention (no bond) and mandatory deportation (no pardon).</p>
<p><b>CONDITIONAL PAROLE FOR DEPORTATION ONLY (CPDO)</b></p> <p>Conditional Parole for Deportation Only (CPDO) is a program in New York State that allows an inmate to be deported before he/she completes a criminal sentence. If you qualify for CPDO, you will be paroled to the custody of the Department of Homeland Security to be deported. Once you are deported, you cannot legally return, to the United States for 5, 10, 20 years, or life (depending on your conviction).</p>
<p><b>"CONVICTION" (FOR IMMIGRATION PURPOSES)</b></p> <p>Immigration courts define "conviction" broadly to include: (1) a formal judgment of guilt entered by a court, or (2) (a) a judge or jury has found the defendant guilty, the defendant has entered a plea of guilty or <i>nolo contendere</i> or has admitted sufficient facts to warrant a finding of guilt and (b) the judge has ordered some form of punishment, penalty, or restraint on the alien's liberty to be imposed.</p>
<p><b>CRIME INVOLVING MORAL TURPITUDE</b></p> <p>Conviction of one or more crimes involving moral turpitude may trigger deportation. This immigration law term-of-art could include crimes in many different offense categories, e.g., crimes in which either intent to steal or defraud is an element (such as theft and forgery offenses); crimes in which bodily harm is caused by an intentional act or serious bodily harm is caused by a reckless act (such as murder, rape, and certain, and certain manslaughter and assault offenses); and most sex offenses.</p>
<p><b>CRIMINAL ALIEN</b></p> <p>Potentially any noncitizen at risk of deportation for a past conviction (even green cards holders). Non-citizens may be deported for most crimes, even if they never served a day in jail. A "criminal alien" may be undocumented, applying for a green card, or a green card holder with U.S. citizen family. A wide range of offenses can make someone a "criminal alien" – including a single marijuana conviction, a shoplifting violation, or even admission to a crime without ever being convicted. Criminal aliens are typically deported <i>after</i> they have served their sentence. Deportation is <i>not</i> part of the criminal sentence, and criminal courts and prosecutors nationwide fight against obligations to warn a non-citizen that a guilty plea may result in deportation.</p>
<p><b>DEPORTATION/REMOVAL</b></p> <p>Expulsion of a noncitizen from the United States. Persons who can be deported include noncitizens (including greencard holders) with past criminal convictions; visa overstays; refugee/asylum seekers; and those who entered without inspection (jumped the border).</p>
<p><b>DETENTION</b></p> <p>Basically – jail. People are detained at every step of the immigration "process": (1) awaiting adjudication of asylum or adjustment applications; (2) picked up and jailed without charges; (3) pending immigration proceedings; (4) after being ordered deported, while BICE is actively trying to remove; and (5) sometimes <i>indefinitely</i>, where BICE knows it may not be able to deport someone with an order of deportation</p> <p><i>Mandatory detention</i> (incarceration without the chance to apply for bond) applies to most people with past criminal convictions, asylum seekers, and all noncitizens considered "inadmissible" (people physically in the U.S., but never admitted legally at a port of entry). Detainees are housed in over 250 county jails, private prisons and federal facilities nationwide, often held with the general criminal population. They may be transferred from one part of the country to another, without regard for access to family and counsel.</p>

**EXPEDITED REMOVAL**

Piece of 1996 laws meant to deport many noncitizens without a hearing before an immigration judge. Expedited Removal can be effected against people the government finds "inadmissible" at any border entry point. It can also be effected against certain noncitizens with "aggravated felony" convictions. Under expedited removal, individuals can be removed on an order issued by an immigration officer, without the opportunity to go before an immigration judge. The U.S. Immigration and Naturalization Service (INS) began implementing the expedited removal provisions of IIRIRA on April 1, 1997

**INSTITUTIONAL REMOVAL PROGRAM (IRP)**

In 1988 the government established the Institutional Hearing Program, which it renamed the Institutional Removal Program (IRP) in 1996. Under the IRP immigration agents complete a criminal alien's deportation process while s/he is in federal or state prison. The program is an efficiency measure. Deportable aliens are shuttled into a few prisons *in person* or *by television*, in which immigration authorities have set up an immigration courtroom. The DHS and EOIR work to conclude the deportation case before the completion of the alien's criminal sentence, so that the alien may be deported immediately upon completion of the criminal sentence. IRP in theory lessens the amount of time a noncitizen spends in immigration detention. In practice immigrants under IRP generally have little to no knowledge of the process and their rights, and no legal representation.

**LAWFUL PERMANENT RESIDENT (GREENCARD HOLDER)**

A noncitizen who has been lawfully admitted to the United States to live and work permanently, but still subject to deportation upon violation of the immigration laws. A "greencard" is the identification card for lawful permanent residents, but one does not lose the status just because the physical card expires or is misplaced.

**NATIONAL CRIME INFORMATION CENTER (NCIC) DATABASE**

The nationwide FBI-operated computerized database was originally created to enable federal, state, and local law enforcement to identify suspected criminals with outstanding warrants. In 2002, Attorney General Ashcroft authorized using this criminal tool for immigration purposes, by entering the names of absconders and individuals who did not comply with special registration into the NCIC system.

**NONCITIZEN**

An individual who was born outside of the U.S. *unless* one of the following is true: (1) the individual was born outside of the U.S. but has a U.S. citizen parent(s) at birth and automatically *acquired* U.S. citizenship; (2) the individual was born outside of the U.S. to noncitizen parent(s) but automatically *derived* citizenship when the noncitizen parent(s) became U.S. citizen(s) while individual was still a minor; or (3) the individual was born outside of the U.S. but lawfully immigrated to the U.S. and later was *naturalized* (gone through the process of applying to citizenship, passing a civics test, and being sworn in). Noncitizens include greencard holders, refugees, asylees, temporary visitors, and the undocumented.

**PROSECUTORIAL DISCRETION**

The authority invested in the Departments of Justice and Homeland Security to suspend or even terminate a deportation proceeding; postpone a deportation; release someone from detention; or deprioritize the enforcement of immigration laws against an individual because it does not serve enforcement interests.

**SPECIAL INTEREST DETAINEES**

Refers to a group of mostly Arab, South Asian, North African and Muslim detainees, who were held initially under suspicion of terrorism, and then on mostly minor immigration charges after September 11<sup>th</sup>. None of the special interest detainees was ever charged with activities related to September 11<sup>th</sup>. Special Interest detainees comprise only a fraction of the detained population, but their mistreatment was glaring. What categorized special interest detainees were the use of FBI clearances prior to immigration court, secret immigration hearings, refusal of the government to release their names, and automatic stays of judge's orders of release or bond.

**UNDOCUMENTED**

Noncitizens who may have many documents, but have no government authorization to be in this country. Undocumented people (aka "illegals") include people who crossed the border illegally, as well as people who came on valid visas but then remained past their authorized period of stay. An "undocumented" person might have received work authorization, but that does not necessarily mean he is now out of this category.

# HOW ARE IMMIGRATION LAWS ENFORCED LOCALLY?

(NEW YORK FOCUSED FACTSHEET)

## In Courts

In New York City, up to 85% of the criminal docket is settled by a plea. Noncitizens taking pleas typically do not know that their conviction may result in deportation. Deportation is a surprise punishment, unveiled on the day an immigrant finishes her sentence and thinks she is returning home.



- Defense attorneys, prosecutors and judges are not liable if they fail to warn a noncitizen about deportation because immigration laws are a “civil” matter.
- The government’s immigration attorneys have created trainings and manuals to teach prosecutors around the country how to get convictions that will lead to deportation.
- Criminal courts assist in deportation by sharing files – including unsubstantiated pre-sentencing reports – with immigration authorities.

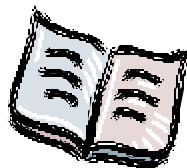
## At Home & On the Streets

- Abusive partners use the threat of deportation against their domestic violence victims.
- BICE offers immigration tip lines to the public to report illegal and criminal aliens.
- Homeland Security sponsors community forums on “anti-terrorism” with the help of groups including the Guardian Angels.
  - After 1996, the Justice Department required Memos of Understanding between INS and police before the latter could enforce immigration laws. A new DOJ opinion issued in 4/02 asserted that police have the inherent authority to enforce immigration laws. The matter is being litigated.
- NYPD considers “Absconders” to be felons and actively aids in their apprehension. Countless Absconders have been detained by police at routine traffic stops.
- Bloomberg’s Executive Order 41 allows local/immigration cooperation for people “suspected of illegal activity.” This loophole would include most people now detained.



## At Schools & Universities

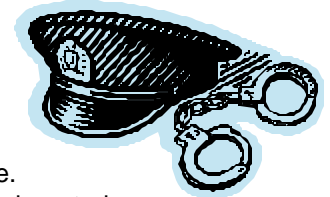
- The SEVIS program: Universities are actively sharing student information with Immigration. Schools in NY have referred immigrants to the Joint Terrorism task force.



## In Jails & Prisons

There are at least 8,000 foreign born inmates in the custody of NYC Department of Corrections.

- Immigration agents are stationed at Rikers, where they racially profile inmates who look or sound foreign-born and interview people about their birthplace to determine who may be a noncitizen. “Holds” are placed on potentially deportable inmates, to transfer them into immigration detention when they finish their time.
- Prisons upstate house the federal **Institutional Removal Program (IRP)**, where noncitizens complete their deportation proceedings while they are still serving time. Ironically, most people getting deported, including people in IRP, do not get free attorneys to help them fight their case because it is a “civil” rather than “criminal” proceeding. Law libraries in most jails and prisons lack basic immigration law books.
- New York also has a **Conditional Parole for Deportation Only (CPDO)** program where noncitizen inmates serve ½ of their minimum sentence for a nonviolent offense OR the minimum for a violent offense *if they agree to get deported*. The program is poorly managed and inmates are poorly informed. Many inmates do not understand that they are agreeing to deportation when they request CPDO. And once they sign up for CPDO, there is no guarantee that they will get deported speedily.
- The Division of Parole red flags immigration holds on their databases.
- BICE uses Megan’s law databases to identify noncitizen “sex offenders” for Operation Predator.



## At Work

- Workplace raids by immigration continue locally, sometimes prompted by employers in response to workers’ organizing efforts.
- Social Security no-match letters.



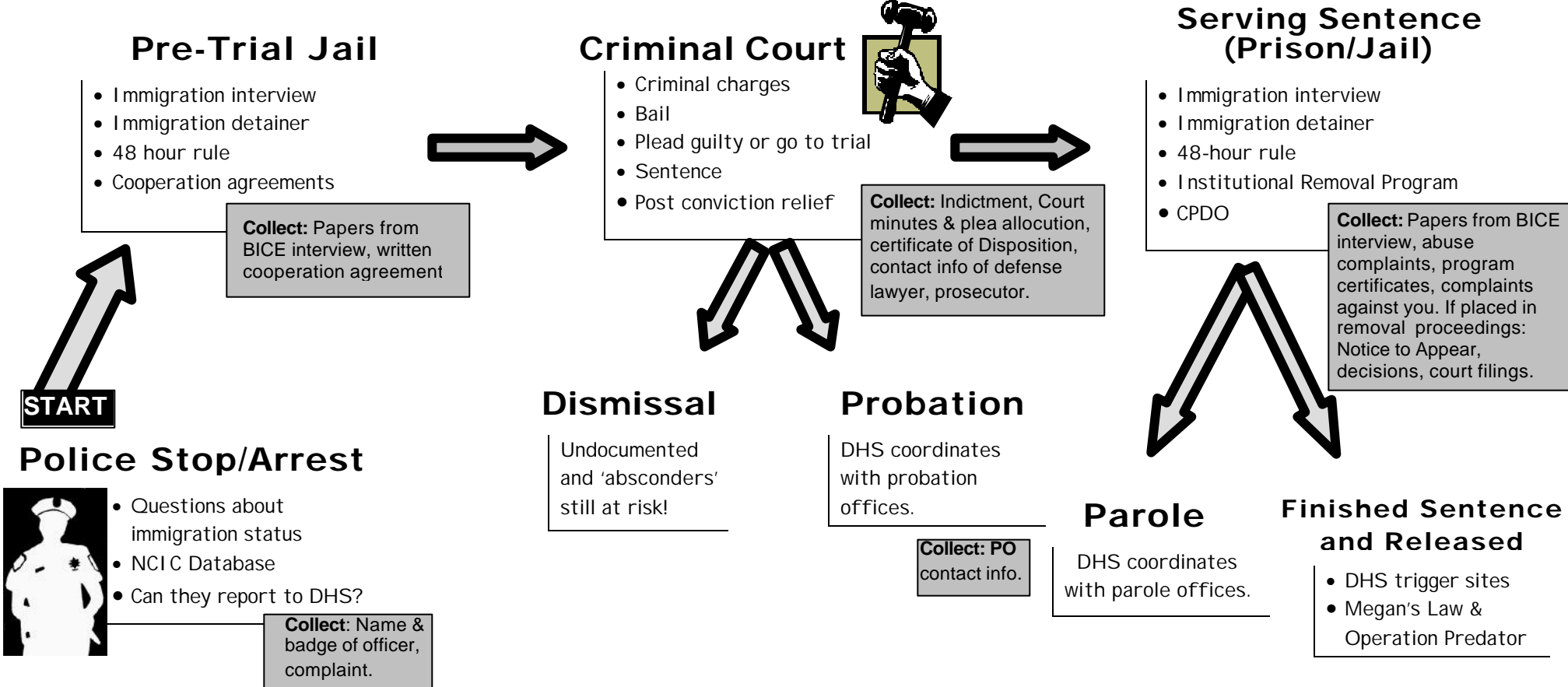
## At Public Agencies

- The Department of Motor Vehicles is referring cases directly to BICE and BCIS; effectively terminating some asylees’ status based duplicate licenses, etc.
- It is unclear whether absconders are safe accessing public services connected to crime databases.





# IMMIGRATION IN THE CRIMINAL JUSTICE SYSTEM



**EACH and EVERY SITE CAN LEAD to IMMIGRATION DETENTION & DEPORTATION!**

# DEPORTATION MAP

**Detention & Starting a Deportation**

Bureau of Immigration & Customs Enforcement (BICE) decides to initiate deportation proceeding. Holds immigrant at County Jail, Federal Detention Center, or Private Prison. Facility may be anywhere in the country. BICE issues Notice to Appear (charges), and holds immigrant until s/he granted bond, is ordered released, or deported.



*Collect...*

- Alien #
- Notice to Appear
- Deportation Officer
- Order of Supervision
- Bond Agreement
- Jail Abuse Complaints
- Notice of Reinstatement of Removal Order

**Immigration Judge**

<b>Bond Hearing</b> If bond eligible, sets bond amount.	<b>Master Calendar</b> Decides deportability and relief eligibility	<b>Individual Hearing</b> Hears applications for relief, orders release/deportation.
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*Collect...*

- Oral/Written Decision
- Transcript of Proceedings
- All submissions to court

**Board of Immigration Appeals (BIA)**

Reviews appeals of IJ decisions filed within 30 days. Issues final order of deportation.

*Collect...*

- Notice of Appeal of IJ decision
- BIA Decision
- All submissions to court

**District Court**

Hears habeas corpus challenging deportation/detention on constitutional or legal challenges grounds (including citizenship claims).

*Collect...*

- Habeas corpus petition
- Court Decision
- All submissions to court

**Circuit Court of Appeals**

Reviews appeals filed within 30 days of BIA decision, where person challenges that she or he is a noncitizen, deportable or excludable; and appeals of District Court decisions. Many people with convictions are barred from review here.

*Collect...*

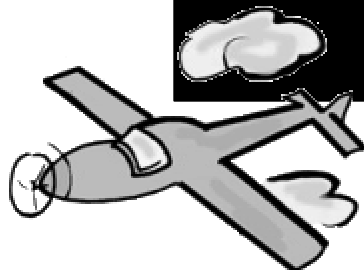
- Court Decision
- All submissions to court

**Supreme Court**

Reviews Court of Appeals decisions that it chooses to accept.

**Deportation**

If immigrant has a final **administrative** order of deportation, and no federal court stay, BICE may deport him/her. Home country (consulate) usually issues travel documents first.



*Collect...*

- Contact at Consulate
- Notice of Bar to Re-entry

**Home Country**

Practices vary. Some governments regularly detain, torture, and/or monitor detainees. Homelessness and unemployment are common.

## Map Key

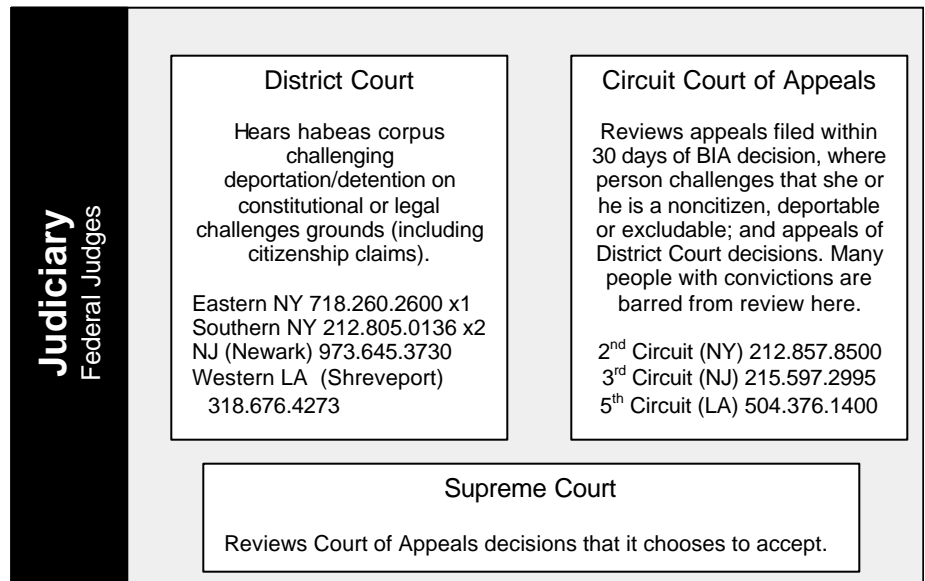
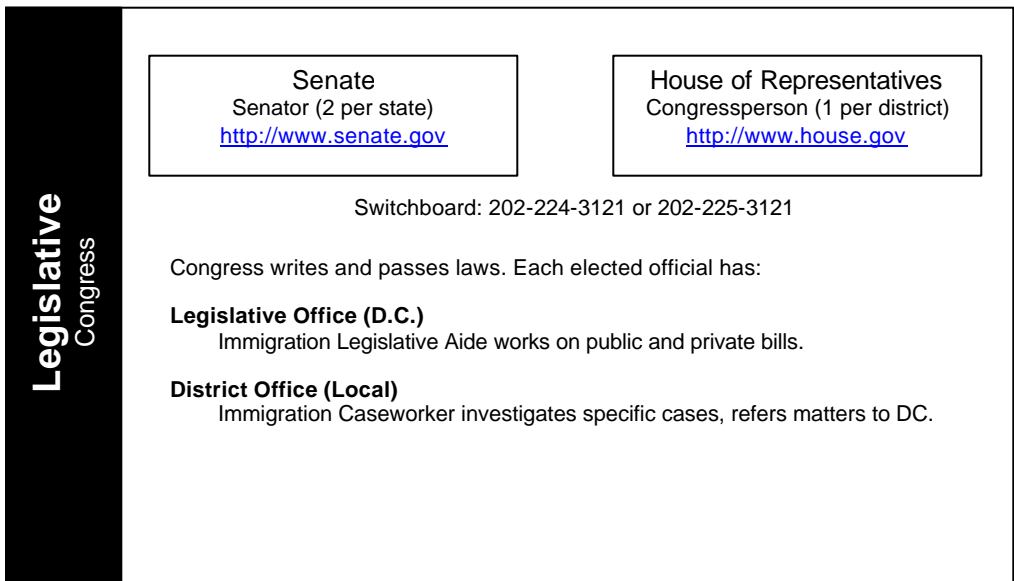
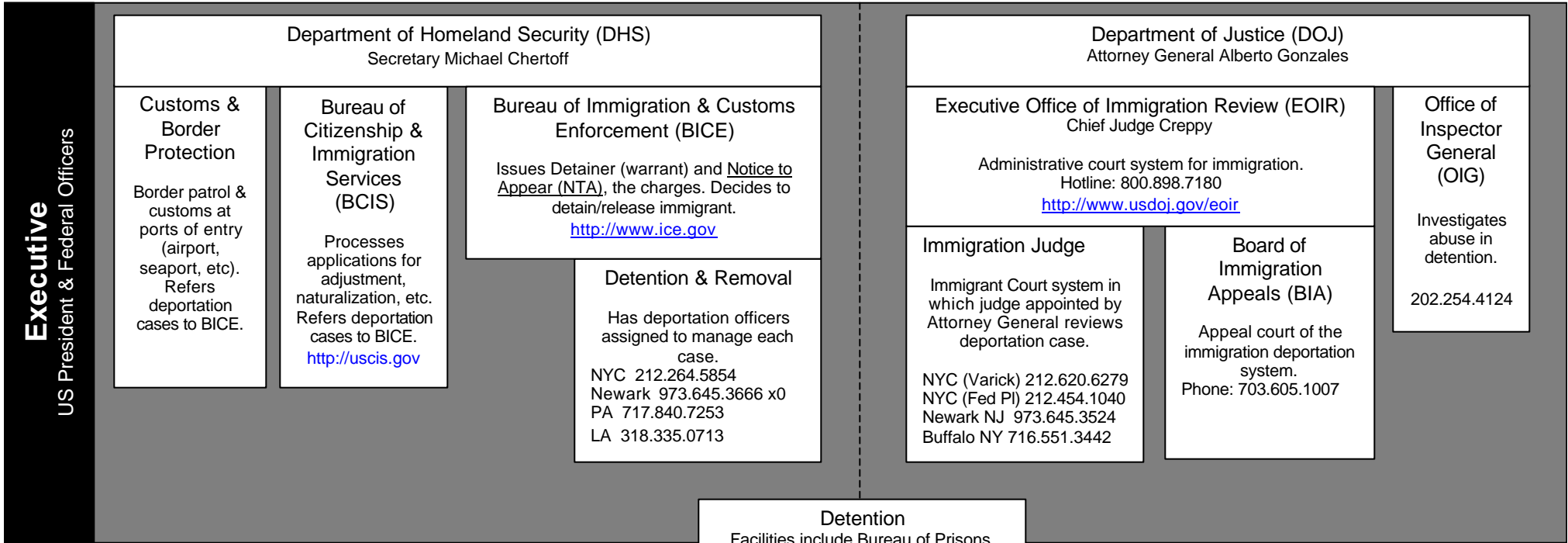
Department of Homeland Security

Department of Justice

Judiciary Branch Courts

# IMMIGRATION IN THE BRANCHES OF GOVERNMENT

Partial Flowchart





# IMMIGRATION IMPACT OF CRIMINAL CONVICTIONS

## Who Can Be Deported Because of a Criminal Conviction?

### ANY NON-CITIZEN

Anybody who is not a citizen can be deported as a result of a criminal conviction. This includes

- Legal Permanent Residents (LPRS, or greencard holders)
- Asylees and refugees
- People who have been previously granted withholding of removal
- People who are in the process of adjusting status
- People on student, business and other visas

### UNDOCUMENTED

Undocumented people are deportable whether or not they have a conviction. Any arrest or conviction will make them more likely to be discovered and targeted by DHS. This includes:

- People who “entered without inspection” (i.e. cross the border)
- “Absconders,” or people with old deportation orders. Remember that some people may have old deportation orders, even if they don’t know it – for example, if asylum was previously denied and the person was not informed of an immigration hearing.
- People who have overstayed visas

### CAN CITIZENS BE DEPORTED?

While citizens cannot be deported, the government can attempt to take away the citizenship of a naturalized citizen if they can show that her naturalization application was “fraudulent” or contained certain omissions or mistakes (for example, if a person failed to disclose an arrest or conviction). A person whose citizenship is stripped may again be vulnerable to deportation.

## How Might a Conviction Affect Immigration?

### POTENTIAL EFFECTS OF CONVICTION

- Removal (deportation, permanent exile)
- Bar to citizenship – either for several years or permanently
- Inability to reenter the U.S. after leaving for trip abroad
- Inability to adjust status or obtain a greencard
- Ineligibility for asylum or withholding
- Detention, which is sometimes mandatory

## What Convictions Should I Avoid?

See attached Checklist for a list of convictions to avoid.

### DEPORTABILITY VERSUS INADMISSIBILITY

The effect of a conviction depends on current immigration status. For example, the same offense may have different immigration consequences for undocumented and LPR/greencard holders. There are two main categories of removal - deportability and inadmissibility. While some crimes fit in both categories, others make a person “inadmissible” but not “deportable” and vice-versa.

#### Deportability

- Applies to non-citizens who have been “admitted” to the U.S.
- LPRs who are in the US should focus primarily on avoiding deportability.

#### Inadmissibility

- Applies to people who are seeking admission into the U.S.
- People who plan to adjust status/apply for a greencard should focus primarily on avoiding inadmissibility.
- LPRs who are returning to the U.S. from a trip abroad will be subject to inadmissibility review.

### OFFENSES

#### IMPORTANT!

Assume that any conviction or disposition may create an immigration problem - Speak to an expert on crime-related deportation!

For example, any of the following offenses could lead to deportation:

- Almost any drug convictions – even violations and misdemeanors. This includes convictions for simple possession and includes substances from marijuana to heroin.
- Theft offenses – even very minor offenses, like jumping subway turnstile or shoplifting. The immigration consequences depend on the offense itself as well as the sentence and your immigration status.
- Convictions for domestic violence or violating an order of protection.
- Statutory rape convictions and other sex offenses – DHS’s Operation Predator is aggressively targeting people with convictions for sex offenses involving minors.
- Gun convictions

**AGAIN, SEE ATTACHED CHECKLIST AND CONSULT WITH AN EXPERT IN CRIME-RELATED DEPORTATION ISSUES FOR A MORE THOROUGH ANALYSIS!**

## IMMIGRATION CONSEQUENCES OF CONVICTIONS SUMMARY CHECKLIST\*

<b>GROUND FOR DEPORTATION</b> [apply to lawfully admitted noncitizens, such as a lawful permanent resident [LPR] – greencard holder]	<b>GROUND OF INADMISSIBILITY</b> [apply to noncitizens seeking lawful admission, including LPRs who travel out of US]	<b>INELIGIBILITY FOR U.S. CITIZENSHIP</b>
<p><b>Aggravated Felony</b> conviction</p> <ul style="list-style-type: none"> <li>➤ <i>Consequences</i> (in addition to deportability):                             <ul style="list-style-type: none"> <li>◆ Ineligibility for most waivers of removal</li> <li>◆ Ineligibility for voluntary departure</li> <li>◆ Permanent inadmissibility after removal</li> <li>◆ Subjects client to up to 20 years of prison if s/he illegally reenters the U.S. after removal</li> </ul> </li> <li>➤ <i>Crimes covered</i> (possibly even if not a felony):                             <ul style="list-style-type: none"> <li>◆ Murder</li> <li>◆ Rape</li> <li>◆ Sexual Abuse of a Minor</li> <li>◆ Drug Trafficking [probably includes any felony controlled substance offense; may include misdemeanor marijuana sale offenses and 2nd misdemeanor possession offenses]</li> <li>◆ Firearm Trafficking</li> <li>◆ Crime of Violence + 1 year sentence**</li> <li>◆ Theft or Burglary + 1 year sentence**</li> <li>◆ Fraud or tax evasion + loss to victim(s) &gt; \$10,000</li> <li>◆ Prostitution business offenses</li> <li>◆ Commercial bribery, counterfeiting, or forgery + 1 year sentence**</li> <li>◆ Obstruction of justice offenses + 1 year sentence**</li> <li>◆ Certain bail-jumping offenses</li> <li>◆ Various federal criminal offenses and possibly state analogues [money laundering, various federal firearms offenses, alien smuggling, etc.]</li> <li>◆ Attempt or conspiracy to commit any of the above</li> </ul> </li> </ul>	<p>Conviction or <i>admitted commission</i> of a <b>Controlled Substance Offense</b>, or DHS (formerly INS) has reason to believe individual is a drug trafficker</p> <ul style="list-style-type: none"> <li>➤ No 212(h) waiver possibility (except for a single offense of simple possession of 30g or less of marijuana)</li> </ul> <hr/> <p>Conviction or <i>admitted commission</i> of a <b>Crime Involving Moral Turpitude [CIMT]</b></p> <ul style="list-style-type: none"> <li>➤ This category covers a broad range of crimes, including:                             <ul style="list-style-type: none"> <li>◆ Crimes with an <i>intent to steal or defraud</i> as an element [e.g., theft, forgery]</li> <li>◆ Crimes in which <i>bodily harm</i> is caused or threatened by an intentional act, or <i>serious bodily harm</i> is caused or threatened by a reckless act [e.g., murder, rape, some manslaughter/assault crimes]</li> <li>◆ Most sex offenses</li> </ul> </li> <li>➤ <i>Petty Offense Exception</i>—for one CIMT if the client has no other CIMT + the offense is not punishable &gt; 1 year (e.g., in New York can't be a felony) + does not involve a prison sentence &gt; 6 months</li> </ul>	<p>Certain convictions or admissions of crime will statutorily bar a finding of good moral character for up to 5 years:</p> <ul style="list-style-type: none"> <li>➤ <b>Controlled Substance Offense</b> [except in case 30g of marijuana]</li> <li>➤ <b>Crime Involving Moral Turpitude</b></li> <li>➤ <b>2 or more offenses</b> of any type + <b>aggregate prison sentence of 5 years</b></li> <li>➤ <b>2 gambling offenses</b></li> <li>➤ <b>Confinement</b> to a jail for an aggregate period of 180 days</li> </ul>
<p><b>Controlled Substance</b> conviction</p> <ul style="list-style-type: none"> <li>➤ EXCEPT a single offense of simple possession of 30g or less of marijuana</li> </ul>	<p>Conviction of <b>2 or more offenses</b> of any type + <b>aggregate prison sentence of 5 years</b></p>	<p><b>Aggravated felony</b> may bar a finding of moral character forever, and thus may make your client <i>permanently</i> ineligible for citizenship</p>
<b>INELIGIBILITY FOR LPR CANCELLATION OF REMOVAL</b>		
<p><b>Crime Involving Moral Turpitude [CIMT]</b> conviction</p> <ul style="list-style-type: none"> <li>➤ For crimes included, see Grounds of Inadmissibility</li> <li>➤ An LPR is deportable for 1 CIMT committed within 5 years of admission into the U.S. and for which a sentence of 1 year or longer may be imposed</li> <li>➤ An LPR is deportable for 2 CIMT committed at any time “not arising out of a single scheme”</li> </ul>	<p>➤ Aggravated Felony Conviction</p> <p>➤ Offense covered under Ground of Inadmissibility when committed within the first 7 years of residence after admission in the U.S.</p>	<p><b>INELIGIBILITY FOR ASYLUM OR WITHHOLDING OF REMOVAL BASED ON THREAT TO LIFE OR FREEDOM IN COUNTRY OF REMOVAL</b></p> <p>“Particularly serious crimes” make noncitizens ineligible for asylum and withholding. They include:</p> <ul style="list-style-type: none"> <li>➤ Aggravated felonies                             <ul style="list-style-type: none"> <li>◆ All will bar asylum</li> <li>◆ Aggravated felonies with aggregate 5 year sentence of imprisonment will bar withholding</li> <li>◆ Aggravated felonies involving unlawful trafficking in controlled substances will presumptively bar withholding</li> </ul> </li> <li>➤ Other serious crimes—no statutory definition [For sample case law determinations, see Appendix F in NYSDA Immigration Manual]</li> </ul>
<p><b>Firearm or Destructive Device</b> conviction</p>		
<p><b>Domestic Violence</b> conviction or other domestic offenses, including:</p> <ul style="list-style-type: none"> <li>➤ Crime of domestic violence</li> <li>➤ Stalking</li> <li>➤ Child abuse, neglect or abandonment</li> <li>➤ Violation of order of protection (criminal or civil)</li> </ul>		
<b>CONVICTION DEFINED</b>		
<p>“A formal judgment of guilt of the alien entered by a court or, if adjudication of guilt has been withheld, where:</p> <p>(i) a judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, AND</p> <p>(ii) the judge has ordered some form of punishment, penalty, or restraint on the alien’s liberty to be imposed.”</p> <p><b>THUS:</b></p> <ul style="list-style-type: none"> <li>◆ A drug treatment or domestic violence counseling alternative to incarceration disposition could be considered a conviction for immigration purposes if a guilty plea is taken (even if the guilty plea is or might later be vacated)</li> <li>◆ A deferred adjudication disposition without a guilty plea (e.g., NY ACD) will not be considered a conviction</li> <li>◆ A youthful offender adjudication will not be considered a conviction if analogous to a federal juvenile delinquency disposition (e.g., NY YO)</li> </ul>		

\*This summary checklist was originally prepared by former NYSDA Immigrant Defense Project Staff Attorney Sejal Zota. Because this checklist is frequently updated, please visit our Internet site at <<http://www.nysda.org>> (click on Immigrant Defense Project page) for the most up-to-date version.

\*\*The 1-year requirement refers to an actual or suspended prison sentence of 1 year or more [A New York straight probation or conditional discharge without a suspended sentence is not considered a part of the prison sentence for immigration purposes.]





# IMMIGRATION IN JAIL

DHS increasingly has a presence at local jails, like Rikers Island.

## IMMIGRATION INTERVIEWS

While you are at a local jail (e.g. Rikers), you may be visited by a federal immigration agent. This person may ask you questions in order to determine whether you might be deportable. These questions may include your name, country of birth, citizenship, immigration status, age, parents' citizenship, and prior convictions (among others) . This information will be used to help DHS deport you! If you think you are being questioned by immigration agents or asked immigration information, follow 4 simple rules:

### 1. DON'T SAY ANYTHING

Do not answer ANY question – not even your name, country of origin, or immigration status. Immigration agents may threaten you with jail or deportation if you do not answer questions. They may tell you that if you answer, everything will be fine. Do not be fooled. Ask for the agent's identification, like a business card or badge. Be persistent. Record the name and agency of the person talking to you.

### 2. DON'T SIGN ANYTHING

If the agents ask for your signature, ask for a copy of the papers but do **NOT** sign. Show the papers to an immigration expert or your attorney.

### 3. DON'T LIE

Say nothing or say, "I need to speak with a lawyer first." You can be criminally prosecuted for lying (e.g. about your birthplace).

### 4. ASK TO SPEAK WITH YOUR ATTORNEY

Ask your attorney for a letter stating that s/he does not permit immigration agents to interview you. Give a copy of this letter to the immigration agents. If you do not have an attorney, tell them that you will find one first. If they keep pushing you to answer questions, just repeat, "I want to talk to an attorney first. I want to stop this interview now." Then ask to be sent back to your cell.

## IMMIGRATION DETAINER

### What is an Immigration Detainer?

At any point during your time in jail, DHS may place a detainer or “immigration hold” on you. This detainer means that when the criminal system no longer has a right to jail you – for example, because you were granted bail, were acquitted or finished your sentence – you will not be automatically released from the jail. Instead, the jail will give DHS an opportunity to take you to an immigration jail. This hold may also prevent you from participating in some programs and getting some privileges (like work release).

### Who is at Risk of an Immigration Detainer?

The government may place a detainer on any non-citizen in government custody whom they suspect might be deportable. This includes:

- **Absconders** – people with old orders of deportation/removal
- **Out-of-Status Immigrants** – this includes people who came across the border without any papers, people who overstayed their visas, people who lost their asylum or adjustment hearings, and even previously undocumented people who are now adjusting their status.
- **LPRs/greencard holders with convictions** – even LPRs who have never been charged with being deportable can get immigration holds if they have been convicted of a deportable offense!

**Note:** if you are an Absconder, a greencard holder with a past offense, or are out-of-status, your immigration hold will not be lifted even if your current criminal case is dismissed. However, in most cases, if you are in status and have no prior offense, you should not have an immigration detainer.

### What Can You Do?

- **Direct Appeal of Your Conviction** – Especially if the government’s only basis to hold you is the conviction, then you may want to appeal your conviction [See Post Conviction Relief].
- **48 Hour Rule** – A jail is generally allowed to hold a person with a detainer for only 48 hours after he would normally be released. If DHS hasn’t picked the person up by this time, she can demand release herself or file a *habeas* petition in state court, asking the court to demand release. Be aware that sometimes, this may just result in Immigration finally coming to take into custody. In some cases it is preferable to remain in criminal custody with an immigration detainer than to be transferred to immigrant detention. Especially if you may qualify for relief, being in criminal custody gives much needed time to secure representation, collect key documents and develop favorable factors. An inmate should weigh these factors when deciding to file a state habeas challenging a hold longer than 48 hours.

## INFORMANT AGREEMENTS

A non-citizen in criminal proceedings may find himself in a situation where prosecutors seek his cooperation. Sometimes, a prosecutor will offer an immigration benefit in exchange for this cooperation. For instance, a district attorney prosecuting a non-citizen for drug possession may offer to help get a greencard or “not to deport” the defendant in exchange for testimony against another defendant. Should the defendant accept such an offer? Can a prosecutor even grant immigration benefits?

### Are these agreements binding?

This is not clear. First of all, it is unlikely that a city or state prosecutor can bind the federal government. On top of this, it is unclear whether one agency (DHS) can be held to promises made by a different agency. Some federal courts have held such agreements binding, while others have refused to do so.

### What Can You Do to Increase Effectiveness of Agreement?

- **Work out details of any agreement to cooperate prior to providing assistance.**  
After cooperating, the government has no incentive to grant anything at all.
- **Get the agreement in writing.**  
Verbal agreements, regardless of who made them, will almost never be enforced. It is very important to demand a formal, written agreement.
- **Demand that DHS be a party to the agreement.**  
Some courts will only enforce an agreement conferring immigration benefits where DHS is a signatory. This will probably be very difficult to get, but you should demand it anyway.
- If you can't get such a formal commitment not to deport, but decide to cooperate anyway, get a **written recommendation** from a prosecutor not to deport. This might support future immigration applications where discretionary relief is available.

### Other agreements to cooperate with the government:

A few recently-created special visas grant temporary immigration status with the opportunity to apply for LPR status in exchange for cooperation. They all have very specific requirements and require some formal assistance from the prosecutors.

- **S-Visas**—available to some people willing and able to provide information against certain types of criminal organizations. The government must apply for you! Make sure they will fulfill their end of the deal before you fulfill yours!
- **T-Visas**—may be available to certain people determined to be victims of trafficking in persons and willing to cooperate with prosecutions against traffickers.
- **U-Visas**—may be available to victims of certain crimes such as domestic violence, sexual assault or rape (among others) who help prosecution those cases. The government is not currently giving U-visas, but is granting a “deferred action” status for people who are eligible.

If you already cooperated, and fear for your life if deported, consider developing a solid argument for a persecution-based claim under the Convention Against Torture.



# IMMIGRATION IN CRIMINAL COURT

## Should I Plead Guilty Or Go To Trial?

After someone is charged with a crime, that person is confronted with the choice: do I plead guilty to a [usually] lesser offense, or do I go to trial and risk a more serious conviction? There is a lot of pressure on defendants to plead guilty – this pressure may come from the defense attorney, the prosecutor, the judge and even their family. For an immigrant defendant, however, this choice can have a more serious effect that judges and criminal defense attorneys may not know or care about.

### PRACTICAL STEPS BEFORE PLEADING GUILTY

- ❑ Tell your **defense lawyer** that you are not a citizen, and that you want to know the immigration consequences of the charges, a guilty plea, and possible trial conviction. Try to get the defense lawyer's response in writing.
- ❑ Seek an opinion from an **expert** in crime-related immigration law. You can call the NYSDA Immigrant Defense Project hotline (212-898-4132) for [free] information on the possible effect of a plea or trial conviction.
- ❑ Try to **structure your plea** to minimize immigration consequences. Many times, informed and creative pleading can help turn mandatory deportation into possibility of relief from deportation. It can also help preserve an LPR's chance to apply for naturalization. Sometimes this may require finding a different, non-deportable offense to which to plead guilty and other times it may require reducing the length of the proposed sentence.
- ❑ In New York, defendants that are under 19 years of age should try to get a **Youthful Offender** ("YO") disposition whenever possible. This is not considered a "conviction" for immigration purposes (although it may become a problem where someone is applying for discretionary forms of relief or where "admitting to a crime" is enough). In fact, a YO for a more serious offense is often better than a straight conviction for a lesser offense.
- ❑ Similarly, in New York Family Court, a **Juvenile Delinquency** disposition for people under age 16 at time of commission of crime will not be considered a conviction for immigration purposes.
- ❑ **Consider going to trial** instead of pleading guilty (e.g. if the evidence against you is weak and/or the prosecutor will not agree to any pleas that will prevent immigration consequences that you do not want to accept).

## Post-Conviction Relief

### DIRECT APPEAL

- Every state has its own deadlines for appealing a criminal conviction. In New York State, you have a right to appeal your conviction within 30 days of sentencing. Within one year and 30 days, you can ask the court to allow you to file a late appeal.
- If you are given permission to file the direct appeal, the court must appoint an attorney if you cannot afford one.
- If you pled guilty (as opposed to being convicted at trial), a successful direct appeal will place you in the same position as before you pled guilty. This means that you could then face trial for the charges.

Why do a Direct Appeal?

- A conviction that is on direct appeal is no longer a conviction for immigration purposes. So, if the conviction is the only basis for an immigration hold or for a charge that you are deportable, a pending direct appeal can remove that basis.

### VACATING CONVICTION

If you are able to get a conviction vacated, then it might no longer be considered a conviction for immigration purposes.

- Try to get the conviction vacated on the basis of some procedural or constitutional errors in the underlying criminal proceeding.
- A vacatur that states that it is based on rehabilitation or to avoid immigration consequences will be considered a conviction for immigration purposes.
- If you have already been ordered deported/removed based only on a conviction, then vacating that conviction will not automatically stop your deportation! You will need to get your immigration case reopened first.

### CERTIFICATE OF RELIEF FROM DISABILITIES AND CERTIFICATE OF GOOD CONDUCT

These are certificates given by either the criminal court or Parole. If you get a certificate of relief from disabilities, it will generally not change the fact that you have a conviction. However, this could help your applications for certain forms of discretionary relief that depend on your equities (e.g. cancellation of removal, deferred action).

*See Legal Action Center handbook for eligibility and application process.*

# IMMIGRATION IN PRISON

## Conditional Parole for Deportation Only (CPDO)

### WHAT IS CPDO?

CPDO is a program of the New York State Division of Parole that allows some non-citizens serving sentences in New York State prisons to be released into the custody of BICE before completion of their full sentence for the sole purpose of deportation.

### WHO QUALIFIES FOR CPDO?

For non-citizens incarcerated in a New York State prison who are **certain** that they would prefer to be deported rather than complete their sentence and contest their deportation proceedings, CPDO might be a practical option.

- You must have a final deportation order and have given up your immigration appeals.
- You must have no unsettled, pending criminal charges against you.
- For “Regular CPDO,” you must have served your minimum sentence.
- For “Early CPDO,” you must have served half of your minimum sentence, have no violent felonies, and no A-1 felonies (except that A-1 drug felonies are ok).
- The Division of Parole will generally notify people when they are eligible for CPDO, and even schedule a parole hearing. Therefore, please be aware of the possibility that the Division of Parole may “grant” CPDO without your consent.

### SHOULD YOU APPLY FOR CPDO?

Rumors abound about CPDO in New York prisons. Before applying for CPDO, you should fully understand the consequences:

- It is extraordinarily difficult to fight deportation after you receive a final order of removal.
- If you are deported through CPDO, he will not be able to return to the US for a certain number of years. Some people are permanently barred from returning to the US, especially if convicted of a drug offense or an aggravated felony.
- CPDO does not always result in quick release from prison and quick deportation. Once granted CPDO, the exact date of departure is entirely at the discretion of federal immigration officials. While some people are deported quickly, others continue to linger in prison for months or years, waiting for deportation.

**Bottom Line: Although CPDO may get you out of prison more quickly, it will also get you kicked out of the country more quickly. If you want to fight your deportation, you should not apply for CPDO!**

*For more information on CPDO, read [Step by Step Guide to ECPDO and CPDO](#) by Peter Markowitz (See appendix).*

## **Institutional Removal Program & Video Hearings**

### **WHAT IS THE INSTITUTIONAL REMOVAL PROGRAM?**

The **Institutional Removal Program** (IRP) is a nationwide DHS initiative forcing incarcerated non-citizens into deportation proceedings from within the very prisons to which they are confined. People are forced to defend themselves with little access to legal information or legal assistance.

In New York State, 3 prisons have immigration courts within the prison:

- Bedford Hills
- Ulster Correctional Facility
- Downstate Correctional Facility.

IRP proceedings at several other prisons take the form of “video hearings.” Instead of being in a courtroom, a prisoner sees a video camera and television monitor from a room within prison. The person is thus isolated from all other parties, including the judge, DHS lawyer, the interpreter, witnesses and maybe even her own lawyer.

### **OBJECTING TO VIDEO HEARINGS**

You can object to a video hearing. You should object the first time a video hearing is scheduled and again at the beginning of the actual video hearing. Immigration judges will probably move forward with the video hearings despite any objections, but an objection “on the record” ensures that the person might later be able to challenge the fairness of the hearing. Some issues to cite when objecting to the video hearings include (but are not limited to):

- Videoconferences serve to further isolate detainees already held in distant upstate NY prisons, detached from family, community, legal and other support.
- There are many inherent problems with testimony given on camera, including: difficulties presenting and examining evidence, communication difficulties, the general unfamiliarity of all parties to interacting via videoconference, and even basic technical problems.
- Accurate interpretation is difficult enough in person; interpreting via video-conference creates even more communication problems.

*For more information on IRP and video-hearings, see the AILF Practice Advisory, “Objecting to Video Merits Hearings.”*



# STEP BY STEP GUIDE TO ECPDO & CPDO

## (EARLY/CONDITIONAL PAROLE FOR DEPORTATION ONLY)

### 1. What is ECPDO & CPDO?

The Board of Parole has the power to release some New York State prisoner into Immigration custody for the sole purposes of being deported.

- ***Early Conditional Parole for Deportation Only (ECPDO)***  
ECPDO releases an inmate to Immigration for deportation before s/he has served her minimum sentence, but only after s/he has served at least one half of his or her minimum.
- ***Conditional Parole for Deportation Only (CPDO)***  
CPDO releases an inmate to Immigration for deportation after s/he has served his or her minimum sentence.

### 2. Can I Get ECPDO or CPDO?

- ***You are eligible for ECPDO if you...***
  - a. Have served at least one half of the minimum term of your sentence, AND
  - b. Have a Final Order of Deportation issued against you, AND
  - c. Have used up, or given up, all of your immigration appeals, AND
  - d. Have NOT been convicted of a Violent Felony offense, AND
  - e. Have NOT been convicted of an A-I felony, but A-I drug felonies don't count. You *can* ECPDO if you have an A-I drug convictions, AND
  - f. Have no other unsettled criminal charges or appeals pending.
- ***You are eligible for CPDO if you...***
  - a. Have served the minimum term of your sentence, AND
  - b. Have a Final Order of Deportation issued against you, AND
  - c. Have used up or given up all of your immigration appeals, AND
  - d. Have no other unsettled criminal charges or appeals pending.

### 3. Is ECPDO or CPDO a Good Decision For Me?

Getting ECPDO or CPDO has some very large advantages and also some very large disadvantages. Only after thinking about all the advantages and disadvantages can you decide whether it is a good decision for you to try and get ECPDO or CPDO.

- ***Advantages of ECPDO and CPDO***
  - a. Getting ECPDO should allow you to serve less time in New York State custody.
  - b. Getting granted ECPDO or CPDO should mean that you will not have an extended period of incarceration in Immigration custody.
  - c. Some people think that it is easier to get CPDO than regular parole when you have an immigration hold. Therefore, CPDO can also allow you to serve less time in New York State custody.

•

### ***Disadvantages of ECPDO or CPDO***

- a. Getting granted CPDO or ECPDO means that you will be deported.
- b. For many people, when you are deported **you will never be allowed to return to the United States**. This includes virtually anyone convicted of a drug crime or anyone who was sentenced to a year or more for a theft or violent crime.
- c. Having family members in the U.S. does *not* mean that you will be able to return.
- d. People who reenter the U.S. illegally after being deported are often caught, prosecuted and sentenced to jail terms of up to 20 years.

***If you want to fight your deportation ECPDO and CPDO are NOT for you. Seeking CPDO or ECPDO means giving up any chance to stop your deportation.***

## **4. How Do I Get Granted ECPDO or CPDO?**

There are two steps to getting granted ECPDO or CPDO. First, you must get Immigration to issue a Final Order of Deportation. Second, you must get the Parole Board to grant you ECPDO or CPDO.

### **• *How Do I Get A Final Deportation Order?***

Usually Final Orders of Deportation are issued by Immigration Judges. People serving felony time in New York State usually have their deportation hearing while serving their New York time. Here is what you can do to get a final order of deportation:

- a. If you are brought before an Immigration Judge you should: (1) admit that you are deportable; (2) state that you “would like to be deported and would NOT like to apply for relief”; and (3) state that you “accept your deportation order as final and waive your right to appeals.”
- b. If an Immigration Officer asks you to sign a paper agreeing to be deported you should sign the paper.
- c. If you have not been offered a paper to sign for your deportation and have not been scheduled for a hearing before an immigration judge you or your friends or family can call your Deportation Officer and tell the officer that you want to be deported and ask them to make that happen quickly. If you do not know your Deportation Officer’s name or number you can call (212) 264-5854 or (212) 264-5854 to find out who your deportation officer is. Be sure to call with your alien number (A#).

***CAUTION: Once you get a Final Deportation Order it is likely that you will NEVER be able to return to the United States. Do NOT try to get a Final Deportation Order if you want to fight your deportation. It is a good idea to consult with an immigration attorney before attempting get yourself ordered deported.***

### **• *How Do I Get the Parole Board to Grant Me ECPDO or CPDO?***

NYS Division of Parole should automatically notify the Parole Board of inmates who are eligible for ECPDO or CPDO, and you should be scheduled for a hearing. If you have a Final Order of Deportation and believe you are eligible for either ECPDO or CPDO and you have not been scheduled for a hearing you can contact you facilities parole officer and you can also call NYS Department of Parole Immigration Liaison at 845-647-1670 x1121 and point out your eligibility and ask for a hearing. Once you are given a hearing it is up to the Parole Board whether or not to grant you ECPDO or CPDO.

## **5. I Have Been Granted ECPDO or CPDO, Now How Do I Get Immigration to Pick Me Up and Deport Me?**

There are two things that must happen before Immigration will pick up people with ECPDO or CPDO from New York State custody and deport them. First, your country must issue travel documents for you, giving the Immigration authorities permission to return you. Second, the immigration authorities must make arrangements to transport you to your country. If you have been granted ECPDO or CPDO and are waiting for immigration to pick you up, you must find out whether step one or step two is holding up your removal. To find out you can call Deportation Officer Ron Claude at 845-647-5628 or Charles Bryceland at 845-831-1486 (make sure you have your A# when you call).

- ***How Do I Get My Country to Issue Travel Documents for Me?***

If you find out that the delay is because your country has not yet issued travel documents you can do two things:

- a. Collect all the documents you have which help show that you are from your home country (i.e. birth certificate, passport, national id card, school records, etc.) and send one copy to you nation's consulate (see Appendix) and send one copy to:

U.S. D.H.S  
Ulster Correctional Facility  
Attention: Ron Claude  
Berme Road  
Napanoch, NY 12458

Make sure to include a cover letter with your A#, explaining that you have been granted ECPDO or CPDO, and asking that travel documents be issued.

- b. You or your friends or family can also call your country's consulate and request that travel documents be issued. (see Appendix). It may take several phone calls – be persistent, keep calling.

- ***My Country Has Issued Travel Documents But Immigration Still Won't Pick Me Up, What Can I Do?***

After you are granted ECPDO or CPDO and Immigration receives your travel documents from your home country, Immigration should pick you up and deport you.

Unfortunately, they often take a long time and there is very little you can do about it.

You can call, and have friends and family members call, Deportation Officer Ron Claude at 845-647-5628 (make sure you have your A# when you call). Again, it may take several phone calls, be persistent.

## **6. Once Immigration Picks Me Up, How Long Will I Have to Wait to Be Deported?**

If you have been granted ECPDO or CPDO and are taken into Immigration Custody before you finish serving your maximum sentence, you should be deported quickly and should not have to spend a lot of time in Immigration detention. Usually people are deported in days or weeks after Immigration takes them into custody.

## Appendix

### Contact Numbers for Foreign Consulates (to obtain Travel Documents)

Afghanistan	202-483-6487	Kenya	202-387-6101
Albania	202-628-7342	Liberia	202-723-0437
Argentina	202-238-6400	Mexico	202-728-1600
Bangladesh	202-244-5366	Nicaragua	202-939-6570
Belarus	202-986-1604	Nigeria	202-986-8400
Belgium	202-333-3079	Pakistan	202-939-6205
Belize	202-332-9636	Panama	202-483-1407
Bolivia	202-483-4410	Paraguay	202-483-6960
Brazil	202-238-2700	Peru	202-833-9860
Bulgaria	202-387-7969	Philippines	202-333-6000
Burma	202-332-5577	Russia	202-298-5700
Cambodia	202-726-7742	Singapore	202-537-3100
Chile	202-785-1746	Syria	202-232-6313
China	202-328-2500	Thailand	202-944-3611
Columbia	202-387-8338	Trinidad and Tobago	202-467-6490
Dominican Rep.	202-332-6280 ex. 2504	Turkey	202-612-6700
Ghana	202-686-4520	Ukraine	202-333-0817
Guyana	202-265-6900	United Kingdom	202-588-6500
Haiti	202-332-4090 ex. 112		
India	202-939-7000		
Jamaica	212-935-7504		

# WHAT YOU NEED TO KNOW IF YOU ARE AT RISK

## ANY Non Citizen May Be Deported If They Have ...

### ❖ ANY CRIMINAL CONVICTION

Even if the conviction is old, the person has a have a greencard, or they never went to jail.

### ❖ NO PAPERS, NO STATUS, UNDOCUMENTED, "ILLEGAL"

An immigrant may be undocumented/have no papers if they crossed the border, overstayed your visa, came on a false passport, or are adjusting your status (even if you have a work permit).

### ❖ OLD ORDER OF DEPORTATION (ABSCONDER)

Sometimes immigration orders an immigrant deported but does not tell them. They may have an old order if they lost their asylum case, skipped a immigration interview or skipped an immigration hearing. One way to find out if you have an old order of deportation is:

1. Find your Alien Registration Number (A#). It is on the I94 card on your passport, greencard, work permit or any other document from immigration. It looks like: A99 999 999.
2. Call 1-800-898-7180. This is the hotline for the immigration court (EOIR).
3. Press "1" for English or "2" for Spanish.
4. Enter your A-number and listen for instructions. If your number is in the system, then this means that you had a deportation case at some time.
5. Press "3" to find out if an immigration judge ordered deportation (removal) against you.
6. If the hotline says you have a deportation/removal order, consult a lawyer specializing in immigration deportation *before* you go to the immigration office, leave the country, or try to adjust your status. People with old orders of deportation do not see a judge and can be ordered deported immediately.

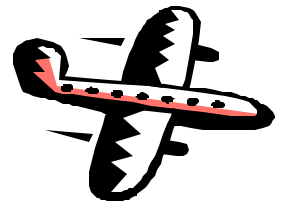
*(note: the EOIR hotline number may not contain information about deportation orders that are several years old)*

*If you are placed in deportation proceedings, immigration may detain (jail) you...*

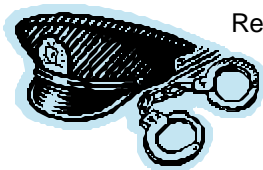
## Immigration Can Detain You When...

### ❖ YOU LEAVE THE COUNTRY AND TRY TO RE-ENTER

At an airport, seaport, or at the border, immigration agents may detain you if you have an old conviction, false papers or a deportation order.



### ❖ POLICE STOP YOU



Regular police officers may send you to Immigration if you have an immigration warrant based on a past conviction or old deportation order. If police stop or arrest you:

- Ask for a warrant if officers seek to enter your home. You have the right to see this document. The warrant lists the areas that the officers can search. Note if they enter any other areas.
- Record who arrested you. Write down the officer(s) *name, agency* (FBI, NYPD, INS, ICE), and badge number. Find this information on the officers' business cards, uniforms, and cars.
- Remain silent. You only have to give your name. Do not answer any other questions. **DO NOT LIE!** Say nothing or say, "I need to speak with a lawyer first."
- Do NOT sign any papers without talking with a lawyer first. Officers may try to scare or trick you. Don't be fooled.
- Do not give any information about where you were born or how you came here. By giving this information, you are helping the government deport you faster! If possible leave any line that asks for your country of origin blank or write N/A
- Do NOT take a guilty plea without speaking to a lawyer specializing in deportation. Defense lawyers, regular immigration attorneys, prosecutors and judges often don't know the immigration consequences of a conviction. Don't rely on their opinion.
- Make sure your family has your Immigration Number. It is on most immigration papers and looks like: A99 999 999. You may not have an A# if you entered without inspection (jumped the border), come from a country that does not require visas, or came on false papers.

### ❖ YOU FINISH YOUR CRIMINAL SENTENCE

You may be sent to immigration after you complete jail time, probation, a rehabilitation program, boot camp (including NY Shock program). Jail officers are not trained in immigration laws, and often give people bad information. If you have been visited by any immigration officer, or are not a citizen, you may have an immigration detainer.



## ❖ YOU APPLY FOR CITIZENSHIP/ADJUSTMENT

Many people put themselves at risk of deportation when they attempt to adjust their status by applying for citizenship or a greencard when they have old orders of deportation or past convictions

## ❖ GO TO ANY IMMIGRATION OFFICE

If you are at risk of deportation and go to Federal Plaza (or any other immigration office), you risk being detained. People have been deported when they go to pick-up a work permit or greencard, inquire about their citizenship application, or go for an appointment. If you have an order of deportation or past conviction and decide that you must go to an immigration office, call a deportation specialist *before* you go and follow these tips:

- Tell a family member or close friend where you are going, and set a time to call them after the visit. If you do not call because you are detained, they should start looking for you (follow steps below).
- Do NOT take your passport, work permit, travel documents, or greencard. If you must take certain items, **GIVE COPIES** of everything you take to a relative or friend first.
- If you are going in response to an appointment letter, leave a COPY OF THE LETTER with a relative or friend.

## TIPS! For Detainees & Prisoners...

- Do NOT sign any statements or documents, especially ones giving up your right to an immigration hearing in front of an immigration judge.
- If you have an old order of deportation, you will not see a judge and can be deported *immediately*. Ask for a **Notice of Reinstatement of Deportation Order**.
- Make sure your family members have a copy of your immigration paperwork, including your **Notice to Appear (NTA)**.
- If you are able to see an immigration judge and you do not have an attorney, tell the judge that you need more time to find someone to represent you. Do NOT concede or admit to the Immigration Services charges against you. Do NOT go into detail about your case. Anything you say can and will be used against you – even your country of birth.
- If you think you may be transferred to a detention center far from your home, and you already have a lawyer, have them file an immigration form with DHS saying that they are representing you. This form is called a G-28. You can download it from DHS at <http://www.immigration.gov/graphics/formsfee/forms/g-28.htm>. Fax the form to the Deportation Officer immediately. This form may convince the officer to stop your transfer.
- If you face automatic deportation because of your crime, consult a criminal immigration attorney about the positives and negatives of Vacating, Appealing, or Reopening your Criminal Case. This is very complicated, but may be your only way to avoid deportation.

## TIPS! Families On The Outside

Keep the following information about your detained loved one:

- Full name and aliases
- "Alien Registration Number." It is on most immigration papers, including the I94 card on your passport, greencard, or any other document that immigration gives you. The A# looks like: A99 999 999. If you do not know your alien number attempt to contact your loved one's consulate, and see if they have a record of detention that contains the A#
- Why your loved one is being deported (refer to first page of pamphlet). Are they an absconder, do they have a past conviction, are they out of status, or seeking asylum?
- Your loved one's first (or next) immigration court date. If you do not know call the Immigration court hotline at (800) 898-7180 and enter the A#.
- Date person entered the U.S. and how (visa, cross border, greencard through marriage, etc.)
- Criminal Record. You must have a list of the precise criminal convictions (e.g. 4th degree Criminal possession of a controlled substance, NYPL §220.09). Include the date of arrest, the place of arrest (City, State), date of conviction, and the sentence. If possible, get a copy of the rap sheet. Get a Certificate of Disposition for each conviction from the court clerk's office in the courthouse where the criminal case was heard.
- A copy of your Notice to Appear (NTA) and all other immigration paperwork.
- Favorable Factors: collect documents showing that the person facing deportation has family, community ties and a "good character".
- Your loved ones location (jail, federal detention center, etc.)

If you do not know where your detained loved one is:

- Contact the Bureau of Immigration and Customs Enforcement Deport Office (see Phone List below).
- Ask to speak with a supervisory deport officer. Give them your loved one's full name and A#. (Note: Deportation officers may be mean and not speak to anyone besides an attorney or the person being deported. You should still try.)

- ❑ Contact your Consulate. Consulates are required by international convention to be notified when one of their nationals is detained. Many consular offices have caseworkers that work specifically on deportation cases. Furthermore, Consular officials are sometimes (but not always) a little nicer to talk to than deportation officers.
- ❑ The last resort is always to contact the different county detention facilities or wait for your loved one to call. Remove any blocks on your phone for collect calls by calling the phone company. This way your loved one has a greater chance of contacting you.

## If you need a lawyer...

- ❑ Do not rush to hire an attorney if you don't have a basic idea about your loved ones case or you don't know anything about an attorney. First learn as many facts about your loved one, and then approach an attorney.
- ❑ Always keep yourself informed about your immigration case, and do not just rely on the attorney.
- ❑ Hire someone specializing in deportation. Do not get cheated! If the person does real estate, business and immigration, they are most likely not deportation specialists.
- ❑ Keep the full name and contact information of EVERY lawyer that has ever represented you.
- ❑ Get a written contract before you give the lawyer money. The lawyer must give you a "retainer agreement." Read it carefully. Make sure you understand it. Does it make the same promises that the lawyer is telling you?
- ❑ If you are in Criminal Proceedings ask your lawyer to provide you written information about the immigration consequences of your conviction *in writing* before you plead guilty. If you have an old order of deportation and are attempting to adjust your status, get written information from your lawyer explaining how s/he will manage to keep you from being deported.
- ❑ Make sure your family receives a copy of everything your lawyer files.
- ❑ File a complaint with the Attorney Grievance Committee immediately if you felt your lawyer cheated you (see Phone List).

## Phone List

### DEPORT OFFICE (BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT, DETENTION AND REMOVAL BRANCH)

NY	(212) 264-5854	Pennsylvania (York County)	(717) 840-7253
NJ	(973) 645-3666, dial 0	Louisiana (Oakdale)	(318) 335-0713

### ATTORNEY GRIEVANCE COMMITTEE

Manhattan,	(212) 401-0800	New Jersey	(800) 406-8594
Bronx			
All other NYC Boroughs	(718) 923-6300		





## FORMS OF RELIEF FROM REMOVAL\*

<p><b><u>CANCELLATION OF REMOVAL FOR LPRs</u></b></p> <ul style="list-style-type: none"> <li>* Continuously resided in US for 7 years after admitted. Clock stops when:             <ul style="list-style-type: none"> <li>* served Notice to Appear</li> <li>* commits inadmissible offense or deportable offense referred to in inadmissibility grounds</li> </ul> </li> <li>* 5 yrs as an LPR</li> <li>* has not been convicted of Ag Fel</li> <li>* No prior cancellation or 212(c) relief from deportation</li> <li>* not a terrorist, crewman, or exchange visitor</li> <li>* positive outweighs negative factors</li> </ul>	<p><b><u>ADJUSTMENT OF STATUS</u></b></p> <p>The status of an alien admitted or paroled or of any other alien having an approved petition for classification may be adjusted if</p> <ul style="list-style-type: none"> <li>* The alien makes an application for adjustment</li> <li>* The alien is eligible to receive an immigrant visa and is admissible, and</li> <li>* An immigrant visa is immediately available at the time application is filed</li> <li>* EWI needs 245(I)</li> <li>* Adjustment barred for returning alien who had accrued unlawful presence</li> </ul> <p><i>preference categories</i></p> <p>Immed Spouse or child of USC. Parents of USC over 21</p> <p>First Single (+21) child of USC</p> <p>2A Spouse, unmarried (-21) child of LPR</p> <p>2B Unmarried child (+21) of LPR</p> <p>3d Married child of USC</p> <p>4<sup>th</sup> Siblings (+21) of USC</p>	<p><b><u>ASYLUM</u></b></p> <ul style="list-style-type: none"> <li>* Unable or unwilling to return where alien persecuted or has a well founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion</li> <li>* Must apply within one year of arrival in US</li> <li>* Barred if convicted of an ag fel</li> <li>* Barred if convicted of “particularly serious crime” (drug trafficking is presumptively a PSC)</li> <li>* Asylees can apply to adjust status after one year and use 209(c) waiver of inadmissibility if necessary</li> </ul>
<p><b><u>212(c)</u></b></p> <ul style="list-style-type: none"> <li>* LPR who pled guilty before 4/24/96 to an inadmissibility grounds or deportable offense referred to in inadmissibility grounds</li> <li>* LPR who has maintained un-relinquished domicile for 7 years</li> <li>* positive outweighs negative factor</li> <li>* has not served a term of imprisonment of 5 years or more for one or more aggravated felony convictions</li> </ul>		<p><b><u>WITHHOLDING OF REMOVAL</u></b></p> <ul style="list-style-type: none"> <li>* Prohibits return of alien where life or freedom would be threatened because of race, religion, nationality, membership in a particular social group, or political opinion</li> <li>* Barred by PSC</li> <li>* Barred by Ag Fels w/ aggregate sentence of five years</li> </ul>
<p><b><u>CANCELLATION OF REMOVAL FOR non-LPRs</u></b></p> <ul style="list-style-type: none"> <li>* Continuous presence in US for 10 years             <ul style="list-style-type: none"> <li>* barred by single absence of +90 days or aggregate absence of +180 days</li> <li>* clock stops with service of NTA</li> <li>* clock stops with commission of offense in 212(a)(2); 237(a)(2); (a)(4)</li> </ul> </li> <li>* Good moral character for that time             <ul style="list-style-type: none"> <li>* disqualified from proving GMC if committed offense listed in 101(f)</li> </ul> </li> <li>* Not convicted of offense in 212(a)(2); 237(a)(2); (a)(4)</li> <li>* To depart would cause extreme hardship to LPR/USC spouse, child, parent</li> </ul>	<p><b><u>212(h) WAIVER</u></b></p> <p>If a crime renders alien inadmissible, waiver is available for certain inadmissible offenses if</p> <ul style="list-style-type: none"> <li>* Not a drug offense (except for one time simple possession of 30 gms of marijuana)</li> <li>* Alien is spouse, parent, son or daughter of USC or LPR and</li> <li>* Denial of alien’s admission would be an extreme hardship for relative</li> <li>* AG must consent</li> <li>* If LPR, needs 7 yrs. residence + no Ag Fel</li> </ul>	<p><b><u>CONVENTION AGAINST TORTURE</u></b></p> <ul style="list-style-type: none"> <li>* Would suffer severe pain and suffering</li> <li>* Intentionally inflicted</li> <li>* For an illicit purpose</li> <li>* By or at the instigation of or with acquiescence of a public official who has custody and control of victim</li> <li>* Not arising from lawful sanction</li> </ul>
<p><b><u>BARS TO REENTRY</u></b></p> <ul style="list-style-type: none"> <li>* Unlawful presence for 180 days or less and voluntarily leaves ..... no bar</li> <li>* Unlawful presence for +180 days but less than 1 year.....3 years</li> <li>* Unlawful presence for +1 year.....10 years</li> <li>* Ordered removed on inadmissibility grounds.....5 years</li> <li>* Ordered removed on deportation grounds.....10 years</li> <li>* Excluded or deported under old law .....10 years</li> <li>* Two orders of removal.....20 years</li> <li>* Failure to attend removal proceedings .....5 years</li> <li>* Ordered removed after conviction for Ag Fel or drug offense..... permanent</li> </ul>	<p><b><u>MANDATORY DETENTION</u></b></p> <ul style="list-style-type: none"> <li>* Applies only to those released from custody after 10/9/98</li> <li>* Arriving aliens are ineligible for bond</li> </ul> <p><i>For LPR</i></p> <ul style="list-style-type: none"> <li>* 2 CIMTs</li> <li>* AG fel</li> <li>* Controlled substance offense</li> <li>* Firearms offense</li> </ul> <p><i>For EWI</i></p> <ul style="list-style-type: none"> <li>* One CIMT (subject to petty offense exception)</li> <li>* Controlled substance offense</li> <li>* Drug trafficking offense</li> <li>* 2 or + offenses with aggregate of 5 yrs</li> <li>* Prostitution</li> <li>* Domestic viol or viol of protection order</li> </ul>	<p><b><u>VOLUNTARY DEPARTURE</u></b></p> <ul style="list-style-type: none"> <li>* Not available to arriving aliens</li> <li>* No ag fels or security concerns</li> <li>* No prior removal order</li> <li>* Granted up to 120 days if before end of proceedings</li> </ul> <p><i>If request made at the end of proceedings</i></p> <ul style="list-style-type: none"> <li>* Physically present for at least one year before filing of NTA (not available to arriving aliens)</li> <li>* Good moral character for at least five years before application</li> <li>* Granted up to 60 days</li> </ul>

## When a Deportation is Imminent\*\*\*

If a person has been detained with an old order of deportation, has just been ordered deported, or has exhausted all of their legal options, they may be deported at any time. Sometimes a family wants some time to gather belongings for a loved one, or make arrangement for him/her in the home country. Other times, there may be new developments in a case. If you are certain that someone's deportation is about to happen (imminent)...

- **Contact the Deportation Office.** If you are an attorney who has filed a G-28 for a detainee, talking to a deportation officer is much easier than if you are a friend or family member. Nevertheless some Deport Officers may talk to family members. Deport Officers have the best information about when and to where a person may be deported, even if they often refuse to tell you. If you need more time (because you are filing court papers, or are preparing housing arrangements in the home country) some deport officers may be willing to help a little. However in many cases deport officers are unresponsive, uncooperative, or just believe they cannot do anything. If you feel that a person has a particularly compelling case, you can speak directly with the Field Office Director.
- **Contact your Consular Office.** Although Consulates can be unresponsive or unhelpful, they are often more responsive than deportation officers. Most detainees need travel documents from the consulate before they are deported. Some consulates have caseworkers that work specifically on deportation. Consulates can often tell you whether or not travel documents have been issued for the person, if a flight is scheduled for them, and their location in the system. They can also tell you where the person may go after being deported (e.g. the local Police station). If you have a good relationship with the consulate, you may ask them to ensure that the removal complies with the country's law, and the person being deported is indeed a national of that country. **IMPORTANT:** Because the consulate has the power to expedite, delay, or simply decline issuing travel documents, you want to make sure that your actions would not be considered obstruction by the US government.
- **Talk to an attorney about filing papers to the court.** If you feel that there are still legitimate legal claims in a person's case, it is important talk to a *deportation specialist* about filing papers in the courts. Depending on *where* someone's case is legally, you can file an:
  - Emergency Motion to Reopen and Stay to an Immigration Judge or the BIA
  - Emergency Habeas Petition with a Stay of Deportation to District Court
  - Petition to Review with a Stay of Deportation to Federal Court
  - A Stay of Deportation with BICE
- **Other Pressures (Congress & Media).** If a person's case is very compelling, or you feel that there is nothing to lose, supportive elected officials and journalists can be instrumental in stopping deportations. They should contact the Field Officer Director directly to raise concerns around a deportation.

\*\*\*Important Note: Individuals that have physically prevented themselves from being put on planes for deportation have been 1) physically assaulted 2) Sedated and in some cases 3) Criminally Prosecuted

## **CAN I RETURN TO THE US AFTER BEING DEPORTED?**

The United States deports over 170,000 people every year, tearing them apart from their families, friends, homes, jobs, and businesses. Naturally, many people want to return to the communities that they were forced to leave behind.

Unfortunately, it is very difficult to return to the United States after being deported. Many people will never be able to return, but you can apply to the Department of Homeland Security for readmission. Furthermore, families in the United States can begin to collectively pressure the U.S. government to return their loved ones.

In order to win the return of your deported loved one, you must overcome two barriers: Your loved one must have a basis to apply for permission to come to the U.S., and he or she must apply for and receive one or more waivers to remove any applicable bars to reentry. There are no "official steps" that, upon completion, will win return. Generally, however, someone who is deported will have to take the following steps:

1. You must apply for permission to enter the U.S. This requires that you have a basis for coming back to the U.S. For example, you might get a family member in the U.S. to sponsor you for a green card, find a U.S. employer to sponsor you, apply for a tourist visa, or apply for some other visa.
2. Every person who has been deported is barred from returning to the U.S. for a certain number of years. People with criminal convictions have additional bars that prevent them from coming back to the U.S. You will have to determine which bars to entry and re-entry apply to you.
3. For each bar to entry, you will have to file a waiver, asking the U.S. government to excuse the bar to reentry, and allow you to return earlier than allowed. Some people may not have waivers available to them for the type of visa they are seeking.
4. Once you file all the necessary forms and applications, you can take additional steps to support your application – for example, through media coverage and political advocacy.

This packet provides general information about these steps. However, remember that immigration law changes frequently and everyone's situation is different. Therefore, the information in this packet may not be complete in your particular situation.

## **ANALYZE ELIGIBILITY FOR READMISSION: COLLECTING DOCUMENTATION**

- Submit Freedom of Information Act (FOIA) requests to get copies of your deported family member's immigration file. You should submit one request to the Department of Homeland Security (form attached) and one request to the Executive Office of Immigration Review. The government generally takes several months (at least) to respond to FOIA requests, so you should do this right away. There is usually no fee, unless the file is very large.
- Collect all immigration and criminal records. Many should be in the immigration file you are requesting through FOIA (above). The following documents are particularly important:
  - \_\_\_\_\_ Order to Show Cause or Notice to Appear (lists immigration charges against you)
  - \_\_\_\_\_ Every decision of the Immigration Judge
  - \_\_\_\_\_ Every decision of the Board of Immigration Appeals
  - \_\_\_\_\_ Every federal court decision in the immigration case
  - \_\_\_\_\_ Warrant/Notice of Deportation or other papers given by government on deportation
  - \_\_\_\_\_ Record of conviction/Disposition for every criminal conviction
  - \_\_\_\_\_ Rap sheet. If you can't get a rap sheet, then ask your family member to list every arrest, its date, and the outcome (as much as they remember).
- Begin to collect documentation of the "favorable factors" in your loved one's life. This is a list of all of the positive aspects of that person's life, such as school and employment records, involvement with religious or community groups, evidence of rehabilitation if applicable. (See attached list of favorable factors, compiled by Families for Freedom, for more details.) You should also gather information about your U.S. citizen and legal permanent resident family members, and documentation about how your absence creates financial, emotional and other hardships for them. Some waivers require evidence of this hardship, and it will strengthen most applications.

## **APPLYING FOR READMISSION: FORMS**

1. Submit Form I-212 (Application for Permission to Reapply for Admission into the United States after Deportation or Removal), along with supporting documents. You can file this form any time after deportation. DHS generally takes at least several months to decide whether to approve this application.
2. Submit the application or petition that forms the basis for your application to apply for a visa, along with supporting documents. For example, if your family member is sponsoring you for an immigrant visa, you will submit the sponsorship petition (I-130).
3. Submit Form I-601 (Application for Waiver of Ground of Excludability), along with supporting documents. You will use this form to apply for waivers to bars to re-entry (summarized in attached chart), and grounds of inadmissibility. We are not certain whether you can file this form with the underlying petition, or if you have to wait until your application is first denied.
4. Most applications require payment of a fee, and your particular situation might require other forms or applications as well.

People who have been deported face a number of obstacles in returning to the U.S. These charts list bars to re-entry and common criminal grounds of inadmissibility. Other inadmissibility grounds and their waivers are not discussed here (for example, inadmissibility relating to HIV and other health-related grounds, document fraud). Remember, if more than one bar applies to you, then every bar must be waived in order to be readmitted to the U.S.

<b>SUMMARY OF BARS TO RE-ENTRY for PEOPLE WHO HAVE BEEN DEPORTED</b>			
	<b>Bar to Re-entry</b>	<b>Waiver for Immigrant Visa</b>	<b>Waiver for Non-Immigrant Visa</b>
<b>Unlawful presence in US for less than 6 months</b>	No Bar		
<b>Unlawful presence in US for over 6 months and less than 1 year</b>	3 years	Yes. Form I-601.	Most bars to re-entry can be waived for non-immigrant visa applicants under Section 212(d)(3) of the INA. Can use Form I-212 for bars resulting from deportation.
<b>Unlawful presence in US for one year or longer</b>	10 years		
<b>Ordered removed on inadmissibility grounds</b>	5 years	Yes. Form I-212.	
<b>Ordered removed on deportability grounds</b>	10 years		
<b>Ordered excluded/deported under pre-1996 laws</b>	10 years		
<b>Ordered removed two times</b>	20 years		
<b>Failed to attend removal hearing</b>	5 years	Probably yes.	
<b>Ordered removed after a conviction for an aggravated felony or drug offense</b>	Permanent	Maybe.	

\*There may be arguments that the bars to re-entry for people deported under pre-1996 laws is shorter.

<b>SUMMARY OF SOME COMMON CRIMINAL GROUNDS OF INADMISSIBILITY</b>		
A wide range of offenses makes a person inadmissible, or ineligible to be admitted to the U.S. This is a summary of <u>some</u> of these grounds of inadmissibility, and whether they can be waived.		
	<b>Waiver for Immigrant Visa</b>	<b>Waiver for Non-Immigrant Visa</b>
<b>Crime Involving Moral Turpitude</b> Not inadmissible if a) only 1 CIMT, which had maximum possible sentence of one year or less and actual sentence of 6 months or less; or b) only 1 CIMT committed by minor and conviction and jail more than 5 years before application for admission.	212(h) waiver available. Form I-601. This waiver requires showing one of the following: a) denial of admission will cause extreme hardship to U.S. citizen or LPR spouse, parent, or child OR b) crime is at least 15 years old (not required for prostitution/ commercial vice), you have been rehabilitated and allowing you into US would not harm its safety or security. Additional waivers for domestic violence situations.	Most grounds of inadmissibility can be waived for non-immigrant visa applicants under Section 212(d)(3) of the INA. However, "212(d)(3)" cannot waive some "national security" inadmissibility grounds (e.g. espionage).
<b>2 or more offenses of any kind, for which you received total sentences of 5 years or longer.</b>		
<b>Prostitution, commercialized vice</b>		
<b>Drug offense</b>	212(h) waiver available only for single conviction for simple possession of 30 grams or less of marijuana. Form I-601.	



## Detainee Abuse

Immigration detainees are scattered throughout a network of county jails & prisons, federal detention centers, and private prisons. Some of these facilities can be very brutal and incidents of abuse at the hands of corrections officers and even other inmates are more common than anyone wants to admit (see *American Gulag*, by Mark Dow). If you feel that a member or loved one is being abused there are basic steps that you should take immediately

- ❖ **Get the story straight.** It is never enough to just say “someone beat up my daughter/son.” It is important to document
  - Date and approximate time of the incident
  - Names, A#s, and inmate #'s of everyone that was assaulted
  - Names and titles of everyone that assaulted the detainee
  - Names, A#'s of people who witnessed the event (including sympathetic officers)
  - Detailed description of the assault and the official response to the assault
  
- ❖ **Write a *one-page* letter of concern.** It is always important to have written correspondence to government or jail officials. This is much easier than anyone thinks it is (see sample letters). Including whatever relevant information you are able to collect above, write a one-page letter with a *clear* description of events and *clear* demands for recourse. Different people write letters in different styles. Some suggestions:
  - Address the letter to the Warden of the facility, the BICE Field Office Director, the Office of Inspector General, and anyone else with *immediate* jurisdiction over the facility.
  - Copy (cc) the letter to a few organizations that would or should care. Make sure that you have some relationship with the individuals on the cc: line, so that they may follow-up. *\*\*We advise you to **not** copy the letter to the press just yet.*
  - Describe the incident as documented in bullet point format. Begin the description with “This is our understanding of the facts” and end with “We would like some clarity of this matter.” Also use language like “alleged.” This type of language gives you some flexibility in highlighting allegations that are not immediately confirmable. Be very careful to only highlight events you have heard from trusted or multiple sources. Your credibility is important, and if the case goes to court in the future may help or hurt.
  - Identify and present clear demands. Make sure that officials can meet demands immediately. Demands may include releasing people from segregation, contacting their attorneys, giving them medical attention, etc.
  - End the letter with some variation of “We have yet to go public with this matter and are awaiting a response.” Include a phone and fax number where you would like to be reached.
  - Fax the letter to all parties, follow-up to make sure they received it, and keep in touch with inmates in the facility to document changes being made.
  - Enlist at least one other party in the CC line in documenting and confirming the incident. Then make a determination about going to media with the inmates involved.

- ❖ **Encourage the detainees involved to file complaints.** To preserve the possibility of legal action, detainees that face abuse should file written complaints (see <http://www.abanet.org/immigration/probono/info.html>). Complaints should be filed to:
  - **Officer-in Charge of the Facility (OIC) and BICE Field Office Director**
    - Each facility *should* have a complaint procedure as outlined by detainee handbook
    - Detainee must submit informal complaint within *five* (5) days of event
    - Formal complaint must be within five (5) days of event or unsuccessful conclusion of informal grievance
  - **Office of Inspector General (OIG)**
    - Jurisdiction over all BI CE employees,
    - Investigates allegations of abuse, misconduct, and systemic problems.
  - **Office of Professional Responsibility**
    - Jurisdiction over misconduct by DOJ attorneys and judges (including EOIR). This is useful if you tried to report the incident to a judge or other DOJ employee, and it was disregarded.
  
- ❖ **Talk to attorneys and legal experts about filing complaints and suits for monetary damages.** Suing over detainee abuse is very difficult and very few lawyers are available to help people sue when they are abused. Nevertheless it can be an option and some detainees have even sued on their own behalf (*pro se*)! The following are *some* potential claims.
  - **Federal Tort Claims Act (FTCA)** FTCA claims can be used by Immigration Detainees against the *United States* injured due to actions by *federal officers* before or during their detention. A detainee can file an FTCA complaint when a federal officer violates state laws. FTCA complaints may attract interest from private firms because a detainee may obtain monetary compensation.
  - **Bivens claims** are lawsuits against *individual employees* of the federal government. A detainee may file *Bivens* complaints to obtain money damages to remedy constitutional violations (specifically of 1<sup>st</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, or 8<sup>th</sup> amendments). However, if a court has given a decision on an FTCA claim, a detainee is barred from filing a *Bivens* complaint.
  - **§ 1983 claims or 1983 complaints** are lawsuits against *individual employees* of the state or local government (e.g. county jail officials) to obtain money damages to remedy constitutional rights violations. Of the three complaints, 1983 complaints are the most complicated and often require the most help from legal experts.



# Families for Freedom

2 Washington Street, 766 North • New York NY 10004 • (212) 898-4121 fax (212) 363-8533

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**To:** Warden Leroy Holiday, Concordia Parrish Correctional Facility;  
Field Office Director Craig Robinson, Officers Randall Morton & Marvin McKlesky, Bureau of  
Immigration and Customs Enforcement; Nancy Hooks; DHS Secretary Tom Ridge  
**CC:** American Civil Liberties Union (national and local offices), CLINIC and Loyola School of Law,  
Associated Catholic Charities, Office of Inspector General at DOJ  
**Date:** March 23, 2004  
**Re:** Immigration Inmate Patrick B--- (A#XXXXXXXXXX)

Families For Freedom is an immigrant rights organization that works with immigrant detainees and their family members. On March 18, 2004 we received a letter from inmate Patrick B--- indicating that he was assaulted by correctional officers at Concordia Parrish Correctional Facility II (CPCF). We have also had an opportunity to speak with Mr. B---.

Here is our understanding of the facts:

- On March 10, 2004, at approximately 3:30pm, Lieutenant Lyold opened the door of Mr. Patrick B---'s cell and slapped Mr. B--- in the face. Shortly there after, five additional officers (Officers Book, Dhanes, and three others) entered his cell and repeatedly punched and kicked Mr. B--- and dragged him out of the cell. They apparently handcuffed and pepper sprayed Mr. B--- and then put him back in the cell with handcuffs on.
- Mr. B--- has sustained severe injuries as a result of this beating. He has pain in his lower back and neck and an inability to see clearly. We also understand that he has up to this point been denied proper medical treatment, and as a result, the pain has moved to his legs. As of today, he continues to have trouble and pain while walking.
- Mr. B--- has written to us that he had been smoking in his cell immediately before this incident. He had assumed that smoking was permitted in his cell, as it had been previously. In fact, Mr. B--- reports that officers had often provided him with cigarettes and lights, and continue to do so.
- We have also been informed that Mr. B--- was in 24-hour lockdown for three months due to his unwillingness to violate his religious beliefs against cutting his hair and beard. Mr. B--- is a practicing Rastafarian.
- We consider it the responsibility of BICE and CPCF officials to contact legal counsel for Mr. B---, if he has one, and his family to discuss this matter.
- We understand that Officer Lyold may have already been suspended. We request confirmation that all officers involved in the March 10<sup>th</sup> event are removed from duties at Concordia Parrish Correctional Facility until an investigation into this matter is completed. We would also like assurances that no punitive actions (threats, arbitrary transfers, etc.) will be taken against Mr. B--- or other inmates by BICE or CPCF officials.

We are extremely concerned about the treatment of immigration inmates at CPCF. We have received reports of other incidents where the rights of immigration inmates may have been violated. Complaints range widely and include assault, lack of prepaid phone cards, lack of access to legal materials, confiscation of personal paperwork, coercion of inmates to violate religious beliefs relating to hair and diet, and segregation if they refuse to do so. In addition, we have been advised of retaliatory transfers from the Federal Detention Center in Oakdale to various Parrish jails, especially CPCF. While we understand and applaud that changes are starting to be made, we would like a clear timeline of your investigation into Mr. B---'s assault and the manner in which you will address the remaining issues.

We have not yet publicized this matter and are awaiting your response. Please contact Families For Freedom at (212) 898-4121 to discuss this matter further. Thank you in advance for your immediate attention to this matter.

# Families for Freedom

2 Washington Street, 766 North • New York NY 10004 • (212) 898-4121 fax (212) 363-8533

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March 4, 2004

Attn: Warden Greene, Officer Avilez,  
Officer Nieves  
Hudson County Jail  
30 Hackensack Ave.  
Kearney, NJ 07302  
Fax: (201) 558.7053, (973) 491-5555

John Carbone, Acting District Director  
Bureau of Immigration Customs Enforcement  
570 US Route 1&9 South  
Hemisphere Center Suite 512  
Newark, New Jersey 07114  
Fax: (973) 776-5652, (973) 645-2240, (973) 693-4909

## **Re: Unit B100 West (Hudson County Correctional Facility)**

To Whom It May Concern:

Yesterday we received reports of verbal and physical abuse perpetrated by Officer Findley and Captain House against immigration detainees in Unit B100 West of Hudson County Correctional Facility. We are writing now to express our concern and describe the events reported to us, and request that an investigation be initiated immediately. According to our understanding of the facts:

- On March 1<sup>st</sup> Unit B100 West was put on lockdown for a lengthy period of time. When prisoners asked why the doors were not opened sooner, one officer responded by physically and verbally assaulting at least two inmates.
- Two officers and one captain physically assaulted FXXX GXXXX (#XXXXXX).
- One officer began choking Sadek Awad (#XXXXXX) and then punched him in the face, \_\_\_\_\_ . Awad was then either put in segregation or in medical.
- Unit B100 West was put on lockdown for a twenty-four hour period following the reported incident.

We would like some clarity on this matter. We request that the Warden and the Officer-in-Charge investigate this matter, and take no further punitive actions against B100 West inmates. Please note that to this point we have not went public with this matter and are waiting for your response. You may contact us at (212) 898-4121 with any response or question.

Thank you in advance for your immediate attention to this matter.

Yours truly,

Subhash Kateel  
Advocate

CC: Ed Barocas, Legal Director, American Civil Liberties Union-New Jersey  
New Jersey Civil Rights Defense Committee  
Jane Guskin, Coalition For The Human Rights Of Immigrants  
North Jersey ARA

# Families for Freedom

2 Washington Street, 766 North • New York NY 10004 • (212) 898-4121 fax (212) 363-8533

**To:** Warden Greene; Officers Montanez, Avilez and Nieves, Hudson County Jail  
Acting District Director John Carbone, Bureau of Immigration Customs Enforcement

**CC:** American Civil Liberties Union, New Jersey Civil Rights Defense Committee, Coalition  
For The Human Rights Of Immigrants, North Jersey ARA, Asian American Legal  
Defense and Education Fund

**Date:** March 5, 2004

**Re:** Unit B100 West (Hudson County Correctional Facility)

Yesterday we received a call from Officer Montanez regarding the March 1<sup>st</sup> incident in B1 West. He told us that an investigation is being conducted. We appreciate the quick response. There are still some unresolved issues, however, that demand immediate attention.

- It is our understanding that Mr. XXXXXX (#XXXXXX) and Mr. Awad (#XXXXXX) were injured very badly in the incident. We request information on their whereabouts and they type of medical attention they are receiving. We would also like assurances that they are not being put in the hole.
- We consider it the responsibility of BICE officials and Hudson County Corrections officials to contact the legal counsel for both men. While we are unsure of Mr. XXXXX's legal counsel, Mr. Awad's legal counsel is Ms. Sin Yen Ling from the Asian American Legal Defense and Education Fund. You may reach her at (212) 966-6030.
- We request confirmation that all of the officers involved in the March 1<sup>st</sup> event are removed from duties in B1 West until the investigation is complete. We would also like assurances that no punitive actions on the part of BICE or Hudson County officials (threats, arbitrary transfers, etc.) be taken against Mr. XXXXX, Mr. Awad, or other B1 West inmates.
- We request that you contact us with a clear timeline of the Internal Affairs investigation.

We are extremely concerned about the treatment of immigration inmates in the New Jersey county jail system. Despite Hudson County's reputation as one of the "good" detention centers, we have received reports of two separate incidents where the rights of immigration inmates may have been violated and we have had to send as many letters (see February 24<sup>th</sup> letter regarding Marc Joseph A# XXXXXX; and March 3<sup>rd</sup> letter regarding B100 West).

As mentioned previously, we have yet to go public with this matter and are awaiting your response. You may contact us at (212) 898-4121. Thank you in advance for your immediate attention to this matter.

*NOTE: This incident of abuse was featured in a National Public Radio expose on NJ detention...*

The screenshot shows the NPR website interface. At the top, there are navigation links for 'Programs and Schedules', 'ARCHIVES', 'TRANSCRIPTS', 'DISCUSSIONS', 'STATIONS', 'NPR SHOP', 'ABOUT NPR', and 'HELP'. A search bar is also present. The main content area features a news article titled 'JAILED IMMIGRANTS ALLEGED ABUSE' with the sub-headline 'U.S. Detainee Abuse Cases Fall Through the Cracks' by Daniel Zwardling. The article text begins with 'Earlier this year, a group of guards at the Hudson County Correctional Center in Kearny, N.J., allegedly beat up two prisoners -- while they were handcuffed, while other guards and their supervising officers watched. The alleged victims weren't regular prisoners -- they were immigrant detainees locked up by the Department of...'. To the right of the article is a 'STORIES IN THIS SERIES' section with a list of related articles, including 'NPR investigates allegations that immigrant detainees have been beaten by guards and bitten by dogs', 'MAIN SERIES PAGE', 'Dec. 9, 2004 Hudson Jail Disciplines Guards in Detainee Abuse Case', 'Nov. 30, 2004 Government Halts Use of Dogs Around Detainees', and 'Nov. 25, 2004 Letters: Immigrant Detainees Allege Abuse'. A sidebar on the left contains a 'Find your local member station' section with a search box and a 'Call Letters' field, and a 'Browse' section with various categories like 'Politics & Society', 'Business', 'People & Places', 'Health & Science', 'Books', 'Music', 'Arts & Culture', and 'Diversions'.



## A ssist Ourselves

- ❑ Learn the Laws
- ❑ Get Good lawyers
- ❑ Go to Support Meetings
- ❑ Help Other Families
- ❑ Attend Each Other's Court Hearings
- ❑ Socialize!

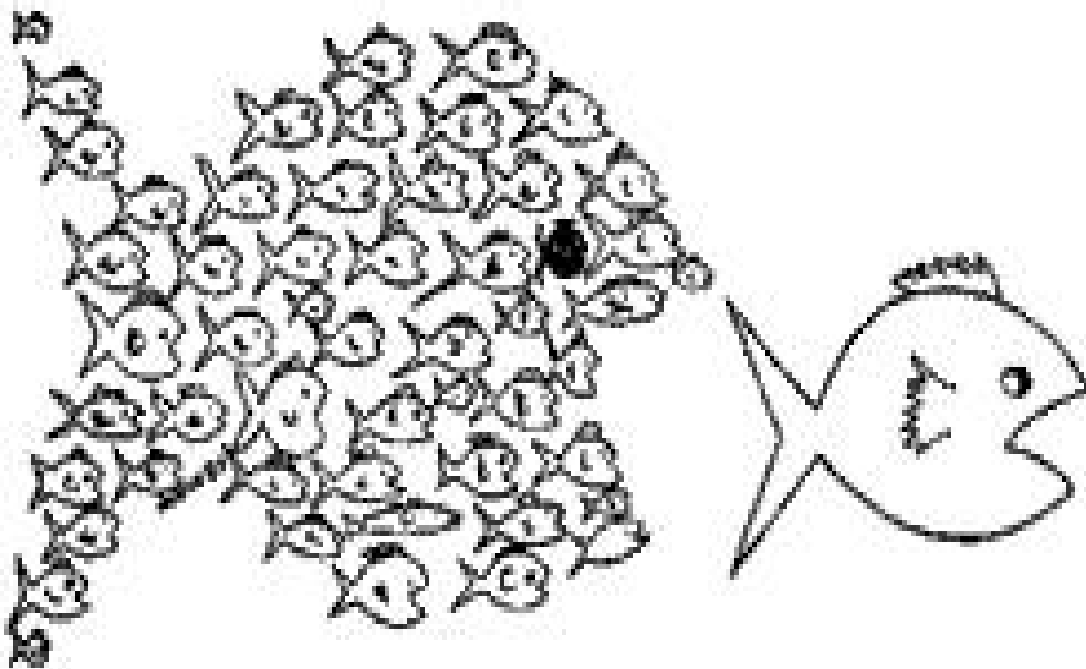
## R aise awareness

- ❑ Publicize Our Own Cases
- ❑ Collect Petitions
- ❑ Speak Outs! In our Communities
- ❑ Legal Clinics for our Neighbors

## M ake 'em Bleed!

- ❑ Hold Press Conferences
- ❑ Go on Hunger Strike
- ❑ Organize Rallies & Protests
- ❑ Flood Congressional Offices

If you have to leave, don't leave quietly!  
Make THEM lose sleep the same way we do!



# Anti-Deportation CASE CAMPAIGN TOOLS



## Organizing and Advocacy

Challenges to organizing for people facing deportation (especially with past crimes).



## Favorable Factors

Prove that you are neither a flight risk nor a threat to society.



## Letters of Support

Get help from family and friends.



## Petitions

Educate your community and build support.



## Media

Expose how your detention or deportation is UNJUST.



## Congress

Don't take NO for an answer. Make elected officials work for you.



## Prosecutorial Discretion

Pressure the Department of Homeland Security to drop the case against you.

# Organizing & Advocacy: Everyone must take a stand!

Deportation is a crisis, possibly the biggest one you've ever faced. But as soon as you start looking for help, doors close on you and powerful people act as though they are powerless to keep your family together. This packet, *Anti-Deportation Case Campaign Tools*, is made for people who want to fight to win their case and change the laws...but need some help along the way. We hope this helps you to fight strategically. Let's start with some basic ideas.

Some of the first roadblocks in getting support for your case campaign are:

## **MYTH: "I can't do anything"**

Elected officials and other Government Officials often say that they cannot get involved in deportation issues, the number one reason they cite is that they do not intervene in court or judicial matters for "ethical" reasons.

**Quick Response:** Immigration Deportation (even Immigration "Court") is a Function of the Executive Branch of the Government, *not* the Judicial Branch. Most immigrants facing Deportation never see a real court. Elected officials intervene in executive branch use and abuse of power all the time. You can encourage an executive body to exercise their discretion.

## **MYTH: "I am just doing my job"**

BICE officials often publicly say, "we are just doing our jobs". Immigration Judges always state (somewhat correctly) that the 1996 laws "tie their hands."

**Quick Response:** BICE (formerly INS) has large amounts of **Prosecutorial Discretion** when determining whether or not to enforce the immigration laws against a specific person. Even if they feel they cannot do anything, BICE, Immigration Judges, and *anyone* that is asked to help can *at least* state for public record that they believe a person's deportation is wrong.

Example:

*"In a way the court is very sympathetic to the respondent. I honestly believe that the respondent's criminal infraction is minute and should have no bearing in the respondent's right to remain in the United States... The respondent is an honest individual who did not [embellish] his facts."*

U.S. Immigration Judge Alberto J. Riefkohl, in his ruling ordering Hemnauth Mohabir's deportation, Sept. 25, 2002 ([www.npr.org](http://www.npr.org))

## **FACT: "DHS has a culture of no"**

It's true. DHS does have a culture of saying no to immigrants, even when they have the power to say yes.

**Quick Response:** There are instances even after 9/11 of DHS granting favorable discretion to immigrants.

The first step in a case campaign is to understand the targets, and the tactics you can use to reach them. Review the following table.

Primary Targets	Possible Tactics (Not an exhaustive list)	Demands
<ul style="list-style-type: none"> <li>▪ BICE Field Office Director</li> <li>▪ Deportation Officer</li> <li>▪ Trial Attorney</li> <li>▪ Detention and Removal Operations (DC office)</li> </ul>	Prosecutorial Discretion (See Prosecutorial Discretion Handout)	
<ul style="list-style-type: none"> <li>▪ Immigration Judges</li> </ul>	<ul style="list-style-type: none"> <li>▪ Pack the court</li> <li>▪ Letter writing campaign to the court</li> <li>▪ Demonstrations outside court</li> </ul>	<ul style="list-style-type: none"> <li>▪ Exercise discretion</li> <li>▪ Public Record in Support</li> </ul>
Secondary Targets		
<ul style="list-style-type: none"> <li>▪ Congressional Offices</li> </ul>	<ul style="list-style-type: none"> <li>▪ Congressional Visits</li> <li>▪ Call-ins</li> <li>▪ Crash congressional Press Conferences (e.g. Schumer)</li> <li>▪ Ask for Public Comment</li> <li>▪ Written Letter of Request</li> <li>▪ Congressional Memos</li> </ul>	<ul style="list-style-type: none"> <li>▪ Write a Letter of Support</li> <li>▪ Sponsor a Private Bill</li> <li>▪ Conduct an Investigation</li> <li>▪ Sponsor Legislation</li> <li>▪ Sponsor Hearings</li> </ul>
<ul style="list-style-type: none"> <li>▪ Consulates</li> </ul>	<ul style="list-style-type: none"> <li>▪ Vigils</li> <li>▪ Community Meetings</li> </ul>	<ul style="list-style-type: none"> <li>▪ Help locate detainee</li> <li>▪ Investigate detention abuse</li> <li>▪ Intervene to ensure that all international laws and norms are followed</li> </ul>
Other Important Targets		
Criminal Justice Actors <ul style="list-style-type: none"> <li>▪ Judge</li> <li>▪ Prosecutor</li> </ul>	<ul style="list-style-type: none"> <li>▪ Post Card Campaigns</li> <li>▪ Letter to the Judge/Prosecutor (see letter re: Jamaican Deportees)</li> <li>▪ Public Meetings</li> </ul>	<ul style="list-style-type: none"> <li>▪ Ask for some people to be charged as YO's (NY only)</li> <li>▪ Reopen, Vacate or Re-sentence</li> <li>▪ Take immigration into consideration when charging, convicting or sentencing</li> </ul>
Local Government <ul style="list-style-type: none"> <li>▪ State Legislature</li> <li>▪ Governor</li> <li>▪ City Council</li> <li>▪ Mayor</li> </ul>	(see Congressional Office Tactics)	<ul style="list-style-type: none"> <li>▪ Letter's of Support</li> <li>▪ Support a Pardon*</li> <li>▪ Sponsor Statewide private bills</li> <li>▪ Conduct Investigations</li> <li>▪ Sponsor Public Hearings</li> <li>▪ Sponsor Legislation against local enforcement cooperation</li> </ul>
<ul style="list-style-type: none"> <li>▪ Public Schools and Other Public Agencies (ACS, School Principals, etc.)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Group Visits</li> <li>▪ Letter Writing Campaign</li> </ul>	<ul style="list-style-type: none"> <li>▪ Letter of Support</li> <li>▪ Letter's documenting hardship of family</li> </ul>



# Families for Freedom

2 Washington Street, 766 North • New York NY 10004 • (212) 898-4121 fax (212) 363-8533

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February 4, 2004

Honorable Justice XXXXXXXX  
New York Supreme Court  
County of XXXXXXX  
XXXXXXXXXXXX  
XXXXXX, NY 1XXXX

Dear Justice XXXXXXX:

I am writing on behalf of the defendant XXXXX XXX. It is my understanding that the defendant may risk deportation to Jamaica. Our organization, Families For Freedom, is an advocacy network for immigrants facing deportation. Approximately one-third of our members are immigrants from the Caribbean, mostly Jamaica. I would like to briefly discuss the situation of immigrants who are deported back to Jamaica.

Almost 43,000 immigrants have been deported to the Caribbean since the passage of the 1996 immigration laws. According to the 2002 INS Statistical Yearbook, approximately 13,000 Jamaican nationals have been deported to Jamaica in that same time period. In much of the Caribbean, deportees have become their own social category and are facing social and economic hardship, exclusion, and discrimination based upon their status as deportees from America. Because of pending US federal court action on behalf of Haitian deportees, this phenomenon is best documented in Haiti, where deportees are often jailed and tortured upon arrival. However it is by no means absent from Jamaican life.

The overwhelming majority of our members that are deported to Jamaica have remained persistently unemployed. As a result of the social stigma attached to their “deportee” status, they have, in most cases, found it next to impossible to find any type of gainful employment. Many have been homeless at one time or another. From national press to daily casual conversations, deportees are scapegoated and blamed for everything from the recent crime wave to the state of the economy. Because of this, the Jamaican consulate often fails to expedite travel documents to Jamaican nationals, forcing them to languish in immigration detention for months and even years after having a final order of deportation. Many of the young deportee men we have been in touch with have said that they are harassed both by the police and by local street gangs in cities such as Kingston.

It would be a tragedy if Mr. XXXX were to spend additional time in detention, be exiled, and face lifelong social exclusion in a foreign country *after* fully completing a criminal sentence. We ask you to please do everything in your power to prevent Mr. XXXX from being deported and enduring the same fate as many of our members.

Sincerely,

Subhash Kateel  
Staff Coordinator/Advocate  
Families For Freedom

# Favorable Factors

You can't just say that you or your loved one is a good person. To fight deportation, you have to PROVE IT. The more paper, the better. For example, don't just say, "I have 3 US citizen kids." Copy their birth certificates or naturalization certificates. Below is a list of factors that judges, immigration and Congress offices consider when they see your case. Collect whatever you have. Keep all your proof in one folder.

FAVORABLE FACTOR	PROOF
<input type="checkbox"/> Family Ties in the United States	<ul style="list-style-type: none"> <li>- copies of family members' naturalization certificates and/or resident alien cards</li> <li>- letters of support from family members</li> </ul>
<input type="checkbox"/> Long-term residence in the United States, especially if residence began at a young age	<ul style="list-style-type: none"> <li>- US school diplomas</li> <li>- letters of support from long-term friends in US, former teachers, neighbors, landlords</li> </ul>
<input type="checkbox"/> Hardship to yourself and/or to family members if deportation occurs	<ul style="list-style-type: none"> <li>- reports from counselors. Whenever possible, actively seek therapy and get a letter from therapist documenting psychological hardship on you and family members (especially children)</li> <li>- letters from schools of younger children, documenting any change in behavior since deportation started</li> <li>- medical reports showing material dependence of family member on you (the person being deported)</li> <li>- medical reports documenting your own health problems and need for family support here</li> <li>- written proof that elderly parents, young children, pregnant spouse, etc. will suffer if you are deported</li> <li>- written household budget that highlights family's dependence on you for payment of rent/mortgage, children's educational expenses, child support, medical expenses, utilities and food</li> </ul>
<input type="checkbox"/> Service in U.S. Armed Forces	<ul style="list-style-type: none"> <li>- enlistment and honorable discharge papers (DD 214)</li> <li>- certificates for all service given and honors received</li> <li>- letters of support from fellow enlistees, officers and superiors in Armed Forces</li> </ul>
<input type="checkbox"/> History of Employment	<ul style="list-style-type: none"> <li>- letters of support from current/former employer(s) discussing your merits as a worker</li> <li>- tax returns, W2 Forms</li> </ul>
<input type="checkbox"/> Property or Business Ties	<ul style="list-style-type: none"> <li>- Deed/mortgage/lease of home</li> <li>- letters of support from employees</li> <li>- ownership documents of Business (especially if business supports family expenses and/or provides jobs to other people)</li> </ul>
<input type="checkbox"/> Service to community	<ul style="list-style-type: none"> <li>- letters of support from religious groups, PTAs, and other local organizations with which your family is involved</li> <li>- awards for or documentation of community service</li> </ul>
<input type="checkbox"/> Genuine Rehabilitation	<ul style="list-style-type: none"> <li>- proof of programs and work in prison/jail</li> <li>- proof of attendance for rehabilitation program, or support groups like Alcoholics Anonymous (including letters from counselors/group leaders documenting your progress)</li> <li>- certificates for (or proof of enrollment in) continuing education (e.g. GED, college courses, business and/or trade skills)</li> </ul>
<input type="checkbox"/> Good Character	<ul style="list-style-type: none"> <li>- tax returns documenting consistent payment and good tax history</li> <li>- letters of support from Correction/Parole/Probation Officers, judges, lawyers, community leaders, local elected officials, clergy</li> </ul>
<input type="checkbox"/> Political Support	<ul style="list-style-type: none"> <li>- letters of support &amp; phone calls from elected officials (council members, mayors, members of Congress)</li> </ul>

# Letters of Support

Fill the blanks below with the name of the person being deported. Put your name is the last line, and a deadline for people to write and return their letters. Make a list of everyone you know and give the request for a letter of support to each of them. Follow up with phone calls and reminders. Get a close friend to help you collect letters. All letters of support should be in English or, if in another language, you should get an accurate English translation.

-----

## URGENT!

Letters of support needed for \_\_\_\_\_

\_\_\_\_\_ is facing deportation. We, as family members and loved ones, are fighting it. Our success depends on your help! We need you to write a one-page letter of support **IN YOUR OWN WORDS**. Please neatly write or type the letter. If possible, put it on *\*organizational\** letterhead. You may begin the letter:

*[Today's Date]*

*To Whom It May Concern:*

*I am writing in regard to \_\_\_\_\_. He is currently at risk of being deported to \_\_\_\_\_. His family and community are here, and we need him to stay with us.*

Continue the letter including these points:

- **Background:** who are you (profession, place you live, etc), how long you have known \_\_\_\_\_ (use his first name), and what is your relationship (friend, family, attended same church, etc).
- **Community support:** describe the good things \_\_\_\_\_ has done in the community or for you personally. BE SPECIFIC.
- **Family:** talk about the effects deportation and detention are having on the family. If you know them well, describe them and how they got along with \_\_\_\_\_. If possible, describe how the family depends on \_\_\_\_\_ financially and emotionally.
- **Safety:** Explain *briefly* why \_\_\_\_\_ is not a threat to society.
- Sign the letter with your full name. Get it notarized whenever possible.
- Put letter on company letterhead if possible and include your work title.

We need your letters to save our loved one.  
Please return your letter of support to \_\_\_\_\_ by \_\_\_\_\_. Thank you!

# Petitions

Create a general petition in support of your detained/deported loved one. Collect signatures on the streets, at school or your place of worship. The petition will educate others about immigration. Lots of signatures will pressure your congressional office to get involved. Below is a sample, which has been signed by hundreds of community members.

-----  
June 26, 2004

To Whom It May Concern:

As a community member and supporter of Juan Diego Jimenez Rijo, I urge you to do all you can in your power to bring Juan Diego back to United States so that he can be with his community and family who love him.

On September 3rd, 2003, two days after Juan turned 19, he went to New York Federal Plaza thinking he was getting his naturalization certificate. Instead he was put in shackles. The next day at sunrise, he called home from John F. Kennedy airport to say, "They're deporting me to the Dominican Republic."

Juan came to the US when he was 13. He loved this community and loved New York. Throughout Washington Heights, neighbors only say good things about him. Juan worked for United Parcel Service (UPS), planned to join the US Armed Forces within months, and wanted to go to college. He was excited that he was becoming a US citizen. He did not know that when he was just 15 years old, the government revoked his greencard and ordered him deported. He had no chance to fight his case. Now in the Dominican Republic – far from New York and far from his loved ones – his dreams are shattered.

What happened to Juan is a disgrace. Juan deserves to have his case reopened and given a chance to get his legal status and citizenship in the United States. This is what he thought he was doing when he went to Federal Plaza on September 3<sup>rd</sup> before he was taken away from us. We urge you to do all within your power to bring Juan Diego back now.

Yours truly,

<i>Printed Name</i>	<i>Address</i>	<i>Signature</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

# Media

Deportation tears apart families. It wastes taxpayer dollars. It's double, even triple jeopardy, as people get deported for settled matters and then face persecution again back home. Most people don't know anything about how the system really works. Media can be a great weapon in your fight against deportation.

But before you try calling newspapers or TV stations, make sure you know: why am I speaking out? What is my message? Who should I contact? Below are some strategic points.

## WHY AM I GOING TO THE PRESS?

- To educate others at risk about how the deportation system works.
- To educate the general public about deportation.
- To pressure my Congressperson to help me.
- To expose specific people/agencies who are abusing me/my loved one.
- Other: \_\_\_\_\_

## GET YOUR FACTS STRAIGHT.

Sometimes people feel ashamed of the reasons they are being deported. For example, if you have criminal convictions, you may be tempted to lie about them. But when speaking publicly, you have to be prepared to be honest. If you are caught lying, it will hurt you more. So get your side down. If you have a lawyer, you may want to ask him/her for help. Figure out what you do and don't want to disclose, and the facts you want in focus. Role-play with friends.

## MAKE TALKING POINTS.

Reporters are busy (or at least they think they are). They want to hear in **30 seconds** why they should cover your story. Before you call, think up a few sentences to explain:

**News hook:** what JUST happened that must be covered. Why is your issue timely? Sometimes an anniversary or recent/upcoming event gets journalists interested.

**Key facts:** what or who is the story about? This should include facts about the person/family in focus, and about the bigger system that's the issue.

**Message:** why does it matter? This is an opportunity to propose how the journalist should write about the story. Don't just repeat the facts. Frame them. If you have demands (e.g. that your Congressperson speaks out against your deportation; that Homeland Security gives you prosecutorial discretion; that the jail guards stop beating you), make them clear. Most journalists know nothing about the deportation system. Help them to focus, focus, focus.

## MAKE A PRESS LIST.

There are thousands of newspapers, TV and radio stations. You can't call them all. And bigger is not always better. Tips for getting strategic and helpful coverage:

Decide whose attention you want. For example, if you are trying to influence local leaders and community members, the Hometown Paper may be a better choice than the *New York Times*.

Identify any reporters assigned to your specific issue (e.g. immigration, prison beat). You can call the media outlet and ask, "May I have the name of the reporter who covers immigration issues in Brooklyn?"

Watch out for journalists who give your issues a bad spin. For example, if John Imaracist only talks about immigrants as rapists, you **don't** want to call him!

## CALL!

You've done a lot of work to prepare. You know your facts and your message. Now make the calls! Reporters are so used to getting calls from boring professionals, they will be thrilled hear a real person. Keep an organized record of who you spoke with and each conversation. Follow up when you say you will.

# Congress

## Identify your representatives.

Congress has 2 parts: the Senate and the House of Representatives. Members of Congress keep offices in Washington D.C. and the local district they represent. Find out who are your Senators (2) and Congressperson (1), to target for help.

1. Call the Congressional switchboard 202-224-3121 or 202-225-3121. Tell them your home address, and they can tell you who are your 2 Senators and 1 Congressperson.
2. Call your elected officials' offices and get the names of the **Immigration Caseworker** (local district office) and **Immigration Legislative Aide** (D.C. office).

	Senate		House of Representatives
	Senator 1	Senator 2	Congressperson
Name			
Immigration Caseworker (District Office)			
Immigration Legislative Aide (DC Office)			

## Set up an appointment.

When you speak with the Immigration Caseworker or Legislative Aide, they will almost always insist that they can't get involved in deportation matters. That's a lie! They can do lots. But don't waste time arguing. Avoid discussing details over the phone. Just demand a meeting in person. A good line to use is, "I am a constituent. I have the right to a meeting. I don't feel comfortable talking on the phone."

## Prepare ASKS.

You can't go into the congressional office and say, "Stop my deportation!" Congress *cannot* tell a judge what to do. But they *can* tell Homeland Security to exercise power to not deport you. Before you go to your congressional office, figure out what you are asking them to do. Review the Prosecutorial Discretion Chart (next page). And bring the legal papers and favorable factors you have to document your case.

## Always Demand Responses In Writing

Remember, much of our goal in gathering support is to make decision-makers take a stand. Always prepare your requests for a Congressional office in writing and always demand a written response, *especially* if the office tells you they cannot help you. This way you can seek out help from other Congressional offices. More importantly, it is more difficult for them to articulate what they can't do for you in writing. Congressional offices often do not want to be on record saying they can't help you.

# Prosecutorial Discretion (PD)

Prosecutorial Discretion (PD) is authority that Homeland Security's Bureau of Immigration and Customs Enforcement (BICE) has to act favorably in a person's immigration case. It is a legal way of asking BICE to not enforce the law against a specific person. PD is often a last resort when all legal options have been exhausted or when cases are overwhelmingly sympathetic. Receiving PD may mean that you remain on lifelong parole. Getting PD comes down to pressure and politics. Often the best way to get it is to involve your community and elected officials in your immigration case.

**NOTE: Prosecutorial Discretion is...**

- *NOT given by courts and judges*
- *NOT a way to obtain legal status (i.e. lifelong parole)*
- *NOT always more effective with presswork*
- *NOT a solution for everyone*
- *NOT something you can appeal*

Doris Meissner, the former Commission of the INS under Clinton, wrote a memo on prosecutorial discretion outlining when the agency should use it favorably. Although dated and deeply underused, Homeland Security maintains it is still valid. Factors taken into consideration include:

<p>Immigration Status          Length of residence in U.S.          Criminal History          Humanitarian Concerns          Immigration History          Likelihood of ultimately deporting the immigrant          Likelihood of achieving enforcement goal by other means</p>	<p>If the person is (likely to become) eligible for relief          Effect of action on future admissibility          Current or past cooperation with law enforcement          Honorable U.S. military service  <b>Community attention</b>          Resources available to the INS          If interest served by prosecution would not be substantial</p>
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When seeking PD, you have to know exactly what and who to ask. Some examples are:

When	ASK DHS	TARGET <i>*Some Former INS officials may not have DHS Equivalents.</i>
<b>Before Removal Proceedings</b>	DHS or, specifically, BICE should not issue <b>Notice To Appear (NTA)</b>	<ul style="list-style-type: none"> <li>▪ Field Office Director</li> <li>▪ Other DHS officer authorized to issue NTA*</li> </ul>
	DHS should cancel NTA before it is filed at the Immigration Court	
	Move to dismiss the NTA	<ul style="list-style-type: none"> <li>▪ District Counsel</li> </ul>
<b>In Removal Proceedings</b>	Ask DHS for release on bond, or parole (when someone is technically not bond eligible)	<ul style="list-style-type: none"> <li>▪ Field Office Director</li> <li>▪ District Counsel</li> </ul>
	Ask to support you in the other type of relief you're seeking before IJ, for example a Joint Motion to Terminate Proceedings	
<b>After Removal Proceedings (But Before Removal)</b>	Ask for an agency <b>stay of deportation.</b>	<ul style="list-style-type: none"> <li>▪ Field Office Director</li> </ul>
	Ask for <b>deferred action</b> (even if you have a removal order, the government can choose not to deport you.)	
	Ask for a release under an order of supervision	

*Prosecutorial Discretion Chart made with the invaluable help of City University of New York Immigrant Rights Clinic.*





# DETENTION & DEPORTATION RESOURCE LIST

This list is limited to organizations with a special focus on crime-related deportation issues. Many other organizations in New York City provide services generally in other areas, such as naturalization, adjustment of status, and asylum.

## Family Support Groups and Advocacy

### Families for Freedom

2 Washington St.  
Room 769N  
New York, NY 10004  
(212) 898-4121  
[www.familiesforfreedom.org](http://www.familiesforfreedom.org)

- Organizing families in New York and New Jersey

### Keeping Hope Alive

Contact: Malik Ndaula  
C/o National Immigration Project  
14 Beacon St, Suite 602  
Boston, MA 01208  
(617) 227-9727 ext. 8  
[www.nationalimmigrationproject.org/KHA.htm](http://www.nationalimmigrationproject.org/KHA.htm)

- Organizing families in Massachusetts area
- Focus on jails in Alabama, Louisiana, San Diego and Berks County

## Pro Bono Legal Representation

### Legal Aid Society Immigration Unit

(212) 577-3300

- Limited to deportation cases in New York City, and sometimes Passaic and Hudson County Jails in New Jersey.
- If you have a case in immigration court at 26 Federal Plaza in NYC, call them to get the dates of the Immigration Representation Project's free screenings.

### New Jersey Legal Services

(732) 572-9100

### Pennsylvania Immigrant Resource Center

(717) 600-8099

- Represent people mainly in torture and domestic violence cases. However, they also visit people at York County Jail, where many NYC residents are detained.

### Bronx Defenders

(718) 838-7878

- This is primarily a criminal defense organization, whose representation in immigration court is limited to people they already represent in Bronx criminal court.

## General Information and Self-Help Materials

### NYSDA Immigrant Defense Project

2 Washington St. , Floor 7 North  
New York, NY 10004  
(212) 898-4132

[www.nysda.org](http://www.nysda.org)

- Expertise in crime-related immigration issues.
- Detainees, their families and attorneys may call their Hotline on Tuesday and Thursday, 1:30-4:30pm, for information on the immigration consequences of criminal convictions.

### National Immigration Project

14 Beacon St, Suite 602  
Boston, MA 01208  
(617) 227-9727  
[www.nationalimmigrationproject.org](http://www.nationalimmigrationproject.org)

### Florence Immigrant & Refugee Rights Project

300 S Main Street  
PO Box 654  
Florence, AZ - 85232  
(520) 868-0191

[www.firrp.org/pubs.asp](http://www.firrp.org/pubs.asp)

- Great self-help materials on range of issues.



# **SAMPLE INTAKES**

**SAMPLE RAPID INTAKE**  
***Personal & Confidential***

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**Biographic Information**

Name: \_\_\_\_\_

A#: \_\_\_\_\_

Nationality: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

Date entered the US: \_\_\_\_\_

Immigration Status: \_\_\_\_\_

Date entered detention: \_\_\_\_\_

How you entered? (prison, arrested at home, airport) \_\_\_\_\_

**Immigration History in US**

In deportation/exclusion/removal proceedings in the past? \_\_\_\_\_

Next hearing date: \_\_\_\_\_

Current immigration status: \_\_\_\_\_

**Status of Family Members**

Spouse: \_\_\_\_\_ Children: \_\_\_\_\_ Parents: \_\_\_\_\_

Siblings: \_\_\_\_\_

Reasons facing removal:

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Any special hardships faced by the family if you are deported:

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Record of Arrest, including dates, crime and sentence:

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Fear of returning to country of nationality (if yes, explain):

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# SAMPLE INTAKE (Long)

## Personal & Confidential

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### A. INFORMATION ABOUT PERSON COMPLETING THIS FORM (if different from person in proceedings)

1. Name \_\_\_\_\_
2. Relationship to person in proceedings \_\_\_\_\_
3. Home address \_\_\_\_\_  
Phone: home \_\_\_\_\_ office \_\_\_\_\_ fax \_\_\_\_\_ mobile \_\_\_\_\_  
e-mail address \_\_\_\_\_
4. Languages you speak (in order of fluency) \_\_\_\_\_

**REMINDER: If you are not the person in immigration removal proceedings, provide information about the person who is in proceedings.**

### B. INFORMATION ABOUT PERSON IN REMOVAL PROCEEDINGS

1. Name of person in Immigration and Naturalization Service (INS) proceedings \_\_\_\_\_
2. Date of birth \_\_\_\_\_ Race \_\_\_\_\_
3. Home address \_\_\_\_\_  
Phone: home \_\_\_\_\_ office \_\_\_\_\_ fax \_\_\_\_\_ mobile \_\_\_\_\_  
e-mail address \_\_\_\_\_
4. Gender  Male  Female  Other
5. Race/Ethnicity \_\_\_\_\_
6. Alien # (if applicable) \_\_\_\_\_
7. Languages you speak (in order of fluency) \_\_\_\_\_

### C. PERSONAL HISTORY OF INDIVIDUAL IN PROCEEDINGS

1. Exact date entered the United States. From what country \_\_\_\_\_
2. Passport holder of what country or countries \_\_\_\_\_
3. Status when immigrated (e.g. tourist visa, green card, asylum, etc.) \_\_\_\_\_
4. Current immigration status (e.g. Lawful Permanent Resident, refugee) \_\_\_\_\_
5. Date that you acquired status (e.g. April 3, 1990) \_\_\_\_\_
6. Since you arrived in the U.S., have you ever filed to change your immigration status (e.g. from undocumented to LPR)? If yes, please describe what forms you filed, date you filed them, and the result of your effort. Please also include any relevant documentation. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. Since you entered the U.S., have you ever left this country (even for a brief trip abroad)? If yes, please state to where you traveled, dates of trip, and purpose of the trip.

Travel Destination	Dates Abroad (e.g. June 13, 1988 thru August 11, 1988)	Purpose of Trip

8. Educated in the US?  NO  YES Highest level of education \_\_\_\_\_

9. Served in US Military?  NO  YES Discharge type \_\_\_\_\_

Branch & exact years in active duty \_\_\_\_\_

10. Do you face any form of persecution of you are deported to your country of origin? (e.g. based on political affiliation, race, religion, gender or sexual orientation)  Yes  No If yes, please explain by whom and for what reasons: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

11. Have you ever filed for political asylum in the United States?  Yes  No If yes, please state when you applied and outcome: \_\_\_\_\_  
 \_\_\_\_\_

12. Do you have a relationship with any country other than the U.S. or the country where you were born? For example, are you a citizen of any other country, or serve in another country's armed forces? Are your parents from a country other than the U.S. or your country of birth? \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

13. Are you the primary or sole income provider for your family?  NO  YES

14. Employment history (profession, past jobs). Attach a separate sheet if necessary \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

15. Number of years as a working taxpayer \_\_\_\_\_

16. Family income \_\_\_\_\_

17. Family members living in household and size of home (e.g. spouse, 3 children and you in 3 bedroom apt.) \_\_\_\_\_  
 \_\_\_\_\_

18. Is your family in need of financial, legal or other assistance because of your detention? If yes, please describe \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

19. List immediate family members by **name, age, relationship** to person in proceedings, **immigration status, language(s)** he/she speaks. For each family member who is a citizen, state whether by birth in U.S. or naturalization. Include especially information about your mother and father.

Name	Age	Relationship to Person in Proceedings	Immigration Status (e.g. LPR, citizen, undocumented, etc.)	Date s/he gained that immigration status	Languages Spoken

20. Do you and your family want media attention on your situation?     NO         YES  
 Are you or your family willing to talk with the media?                 NO         YES  
 Can we use your real name?     NO         YES  
 Do you want visits from non-family members?                                 NO         YES  
 Do you want our organization and others to advocate on your behalf with INS and/or jail officials (e.g. sending letters, phoning offices)?     NO         YES  
 Do you want to become involved in other ways?                                 NO         YES

Explain \_\_\_\_\_

21. Please list all serious medical conditions you have, medication you are taking and nature of medical treatment in detention: \_\_\_\_\_

22. Brief Statement: please express your concerns and explain how INS removal proceedings are affecting your family financially, physically, and emotionally. Discuss why you want to live in the United States. Describe your responsibilities, friendships, business ties, and community involvement here.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**D. CRIMINAL HISTORY OF PERSON IN PROCEEDINGS:** The INS says you have a **conviction** if a criminal court has either entered a “formal judgment of guilt” against you, or “punished” you for a crime (perhaps by giving you community service or putting you in a drug rehabilitation program). The INS also may say that you have an **admission** – that you admitted to committing the “essential elements” of a removable offense, even if you were not convicted in court. Please also note: a conviction is not the same as an arrest. The police may arrest you without convicting you of a crime.

In this section, please provide information about **every** conviction and admission you have. **Be specific.** If possible, write down the exact wording of the conviction as it appears in the criminal papers. **For example, don't list “theft” as a conviction. Instead, write “Grand Larceny in the 3<sup>rd</sup> degree, a class D felony in New York.” If a specific amount of money is described in the court papers, please state that amount. If you are charged with a drug crime (controlled substance), indicate what drug(s) was involved.**

Every conviction you have is relevant to your immigration case. **If you do not answer these questions for every single conviction/admission, our advice will likely be inaccurate.** If you have more than one conviction/admission, attach an additional sheet and answer these questions for each one separately. Include with this questionnaire **copies** of any documents you have about your criminal record (pre-sentencing report, sentence minutes, indictment, rap sheet).

**FIRST CONVICTION**

1. Conviction \_\_\_\_\_
2. Date of Conviction \_\_\_\_\_
3. Conviction reached through plea bargain or jury trial \_\_\_\_\_
4. Date the criminal act *occurred*, according to the legal papers \_\_\_\_\_
5. Sentence Type (probation, jail/prison time) and Length \_\_\_\_\_
6. Date criminal sentence began \_\_\_\_\_
7. Date criminal sentence (to be) completed \_\_\_\_\_
8. Name the criminal defense attorney you represented you in the case and provide complete contact information:  
\_\_\_\_\_  
\_\_\_\_\_
9. Are you currently appealing this conviction in the criminal court? If yes, please explain what you are appealing and why. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
10. Were you informed by the Court AND by your defense counsel that your criminal conviction may lead to an INS removal proceeding? Were you misinformed by anyone about the immigration consequences of your criminal conviction? Explain. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**REMINDER: Attach an additional sheet and answer the above questions for each conviction and admission.**



**E. DETAILS OF IMMIGRATION AND NATURALIZATION SERVICE (INS) REMOVAL PROCEEDINGS**

1. Date taken into INS custody (if applicable) \_\_\_\_\_  
 Please describe also: (a) where the INS picked you up (e.g. at home, from another prison); (b) whether you understood that the immigration service was arresting you; and (c) whether you tried to challenge your detention: \_\_\_\_  
 \_\_\_\_\_
2. What other agencies, if any, accompanied the INS to detain you? (e.g. US Marshalls, police, FBI) Please list names and ID numbers of arresting officers: \_\_\_\_\_  
 \_\_\_\_\_
3. Month and year released from detention \_\_\_\_\_  
 Circumstances of release (bond, recognizance, post-order release) \_\_\_\_\_
4. Name and contact info of your Deportation Officer: \_\_\_\_\_
5. Please list all dates (month and year) you appeared before an Immigration Judge and result of appearance. Include dates of master calendar hearing and bond hearings. Please mail to us **copies** of any immigration documents you have (e.g. Notice to Appear, Final Order of Removal)

Date	Immigration Judge's Name	Purpose of Appearance and Any Decision(s) Made (e.g. ordered deported, bond granted)

6. If you have not gone before an Immigration Judge, please state whether a hearing date has been set and when it is: \_\_\_\_\_
7. Please list all the locations you have been detained, with dates at each facility and reason(s) for transfer:

Dates	Location	Reason(s) for transfer

8. Month and year ordered deported (if applicable) \_\_\_\_\_
9. Month and year appealed decision before Board of Immigration Appeals (BIA) \_\_\_\_\_
10. Month and year appealed to Federal Court (if applicable) \_\_\_\_\_
11. Current status of case \_\_\_\_\_
12. Did legal counsel in any immigration matter ever represent you? Please list any immigration attorney who has worked for you, provide contact information, and tell us if we may contact that person about your case?

Attorney's Name	Contact Information	Service(s) provided, purpose of representation	May we contact this attorney?



## KEY DOCUMENTS

### CRIMINAL PROCEEDINGS

- Indictment
- Court minutes (especially plea allocution)
- Certificate of Criminal Disposition
- Defense Attorney(s) contact info & retainer agreement(s)
- "Snitch" agreement
- Immigration interview paperwork copy (if any)

### DEPORTATION PROCEEDING

- Notice To Appear (NTA) or Order to Show Cause (OSC)
- Immigration Judge Decision
- Board of Immigration Appeals (BIA) Decision
- Federal court decision(s)
- All briefs submitted to immigration and federal courts
- Immigration lawyer(s) contact info & retainer agreement(s)

### DETAINEES/DETENTION ISSUES

- Deport Officer contact info
- G-28 (Notice of Entry of Appearance)
- Order of supervision
- Complaints filed
- Notice of reinstatement of deportation order (absconders, re-entrants)

### POST-DEPORTATION

- Warrant/Notice of Deportation (listing bars, etc)
- All of the above



# **SAMPLE DOCUMENTS**



# Identification Documents

## I-551 Permanent Resident Card

This card—various versions of which have been issued since 1978—is proof of Lawful Permanent Resident status. Until 1989 these cards – popularly known as “greencards” – had no expiration date, but cards now being issued expire 10 years after the date of issue. At the end of the 10 years, the Lawful Permanent Resident (LPR) does not lose his or her status, but must simply renew the card. Conditional permanent residents are issued cards that are coded “CR” and expire after two years. All I-551 cards (and its predecessor I-151) include codes showing how the individual obtained LPR status—whether through work skills, as the relative of a U.S. citizen or permanent resident, through the visa lottery, as a refugee or asylee, or otherwise.



If the individual does not have a greencard but is a permanent resident, she may have a temporary I-551 stamp on her foreign passport or on her I-94, or she may have an INS Form I-327 Permit to Reenter the United States.

See <http://www.accessproject.org/downloads/NJ.pdf>, pages 35-37 for list of codes on I-551.

## I-94 Arrival/Departure Record

The I-94 is issued to almost all noncitizens upon entry to the United States, and individuals who entered the country without inspection and later have contact with the INS. The card is stamped or handwritten with a notation that indicates the individual's immigration category or the section of the law under which the person is granted admission or parole. The words “Employment Authorized” may also be stamped onto the card. Noncitizens with I-94s include LPRs, persons fleeing persecution, persons with permission to remain in the United States based on a pending application, persons in deportation or removal proceedings, nonimmigrants, and undocumented persons whose period of admission or parole has expired.

For formerly detained asylum seekers, the I-94 and Order of the Immigration Judge often serve as the only form of identification, proof of employment authorization, and proof of immigration status.

Immigration category of applicant stamped here

See <http://www.accessproject.org/downloads/NJ.pdf>, pages 38-39 for list of codes on I-94.

## I-766 Employment Authorization Document (EAD)



This document is one of several that indicate an immigrant has been granted permission to work in the United States. Codes on the front of the card indicate the person's immigration status by referencing the subsection of the regulation authorizing employment—8 CFR § 274a.12. Asylees are automatically authorized to work based upon their status. They do **not** need an EAD, and must apply to receive one. Asylees often use the EAD as a form of picture identification. Employers often **illegally** demand that the asylee furnish an EAD in order to work.

See <http://www.accessproject.org/downloads/NJ.pdf>, pages 40-41 for list of codes on I-766.

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## Social Security Card

Often asylees are incorrectly issued social security cards that say "valid for work only with INS authorization." This simple error prevents asylees from gaining legal employment. NOTE: Asylees automatically have work authorization based upon their status. The Social Security Administration should issue asylees unrestricted social security cards.

*Example of **UNRESTRICTED** Social Security Card for Asylees & Refugees*

*Example of **INCORRECT** Social Security Card for Asylees & Refugees*



Notice to Appear

In removal proceedings under section 240 of the Immigration and Nationality Act

File No. A.

In the Matter of:

Respondent: \_\_\_\_\_ currently residing at: \_\_\_\_\_  
\_\_\_\_\_  
(Number, street, city, state and zip code) (Area code and phone number)  
N/A

AKA:  NO  YES - SEE ATTACHED I-831

- 1. You are an arriving alien.
- 2. You are an alien present in the United States who has not been admitted or paroled.
- 3. You have been admitted to the United States, but are deportable for the reasons stated below.

The Service alleges that you:

SEE ATTACHED I-831 FOR ALLEGATIONS

On the basis of the forgoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

SEE ATTACHED I-831 FOR PROVISION(S) OF LAW

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution.
- Section 235(b)(1) order was vacated pursuant to:  8 CFR 208.30(f)(2)  8 CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at: \_\_\_\_\_  
TO BE CALENDARED AND NOTICE PROVIDED BY THE OFFICE OF THE IMMIGRATION JUDGE

on \_\_\_\_\_ (Date) TO BE CALENDARED AND NOTICE PROVIDED BY THE OFFICE OF THE IMMIGRATION JUDGE at \_\_\_\_\_ (Time) TO BE CALENDARED AND NOTICE PROVIDED BY THE OFFICE OF THE IMMIGRATION JUDGE to show why you should not be removed from the United States based on the charge(s) set forth above.

*Dianne M. Weisheit*

Deputy Assistant District Director for Investigations, NY NY  
(Signature and Title of Issuing Officer)

New York, New York  
(City and State)

Date: 11/20/97

See reverse for important information

U.S. Department of Justice  
Immigration and Naturalization Service

Continuation Page for Form I-862

Alien's Name	File Number A.	Date November 20, 1997
--------------	-------------------	---------------------------

**ALLEGATIONS:**

- 4.) You are not a citizen or national of the United States;
- 5.) You are a native of the Dominican Republic and a citizen of the Dominican Republic;
- 6.) You were admitted to the United States at Champlain, New York on July 15, 1983 as a legal permanent resident;
- 7.) You were, on October 29, 1990, convicted in the Supreme Court, of the State of New York, County of New York, for the offense of Criminal Sale of a Controlled Substance, in the 2nd degree, to wit, cocaine, in violation of section 220.41 of the New York State Penal Law.

**CHARGE:**

Section 237(a)(2)(A)(iii) of the Immigration and Nationality Act (Act), as amended, in that, at any time after admission, you have been convicted of an aggravated felony as defined in Section 101(a)(43)(B) of the Act.

Section 237(a)(2)(B)(1) of the Immigration and Nationality Act (Act), as amended, in that, at anytime after admission, you have been convicted of a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in Section 102 of the Controlled Substances Act [21 U.S.C. 802]), other than a single offense involving possession for one's own use of 30 grams or less of marijuana.

**A.K.A:**

Signature <i>Dianne M. Weisheit</i>	Title Deputy Assistant District Director for Investigations NY NY
--	--

Example of one type of an Immigration Judge's decision

IMMIGRATION COURT  
625 EVANS STREET, ROOM 148A  
ELIZABETH, NJ 07201

In the Matter of

[REDACTED]  
Respondent

Case No.: A [REDACTED]  
IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on [REDACTED], 2001.  
This memorandum is solely for the convenience of the parties. If the proceedings should be appealed or reopened, the oral decision will become the official opinion in the case.

- The respondent was ordered removed from the United States to \_\_\_\_\_ or in the alternative to \_\_\_\_\_
- Respondent's application for voluntary departure was denied and respondent was ordered removed to \_\_\_\_\_ alternative to \_\_\_\_\_
- Respondent's application for voluntary departure was granted until \_\_\_\_\_ upon posting a bond in the amount of \$ \_\_\_\_\_ with an alternate order of removal to \_\_\_\_\_
- Respondent's application for asylum was (  ) granted (  ) denied (  ) withdrawn.
- ~~Respondent's application for withholding of removal was (  ) granted (  ) denied (  ) withdrawn.~~
- Respondent's application for cancellation of removal under section 240A(a) was (  ) granted (  ) denied (  ) withdrawn.
- Respondent's application for cancellation of removal was (  ) granted under section 240A(b)(1) (  ) granted under section 240A(b)(2) (  ) denied (  ) withdrawn. If granted, it was ordered that the respondent be issued all appropriate documents necessary to give effect to this order.
- Respondent's application for a waiver under section \_\_\_\_\_ of the INA was (  ) granted (  ) denied (  ) withdrawn or (  ) other.
- Respondent's application for adjustment of status under section \_\_\_\_\_ of the INA was (  ) granted (  ) denied (  ) withdrawn. If granted, it was ordered that respondent be issued all appropriate documents necessary to give effect to this order.
- Respondent's status was rescinded under section 246.
- Respondent is admitted to the United States as a \_\_\_\_\_ until \_\_\_\_\_.
- As a condition of admission, respondent is to post a \$ \_\_\_\_\_ bond.
- Respondent knowingly filed a frivolous asylum application after proper notice.
- Respondent was advised of the limitation on discretionary relief for failure to appear as ordered in the Immigration Judge's oral decision.
- Proceedings were terminated.
- Other: \_\_\_\_\_

Date: [REDACTED] 2001  
Appeal: Waived/Reserved Appeal Due By: \_\_\_\_\_

  
MIRLANE TADAL  
Immigration Judge

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

CERTIFICATE OF  
DISPOSITION

21 8

FEE 10.00

THE PEOPLE OF THE STATE OF  
NEW YORK  
against  
[REDACTED]  
Defendant

Indictment No. [REDACTED]  
Docket No. [REDACTED]  
NYSID No. [REDACTED]  
Filed 5-2 20197

I DO CERTIFY that the records on file in this office indicate that the defendant  
was charged with the crime(s) of 3<sup>rd</sup> [REDACTED] 2<sup>nd</sup> 3<sup>rd</sup> [REDACTED]  
5<sup>th</sup> [REDACTED] AND A [REDACTED]

and that on 6-13 201997 the defendant, represented by counsel,  
was convicted by Plea of Guilty  
by verdict of the crime(s) of [REDACTED]  
5<sup>th</sup> [REDACTED] PL [REDACTED]

and that on 8-1 201997 it was the judgement of the Honorable  
M. [REDACTED] that the defendant be sentenced to  
5 YRS PROBATION AND A CONDITIONAL DISCHARGE  
ON EACH [REDACTED]  
CVAF 1 MSC 155

ENTERED  
SEP 8 2003  
[REDACTED]

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal  
this 8 day of SEPT 2003

FEE 10.00

[REDACTED]  
County Clerk  
County Clerk and Clerk of the Supreme Court,  
Kings County

**SAMPLE DCJS RAP SHEET**

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<<<<<<< CRIMINAL HISTORY >>>>>>

ARREST INFORMATION	ARREST CHARGES	DISPOSITION AND CORRECTIONS DATA
1- ARR DT/PL 05-28-69 (NEW YORK COUNTY)	PCB/FORCEFUL THEFT W/DEPLY WEAP 14C.15 PL CLASS B FEL NCIC 1299	1C-3C-69 SUP CRT BY CO INB # 3322-69 CONVICTED UPON PLEA OF GUILTY THE FOLLOWING CHARGE(S): FORCIBLY-34 14C-C1 PL CLASS B FEL SENT: 6 YRS PAB
2- ARR DT/PL 05-28-69 (REL TYPE COLATS)	BANK INST/INT USE ILL 2ND CFF 243.C PL CLASS B FEL CTA C2	12-12-69 SUP CRT BY CO INB # 3322-69 CONVICTED UPON PLEA OF GUILTY THE FOLLOWING CHARGE(S): FORCIBLY-34 14C-C1 PL CLASS B FEL SENT: 6 YRS PAB
3- ARR/ASY NYCPC PCT 028		11-11-69 SUP CRT BY CO INB # 3322-69 CONVICTED UPON PLEA OF GUILTY THE FOLLOWING CHARGE(S): FORCIBLY-34 14C-C1 PL CLASS B FEL SENT: 6 YRS PAB
		<p style="text-align: center;">-- CORRECTIONS DATA --</p> <p>1C-3C-69 ADMISSION TEMP: 6 YRS PAB NY DEPT CORR INMATE ID NC 144817 02-15-71 PAROLED OR REPAROLED C2-15-71 RELEASED TO PAROLE 02 YRS OF POS ID UNKNOWN ASSIGNED: ALBANY 06-07-71 DISCHG-REVOKED</p> <p>CERTIFICATE OF RELIEF ORIGINAL TYPE B 01-20-72 PERP C1-20-74</p>
ARR DT/PL 03-23-76 ALBANY	ADLT W/INT CAUSES HWY INJURY 12C.10 PL CLASS A MIS CTA 04	03-24-76 CC CRT ALBANY INB # 70-349
ARR DT/PL 03-23-76 ALBANY	POSSESSION OF BURGLAR TOOLS 14C.25 PL CLASS A MIS CTA 04	DISMISSED
ARR/ASY 0130C163 ALBANY PR CIT CO# 0231RAC6P		
4- ARR DT/PL 10-25-66 SUFFERN	BURGLARY-380 14C.20 PL CLASS B FEL NCIC 1299	10-26-66 NJ SUFFERN DET # 8C/2345 ARR COURT# OF DIS-CPL 170.55 THE FOLLOWING CHARGE(S): BURGLARY-380 14C.20 PL CLASS B FEL
ARR DT/PL 10-25-66 SUFFERN		11-11-66 SUP CRT BY CO INB # 3322-66 CONVICTED UPON PLEA OF GUILTY THE FOLLOWING CHARGE(S): BURGLARY-380 14C.20 PL CLASS B FEL SENT: 6 YRS PAB
ARR/ASY 33C-8C SUFFERN VG 99 FAX NO 3RCC843		11-11-66 SUP CRT BY CO INB # 3322-66 CONVICTED UPON PLEA OF GUILTY THE FOLLOWING CHARGE(S): BURGLARY-380 14C.20 PL CLASS B FEL SENT: 6 YRS PAB
5- ARR DT/PL 12-21-63 YONKERS	PETIT LARCENY 155.25 PL CLASS A MIS CTA 1C	NO DISPOSITION REPORTED
ARR DT/PL 12-21-63 YONKERS	OPER VEH INFL DRUGS-1ST CFF 11922 VTL CLASS V MIS	
ARR/ASY JACAC-44 WESTCHESTER PUB SA		

From "How to Get & Clean Up Your New York State Rap Sheet."  
by the Legal Action Center. New York. 1996

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### KEY TO SAMPLE DCJS RAP SHEET

This sample rap sheet contains information on 4 arrests, separated from each other by horizontal lines.

- 1) Arrest date and place
- 2) Crime date and place \*
- 3) Arresting agency
- 4) A star indicates that no fingerprint card is on file for this arrest either because the arrest record has been sealed or for some other reason
- 5) Arrest charges, including a description of each charge, its criminal code number and the level of the charged offense, such as Class A Felony or Class B Misdemeanor
- 6) The "sealed" notation indicates that DCJS has sealed the entry
- 7) Index or docket number
- 8) The court in which the case was heard \*
- 9) Whether a Certificate of Relief has been issued, and details if so
- 10) Corrections date, including parole and probation information
- 11) Sentence \*
- 12) Offense convicted of \*
- 13) How the case was disposed \*
- 14) Date of disposition

## New York State Department of Correctional Services Inmate Population Information Search

[Back to NYS DOCS Home Page](#)

Please specify one or more of the following: [More Detailed Instructions](#)

Use Name alone or in combination with birth year. [More on Name Search](#)

DIN or NYSID are meant to be used alone - not in combination with name or birth year.

[Who's Listed Here?](#) [About Youthful Offenders](#)

If you have bookmarked this page, please note a change in URL to:

<http://nysdocslookup.docs.state.ny.us/kinqw00>

---

Error/Information Message:

---

Last Name:

First Name:

Middle Init:

Birth Year:

(Optional, see above)

Name Suffix:

(SR, JR, etc.)

---

DIN:

(Department ID Number, format 99-A-9999, example 95-A-9876)

---

NYSID:

(For Criminal Justice Use Only; New York State ID Number)

---

Error/Information Message:

---

For comments or questions about the inmate lookup capability, please visit the [Contact Us](#) page.

[Privacy Policy](#)

New York State Department of Correctional Services  
**Inmate Information - Location/Status/Legal Dates/etc.**

[Back to NYS DOCS Home Page](#)

[Go Back](#)

Information/Error Message:

([Help](#)) Date of Information: 11/18/02  
 ([Help](#)) DIN (Dept. Identif. Number)  
 Inmate Name:  
 Sex: MALE  
 Date of Birth: 02/13/1974  
 ([Help](#)) Race/Ethnicity: WHITE/HISPANIC  
 ([Help](#)) Custody Status: RELEASED  
 ([Help](#)) Housing/Releasing Facility: GOWANDA  
 ([Help](#)) Date Received (Original): 08/04/1997  
 ([Help](#)) Date Received (Current): 08/04/1997  
 ([Help](#)) Admission Type:  
 ([Help](#)) County of Commitment: QUEENS  
 ([Help](#)) Latest Release Date/Type: 10/02/98 PAROLE U.S. IMMIGRATION  
 (Released Inmates Only)  
 ([Help](#)) Crime 1, Description: ATT ROBBERY 2ND  
 Crime 1, Crime Class: D  
 Crime 2, Description:  
 Crime 2, Crime Class:  
 Crime 3, Description:  
 Crime 3, Crime Class:  
 Crime 4, Description:  
 Crime 4, Crime Class:

If all 4 crime fields contain data, there may be additional crimes not shown here. In this case, the crimes shown here are those with the longest sentences.

([Help](#)) Aggregate Minimum Sentence: 001 Years, 06 Months, 00 Days

([Help](#)) Aggregate Maximum Sentence: 003 Years, 00 Months, 00 Days

([Help](#)) Earliest Release Date:

Under certain circumstances, an inmate may be released prior to serving his or her minimum term and before the earliest release date shown for the inmate. See "Help" for further information.

([Help](#)) Earliest Release Type:

([Help](#)) Parole Hearing Date: 04/1999

([Help](#)) Parole Hearing Type: CONDITIONAL PAROLE FOR DEPORTATION ONLY

([Help](#)) Parole Eligibility Date: 06/14/1998



**Freedom of Information/Privacy Act Request**

The completion of this form is optional.

Any written format for Freedom of Information or Privacy Act requests is acceptable.

**START HERE – Please type or print and read instructions on the reverse before completing this form.**

1. Type of Request: *(Check appropriate box)*

- Freedom of Information Act (FOIA) *(Complete all items except 7)*
- Privacy Act (PA) *(Item 7 must be completed in addition to all other applicable items)*
- Amendment *(PA only, Item 7 must be completed in addition to all other applicable items)*

2. Requester Information:

Name of Requester:		Daytime Telephone:	
Address <i>(Street Number and Name)</i> :		Apt. No	
City:	State:	Zip Code:	

**By my signature, I consent to the following:**

Pay all costs incurred for search, duplication, and review of materials up to \$25.00, when applicable. *(See Instructions)*

**Signature of requester:** \_\_\_\_\_

- Deceased Subject - **Proof of death must be attached.** *(Obituary, Death Certificate or other proof of death required)*

3. Consent to Release Information. *(Complete if name is different from Requester)(Item 7 must be completed)*

Print Name of Person Giving Consent:	Signature of Person Giving Consent:
--------------------------------------	-------------------------------------

**By my signature, I consent to the following:** *(check applicable boxes)*

- Allow the Requester named in item 2 to see  all of my records or  a portion of my record. If a portion, specify what part *(i.e. copy of application)*

*(Consent is required for records for United States Citizens (USC) and Lawful Permanent Residents (LPR))*

4. Action Requested *(Check One)*:  Copy  In-Person Review

5. Information needed to search for records:

Specific information, document(s), or record(s) desired: *(Identify by name, date, subject matter, and location of information)*

Purpose: *(Optional: you are not required to state the purpose for your request; however, doing so may assist the INS in locating the records needed to respond to your request.)*

6. Data NEEDED on SUBJECT of Record: *(If data marked with asterisk (\*) is not provided records may not be located)*

* Family Name	Given Name:		Middle Initial:
*Other names used, if any:	* Name at time of entry into the U.S.:		I-94 Admissions #:
* Alien Registration #:	* Petition or Claim Receipt #:	* Country of Birth:	*Date of Birth or Appx. Year
Names of other family members that may appear on requested record(s) <i>(i.e., Spouse, Daughter, Son)</i> :			
Country of Origin <i>(Place of Departure)</i> :	Port-of-Entry into the U.S.		Date of Entry:
Manner of Entry: <i>(Air, Sea, Land)</i>	Mode of Travel: <i>(Name of Carrier)</i>		SSN:
Name of Naturalization Certifications:		Certificate #:	Naturalization Date:
Address at the time of Naturalization:		Court and Location:	

7. Verification of Subject's Identity: *(See Instructions for Explanation)(Check One Box)*

In-Person with ID       Notarized Affidavit of Identity       Other *(Specify)* \_\_\_\_\_

Signature of Subject of Record: \_\_\_\_\_ Date: \_\_\_\_\_

Telephone No.: (      ) - \_\_\_\_\_

NOTARY *(Normally needed from individuals who are the subject of the records sought) (See below)*

or a sworn declaration under penalty of perjury.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ in the Year \_\_\_\_\_

Signature of Notary \_\_\_\_\_ My Commission Expires \_\_\_\_\_

**OR**

*If a declaration is provided in lieu of a notarized signature, it must state, at a minimum, the following: (Include Notary Seal or Stamp in this Space)*

If executed outside the United States: "I declare (certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

If executed within the United States, its territories, possessions, or commonwealths: "I declare (certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

# Freedom of Information/Privacy Act Request

## INSTRUCTIONS

Please read **ALL** Instructions carefully before completing this form.

Applicants making false statements are subject to criminal penalties (Pub.L. 93-579.99 Stat. (5 U.S.C. 552a(i)(3)).

### Are There Cases When You do not Use This Form?

Do not use this form:

- (1) To determine status of pending applications, write to the office where the application was filed or call the nearest INS office;
- (2) For Consular notification of visa petition approval, use Form I-824 (Application for Action on an Approved Application or Petition);
- (3) For the return of original documents, use Form G-884 (Request for Return of Original Documents);
- (4) For records of naturalization prior to September 27, 1906, write to the clerk of court where naturalization occurred; or
- (5) For information on INS manifest arrivals prior to December 1982, write to the National Archives.

### How Can You Obtain Copies of Records from INS?

Persons requesting a search for access to INS records under the Freedom of Information or Privacy Acts may submit the completed application to the INS office nearest the applicant's place of residence. Requests may be submitted in person or by mail. If an application is mailed, the envelope should be clearly marked "Freedom of Information" or "Privacy Act Request." The INS Internet address is:  
<http://www.ins.usdoj.gov>.

### What Information is Needed to Search for Records?

*Please Note:* Failure to provide complete and specific information as requested in Item 5 of the form, may result in a delay in processing or inability to locate the record(s) or information requested. You may access "<http://www.access.gpo.gov/su-docs>" for a description of DOJ/INS systems of records.

### Verification of Identity in Person.

Requesters appearing in person for access to their records may identify themselves by showing a document bearing a photograph (such as an Alien Registration Card, Form I-551, Citizen Identification Card, Naturalization Certificate, or passport) or two items which bear their name and address (such as a driver's license and voter's registration).

### Verification of Identity by Mail.

Requesters wanting access to their records shall identify themselves by name, current address, date and place of birth, and alien or employee identification number. A notarized example of their signatures or sworn declaration under penalty of perjury must also be provided (this Form G-639 or a DOJ Form 361, Certification of Identity, may be used for this purposes).

### Verification of Identity of Guardians.

Parents or legal guardians must establish their own identity as parents or legal guardians and the identity of the child or other person being represented.

### Authorization or Consent.

Other parties requesting nonpublic information about an individual usually must have the consent of that individual on Form G-639 or by an authorizing letter, together with appropriate verification of identity of the record subject. Notarized or sworn declaration is required from a record subject who is a lawful permanent resident or U.S. citizen, and for access to certain Legalization files.

### Can My Request be Expedited?

To have your request processed ahead of ones received earlier you must show a compelling need for the information.

### How Do You Show a Compelling Need?

A requester who seeks expedited processing must explain in detail the basis of the need and should submit a statement certified to be true and correct to the best of your knowledge and belief. You must also establish one or more of the following exists:

- (1) Circumstances in which the lack of expedited processing could reasonably be expected to pose an imminent threat to the life or physical safety of an individual, or result in the loss of substantial due process rights;
- (2) An urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information; or
- (3) A matter of widespread and exceptional media interest in which there exists possible questions about the government's integrity which affect public confidence.

### Fees.

Except for commercial requesters, the first 100 pages of reproduction and two hours of search time will be furnished without charge. Thereafter, for requests processed under the Privacy Act, there may be a fee of \$.10 per page for photocopy duplication. For requests processed under the Freedom of Information Act, there may be a fee for quarter hours of time spent for searches and for review of records. Search fees are at the following rates per quarter hour: \$4.00 clerical; \$7.00 professional/computer operator; and \$ 10.00 managerial. Other costs for searches and duplication will be charged at the actual direct cost. Fees will only be charged if the aggregate amount of fees for searches, copy and/or review is more than \$14.00. If the total anticipated fees amount to more than \$250.00, or the same requester has failed to pay fees in the past, an advance deposit may be requested. Fee waivers or reductions may be requested for a request that clearly will benefit the public and is not primarily in the personal or commercial interest of the requester. Such requests should include a justification.

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## INSTRUCTIONS *Continued*

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### **When Must I Submit Fees?**

**Do not send money with this request.** When requested to do so, submit fees in the exact amount. Payment may be in the form of a check or a United States Postal money order (or, if form is submitted from outside the United States, remittance may be made by bank international money order or foreign draft drawn on a financial institution in the United States) made payable, in United States currency, to the "Immigration and Naturalization Service". A requester residing in the U.S. Virgin Islands shall make his/her remittance payable to "Commissioner of Finance of the Virgin Islands," and, if residing in Guam, to "Treasurer, Guam". **DO NOT SEND CASH AT ANYTIME.**

A charge of \$30.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn. Every remittance will be accepted subject to collection.

### **Routine Uses.**

Information will be used to comply with requests for information under 5 U.S.C. 552 and 552a; information provided to other agencies may be for referrals, consultations, and/or to answer subsequent inquiries concerning specific requests.

### **Effect of Not Providing Requested Information.**

Furnishing the information requested on this form is voluntary. However, failure to furnish the information may result in the inability of INS to comply with a request when compliance will violate other policies or laws.

### **General Information.**

The Freedom of Information Act (5 U.S.C. 552) allows requesters to have access to Federal agency records, except those which have been exempted by the Act.

### **Privacy Act Statement.**

Authority to collect this information is contained in Title 5 U.S.C. 552 and 552a. The purpose of the collection is to enable INS to locate applicable records and to respond to requests made under the Freedom of Information and Privacy Acts.

### **The Privacy Act of 1974. (5 U.S.C. 552a).**

With certain exceptions, the Privacy Act of 1974 permits individuals (U.S. citizens or permanent resident aliens) to gain access to information pertaining to themselves in Federal agency records, to have a copy made of all or any part thereof, to correct or amend such records, and to permit individuals to make requests concerning what records pertaining to themselves, are collected, maintained, used or disseminated. The Act also prohibits disclosure of individuals' records without their written consent, except under certain circumstances as prescribed by the Privacy Act.

### **Public Reporting Burden.**

Under the Paperwork Reduction Act (5 U.S.C. 1320), a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this application is 15 minutes per response, including the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler you may write to the Immigration and Naturalization Service, HQPDI, 425 I Street, N.W., Room 4307r, Washington, DC 20536; OMB No. 1115-0087.