Immigration 101: A training for community allies

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Immigration Counseling Service

- Non-profit immigration legal firm
- Serving Oregon and SW Washington communities since 1978
- Focus primarily on direct legal services
- Also engage in: community education, social services for survivors of trafficking, support for unaccompanied minors
- Two offices: Portland & Hood River
Today’s Training: What We Will Cover

- Basic Overview of Immigration System
- How to Get Legal Status
- Removal (Deportation) Proceedings and Detention
- Protections for Vulnerable Populations
- Developments Under the New Administration
- Empowering Communities
- Frequently Asked Questions by Providers / Allies
  - Q&A at the end
Basic Overview of the Immigration System
Terminology of Immigration Agencies

- Department of Homeland Security (DHS)
  - US Citizenship and Immigration Services (USCIS)
  - Immigration and Customs Enforcement (ICE)
  - Customs and Border Protection (CBP)
- Department of Justice
  - Immigration Court, Board of Immigration Appeals
- Department of State
  - Embassies / Consulates
- Department of Labor
- INS no longer with us !!!
Citizens and Non-Citizens

- **U.S. Citizens (USC):**
  - Born, Naturalized, Acquired/Derived
- **Lawful Permanent Residents (LPR) = Green Card Holders**
- **Temporary Legal Status:**
  - Students
  - Temporary Workers
  - Visitors/Tourists
- **Lawful Presence:**
  - DACA
  - TPS
- **Undocumented: Visa Overstays/Entered w/o permission**
How to Get Legal Status
How to Get a Green Card?

Main avenues of obtaining Lawful Permanent Residence (LPR) or “Green Card” Status:

- Through a Family Member (around 65%)
- Through Employment Visa (around 14%)
- Asylum / Refugee Status (14%)
- Others (Diversity Visa, Other Humanitarian Protections, etc)

Note: Living in the US a long time, being a good person, having US citizen kids under 21, are NOT ways to get a green card!!!!
How to Get a Green Card – Part 2

Green Cards through Family

- “Immediate Relatives”
  - Spouse, child under 21 or parent of a USC
  - No Waitlist

- Waitlist Categories
  - Spouse, child of LPR
  - Adult child of USC, sibling of USC

Note: No aunt/uncles, grandparents, grandchildren, married children of LPR

Green Cards through Employment

- Holders of advanced degrees, certain professionals, investors:
  - Agricultural work is considered “unskilled labor” and generally doesn’t qualify

- As a practical matter, individuals who are undocumented in the U.S. and without family ties are not going to be able to secure green cards through employment
How Long is the Waitlist?

- Now (May 2017) Processing Petitions For:
  - Spouse of LPR from Mexico filed in July 2015
  - Unmarried Son of USC from Philippines filed April 2006
  - Married Daughter of USC from Mexico filed Feb 1995

- Process:
  - File Petition (I-130)
  - Wait Until It is “Current” - Visa Bulletin
  - Person does not have status while they are in waitlist (even if petition has been “approved”)
Employment Authorization

- Green-Card Holders authorized to work (green card is enough)
- Certain temporary status (asylee, U visa, DACA, etc...) generally come with a “work permit” card (“Employment Authorization Document” (EAD)
  - Valid for a certain period of time
- Sometimes can get EAD while application pending
- If you have EAD, can get Social Security Number
- No stand-alone EAD’s: If no status or application = no EAD
Removal (deportation) proceedings and immigration detention
Removal (Deportation) Proceedings

- Process to determine if an individual should be deported from the United States;

- Two questions:
  - Is the individual deportable?
  - If so, do they have a defense to deportation?
    - Asylum, cancellation, family visa petition, etc...

- How do people end up in removal proceedings?
  - Interaction with Criminal Justice System
  - Filing an application that is denied
  - Interactions with ICE or CBP

- Can be detained or non-detained: Default now is to detain
Immigration Detention

- Immigration detention is civil, not criminal
- Detention can be prolonged – average case time in Tacoma court is 138 days and it is longer for those who choose to fight their case
- Some people are detained for years
- In the Pacific NW people are sent to the NWDC in Tacoma
- From the NWDC they can be sent to other detention facilities, including NORCOR
- Important: There is NO right to an appointed attorney in immigration court if the person cannot afford private attorney.
NORCOR

- Public local jail for Hood River, Wasco, Sherman and Gilliam
- Voluntarily agrees to lock up immigrants for ICE in exchange for money to subsidize the local jail
- 2017-2018 budget expects over $1 million from ICE with an average of 40 people locked up per day
- Also detains juveniles in ICE custody
- People detained by ICE find conditions at NORCOR much worse than at NWDC
Immigration Protections for Vulnerable Populations
Violence Against Women Act (VAWA)

- **Self-Petition:** Protection for Spouses and Children of Abusive U.S. Citizens and Lawful Permanent Residents (Green Card Holders)
- **U Visa:** Protection for victims of certain crimes, including domestic violence and sexual assault
- **T Visa:** Protection for victims of human trafficking (sex or labor trafficking)
- **SIJS:** Protection for children who have been abused, abandoned or neglected
Asylum / Withholding of Removal

- Protection for individuals who fear being persecuted in home country b/c of their race, religion, nationality, political opinion or membership in a particular social group
- To qualify for asylum: Must apply within 1 year of arrival; after, eligible for withholding, but much tougher
- Also Convention Against Torture: if likely to be tortured
Developments under the Current Administration
Executive Orders

- January 25 Executive Orders:
  - Interior Enforcement
  - Border Security
  - DHS Implementation Memos issued February 20

- Rescinded past memos including prosecutorial discretion and enforcement priorities

- New priorities
  - Everyone is a priority “convicted, charged or committed acts”
  - In officer’s judgement is a priority
  - Collateral arrests
Travel Ban

- January 27 Executive Order - Travel Ban:
  - Reduced refugee admissions to 50,000 for FY 2017
  - Suspension of Refugee program for 120 days (indef. For Syria)
  - Temporary ban on travel from 7 countries for 90 days

- March 6 Executive Order - Travel Ban Take Two:
  - Banned new visas for 6 countries (Iraq removed from list)
  - Removed reference to minority religious groups and exempted

- Legal Actions:
  - Travel ban currently partially on hold but will be partially in effect
  - Case will be heard by the US Supreme Court in fall 2017
What Will Happen to DACA?

- **DACA**: Executive action by Obama in 2012 to defer deportation and provide work permits to “Dreamers”
  - National: 752,000+ DACA recipients as of September 2016

- **DAPA**: Executive action by Obama in 2014 to protect parents of USC and LPR kids
  - Never went into affect – was challenged and stayed by the courts
  - Trump administration officially rescinded DAPA on June 15, 2017

- Possible scenarios:
  - DACA and all work permits eliminated immediately
  - DACA ended people allowed to keep work permits until they expire
  - No new DACAs but those who have it can keep and continue to renew
  - DACA continues as before (what is currently happening)
Empowering Communities
Know Your Rights

- All people (regardless of immigration status) have basic constitutional rights
- Right to remain silent
  - Critically important: in most instances, voluntary disclosure is how immigration knows someone is undocumented
- Right to be safe in their homes
  - Immigration/law enforcement generally must have a judicial warrant in order to enter a home
- Right to labor protections
Family Safety Plan

- Important: Detention may not happen to most families but important to be prepared

- Care of children if parent(s) detained:
  - Who is authorized to pick up child from school?
  - Powers of attorney/medical authorizations
  - Documents for children (i.e. passport if US citizen)

- Template at: http://www.latnet.org/community-resources/?locale=en

- Contingency planning for property (i.e. car, home, business, other assets)
What To Do If Detained by ICE?

- Do NOT sign documents without legal help
  - Could waive important rights
- Contact attorney/legal services organization as soon as possible
  - ICS Hood River (541) 399-8029
- Some people may be eligible to ask for release on bond
- Implement safety plan
Frequently Asked Questions
“Sanctuary” Localities / Policies

- “Sanctuary” term generally refers to policies that prevent a local jurisdiction (i.e. city) from using its own resources to help with immigration enforcement.

- However, these policies do NOT mean that ICE agents cannot, on their own, engage in enforcement activity in that jurisdiction or location.

- Trump has made threats to take federal $$ but he cannot do that.

- ICE currently has policy restricting enforcement in “sensitive locations” but unclear if this will continue.
How to Get Good Legal Advice

- **Private Attorneys:**
  - Good Advice is Expensive
  - Cases Often Take a Long Time
  - Law is Bad: Attorneys are not Magicians
  - Important to Be Realistic About Chances

- **Bad Attorneys / Consultants / Notarios:**
  - Important to Get Things In Writing
  - If it sounds too good to be true...
  - Unauthorized Practice of Law: Big Problem

- **BIA-Recognized Agencies**
  - Accredited representatives: authorized to practice imm law
ICS Intake Process

- **Request Consult:**
  - Download request form from our website [www.ics-law.org](http://www.ics-law.org)
  - Call (541) 399-8029 and press 3
  - Come by our office at 216 Columbia St in Hood River

- **Consult:**
  - $50
  - 45 min – 1 hour

- Please let clients know that they must leave a message with their name and phone number, and that we cannot take every case;

- ICS protects confidentiality