

Deportation Resource Manual

A Practical Guide for Immigrant Advocates



Alabama Appleseed Center for Law & Justice, Inc.

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The Alabama Appleseed Center for Law & Justice, Inc. is a non-profit, non-partisan public interest advocacy organization formed in 1999 based in Montgomery, Alabama. Alabama Appleseed's mission is to identify root causes of injustice and inequality and to develop and advocate for solutions that will improve the lives of all Alabamians. We work for constructive and lasting systemic change of policies and practices that result in legal and social systems better serving all Alabama citizens.

As part of a network of 16 state Appleseed centers affiliated with the Appleseed Foundation in Washington, D.C., we seek to improve legal and social systems that serve our citizens. We are dedicated to creating a more just and equitable society in Alabama. One of our major strategies is to develop and organize networks and coalitions of other public interest advocacy organizations and the communities affected by the issues of each particular network or coalition. We leverage this service commitment and community presence with the skills and expertise of the legal and judicial communities, academia, the business community and volunteers to bring the powerful voices of these constituencies into dialogue, discussion and action on major public interest issues.

Alabama Appleseed Immigrant Policy Project

Alabama Appleseed started working with the immigrant population of Alabama through its Hispanic Financial Access Project (2005) which quickly evolved into the current Immigration Policy Project (2007 – present). Alabama Appleseed promotes policies that advance fundamental fairness, due process, and respect for human rights for new arrivals, while opposing any proposed anti-immigrant policies and laws that work against these values. Sound immigrant policy development will create the environment in which immigrants are welcomed to participate in a community's social, economic, and political life, while assisting non-immigrant community members to adapt to their new neighbors and to build relationships that strengthen a sense of belonging and community. Such a welcoming and inclusive community environment will foster the acceptance of cultural diversity.

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INTRODUCTION TO IMMIGRATION DETENTION AND DEPORTATION

Deportation (also called removal):

Deportation occurs when the federal government orders that a non-citizen be removed from the United States, typically after the violation of immigration or criminal laws. The terms deportation and removal are used interchangeably throughout this guide.

Immigration Detention Facilities:

The Department of Homeland Security (DHS) is ultimately in charge of immigration detention. A DHS sub-agency, Immigration and Customs Enforcement (ICE), manages enforcement actions, raids, arrests and the detention system. Each facility has different visitor and entry policies. While there are immigration-managed facilities, most immigrants are detained in county or local jails or private contract facilities.

For immigration purposes, “detention facility” includes the following:

- ICE-managed facilities (e.g. Etowah Co.)
- Private contract facilities
- Local county jail
- Federal prison
- Military base

Immigration Customs and Enforcement Detention Standards:

Living conditions of detainees are governed by the ICE Detention Standards. They cover medical care, access to legal counsel, visitation, law materials, telephone access and other critical needs of incarcerated persons.

- You can download the Detention Standards at: <http://www.ice.gov/partners/dro/opsmanual/index.htm>
- Advocates should keep a copy of the standards and refer to them when investigating complaints of abuse or mistreatment in immigration detention.

Transfer: Beware!

People arrested by ICE will first be processed by officers in an ICE Detention and Removal Office or a short-term facility (such as a county jail) where an individual may be held for up to 72 hours. The individual may then be transferred to another facility for a longer-term stay, often out-of-state. Some people may be transferred several times in the first few weeks of detention.

IMMIGRANTS WHO CAN BE DEPORTED

The short answer is that any person who is not a citizen can be deported from the U.S.

Immigrants with Past Convictions:

Immigrants with certain convictions may be deportable, barred from adjusting their status or prohibited from reentering the U.S. after a trip abroad. This includes:

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

The types of convictions leading to deportation are very broad, and may include violations and offenses that the state or criminal court judge considered minor enough to warrant no time in jail. This deportation is an additional punishment which occurs after a person finishes serving a criminal sentence, and may happen years after the conviction.

Undocumented Immigrants:

Undocumented immigrants are always deportable, regardless of the individual's criminal history. However, any arrest or conviction will make these individuals more likely to be discovered by ICE and may also affect whether they can adjust their status. This includes:

- People who “entered without inspection” (i.e. jumped the border).
- “Absconders” or people with old deportation orders. Remember that some people may have old deportation orders, even if they are not aware. For example, if asylum was previously denied and the immigrant was not informed that an immigration hearing occurred, he or she may be subject to an old immigration order.
- People who have overstayed a visa.
- People who have obtained a visa through fraudulent means. This includes the alteration of an otherwise valid visa or misrepresentation of purpose for the visa.

Naturalized Citizen:

The government may attempt to take away the citizenship of a naturalized citizen if it can be proved that the immigrant's naturalization was gained through fraud (for example, if a person did not disclose an arrest or conviction on the naturalization application). A person whose citizenship is stripped may again be vulnerable to deportation.

KEY TERMS AND DEFINITIONS:

287(g) Agreement

A Memorandum of Understanding between a local government and the Department of Homeland Security under Section 287(g) of the Immigration and Nationality Act. Under this agreement, ICE *briefly* trains local law enforcement agents, who are then granted limited immigration enforcement authority to investigate, apprehend and/or detain deportable immigrants. The scope of authority that a 287(g) agreement gives to local governments depends upon the specific agreement and does not override Constitutional and due process protections.

Absconder

A government term for a person with a prior deportation order that knowingly or unknowingly did not leave the country. Many “absconders” do not realize that they are considered fugitives and merely believe that they are undocumented. Absconders are one of the most vulnerable categories of deportable immigrants. Once detained, absconders can be deported without the benefit of a hearing in front of an immigration judge.

Aggravated Felony

A federal immigration category that includes more than 50 classes of offenses, some of which are neither “aggravated” nor a “felony.” This is one of the government's most powerful tools for deportation because it strips an immigrant of most choices in the deportation process. An immigrant (including a lawful permanent resident) who is convicted of an offense categorized as an “aggravated felony” is subject to mandatory detention (no bond) and permanent mandatory deportation (no cancellation/pardon or asylum).

“Conviction” (for immigration purposes)

Immigration courts define “conviction” broadly to include dispositions where: (1) a formal judgment of guilt was 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 nolo contendere* or the defendant 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 immigrant's liberty be imposed. This broad definition has been held to include some dispositions not considered a “conviction” by the criminal court, such as low level violations and convictions that are vacated after successful completion of rehabilitation programs.

Crime Involving Moral Turpitude

Conviction or sometimes simple admission of one or more crimes involving moral turpitude may trigger deportation for some immigrants. This immigration law term-of-art has not been defined by Congress. It has been defined by the United States Department of State in its Foreign Affairs Manual, and the term has also been interpreted by courts to include offenses which are “inherently” evil, immoral, vile or base. This term includes crimes which require intent to steal or defraud (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 and certain manslaughter and assault offenses) and most sex offenses.

Criminal Alien

This term is used by the Department of Homeland Security for immigrants with convictions, no matter how minor the crime or how long ago the conviction occurred. So-called “criminal aliens” are aggressively targeted for deportation, which is an additional penalty after the immigrant has completed his or her criminal sentence. 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 define someone as a “criminal alien” – including a single marijuana conviction, a shoplifting violation, offenses with no time in jail, or in some cases, even admission to a crime without a conviction. Criminal aliens are typically deported *after* they have served their sentences. Deportation is *not* part of the criminal sentence, and few immigrant defendants are properly advised that a guilty plea may result in deportation.

Deportation/Removal

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 the country without inspection (jumped the border).

Detention

This means jail. People are detained at every step of the immigration process. Detention may occur while the immigrant is waiting adjudication of asylum or adjustment applications or pending immigration proceedings. It may occur when the immigrant is picked up by law enforcement officials and jailed without charges, or even after being ordered deported, while ICE is actively trying to remove the immigrant. The detention may also be indefinite if ICE believes that it may not be able to deport someone with an outstanding order of deportation.

Mandatory detention (incarceration without the chance to apply for bond) applies to most immigrants with past criminal convictions, asylum seekers, and all noncitizens considered “inadmissible” (people physically in the U.S. who were never admitted legally). Detainees may be transferred from one part of the country to another, without regard for access to family and counsel.

Expedited Removal

This process was created by a law enacted in 1996. The expedited removal process allows the government 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 the immigration judge.

Habeas Corpus Petitions:

A writ of habeas corpus is a judicial mandate to a prison official ordering that an inmate be brought to the court so it can be determined whether or not that person is imprisoned lawfully and whether or not he should be released from custody. A habeas corpus petition is a petition filed with a court by a person who objects to his own or another's detention or imprisonment (e.g. unlawful detention).

Institutional Removal Program (IRP)

In 1988, the government established the Institutional Hearing Program, which was renamed the Institutional Removal Program (IRP) in 1996. Under the IRP immigration agents complete a criminal immigrant's deportation process while he or she is in federal or state prison. The program is an efficiency measure. It allows deportable persons who are being detained on criminal matters to be taken to either an immigration courtroom which is either located in a prison or broadcast via television. The DHS and the Executive Office for Immigration Review (EOIR) work to conclude the deportation case before the immigrant completes his or her criminal sentence, so that he or she may be deported immediately upon 'release'. 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 or their rights and no legal representation.

Lawful Permanent Resident (LPR or Greencard Holder)

A noncitizen who has been lawfully and permanently admitted to the United States to live and work, but who is still subject to deportation upon a violation of the immigration laws. A "greencard" is the identification card for these 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

This 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 the use of this tool for civil immigration purposes by entering the names of absconders and individuals who did not comply with special registration into the NCIC.

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* (went 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.

Post Order Custody Review

A process precipitated by legislation mandating detention of certain deportable immigrants unless they can show that they are neither a danger to the community nor a flight risk. Under this process, the Office of Detention and Removal officers review the cases and backgrounds of these individuals and decide to release or continue detention. The process is very similar to parole review in the criminal justice system.

Prosecutorial Discretion

The permission granted to the attorneys employed by the Departments of Justice and Homeland Security to use their independent judgment to not place an otherwise deportable person in removal/deportation proceedings. The attorneys may suspend or even terminate a deportation proceeding, postpone a deportation, release someone from detention, or even deprioritize the enforcement of immigration laws against an individual because enforcement does not serve the interests of justice. In exercising prosecutorial discretion, the attorneys generally consider such factors as the length of the immigrant's stay in the United States, honorable service in the United States military and community interest in the immigrant.

Raids

An informal term used to describe larger-scale operations in which ICE questions and/or arrests people whom they suspect may be deportable *en masse*. In late 2006, ICE escalated raids at workplaces, residences, and public areas, often in partnership with local parole, probation and other agencies. Typically, DHS claims to be looking for a particular person or persons, however, in practice many more people than the original suspect or arrested.

Special Interest Detainees

This term refers to a group of mostly Arab, South Asian, North African and Muslim detainees, who were held initially under suspicion of terrorism, and later on mostly minor immigration charges after 9/11. None of the special interest detainees were ever charged with activities related to 9/11.

Undocumented

Undocumented persons are noncitizens who have no government authorization to be in this country.

Undocumented people include people who crossed the border without permission, people who came on valid visas but remained past their authorized period of stay and former LPRs (greencard holders) who were ordered to be deported. An “undocumented” person might have received work authorization (for example, upon filing an application for asylum or other status) from the federal government, but that does not necessarily mean he is now out of this category.

GOVERNMENT AGENCIES AND POSITIONS:

The following is a list of people whom immigrants might encounter during the deportation process. This is not a complete list, but rather is a list of people who are most often involved in detention and/or deportation court cases. Also, note that there may be local differences in the specific structure and practical functions of these actors. For example, in some districts, deportation officers may have more power to make custody decisions, while in others field office directors take a more active role. You should find the local structure of your local field office, or the field office where immigrants in your community are being detained.

Investigations, Detention, and Deportation:

Deportation Officer (ICE)

Each person in immigration detention or in removal proceedings is assigned to a deportation officer, or “DO.” The DO is a good source of information about the individual. This officer knows whether an immigrant will be detained, transferred or deported and when such actions may occur. The deportation officer may also make or be involved in custody determinations. The Deportation Officers can also be called upon to assist with detention conditions, such as medical and mental health issues.

Special Agents

These agents investigate, arrest and detain immigrants, initiating the deportation process. Special agents often gather information and conduct surveillance in preparation for local raids.

Special Agent-in-Charge (ICE)

These agents sometimes may make custody decisions, and at times may be in charge of arrangements for deportation. If a different agency is interested in a person in detention, then the Special Agent-in-Charge may oversee and coordinate with that agency.

Officer-in-Charge (ICE)

These supervisory officers may be in charge of a specific facility. OICs can make custody decisions and have the power to respond to abusive detention conditions.

Field Office Director (ICE)

This person controls the direction of a district office and supervises the operations of his or her region. The FOD supervises ICE employees’ custody determinations, such as whether to detain, parole or grant bond as well as District Counsel/Trial Attorney’s decisions, including whether to appeal a decision by an Immigration Judge. The field office director also has the power to exercise prosecutorial discretion, including whether to begin removal proceedings and whether to grant deferred action; plans “special projects,” including enforcement

projects; works with Department of Justice attorneys representing the government in federal appeals; and reports to ICE headquarters.

Office of Refugee and Resettlement (Dept. of Health & Human Services)

The Office of Refugee Resettlement provides people in need with critical resources to assist them in becoming integrated members of American society. This includes unaccompanied immigrant children, refugees, asylees, victims of human trafficking, survivors of torture, Cuban/Haitian entrants and Ameraisans.

Department of Immigrant Health Services (DIHS)

Among other activities, DIHS monitors special health issues in detention centers. For example, DIHS monitored pregnant women who were arrested and detained after a raid in Maryland.

During a deportation (removal) proceeding:

Trial Attorney or Office of Chief Counsel (TA or OCC)

This is the DHS/ICE employee who represents the government in a removal case. The attorney's job is similar to that of a prosecutor in criminal court.

Immigration Judge (IJ)

The Immigration Judge is a DOJ employee who has been appointed by the Attorney General to the Executive Office of Immigration Review. This judge presides over the immigration courtroom. The Immigration Judge decides whether an immigrant is eligible for bond and if so, whether to grant bond; decides whether an immigrant is removable/deportable and eligible for relief from deportation; takes evidence, including testimony; and orders deportation or grants relief from deportation.

Member of Board of Immigration Appeals (BIA)

This DOJ employee is appointed by the Attorney General to the Executive Office for Immigration Review.

During federal court review of detention or deportation order:

DOJ's Office of Immigration Litigation (OIL), US Attorney or Assistant US Attorney (USA or AUSA), Solicitor General

These are the lawyers representing the government in federal appeals of detention or deportation cases. In most federal district courts and Court of Appeals cases, OIL represents the government. When a case goes to the Supreme Court, the Solicitor General usually represents the government.

District Court Magistrate or Judge

These judges decide cases in federal district court, including habeas corpus petitions.

Court of Appeals Judges

These judges decide cases in federal Courts of Appeals, including petitions for review challenging orders of removal/deportation and appeals from federal district courts, usually in 3-judge panels.

Supreme Court Justices

The nine Justices of the U.S. Supreme Court decide the limited cases that they choose to consider.

HOW TO PROTECT ASSETS

There are ways for people facing deportation to ensure that their children are taken care of and that their property is claimed by relatives or friends, but the process is not a simple one once the person enters the judicial system. It is important to prepare a Power of Attorney to protect the children, financials and property of someone who may face deportation.

POWER OF ATTORNEY (POA):

A power of attorney is a written document that allows an individual to authorize another person (called an “agent”) to conduct certain business on that individual’s behalf. There are two types of power of attorney that are relevant to a person facing deportation:

- A general POA: gives the Agent a wide range of powers, essentially enabling him or her to do on behalf of the individual anything that the individual could do for him or herself.
- A specific POA: authorizes an Agent to do only the acts that are specified in the document. It can be used for a wide range of activities; it can arrange access to a bank account, the sale of a home or car, the shipment of personal effects to the deportee in his home country and the care of minor children. Persons who must transact business with the appointed Agent generally accept a specific POA without hassle because of its clear specifications of the individuals’ intent.

NOTE: Because different states have different requirements for executing a valid POA, one should seek legal advice when preparing a POA.

Choosing an Agent:

Actions taken by the Agent are legally binding on the individual. POAs can be abused, so it is important that an individual think carefully before choosing an Agent and select someone who can be trusted and act prudently and in accordance with the individuals wishes. It is helpful to choose an Agent who resides in the same state as the individual.

POA Regulations:

Generally, a POA must be in writing and it may have to be witnessed by one or more persons, notarized and recorded. An individual may not have the time or resources to research out what exactly is required to make a POA valid in the relevant state thus, seeking the advice of a lawyer is recommended. An alternative is to execute a POA with the maximum authority required by law in the United States. An individual may revoke or cancel a POA by signing a revocation of the POA, though it may be difficult to enforce this revocation.

PROTECTING CHILDREN

If the deportee’s children were born in the United States, they have two choices. The citizen children may return to their parents’ home country or remain in this country with an appropriate caregiver designated by the deportee.

IMPORTANT: Write down the intended plan for children who may be left behind. Desires for childcare in the U.S. should be in writing and notarized. If the children are to join the parent following removal, then execute a notarized letter of permission for the child to travel outside of the United States with a named adult person.

This may help ensure that children are not placed into child protection services and that they can travel with their parents if they are deported. It is important to plan ahead of time and include the POA with immigration papers. Make sure that birth certificates, social security cards and passports are provided for any children. If a birth certificate is needed for a child, contact the Office of Vital Statistics in your state. To download an application for U.S. passport for a minor child, go to:
http://travel.state.gov/passport/get/minors/minors_834.html.

POSSESSIONS OR PROPERTY

To ensure that an individual's personal property is given to the proper relative or friend, a POA must be prepared. Individuals can assign a power of attorney to a friend or relative, giving the friend or relative power over their properties. This is a procedure that can be completed at any point, though it becomes more complicated once the individual is incarcerated.

WHAT TO DO IF YOU OWN A HOME

If an individual owns a home, a power of attorney authorizing an Agent to transfer the home must be executed. The Agent can have the power to transfer the individual's interest in the home in accordance with state law and regulations of a mortgage provider, if applicable. This power can include the ability to sell the home.

Jointly-owned property:

- If property is jointly-owned and only one spouse faces deportation, a POA may authorize the Agent to transfer the interest in the property to the remaining spouse.
- If both spouses face deportation, a POA may authorize an Agent to sell the property, either individually or through a real estate agent or as an individual.

What happens when an individual is deported and no one cares for their home?

- If a deportee had a house mortgage and no arrangement was made the property would likely be foreclosed.
- If the property is paid in full but nobody continues paying the taxes on it, the jurisdiction where the property lies has power over the property.

WHAT TO DO IF YOU RENT A HOME

If the family members of the immigrant-tenant want to remain in the leased premises after the tenant is deported, they may have the following options:

- If the landlord allows, they can continue to occupy the premises under the original lease.
- They can terminate the original lease and enter into a new lease with the landlord.
- The family members may succeed to the lease through an assignment or sublease from the original immigrant-tenant.

The first two options require the consent of the landlord at their full discretion, while a landlord's consent to an assignment may only be withheld if it is reasonable under the circumstances, as described below. In order to avoid complications, married immigrants should consider having the lease in both their own and their spouse's name so that the spouse may remain in the property.

WHAT TO DO IF YOU OWN A CAR

Each state has a department or agency that regulates the titling and registering of motor vehicles. In most states this department or agency also provides guidance for buying and selling a vehicle in the state.

Alabama – www.ador.state.al.us/motorvehicle/index.html or 1-334-242-9000

Florida – www.hsmv.state.fl.us or 1-850-617-2000

Georgia – www.dds.ga.gov or 1-866-754-3687

South Carolina – www.scdmvonline.com or 1-800-442-1368

It is possible for an individual to transfer title of the vehicle to a family member or friend after the individual has left the country. States do not require that the owner be present in the state if the owner has signed the title over to the person receiving the vehicle. If there is a lien on the vehicle, the owner should provide documentation that the lien has been satisfied or released, or that the recipient is assuming responsibility for the lien.

WHAT TO DO IF YOU HAVE A BANK ACCOUNT

To open a bank account, immigrants must have an ITIN number. If they do not have one, they need to fill out IRS Form W-7. This is a Tax ID number that the IRS grants to foreigners who are unable to obtain a social security number. To obtain the ITIN, individuals need to submit proof of citizenship from their country of origin in the form of a passport or birth certificate. Some banks accept the ITIN number (in lieu of a social security number) in addition to a photo ID in order to open a bank account.

Once an immigrant has opened a bank account in the United States, he or she should complete the IRS Form W8-BEN. The form can be downloaded, and most banks also carry the form and will provide it upon request. Remember, an ITIN is needed to complete this form.

IRS Form W8-BEN converts a U.S. bank account to a bank account for foreigners. Once this change has been made, the account can be managed from anywhere in the world. An individual can decide to leave their money in the U.S. or transfer it to a bank in his or her home country.

It is important to not wait until an individual is in an ICE processing center to complete these important steps. To protect their assets and family, immigrants should open a bank account and convert it into an account for foreigners immediately.

If an immigrant has placed a bank account in the name of a minor child but has also retained signing authority for the account, the immigrant should specify in a POA that the agent may access the account that is held in the child's name.

ARREST AND DETENTION

ARREST BY LOCAL POLICE OR AN ICE OFFICER

Some police departments are hesitant to enforce immigration laws while other police departments or individual officers affirmatively investigate immigration status in order to turn undocumented immigrants over to federal authorities. A routine traffic stop is most likely to result in immigration involvement if the person is undocumented or has an old order of deportation – especially since the Department of Justice began entering this information into the National Crime Information Center (NCIC) database, which is accessed by law enforcement. Some state and local governments (including the state of Alabama) have even entered into “Memorandums of Understanding” (MOU) with the Department of Homeland Security, in order to enforce immigration laws. In many states federal immigration authorities interview immigrants at local jails and routinely lodge detainees preventing release from custody. Green card holders with a past conviction and undocumented immigrants with no convictions may be turned over to ICE even if the stop does not result in any criminal charge, the charges are dropped, or the person is acquitted.

While in a local jail, an immigrant may be visited by a federal immigration agent. This agent may ask questions in order to determine whether the detainee might be deportable. These questions may revolve around the individual’s name, country of birth, citizenship, immigration status, age, parents’ citizenship and prior convictions. This information will be used to help DHS deport the detainee. Individuals can follow four simple rules to protect themselves:

Don’t say anything:

Do not answer ANY questions – not even a name, country of origin, or immigration status. Immigration agents may threaten with jail time or deportation if questions are not answered. Agents may say that if their questions are answered, everything will be fine. Do not be fooled. Always ask for the agent’s identification, such as a business card or badge information. The agent’s name and position should be recorded.

Don’t sign anything:

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

Don’t lie:

An individual has the right to say nothing or say, “I need to speak with a lawyer first.” A person can be criminally prosecuted for lying to law enforcement officers (e.g. about your birthplace).

Ask to speak with an attorney:

Tell the interrogating officer you want to speak to an attorney first. Then, try to get an attorney to come see you and represent you. Ask the attorney for a letter stating that an attorney must be present during an interview with an immigration agent. Give a copy of the letter to the immigration agents. If the agents keep pushing for an answer, repeat, “I want to talk to an attorney first. I want to stop this interview now.”

IMMIGRATION DEPORTATION OFFICE AND DETENTION CENTER

After an individual is arrested, he or she is placed in a holding cell or temporary processing station, where fingerprinting and interviews will take place. (Sometimes, a portion of this processing occurs during the arrest). This is where Immigration and Customs Enforcement (ICE) Detention and Removal Office hold an individual.

After being processed, the immigrant will be assigned a deportation officer. It is important that the name and phone number of the officer assigned to the case be written down. An immigration officer should give the immigrant a Notice to Appear (NTA), which is a document that contains the immigration charges made against the individual. This document will help an advocate or a lawyer better understand the immigrant’s case. Make sure to ask for the document if it is not given within 72 hours of the immigrant’s initial arrest.

It is important to locate the immigrants “A number” (alien registration number). The “A Number” is an eight (8) digit number preceded by a letter (ex. A99 999 999), and it is found on a green card or documentation provided by immigration. If the individual does not have the number with him or her, contact a family member and ask for the number. If an “A number” has never been assigned, one will be assigned once the immigrant has been processed at the detention center. This number should be requested immediately.

After processing, the individual will be moved to an immigration detention center, local jail, or a military base while the immigration case is pending. While detained the individual may be transferred to an out-of-state facility. Transfers can occur at any hour, so it is important for the immigrant to keep a copy of all legal documents in his or her possession at all times. If the legal documents are stored with detention center/jail, the individual can ask the staff for these legal papers immediately.

To provide notice that an attorney or representative of a religious, charitable, social service or similar organization will appear before U.S. Citizenship and Immigration Services on behalf of a person involved, file immigration Form G-28 with the Department of Homeland Security. The form can be downloaded at: <http://www.immigration.gov/graphics/formsfee/forms/g-28.htm>.

The completed form should be faxed to the Deportation Officer immediately. This form may convince the officer to stop the transfer. Transfers usually occur WITHOUT notice to family members or lawyers.

TELEPHONE CALL

An individual has the right to make a telephone call after being detained. It is important that the telephone number of an attorney, family member, friend or union spokesperson has been memorized so that person may be contacted immediately. Some phone numbers may be blocked. If there is trouble reaching a specific number, the jail may have blocked the number. A jailor or staff member can confirm whether the number has been blocked. The family of an incarcerated individual should be encouraged to contact the local telephone company to make sure that the family’s residence can receive phone calls from the detention center or jail.

IMMIGRATION DETAINER

At any point while an individual is in jail, DHS may place a detainer or “immigration hold” on the individual. This means that when the criminal system no longer has a right to jail the person – for example, because the individual was granted bail, was acquitted or finished his or her sentence – the local jail/prison may decide to keep the individual in custody to give DHS an opportunity to take the immigrant into custody. This hold may also prevent individuals from participating in some programs, such as work release and receiving privileges. The government may place a detainer on an inadmissible or deportable non-citizen who is in government custody. This includes:

- Absconders – people with old orders of deportation/removal.
- Out-of-Status Immigrants – people who came across the border without any papers, overstayed their visas, lost their asylum or adjustment hearings, and previously undocumented people who are currently applying to adjust their status.
- LPRs/greencard holders with convictions – even LPRs who have never been charged with being deportable can be placed on an immigration detainer if they have been convicted of a deportable offense.

NOTE: If a person is an absconder, a greencard holder with a past deportable offense, or out-of status, the immigration hold will not be lifted even if the current criminal case is dismissed, however, if a person has valid status and has no final convictions, he or she should not have an immigration detainer.

What Can the Individual Do?

Direct Appeal of the Conviction:

The individual may want to appeal the conviction, especially if the government's only basis to hold the person is the conviction.

48 Hour Rule:

Even if DHS has issued a detainer and asked a jail/prison to temporarily detain the immigrant, the jail/prison is not authorized to hold the individual on that detainer for more than 48 hours after the individual would normally have been released (8 C.F.R. 287.7). If DHS hasn't taken the immigrant into custody by this time, the immigrant can demand release or ask that a court demand his or her release by filing a *habeas* petition in state court. Sometimes this can result in ICE finally taking the immigrant into custody. In *some cases* it is preferable to remain in criminal custody with an immigration detainer than to be transferred to immigration detention center right away - especially if the immigrant may qualify for relief. Being in criminal custody sometimes provides an immigrant valuable time to secure representation, collect key documents and develop favorable factors before being transferred to an immigration facility that *may* be far away. These factors should be weighed when deciding to file a state *habeas* petition challenging a hold longer than 48 hours.

IMPORTANT: Even if DHS has issued a detainer and asked a jail/prison to temporarily detain the immigrant, the jail/prison is not authorized to hold the individual on that detainer for more than 48 hours after the individual would normally have been released (8 C.F.R. 287.7)

INFORMANT AGREEMENTS

A non-citizen in criminal proceedings may find him or herself in a situation where prosecutors seek his or her cooperation. Sometimes, a prosecutor will offer immigration benefits in exchange for this cooperation. For instance, a district attorney prosecuting a non-citizen for drug possession may offer to help the immigrant get a greencard or promise "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, it is unlikely that a city or state prosecutor can bind the federal government. Additionally, 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. To increase the agreement's effectiveness:

- Work out the 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 if DHS is a signatory. This will probably be very difficult to obtain, but it should be demanded anyway.

There are a few other special visas that grant temporary immigration status with a possible future opportunity to apply for LPR status in exchange for cooperation. Each of these visas has very specific requirements and requires some formal assistance from the prosecutors.

- S-Visas— These visas may be available to people willing and able to provide information against certain types of criminal organizations. The government must apply for the immigrant! Make sure the government will fulfill its end of the deal.
- T-Visas— These visas may be available to certain people determined to be victims of trafficking in persons who are willing to cooperate with prosecutions against the traffickers.
- U-Visas— These visas may be available to victims of certain crimes, such as domestic violence, sexual assault or rape, who help prosecute those cases.

SEARCHING FOR AN IMMIGRATION ATTORNEY

HOW A LAWYER CAN HELP

A lawyer can provide information and assistance related to the following issues:

- Does the immigrant have a legal argument to fight his or her deportation?
- Is the detainee having problems in the jail? If so, how can these problems be resolved?
- Can ICE be prevented from transferring the detainee out of the area?
- Designating individuals who will make decisions on behalf of the detainee's children and property? This may help children from being abandoned or entering child protective services.
- Represent the detainee in a pre-representation meeting.
- File a G-28 to have an interview, both to conduct an initial legal assessment and to get access for family and community members if such access has been denied. With this form on file, the attorney may also be able to convince ICE to halt any transfers.

HOW TO ENSURE PROPER LEGAL ASSISTANCE

- Stay informed about the individual's immigration case: do not just rely on the attorney.
- Hire someone specializing in immigration and deportation. Many attorneys do not know immigration law, and many immigration attorneys do not know deportation very well. If the lawyer practices in real estate, business and immigration, he or she is most likely not a deportation specialist.
- If facing deportation, make sure the lawyer looks at the Notice To Appear (NTA) before providing advice.
- Keep the full name and contact information of EVERY lawyer that has ever represented the immigrant.
- Get a written contract before paying the lawyer. Ask the lawyer for a "retainer agreement." Read it carefully. Make sure both the individual and the attorney agree on the meaning of it. Also make sure that the retainer agreement contains the same promises that the lawyer is making verbally.
- If there are criminal proceedings ask the lawyer to provide written information about the immigration consequences of the conviction *in writing* before submitting a guilty plea.
- If there is an old order of deportation and the immigrant is attempting to adjust status, get written information from the lawyer explaining how he or she will manage to keep the individual from being deported.
- If the attorney ever refuses to provide information he or she promises in writing, send a certified letter to the attorney outlining the promises that have been made and ask for written verification or clarification of those promises.
- Make sure the immigrant and his or her family receive a copy of everything the lawyer files. If the immigrant faces automatic deportation because of a crime, consult a criminal immigration attorney about the positives and negatives of vacating, appealing or reopening the criminal case. This is very complicated, but it may be the only way to avoid unlawful deportation.

GETTING OUT OF DETENTION: BOND AND PAROLE

BOND

A bond is an amount of money paid to the government as a guarantee that the individual will attend all hearings, obey conditions of release, and obey the judge's final order even if the person is ordered to leave the U.S. A deportation officer may set a bond amount in the case soon after an individual's arrival in detention. If it is too much to pay or the deportation officer has not set a bond, the individual can ask an immigration judge for a bond or a lower bond amount. See more about bond hearings below.

RELEASE ON THE PERSON'S OWN RECOGNIZANCE

In some limited cases ICE or the immigration judge can release an individual without the individual having to pay any money. The individual must comply with the terms of release, otherwise he or she risks being re-detained. This form of release is usually granted to individuals with special conditions, like pregnancy.

PAROLE

ICE has the authority to release any individual from detention (called parole). There is no way to appeal denial of a parole request to an immigration court. Sometimes, ICE asks an individual to pay money as part of the parole guarantee and conditions may be attached to the parole.

FREQUENTLY ASKED QUESTIONS

When should an individual ask for bond or parole?

An individual can ask for a bond hearing in front of an immigration judge at any time. Additionally, an individual can ask for parole from ICE at any time.

How does an individual ask for bond or parole?

An individual can ask ICE for release by writing the agency a letter. A detainee may request a bond hearing by sending the immigration judge and the government attorney a "bond motion," which is a legal request for bond. Asking for bond or parole can be very complicated. If possible, retain representation from a lawyer experienced in deportation defense.

Can an individual get a bond hearing?

An individual should always request a bond hearing, even if the individual thinks he or she is not eligible for it. An individual may not be eligible for bond if he or she: (1) has a previous deportation order; (2) has certain criminal convictions; (3) was arrested at the border/airport; or (4) the government suspects he or she has terrorist ties. Always obtain a copy of the individual's criminal record and immigration documents so that the individual can determine if he or she is eligible. In some cases, the individual may want to challenge a judge's decision that he or she is not eligible for bond in federal court.

What must be proved at the bond hearing?

In a bond hearing, the judge considers whether the individual presents a danger to the community, is a national security threat, or a flight risk. The individual should submit any documents that show favorable factors, such as a permanent address, stable employment, relatives with legal status in the United States, and any evidence of strong ties to the community. The individual should also ask family and friends to attend the hearing and testify to these issues or send written letters of support.

What if the individual loses a bond hearing?

An individual can appeal a negative decision to the Board of Immigration Appeals. If the situation changes, for example, if a criminal conviction is dismissed, the individual can request another bond hearing. Until the Board of Immigration Appeals makes a decision on the case, the individual will stay in detention. Waiting for an appeal may take a very long time, and some individuals have challenged their detention in cases of prolonged detention.

The judge granted bond but the government attorney filed an “automatic stay.”

Sometimes, a judge grants bond and the government attorney opposes the bond decision. In this situation, the government attorney may file an “automatic stay.” This stops the judge from releasing the individual on bond. If this happens the individual may want to challenge this decision in federal court.

What if an individual cannot afford to pay the bond?

An individual may ask the immigration judge to lower the bond at the bond hearing. The judge has the power to decrease the bond to the statutory \$1,500 minimum.

How does an individual pay bond?

To pay the bond an individual may use a certified or cashiers’ check from a bank or a U.S. Postal money order payable to the Department of Homeland Security. Cash IS NOT accepted! The bond amount must be paid at once. The individual can pay the bond at any ICE office. Detained persons may have trouble posting bond for themselves if they cannot show where they maintain their residence.

What information does a family member need to post (pay) bond?

To post bond for a detained individual, the family member will need to know the detainee’s full name, A-number, home address, date of birth, and country of birth. The person posting bond must have immigration status. ICE may also ask for the person’s driver’s license or state identification card.

Can ICE add conditions to the bond?

Yes. ICE may require that an individual report weekly to the ICE office or call a specific officer at specific intervals. The order may require that the individual not leave the state. Make sure the individual understands the conditions on the bond because a person can be re-detained if conditions are violated. Also, if the individual moves, make sure the deportation officer is notified.

If an individual is ordered deported (and does not appeal), how long can ICE keep him or her detained?

ICE has 90 days to comply with a deportation order. Depending on the difficulty of obtaining travel documents or whether the detainee’s government will accept him or her, it may take several days to several months to deport the individual. The Supreme Court has said that six months (in most cases) is too long to hold someone in detention after he or she has been ordered to be deported.

TIPS FOR DETENTION AND DEPORTATION

WHEN DEPORTATION IS IMMINENT

A person may be deported immediately if he or she has exhausted all appeals and legal options. Individuals are subject to immediate deportation if:

- They are detained because of having an old or outstanding order of deportation;
- An immigration judge orders them deported and they do not appeal;
- The Board of Immigration Appeals orders their deportation and they do *not* have a stay of deportation in place with any federal court; or
- A federal court rules against them and they do not have a stay in place.

In some cases when deportation is imminent, the family needs additional time to gather belongings, make arrangement in the “home” country, or pursue legal arguments. To obtain additional time when deportation is imminent:

Contact the Deportation Office:

Deportation officers have the best information about when a person may be deported (even if they refuse to tell you). An attorney who has filed a G-28 for a detainee can more easily talk to a deportation officer than a friend or family member. It is important to note that some deportation officers do talk to loved ones.

Unfortunately in many cases, deportation officers are unresponsive, uncooperative, or just believe they cannot do anything to help the detainee. If an individual has a particularly compelling case, speak directly with the Field Office Director.

Contact the individual’s Consular Office:

Detainees typically need travel documents from the consulate before they are deported. Consulates can often tell whether travel documents have been issued for the person, if a flight is scheduled for them and their location in the system. Consulates can also tell you where the person may go after being deported (e.g. the local police station). Call the national consulate of the detainee and ask for the caseworker that handles deportation. Provide copies of pending appeals or other legal claims to the consulate, to show that deportation would be premature because the individual is awaiting a court ruling. Ask the consulate employees to ensure that the deportation complies with the country’s law and to verify that the person being deported is indeed a national of that country.

IMPORTANT: Because the consulate has the power to expedite, delay or simply decline the issuing of travel documents, make sure that your actions are not deemed “obstruction” by the US government.

Talk to an attorney about filing papers in the court:

If you feel that there are still legitimate legal claims in the individual’s case, it is important talk to a deportation specialist about filing any claims. Depending on where someone’s case is legally, you can file an:

- Emergency Motion to Reopen and Stay to an immigration judge or the Board of Immigration Appeals;
- Petition to Review with a Stay of Deportation to federal court; or
- Stay of Deportation with ICE.

STEPS FAMILIES CAN TAKE

- Immediately collect the immigration documents of the person in detention. (Specifically, the detainee’s A number and obtain a copy of the Notice to Appear).
- Ask family members if their loved one has a prior deportation order or criminal arrest. Learn the details of what offense was committed, when and where. Obtain copies of the individual’s criminal record at the county office in which he or she was convicted.

- Call the telephone company to remove any blocks on the family’s phones so the detainee can call home from the jail or detention center.
- Undocumented individuals should be advised not to visit the jail or detention center.
- Before family members visit a detainee, call the facility and ask about visitation restrictions and hours.
- Has the loved one designated individuals to take care of children, property, etc. if detained? Children may be placed in child protection services if a parent is not available. The detained person can give legal power to someone who he or she trusts to make important decisions on his or her behalf while the individual is detained. See “Power of Attorney” section on page ____ for more information.
- If the individual wants to hire a lawyer, provide him or her with referrals of lawyers experienced in deportation defense. Make sure that the lawyer has reviewed the Notice to Appear (immigration charging document) and any other immigration papers or background information of the detained person. Sign a contract for services with the lawyer, called a “retainer” agreement. Tell the detainee to keep all communications with the lawyer in writing.

LOCATING A DETAINEE

It often takes weeks to find someone who has recently detained by immigration. Immigration agents are often unresponsive and families, out of fear, often pay thousands of dollars to attorneys *just* to find a detained loved one. There are some simple steps a person can take to find a detainee. Be persistent and call frequently.

- Necessary information includes:
 - ✓ The person’s full name (including all aliases);
 - ✓ The person’s date of birth; and
 - ✓ The person’s “A” number (“Alien Registration Number.”) The A number is located most immigration papers, including work permits, green cards, or any other document that CIS provides. (ex. A99 999 999)
- Contact Immigration and Customs Enforcement’s Office Deportation and Removal Operations (ICE-DRO). The ICE website provides information about local ICE-DRO offices. Start with the facilities closes to the arrest location. If you can’t find a local office, call the Washington, DC main number for more information: (202-305-2734. Website: <http://www.ice.gov/about/dro/contact.htm>).
- Ask to speak with a supervisory deportation officer or the field office director (head of ICE-DRO). Be prepared to give the individual’s full name and A Number. (Note: Deportation officers may seem unresponsive and may not be willing to speak to anyone other than the individual or his or her attorney. You should still try.)
- Contact the individual’s Consulate. Consulates are often required by international convention or treaty to be notified when one of their nationals is detained. Many consular offices have caseworkers who work specifically on deportation cases. Furthermore, consular officials are sometimes (but not always) easier to talk to than deportation officers. Contact the relevant embassy (see <http://www.embassy.org/embassies/>) to find the local consulate’s contact information.
- The last resort may be to contact the 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.

REMINDER If someone is out of status and wants to visit a family member in detention, he or she should contact an immigration expert to discuss the possible risks.

Resources to utilize to find a detained person:

- Local ICE Office of Detention and Removal Operations Offices (ICE-DRO): The ICE website provides information about different local ICE-DRO offices. Start with the facilities closes to the raid location. If you can’t find a local office, call the Washington, DC main number for more information: (202)305-2734. Website: <http://www.ice.gov/about/dro/contact.htm>

- ICE Detention Facilities: The following website is NOT a complete list of all detention facilities but does list facilities directly operated by ICE. However, note that most detainees are detained in local and county jails. Start with the facilities closest to the raid location. Website: <http://www.ice.gov/pi/dro/facilities.htm>
- Consulates and Embassies: Consular officers must protect their nationals. Consulates are required by law to be notified when one of their nationals is detained. The consulate should help locate someone who has been detained. Website: <http://www.embassy.org/embassies/>
- Detention Watch Network: DWN has created a map of detention centers and contact information for ICE-DRO offices and legal service providers. Website: www.detentionwatchnetwork.org
- Local nonprofit immigration service providers (preferably working in detention): These groups have the most familiarity with local ICE-DRO offices. They may have good tips. See the Detention Watch Network map for a local detention service provider in your area. Website: www.detentionwatchnetwork.org/dwnmap.
- Local elected officials, such as your mayor, city council, or senator. Ask local officials to help you make the request to ICE-DRO to locate the detainee.

What if ICE-DRO will not release the information?

- Ask for a specific reason for the refusal.
- Explain your role (i.e. community organizer, translator, interpreter) in the process.
- Ask to speak to a supervisor in the deportation office.

RIGHTS OF A DETAINEE

Because most detainees do not have lawyers or other immigration and deportation resources, they often do not immediately know their rights. There are some basic knowledge and steps that detainees should be aware of, even if they have not yet sought counsel.

- They should know they have the right to NOT sign any statements or documents, especially ones giving up their rights to an immigration hearing in front of an immigration judge. They should always ask to speak to a lawyer before signing any documents.
- Detainees can request bond or parole from an immigration officer immediately. This may help keep them from being transferred to another state.
- If they have an old order of deportation they will not see a judge, and can be deported *immediately*. They should ask for a Notice of Reinstatement of Removal Order.
- Detainees should ensure that their family members outside of the detention facility have copies of all of the detainees' immigration paperwork, including the Notice to Appear (NTA) and criminal certificates of disposition.
- Detainees should ask the detention facility for a copy of the inmate handbook, detainee handbook, and the ICE Performance Based National Detention Standards.
- Detainees who are able to see an immigration judge but do not have an attorney, should tell the judge that they need additional time to find someone to represent them. If the judge insists that the hearing proceed without a lawyer against the detainees' better judgment, they should insist *on the record* that they would like more time.
- If forced to proceed without an attorney, they have the right to NOT concede or admit to any charges against them on the NTA. They also do NOT have to go into details about their case. Anything they say, even admitting their country of birth, can and will be used against them.
- If they think they may be transferred to a detention center far from home, and they already have a lawyer, they should instruct their attorney to file an Immigration Form with DHS stating that they are represented. The correct form is the Form G-28. This form can be downloaded by going to www.uscis.gov and clicking on 'Forms.' Scroll down and download Form G-28. Fax the form to the deportation officer immediately. This form may convince the officer to stop the transfer.

- If they think they are about to be transferred, remind them to ask jail and ICE officers to ensure that their papers and personal property (including all information relating to medication) travel with them.

NOTE: Asking these questions requires the ability to keep the responses confidential, if a person, agency, or organization feels that the information cannot be kept confidential, the above questions should not be asked.

DETERMINING AN INDIVIDUAL'S IMMIGRATION STATUS

Does the person have a green card, asylum/refugee status, a valid visa (including a tourist, work or business visa) or some other legal reason to be in the United States? If so, when did the detainee obtain this status and how? If the person has no legal status, did he or she overstay a visa or enter the country illegally? When and how did the individual illegally enter the country (i.e., by jumping the border or entering with false papers)? Does the person have an old order of deportation? When did he or she get it and how?

Sometimes a person's status is unclear or the individual may be unsure of his or her status. When giving aid to an individual, it is important that they know the person's status and if he or she has an old order of deportation. A person may have an old order of deportation if he or she lost an asylum case, skipped an immigration interview or skipped an immigration hearing. To learn if an individual has an old order of deportation, follow these steps:

- Find the individual's Alien Registration Number (A Number). The A Number is on the I-94 card on the individual's passport, greencard, work permit or any other document from CIS. It takes the following form: A99 999 999.
- Call 1-800-898-7180. This is the hotline for the Executive Office for Immigration Review (EOIR).
- Press "1" for English or "2" for Spanish.
- Enter the individual's A-number and listen for instructions. If the A Number is in the system, the individual has previously had a deportation case.
- Press "3" to learn whether an immigration judge ordered deportation (removal) against the individual.
- If you learn that the individual has a deportation or removal order, advise the individual to consult a lawyer specializing in immigration deportation before he or she visits an immigration office, leaves the country, or tries to adjust his or her status.

People with old orders of deportation do not have a legal right to have an additional hearing before a judge and there may be ordered deported immediately. *(Note: the EOIR hotline number may not contain information about deportation orders that are several years old. Some individuals may also have more than one A Number)*

GATHERING THE CORRECT DOCUMENTS

It is important for an individual or family member to collect the following information about a person facing deportation. The person in proceedings along with the primary person handling the immigrant's case should keep a copy of:

- The individual's full name and all aliases
- The individual's Alien Registration Number, or A Number. This number can be found on most immigration papers, including the I-94 card on the immigrant's passport, greencard, or any other document that CIS or ICE has provided the individual. The A Number takes the following form: A99 999 999. If you do not know the individual's A Number you should attempt to contact the individual's consulate to determine if the consulate has a record of detention that contains the A Number
- The person's first, or next, immigration court date. If you are not able to determine the date, call the Immigration Court hotline at (800) 898-7180 and enter the individual's A Number
- The date the person entered the U.S. as well as how (i.e., visa, cross border, greencard through marriage, etc.)

- The individual’s criminal record. You must have a precise list of all criminal convictions. The list must include dates of arrest, the place of arrest (City and State), date of conviction, and the sentence. If possible, obtain a copy of the individual’s Record of Arrest and Prosecution (“RAP”) sheet. You should obtain a Certificate of Disposition from the clerk’s office in the courthouse where the each criminal case was heard for each conviction
- A copy of any Notice to Appear (NTA) and all other immigration paperwork. If the person has any old orders of deportation you should gather the documents related to the old immigration case;
- To assist the immigrant, you should collect documents showing that the person facing deportation has family, community ties and a “good character”
- The person’s location (jail, federal detention center, etc.)
- Information about the individual’s family members, including children and elderly parents and important finances.

TIPS FOR CONTACTING OR VISITING A PERSON IN DETENTION

Contacting a person in detention:

- If it is urgent to contact a detainee, you should call the jail and ask to speak with the officer in charge of immigration detainees or ask for the officer in charge of the “pod” or “unit” for immigration detainees. For an ICE detention center, you should speak to an ICE officer.
- After a person is transferred, tell the officer that you need to discuss urgent personal matters or matters relating to that person’s case. Don’t lie.
- If the officer refuses to allow you to contact the detainee, request that the officer to ask the detainee to contact you immediately. Don’t forget to provide your contact information.
- To obtain a detainee’s signature on important documents, call the jail or officer in charge to inquire as to how to get documents signed.

Call the facility and ask about visitation rules. (Lawyers should be able to meet with their clients at their convenience. Lawyers should bring their state bar identification card or attorney registration information to the facility.) Be sure to ask:

- What are visiting hours?
- Who can visit the person and for how long?
- Are there any special requirements?
- Are you allowed to give anything to the detainee? (Most jails forbid any gift giving but you may be able to put money into an account for the individual which.)
- If you follow the rules, but still have problems entering the jail or the jail flatly denies access for lawyers, call the field director for ICE and ask him or her to help you access the jail. If the field director refuses, contact Public Affairs at ICE Headquarters in Washington DC by calling (202) 514-2648. Consider media and legislative advocacy strategies.

Record abuses:

Abuses may occur in immigration detention, during raids and when people are processed. It is important to obtain very specific information about any abuse or neglect, such as failure to provide required medications.

- Learn the specific details surrounding the arrest and raid (time, place, chronology of the abuse, treatment of person during arrest, and the names of involved officers).
- Obtain specific information about denials or obstacles in obtaining medical care, lack of functioning telephones, access to attorneys or legal materials or visitation with family members.
- Bring a screening questionnaire so that an immigration advocate can determine whether the person has arguable defense in his or her immigration case.
- Ask your local detention service provider or local immigration advocates who experienced in deportation defense to provide you with a screening questionnaire.

- Try to obtain specific information about prior deportation orders or any criminal history or arrests. (What offense, where was the individual arrested/convicted, when did it occur?)

Ask the person if he or she has designated individuals to take care of his or her children or make decisions about any personal property. If not, ask the individual for the names, address and dates of birth for individuals who that the detainee trusts to complete those tasks. Ask the detainee to include individuals with lawful immigration status. The detained person can give legal power to someone who he or she trusts to make important decisions on his or her behalf while he or she is detained. This is called a “power of attorney” and the law relating to the power of attorney varies from state to state.

HOW TO DEAL WITH ICE

Contact the ICE Field Director of Detention and Removal:

If you or your organization wants to advocate on behalf of community members in detention, inform the field director of you or your organization’s involvement with persons in detention. The field director manages the local ICE Office of Detention and Removal Operations (ICE-DRO).

Suggested plan of action:

- Meet with the ICE field director and ICE-DRO staff to obtain details of the arrest or raid
- Request that ICE not transfer individuals to another facility. If you believe that ICE plans a transfer, consider contacting attorneys and civil rights groups to file a lawsuit to stop the transfer
- Raise specific medical and humanitarian concerns as well as any concerns regarding the possible abuse of detained persons with the field director and the officer-in-charge (deportation officer in jail), if such a person is involved. Specifically mention:
 - ✓ Those detainees who require regular or prompt medication or who have specific medical conditions, such as diabetes, heart condition or pregnancy;
 - ✓ Individuals who present good cases for release, such as individuals with young children, elderly parents or disabled family members; and
 - ✓ Inform them if you know or believe that civil rights violations were committed during the arrest including any concerns that the arrest was based purely on racial profiling.
- If you feel some cases are particularly compelling, ask the field director to use prosecutorial discretion and cancel removal proceedings. Prosecutorial discretion is a way of asking immigration to not enforce the immigration laws against an individual. To obtain prosecutorial discretion, you will likely need to involve local elected officials and other community members. This is a long-term campaign. To develop a prosecutorial discretion campaign, consult the Families for Freedom “ARM” toolkit, which can be found at <http://www.familiesforfreedom.org/downloads/CaseCampaign.pdf>

Every person has a specific deportation officer in charge of his or her case. Cases are assigned by nationality or by last name. Obtain the name of the officer as well as the officer’s direct telephone line! Ask the officer what his or her office hours are, as well as the best times call.

The detention facility’s staff may attempt to bar a detainee’s access to lawyers or legal advocates. If the facility is not run by ICE, ask the field director or deportation officer help facilitate access. Be persistent.

- Ask the ICE officer-in-charge (OIC) of the facility to call the jail if the staff does not allow you access to the detainee.
- If the ICE field director does not assist you in obtaining access to the detainee, consider calling Public Affairs at ICE Headquarters at (202) 514-2648 for help to enter a facility.

APPENDIX

GETTING CRIMINAL RECORDS HISTORY – SOUTHEAST REGION

Usually, you can get your history from the offices of the arresting agency (police station or sheriffs' department) or the County Clerk's office in the county in which you were convicted or from your former criminal defense attorney.

Georgia:

Georgia criminal history records can be obtained from local Sheriffs' or Police Departments. You can get a record for someone else in Georgia for \$20.00 if you know his or her date of birth (DOB), place of birth (POB), full legal name, and sex. If the person was convicted of a felony, you will need his or her consent to obtain these records. Phone number: (404) 244-2639. <http://www.ganet.org/gbi/crimhist.html>

Louisiana:

An individual's criminal history is not available to the general public. An individual can review his or her criminal records, but must pay a \$10 copying fee and appear in person at the relevant parish (county) police department. There is no way for a detained person to obtain his or her criminal records. For more information, call (225) 925 – 6095. <http://www.prodapp.doa.louisiana.gov/services/user/ServiceDetail.cfm?serviceID=1067>

North Carolina:

North Carolina provides a finger-print-based criminal history background check for a processing fee of \$14. In North Carolina, this is commonly called a "right to review" check. Tel: (919) 662-4500, ext. 6336 or ext. 6359. <http://www.nccrimecontrol.org> (Click on CITIZENS and then Background Checks)

Alabama:

An individual's criminal history is available to the general public. Simply complete the necessary form and send it along with \$25. See the following website for more information and to download the necessary forms. <http://www.dps.state.al.us/public/abi/forms/ABI-46.pdf>

Tennessee:

An individual's criminal history is available to the general public. Follow the directions on the following website: <http://www.tbi.state.tn.us/Info%20Systems%20Div/TORIS/toris.htm>

Kentucky:

An individual's criminal history is available to the general public for a \$10.00 fee. Visit <http://courts.ky.gov/aoc/pretrial/records.htm#forms> for more information.

DEPORTATION OFFICE CONTACT NUMBERS

If Detained or Arrested in:

Georgia, North Carolina, South Carolina
Alabama, Louisiana, Mississippi, Tennessee
Kentucky or Missouri
Florida

Call ICE Office:

Atlanta ICE-DRO (404) 331-2765
New Orleans ICE (504) 599-7947
Chicago ICE-DRO (312) 347-2400
Miami ICE-DRO (305) 762-3622

CONSULATE CONTACT NUMBERS FOR THE SOUTHEAST

Atlanta is host to consular offices and trade and investment agencies for 54 governments from throughout the world. If the country you are looking for is not list below, please visit www.buyusa.gov for a complete listing.

Argentina
(404) 880-0805

Colombia
(770) 668-0552

Germany
(404) 659-4760

Korea
(404) 522-1611

Bolivia
(404) 522-0777

Costa Rica
(770) 951-7025

Guatemala
(404) 255-7019

Mexico
(404) 266-2233

Chile
(404) 355-7923

Ecuador
(404) 252-2211

Honduras
(770) 645-8881

Nicaragua
(770) 319-1673

EMERGENCY CONTACTS & PHONE NUMBERS

Important/Family Contacts in the US

Name:
Home Phone:
Work Phone:
Relationship:

Name:
Home Phone:
Work Phone:
Relationship:

Name:
Home Phone:
Work Phone:
Relationship:

Important/Family Contacts Outside of the US

Name:
Home Phone:
Work Phone:
Relationship:

Name:
Home Phone:
Work Phone:
Relationship: