IMMIGRATION 101: A TRAINING FOR SOCIAL SERVICE PROVIDERS

Welcome !!!

- Northwest Immigrant Rights Project
- Jorge L. Barón, Executive Director
- Gina Cole, Legal Advocate, Tacoma Office
- Victoria Bartow, Staff Attorney, Tacoma Office
- Michelle Muri, Development Director
- Kori Jock, Development Associate
Northwest Immigrant Rights Project

- Only organization providing comprehensive immigration legal services for low-income people in Washington State
- Focus primarily on direct legal services
- Also engage in: impact litigation, community education, advocacy
- Four offices: Seattle, Granger, Moses Lake, Tacoma (Tacoma only serves NW Detention Center)

Today’s Training: What We Will Cover

- Basic Overview of Immigration System
- Removal (Deportation) Proceedings and Detention
- Protections for Vulnerable Populations
  - *** Break ***
- Issues Faced by Providers Working with Immigrants
- General Issues Faced by Immigrant Community
  - Q&A at the end (please hold your questions)
- What we won’t cover: how to be an immigration lawyer
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
- INS no longer with us !!!
Citizens and Non-Citizens

- U.S. Citizens (USC): Born, Naturalized, Acquired/Derived
- Non-Citizens: Three General Categories:
  - Lawful Permanent Residents (LPR) = Green Card Holders
    - Asylees / Refugees
  - Temporary Legal Status: Students, Temporary Workers, Visitors/Tourists, TPS, U visas
  - Undocumented: Visa Overstays/Entered w/o permission
- Why “Undocumented Immigrant”?

How to Get a Green Card (LPR)?

- Through a Family Member (around 65%)
- Through Employment Visa (around 15%)
- Asylum / Refugee Status (13%)
- Others:
  - Diversity Visa “Lottery” (around 4%)
  - Specific Protections
- But Note: One Can “Petition” But Doesn’t Mean Petition Will Be Granted
Green Card (LPR) through Family Member

- **“Immediate” Category:**
  - USC Spouse → Non-Citizen Spouse
  - USC Parent → Non-Citizen Minor Child
  - USC Son or Daughter (>21) → Non-Citizen Parent

- **“Waitlist” Categories (Preferences):**
  - Spouse, unmarried children of Green-Card holders
  - Adult Children, Married Children, Siblings of USCs

- **Note:** No Same-Sex Partners; No Uncles/Aunts, Grandparents

How Long is the Waitlist?

- **Now (Sept 2011) Processing Petitions For:**
  - Spouse of LPR from Mexico Filed in Sept 2008
  - Unmarried Son of USC From Philippines Filed Nov ‘96
  - Married Daughter of USC from Mexico Filed Nov ‘92
  - Sister of USC from Philippines Filed July ‘88 (yes 1988)

- **Process:**
  - File Petition (I-130)
  - Wait Until It is “Current”
  - **But Note:** If family member petitioned for is already in the U.S. – may not be able to get status anyway
Petitioners and Sponsors

- Family-Based Applications Require a “Sponsor” in order for non-citizen to qualify for green card.
- Sponsor is generally the petitioner (but there can be joint sponsor)
- Generally must show that sponsor can support his/her family AND the intending immigrant at or above 125% of Federal Poverty Level
- Legally Enforceable; Sponsor’s Income Counts When Seeking Benefits

Green Cards Through Employment

- In practical terms, available only to holders of advanced degrees, certain professionals, persons of extraordinary ability, investors:
  - Most require employer to obtain “labor certification” showing no minimally qualified US workers available
- “Other workers” (low-skilled workers):
  - Limited to 5,000 per year: waitlist is August 2005
**Adjustment of Status**

- **Key Point:** If individual is in the U.S., he/she must be eligible to “adjust status” to Lawful Permanent Resident (LPR);
- People who crossed the border without permission generally cannot adjust status via family or work;
  - Exceptions: petition filed prior to 4/30/2001, others
- If person entered on a visa (with permission), then may be eligible if “immediate relative”
- If not eligible, can leave U.S., BUT may be barred from returning . . .

**Asylum / Refugee Status**

- **Refugees:** Obtain “refugee” status outside U.S.
- **Asylee:** Obtain “asylum” inside the U.S.
- After one year in the U.S. can apply for green card
- Both refugees and asylees must show “well-founded fear” of persecution in home country AND that persecution will be because of their:
  - Race, Religion, Nationality, Political Opinion, Membership in Particular Social Group
- **Note:** General Strife / Economics Not Sufficient
Green Card to Citizenship

- Legal Permanent Residents (LPRs) eligible to “naturalize” (become U.S. citizens):
  - Generally after 5 years of being LPR;
  - If married to US Citizen, after 3 years;
- Must meet other requirements;
- **Warning**: If applicant has criminal convictions, naturalization process can be dangerous and could lead to deportation;
- Note: LPRs do NOT have to become citizens

Employment Authorization

- Green-Card Holders authorized to work (green card is enough)
- Other legal status (asylee, U visa, H-1B, etc…) generally require 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
- If no legal status and no application pending, then usually no EAD.
Can Undocumented Get Status?

- A: Some yes, most no
- In order to get status, you must both:
  - 1) Fit one of the criteria (family, employment, asylum/refugee, etc…); AND
  - 2) Qualify to be able to get the status in the U.S.
- The vast majority of those who entered without permission do not meet the second requirement
  - We will talk about special protections in a few minutes

What About “Getting Back in Line”?

- For most undocumented individuals, leaving the U.S. will make it difficult, if not impossible, to legalize their status:
  - If out of status for more than one year in the U.S., and then leave: 10-year bar
  - If return without permission: permanent bar
  - Waivers are available but difficult to get
- Legalizing status used to be much easier: no bars, suspension of deportation, etc…
Your questions:

- Q. Do you recommend that people apply even if they are not sure they are eligible?
- Q. If you apply for status and they deny you, are they going to deport you?
- A. NO and PROBABLY. Applying for immigration status when you are not eligible will in most cases lead to deportation (removal) proceedings and possible detention by immigration authorities.

Your question:

- Q. Why do some people have to go back to Mexico to wait to get their papers?
- A. Because they were not eligible to obtain immigration status while present in the U.S. (even if someone could petition for them). They will most likely be subject to the bar and either have to wait to seek a waiver or for the time to pass (could be 10 years...).
Scenario 1

- Maria is a US citizen and recently married Juan; Juan is undocumented and entered by crossing the border from Mexico without permission:
  - Q. Can Maria file an immigration petition for Juan?
  - Q. Can Juan get a green card in the U.S.?

More Scenarios

- Same scenario: Maria is US Citizen, Juan is undocumented, but Juan entered the U.S. on a student visa:
  - Can Juan “adjust status” and get the green card here?
- What if Maria is not a U.S. Citizen but a Permanent Resident (Green Card Holder)?
  - Can she file an immigration petition for Juan?
  - Can Juan adjust status if the petition is approved?
Removal (Deportation) Proceedings

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

- Two questions:
  - Is the individual deportable?
  - If so, does he or she have a defense to deportation?
    - Asylum, cancellation, etc...

- Who is deportable?
  - Individuals with no status or expired status;
  - Green card holders (LPRs), primarily b/c of criminal conviction
How Do People End Up in Removal?

- Interaction with Criminal Justice System:
  - ICE places detainer while in state/county/municipal jail or prison → transferred to ICE
- Filing an application that is denied:
  - USCIS refers the case to ICE
- Other interactions with ICE and Border Patrol:
  - Stopped at the border, checkpoints, etc...

Your question:

- Q. What resources are available for people who have immigration detainer (hold) in jail?
  - A. Can hire private immigration attorney; NWIRP not in a position to intervene at this point.
- Note: Important for individuals to consult with defense attorney (public defender) about immigration consequences of criminal case
Detained vs. Non-Detained

- People in removal proceedings may be detained or not detained: default now is to detain
- Local Immigration Court – Removal Cases Initiated:
  - FY 2003:
    - Detained: 2,021
    - Non-Detained: 1,679
  - FY 2009:
    - Detained: 9,760
    - Non-Detained: 3,658

Your Question:

- Q. What happens to the children of detained parents?
- A. Good question. Depends on the circumstances:
  - Left to be cared for by others
  - Possible CPS involvement
  - Service providers can encourage parents to create a plan for children in case parents are detained
Immigration Court

- Two courts in our region:
  - Seattle: For non-detained cases;
  - Tacoma: Detained cases at NW Detention Center

- Important: There is NO right to an appointed attorney in immigration court if the person cannot afford private attorney.

- Many people are forced to represent themselves:
  - Approximately 35% of removal cases in Seattle and 90% of those completed in Tacoma were unrepresented!!!

List of Free Legal Services Providers

The following organizations and attorneys provide free legal services and/or referrals for such services to indigent individuals in immigration removal proceedings, pursuant to 8 CFR §1003.61. Some of these organizations may also charge a nominal fee for legal services to certain low income individuals.

**SEATTLE, WASHINGTON**

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<tr>
<th>NORTHWEST IMMIGRANT RIGHTS PROJECT - SEATTLE OFFICE</th>
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<tbody>
<tr>
<td>815 Second Ave., Ste. 400</td>
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<tr>
<td>Seattle, WA 98104</td>
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<tr>
<td>(206) 387-4025, Fax</td>
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<tr>
<td>(800) 445-5771 (Toll Free)</td>
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<td>(877) 844-6444 (Toll Free)</td>
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<tr>
<th>NORTHWEST IMMIGRANT RIGHTS PROJECT - GRANGER OFFICE</th>
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<tr>
<td>121 Ninth Ave., Ste. 370</td>
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<tr>
<td>P.O. Box 270, Granger, WA 98392</td>
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<tr>
<td>(509) 554-0001, Fax</td>
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<td>(800) 756-3845, Toll Free</td>
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Operating Hours: Monday through Friday 9 a.m - 5 p.m. (Closed 12 noon - 1 p.m.)
- Will represent aliens in asylum cases
Northwest Detention Center

- Operated by The Geo Group (private contractor)
- Location
  - Port of Tacoma
- Size
  - In late 2009, expanded from 1000 to 1575 beds, though current average population is 1300-1400
- Government agencies on site
  - EOIR (Tacoma Immigration Court)
  - ICE (incl. Deportation Officers and ICE Trial Attorneys)

Detainee Population

- Approximately 88% male, 66% from Mexico
  - One female unit
- Security classifications
  - Blue, Orange, Red
  - Determination of classification
- Administrative and disciplinary segregation
  - Limited phone use
  - Even more hindered access to legal assistance
- Mentally disabled detainees
Detainee Life

- Employment: detainees can work for $1.00 a day
- Medical: sick call every morning, currently no physician on site, care is limited to what is necessary to facilitate deportation
- Recreation: small rec. yard in each unit, book carts, television, games, limited access to law library
- Visitation: Thurs-Mon
- Other: notary, religious services
- Marriage possible

IMMIGRATION PROTECTIONS FOR VULNERABLE POPULATIONS
**Immigration Protections**

- The following is an overview: important for individuals to get individualized advice about their situation
- **Red Flags:**
  - Prior Contact With Immigration Authorities
  - Prior Deportation / Removal Orders
  - Criminal History

**Violence Against Women Act (VAWA)**

- Protection for Spouses and Children of Abusive U.S. Citizens and Lawful Permanent Residents (Green Card Holders)
- Must be married or divorced within past two years
- Abuser must be USC or LPR
- Does not require police to have been called
- If approved, can obtain green card status
U Visas

- Protection for victims of certain crimes, including domestic violence and sexual assault
- Must have:
  - Suffered substantial physical or mental abuse
  - Been helpful or be willing to be helpful in investigation or prosecution of the crime
  - Occurred in the US (or violated US law)
- No relationship with perpetrator necessary
- Law Enforcement/Prosecutor/Judge/CPS Must Sign Certification of Helpfulness

Your Question:

- Q. If an immigrant DV survivor were to divorce the principal applicant, what protection of status would she and her children have?
- A. If the principal applicant was not US citizen or green-card holder, immigrant survivor not eligible for VAWA, but may be eligible for U visa if she cooperated with law enforcement; children under 21 could qualify as derivatives.
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.

Temporary Protected Status (TPS)

- Temporary Status for Citizens of Certain Countries who have been present since a specific time AND registered for TPS (or can sometimes file late);
- El Salvador (3/2001); Honduras (1/1999); Nicaragua (1/1999); Somalia (9/2001); Sudan (10/2004)
- Haiti: TPS designated Jan. 21, 2010
  - Individuals who have been here since 1/12/11 can apply;
- Liberia (Deferred Enforced Departure)
Special Immigrant Juvenile Status (SIJS)

- Protection available to youth if:
  - Juvenile court declares youth to be court dependent or legally commits child to state department or agency;
  - Youth cannot be reunified with one or both parents because of abuse, neglect or abandonment;
  - Juvenile court finds it is not in the youth’s best interest to return to his/her home country; and
  - Youth is under 21 and unmarried (but in WA, youth must be under 18)

T Visa – Victims of Trafficking

- Protection for individuals who have been the victims of human trafficking and cooperate with law enforcement;
- Trafficking:
  - Sex trafficking in which commercial sex act is induced by force, fraud or coercion, or person is under 18; OR
  - Recruitment, harboring, transportation of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery.
CHALLENGES FOR THOSE WORKING WITH THE IMMIGRANT COMMUNITY

Will I Get in Trouble?

- Providing social services to immigrants (even undocumented immigrants) is in itself not against the law.

- Of course, restrictions by programs or agencies may mean you are not allowed to serve immigrants or provide immigrants with certain benefits.
Barriers for Immigrant Community

- Fear of Government / Nonprofits
- Fear of Immigration Enforcement:
  - Will I be turned over to ICE?
- Cultural barriers
- Language barriers
- Lack of Awareness / Misconceptions

Breaking down barriers

- Enact / Support Policies Around NOT Inquiring about Immigration Status:
  - And make sure community is aware of the policy
- Outreach:
  - Connect with specific groups you are serving
- Hire Multi-Lingual, Multi-Cultural Staff
CHALLENGES FACING THE IMMIGRANT COMMUNITY

Michelle Muri / Victoria Bartow / Jorge L. Barón

Resources

- Less than 8% of foundation funding in the US is allocated to communities of color

- Only 1% of foundation funding is allocated to immigrant and refugee communities
Resources

- NWIRP’s work is made possible by:
  - Donations from Individuals
  - Fundraising Events and Community and Corporate Sponsorship
  - Foundation Grants
  - Government Contracts
  - Volunteer Power

- Need exceeds resources

Need and NWIRP’s Impact

- Only comprehensive provider in WA State
- 1,500 calls for assistance each week
- 10,000 individuals and families receive legal assistance each year
- 150+ individuals on our survivor waitlist alone
Rights of Immigrants

- Immigrants (whatever the immigration status) DO have rights:
  - Right to remain silent
  - Right to be safe in their homes
  - Right to labor protections, and many others
- Problem: Lack tools/help to enforce these rights; intimidation

Your Question:

- Q. Can ICE officers enter schools and arrest any “undocumented” student for no apparent reason?
  - A. Generally no: ICE has policy against entering churches and schools except in exigent circumstances, and most likely would be targeting specific individual . . .
Q. What recourse do people have when they are racially profiled and then asked for papers?

A. DON'T ANSWER QUESTIONS about immigration status or place of birth:
- Do NOT answer the question “Do you have papers?”
- Racial profiling can be challenged in court, but it’s not easy.

Scenario

- Jorge is a local police officer, who pulls over Victoria:
Public Benefits for Immigrants

- Rules are very complicated; each program is different; depends on different immigration status;
- Resource: www.washingtonlawhelp.org
  - Go to: Government Benefits
  - Government Benefits for Immigrants and Refugees
- Health Care: Community Clinics / Private Insurance
- Education:
  - K-12: Everyone Entitled to Basic Education
  - Higher Education: In-State Tuition (HB 1079), but limits on financial aid (some private scholarships available)

Your Question:

- Q. If immigrants accept benefits, can that impact their status?
- A. Generally, this is only a problem if:
  - They provide false information in application; or
  - If they accept cash benefits and are pursuing a green card (may be considered a “public charge”);
- But note: US citizen children CAN accept benefits without harm to non-citizen parents; and
- DV survivors can sometimes get cash w/out problem
Immigration Law – Will it change?

- Important: Law does NOT change until it changes.
- Comprehensive Immigration Reform: 2006, 2007...
- Administration Announcement Regarding Prosecutorial Discretion:
  - Applies only to those already in deportation (removal) proceedings;
  - Unclear how many people might benefit;
  - Process has NOT started yet;
  - People should NOT try to turn themselves in;

Dream Act

- Proposed Legislation Covering:
  - Individuals who came at early age (15 or younger) and met other requirements;
- Introduced since 2001, passed House in 2010 but failed in the Senate;
- Therefore, under current law:
  - Many “Dreamers” not eligible to legalize status
- If “Dreamer” in deportation process, may be able to pursue prosecutorial discretion
Q. How can I help my students get documented or to start the documentation process to help reduce their risks?

A. Tell them to get good advice, educate themselves about their options, stay in school, don’t get in trouble.

You can advocate to get the law changed.

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…
Northwest Immigrant Rights Project

- Only provider of comprehensive immigration legal services to low-income individuals;
- What do we help with?
  - Asylum applications
  - Citizenship applications
  - Removal Proceedings
  - Family-based visas
  - VAWA, U visas, SIJS, T visas
  - General Advice / Brief Services
- NWIRP ensures confidentiality

NWIRP Intake Process

- Western Washington:
  - Call 206-587-4009 or 800-445-5771
  - If possible, specify issue: asylum, naturalization, domestic violence, removal, detention, family visa;
  - If general intake (does not specify issue): may take several months for follow up call unless urgent situation;
- Eastern Washington:
  - 509-854-2100 or 888-756-3641
NWIRP Levels of Services

- Advice and Counsel:
  - General Information About Options
- Brief Services
  - Pro se assistance
- Direct Representation
  - Capacity depends on type of case
  - Some areas will have waitlist
  - In others, we will not have capacity to provide services

Psychological Evaluation

A forensic psychological evaluation is requested by an attorney to support a particular form of legal relief (such as asylum, or citizenship waivers).

- Prepared by a licensed clinical psychologist or a psychologist under their training
- A forensic psychologist may testify in court, reformulating psychological findings to legal personnel in a way that they can be understood.
Your Question:

- Q. Where can someone go for help if someone is arrested by ICE?
- A. Ideally, hire private attorney to ensure representation in court; if not possible and individual in NW Detention Center, call NWIRP’s Tacoma office: 253-383-0519 and leave message with full name and A# (if known) of detainee:
  - Note: Tacoma office can provide legal orientation to detainee but can only provide representation in very limited number of cases

What can you do to help?

- Share the Information:
  - Dispel myths about immigrants and refugees
  - Dispel myths about immigration system, ex: “getting in line”

- Advocate and Organize for change
What can you do to help?

☐ Contact Your Representatives
  - If you think the system needs to change, YOU need to let them know
  - Testify: city, county, state government
  - Individual cases that are compelling
  - Call, mail, email

What can you do to help?

☐ Support NWIRP and others working on this issue

☐ Think about NWIRP as a partner
  - Should we be referring to your organization?
  - Are there communities we aren’t connecting with?
  - Ideas?
  - Funding/partnership leads?

☐ Contact development@nwirp.org
What can you do to help?

- Attend a NWIRP event:
  - NWIRP Presents:
    - An Evening at WING LUKE
    - THURSDAY, OCTOBER 20, 2011
    - 5:30pm-7:30pm: Enjoy appetizers, drinks, and the museum’s exhibits
    - 6:30pm: Brief program and award presentation
    - Invitation to follow

Q & A

- www.nwirp.org
- Please complete your electronic evaluations