Immigration 101 for Social Service Providers
Northwest Immigrant Rights Project

- Founded in 1984
- Largest organization focused exclusively on providing immigration legal services in the Western United States
- Focus primarily on direct legal services
- Also engage in: impact litigation, systemic advocacy, community education
- Four offices: Seattle, Granger, Wenatchee, Tacoma
Today’s Training: What we will cover

• Brief History of Immigration Policy
• Basic Concepts in Immigration Law
• Immigration Protections
• Removal (Deportation) Proceedings
• Developments Under Current Administration
• Frequently Asked Questions
• Q&A
Some History …
“A Nation of Immigrants …”
“… That any Alien being a free white person, who shall have resided within the limits and under the jurisdiction of the United States for the term of two years, may be admitted to become a citizen…”
“[T]he words ‘white person’ means a Caucasian ... [Ozawa] is clearly of a race which is not Caucasian.”

“Of course, there is not implied -- either in the legislation or in our interpretation of it -- any suggestion of individual unworthiness or racial inferiority. These considerations are in no manner involved.”
“The word ‘Caucasian’ not only was not employed in the law, but was probably wholly unfamiliar to the original framers of the statute in 1790.”

“It is a matter of familiar observation and knowledge that the physical group characteristics of the Hindus render them readily distinguishable from the various groups of persons in this country commonly recognized as white.”
History of Migration and Restriction

- Unrestricted Immigration (1492-1874)
- Exclusionary Laws (1875-1920)
  - Chinese Exclusion Act (1882)
- National Origins Quota System (1921-1964)
  - Japanese and Japanese-American Internment
- End of National Quotas & Refugee Resettlement (1965-1985)
- Linking of Immigration Control to National Security (2001-Present)
Basic Concepts
in Immigration Law
Terminology of Immigration Agencies

Department of Homeland Security (DHS)
- USCIS – Citizenship and Immigration Services
- ICE – Immigration and Customs Enforcement
- CBP – Customs and Border Protection

Department of Justice (DOJ)
- Executive Office for Immigration Review (EOIR)
  - Board of Immigration Appeals (BIA)
  - Immigration Court

Department of State
- U.S. Embassies and Consulates abroad
Citizens and Non-Citizens

- **U.S. Citizens (USC):**
  - Born in U.S., Naturalized, Acquired/Derived (even if born abroad)

- **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?
How to get a Green Card?

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

- Through a Family Member (around 65%)
- Through Employment Visa (around 14%)
- Asylum / Refugee Status (14%)
- Others
  - Diversity Visa Lottery
  - Humanitarian Protections
“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 Uncles/Aunts, Grandparents
- Same-Sex Marriages now recognized by immigration law – 2015 SCOTUS case (14th Amendment) declared DOMA unconstitutional
How Long is the Waitlist?

Now (October 2019) Processing Petitions For

- Spouse of LPR (F2A) from Mexico CURRENT
- Unmarried Son of USC from Philippines filed July 2008
- Married Daughter of USC from Mexico filed February 1996

Process

- File Petition (I-130)
- Wait Until It is “Current” - Visa Bulletin from State Department
- Person does not have status while they are on waitlist (even if petition has been “approved”)

“Adjustment of Status”

- Key Point: If individual is in the U.S., they 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;
  - Minor exceptions (VAWA, pre-April 2001 petition, TPS, parole)
- If person entered on a visa (with permission), may be eligible if “immediate relative”
- If not eligible for adjustment, will need to leave U.S. to complete process, BUT may be barred from returning
How to Get a Green Card (LPR)?

1. **Eligible for Petition?**
   - Yes → **Eligible to “adjust”?**
     - Yes → **Application / Interview in US**
     - No → **Waitlist?**
       - No → **Outside U.S.**
       - Yes → **Bars?**
         - Yes → **Waiver?**
         - No → **Process at US Consulate**
           - Yes → **Consulate Interview**
           - No → **Leave U.S.?**

2. **In the U.S.**
   - **Waitlist?**
     - No → **Eligible to “adjust”?**
       - Yes → **Application / Interview in US**
       - No → **Bars?**
         - Yes → **Waiver?**
         - No → **Process at US Consulate**
           - Yes → **Consulate Interview**
           - No → **Leave U.S.?**

3. **Green Card**
Asylum / Refugee Status

- **Refugees**: Obtain “refugee” status outside U.S.
  - Refugee “cap” in FY 2020: 18,000 (down from 85,000 in FY 2016)

- **Asylees**: 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**
- Asylees, refugees may petition for spouse/unmarried children
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 proceedings

Note: LPRs are not required to become citizens (but many benefits to citizenship)
What are NOT Ways to get Green Card?

The following, by themselves, are NOT sufficient reasons for someone to be eligible for green card:

- Having come to the U.S. at a young age
- Having lived in the U.S. for a long time
- Having U.S. citizen children under age 21
- Being a very good, committed worker
- Having a serious medical condition (or having a child with a serious medical condition)
Employment Authorization

- Legal Permanent Residents (LPRs) are authorized to work (green card is enough)
- Certain temporary status (asylee, TPS, U visa, DACA, etc…) generally come with a “work permit” card (“Employment Authorization Document” (EAD))
  - Valid for a certain period of time
- Sometimes can get EAD while application pending
- If you have EAD, can get Social Security Number
- If no legal status and no application pending, then usually no EAD.
Immigration Protections
Humanitarian Protections for Certain Populations

- **VAWA Self-Petitions:**
  - Protection for Spouses and Children of Abusive U.S. Citizens and Lawful Permanent Residents (Green Card Holders)

- **U visas:**
  - Victims of certain crimes who suffered substantial physical and/or mental harm and have or are willing to be helpful in investigation/prosecution

- **Special Immigrant Juvenile Status:**
  - For immigrant youth (up to age 21 but ideally under 18) who cannot be reunified with one or both of parents because of abuse, abandonment or neglect (state court process required)
Other Protections

- **T Visa – Victims of Trafficking:**
  - Protection for victims of human trafficking (sex or labor trafficking)
- **Temporary Protected Status (TPS):**
  - For citizens of certain countries who have been present since a specific time AND registered for TPS (or can sometimes file late);
  - El Salvador (2001); Haiti (2011); Honduras (1999); Nicaragua (1999); Somalia (2012); Sudan (2013); South Sudan (2011); Syria (2016); Nepal (2015); Yemen (2015).

Important: DHS has announced that TPS will end for countries listed in red in 2018-2020 (depending on country) but federal courts have put that on hold as of now (Oct. 2019).
Deferred Action for Childhood Arrivals (DACA) - Background

Program created by Obama Administration in 2012 to defer deportation and provide work permits to undocumented individuals who:

- Entered the U.S. before the age of 16
- Have lived in the U.S. since June 15, 2007
- Were born on or after June 16, 1981
- Were in school, completed H.S., obtained G.E.D.
- Did not have disqualifying criminal offenses
- Meet other requirements

- Received 2-year work permit, SSN; could be renewed
- NOT a law; executive action
Rescission of DACA – Sept. 2017

- Numbers (in March 2017)
  - National: 787,000+ DACA recipients
  - WA: 17,843 DACA recipients
- Sept. 5, 2017 Trump Admin announced it would phase out DACA
- Legal challenges followed, put rescission on hold. What it means:
  - If never had DACA: no new applications accepted;
  - People who have (or had DACA): can continue to apply for renewal of DACA status while legal cases continue
- Nov. 12, 2019: U.S. Supreme Court to take up DACA cases; decision expected spring 2020
Removal (Deportation) Proceedings
Removal (Deportation) Proceedings

- Process to determine if an individual should be deported from the United States;
- Two questions:
  - Is the individual subject to deportation?
  - If so, do they have a defense to deportation?
    - Asylum, cancellation of removal, family visa petition, etc…
- How do people end up in removal?
  - Arrested by local law enforcement for another reason
  - Identified by ICE / Border Patrol
  - Detained at the border when entering
- Note: Some people may not get hearing before immigration judge
Immigration Court

- Two courts in our region:
  - Seattle: 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 92% of those completed in Tacoma were unrepresented!!!

- Legal representation matters:
  - Those detained who have lawyer are 10 times more likely to win their case
  - For non-detained, it’s 5 times more likely
Northwest Detention Center

- Operated by The Geo Group (private contractor)
- Located in Port of Tacoma
- Size
  - In late 2009, expanded from 1,000 to 1,575 beds
- Why are people detained?
  - ICE most often has discretion on whether to detain (depends on funding)
  - Some may be released on bond (if they can pay it)
  - Some are subject to “mandatory detention”
- Current population includes:
  - Community members detained in Pacific NW region
  - Asylum seekers transferred from southern border
People Arriving at Southern Border

- **Single Adults / Families with children:**
  - If no visa and no credible fear if returned, quickly deported
  - Prior to summer 2019, if credible fear of return:
    - Adults detained; families generally released for cases;
    - Since summer 2019: many are being sent back to Mexico

- **Unaccompanied children:**
  - Under 18 and no parent/legal guardian available to care for;
  - Supposed to be detained by Border Patrol no longer than 72 hours;
  - Transferred to Office of Refugee Resettlement (ORR) locations
  - Most are placed with parent/family member already in U.S.
    - FY 2019 (Oct-Aug): 692 placed in WA; 312 in King Co.
Developments
Under current administration
Can Trump Administration Eliminate Protections?

- Most forms of protections are written in law, so President can’t change them: i.e. U visas, VAWA protections, SIJS
- However:
  - Refugee admission ceiling reduced to 18,000 in FY 2020, lowest since 1980
  - Administration implementing changes to make it more difficult to seek asylum
  - U.S. Attorney General’s authority is altering case law and demands of EOIR
  - Efforts to end TPS / DACA
  - Increased risk if applications are denied (i.e. placed in deportation proceedings)
  - Congress could modify some of these protections in future
DHS announced proposal in Sept. 2018 to make it more difficult for people to get “green card” status if they could be considered a “public charge” (esp. if they have accepted certain government benefits). Final rule published, was scheduled to go into effect on October 15, 2019 but currently blocked by injunction. Adds English ability, credit history, etc. to factors considered

State Department began implementing changes in Jan. 2018 that are making it more difficult for people who have to leave the U.S. to obtain a green card

Bottom line: important for people to get good legal advice about their individual situation but we are NOT recommending that people simply stop accessing benefits they are eligible for

www.protectingimmigrantfamilies.org
Travel Ban Executive Orders (aka “Muslim ban”)

  - Dec. 2017 – SCOTUS allowed 3rd version (Proclamation) to go into effect, pending challenges, effectively overturning earlier “bona fide” relationship test
  - SCOTUS decision in June 2018 – upheld Proclamation
  - Restricts entry by certain non-citizens from Chad, Iran, Libya, North Korea, Syria, Venezuela and Yemen
Changes to Immigration Enforcement

- Increased focus on anyone who interacts with criminal justice system
- Increased “fugitive operations teams” looking for those with prior deportation orders (and those encountered along the way)
- Increased enforcement near border (including northern counties and Olympic peninsula)
- Workplace raids
- Greater risk if one applies and is denied
- Eliminate use of favorable prosecutorial discretion
- Even more immigration detention
Frequently Asked Questions
What Can Undocumented People Do?

- Know your rights
- Create a family safety plan
- Keep informed of developments
- Beware of scams
- Consult with attorney or accredited rep to see if there are options to obtain status
- Save money (if possible)
- Collect/save documents that show residence in U.S.
What To Do If Detained By ICE?

- Do NOT sign documents without legal help
  - Could waive important rights
- Contact attorney/legal services organization as soon as possible
- Contact WAISN Hotline (1-844-RAID-REP)
- Some people may be eligible to ask for release on bond
- Implement safety plan
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 (can also email Tacoma@nwirp.org):

- **Note:** Tacoma office can provide legal orientation to person detained, but can only provide representation in very limited number of cases

A. Also recommend calling WA Immigrant Solidarity Network’s raid response hotline (1-844-RAID-REP) to report ICE raids/arrests
What can social service providers do?

- Learning (doing that today!)
- Be proactive in communicating to community members:
  - We don’t care about immigration status
  - We don’t / can’t share information
  - (If true)
- Have plans in place if ICE shows up (but this is rare)
  - Advisory on NWIRP website (Resources/Community Info)
- Be accessible:
  - Language / Culture
“Sanctuary” term generally refers to policies that prevent local jurisdiction (i.e. city) from using its own resources to help with immigration enforcement.

For instance, they may mean that local police won’t cooperate with ICE or won’t hold people in jail for ICE.

NWIRP supports these policies.

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

ICE currently has policy restricting enforcement in “sensitive locations” but unclear if this will continue.
Real ID and Census 2020

- **Real ID:**
  - As of Oct. 1, 2020: REAL ID (federal law) implemented
  - Primarily affects ID required for air travel and federal sites
  - Does NOT affect ability of undocumented people to get a license

- **Census 2020:**
  - NO Citizenship question on 2020 Census
  - But community concerns remain re: info sharing / census visits
  - Our message:
    - Concerns are understandable but there are strong legal protections and potential negative consequences
How to Get Good Legal Advice

- Private Attorneys:
  - Good Advice is Expensive, but research expertise
  - Cases Often Take a Long Time
  - Law is Bad: Attorneys are not Magicians
  - Important to Be Realistic About Chances
- Bad Attorneys / Consultants / Notarios:
  - Important to Get Things In Writing
  - If it sounds too good to be true…
  - Unauthorized Practice of Law: Big Problem
- BIA-Recognized Agencies
  - Accredited representatives: authorized to practice imm law
Legal Resources

- **Nonprofit Agencies:**
  - National Immigration Legal Services Directory:
    - www.immigrationadvocates.org/nonprofit/legaldirectory/
  - Executive Office for Immigration Review Roster of BIA-Recognized Agencies:
    - www.justice.gov/eoir/find-legal-representation

- **Private Immigration Attorneys:**
  - American Immigration Lawyers Association (AILA) Referral Service:
    - www.ailalawyer.com

- **Non-Immigration Legal Questions:**
  - www.washingtonlawhelp.org
**NWIRP Services**

- **Western Washington:**
  - Seattle (King Co. & north): 206-587-4009 or 800-445-5771
  - Tacoma (Pierce Co. & southwest): [Tacoma@nwirp.org](mailto:Tacoma@nwirp.org) /253-383-0519 or 877-814-6444 –for people who are detained
    - E-mail: [TSUintake@nwirp.org](mailto:TSUintake@nwirp.org) /206-816-3893 –for people not detained, living in the area

- **Eastern Washington:**
  - Wenatchee: 509-570-0054 or 866-271-2084
  - Granger: 509-854-2100 or 888-756-3641

- If possible, specify issue: asylum, naturalization, domestic violence, removal, detention, family visa;
- NWIRP protects confidentiality
Immigrant Rights are Human Rights

Northwest Immigrant Rights Project promotes justice through defending and advancing the rights of immigrants through direct legal services, systemic advocacy, and community education.

Important Information about the Deferred Action (DACA) Program

It Is More Important Than Ever to Stand Up for Immigrants
Resources:

- www.nwirp.org
- www.waimmigrantsolidaritynetwork.org
- www.protectingimmigrantfamilies.org
- www.washingtonlawhelp.org
Thank you!