

Northwest  
IMMIGRANT  
RIGHTS  
Project

# THE IMMIGRATION LANDSCAPE UNDER THE NEW ADMINISTRATION

# 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, systemic advocacy, community education
- Four offices: Seattle, Granger, Wenatchee, Tacoma

# Today's Training: Overview



- Quick Overview of Immigration System
- Removal Proceedings and Detention
- Changes under the new Administration
- Information for Community Members and Service Providers



# 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 !!!

# Types of Immigration Status

US Citizen	US National	LPR	Asylee
Refugee	AOS Applicant	Deferred Action	Approved I-360
ABC Class Member	A-1, A-2, A-3	B-1 Business	B-2 Tourist
Visa Waiver Program	C-1, 2, 3, 4 Transit	D-1,2 Crewmen	E-1,2 Treaty
F-1,2 Student	G-1-5 Int'l Org	H-1B Specialty	H-1C Nurses
H-2A Ag Worker	H-2B Temp Worker	H-3, 4	I - Media
J-1, 2 Exchange	K-1,2,3,4 Fiance(e)	L-1A,1B,2 Corp	M-1,2 Vocational
N-8,9 – Special Imm.	NATO – 1-7	O-1,2,3 Extraord.	P – 1-4 Athletes/Entr
Q-1,2,3 Exchange	R-1,2 Religious	S-5,6 Informant	T – 1-4 Trafficking
TN, TD – Trade	TWOV – Transit	U – 1-4 Victims	V – 1-3 LPR Family
Humanitarian Parole	TPS	Derivative	245(i)
I-730	NACARA	EWI	Conditional Resident
Approved I-130	DACA	Diversity Visa	Overstay
Sig Public Interest Parole	SIJS	Withholding	CAT

# 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?





# 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 15%)
  - ▣ Asylum / Refugee Status (13%)
  - ▣ Others (Humanitarian, Diversity Visa)

# 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 Uncles/Aunts, Grandparents**
  - ▣ **Same-Sex Marriages now recognized by immigration law**

# How Long is the Waitlist?

- Now (January 2017) Processing Petitions For:
  - Spouse of LPR from Mexico filed in March 2015
  - Unmarried Son of USC from Philippines filed Oct 2005
  - Married Daughter of USC from Mexico filed Dec 1994
  - Sister of USC from Philippines filed June 1993
- Process:
  - File Petition (I-130)
  - Wait Until It is “Current” - Visa Bulletin
  - Person does not have status while they are in waitlist (even if petition has been “approved”)

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

# 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**



# REMOVAL (DEPORTATION) PROCEEDINGS AND IMMIGRATION DETENTION

# Removal (Deportation) Proceedings

- Process to determine if an individual should be deported from the United States;
- Two questions:
  - ▣ Is the individual deportable?
  - ▣ If so, 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
- Note: Some people may not get hearing before imm judge

# How Do People End Up in Removal?

- Interaction with Criminal Justice System:
  - ICE detains an individual after he/she was in jail or contact with probation officer
- 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...
- Going forward, we might see other ways (more later)
- People in removal proceedings may be detained or not detained: default now is to detain



# 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 92% of those completed in Tacoma were unrepresented!





# Detention ends with...

- ❑ Removal (Deportation)
- ❑ Voluntary Departure
- ❑ Release on Bond
- ❑ Parole
- ❑ Grant of Protection:
  - ❑ Asylum
  - ❑ Cancellation of Removal
  - ❑ Adjustment of Status
  - ❑ U Visas
  - ❑ T Visas
  - ❑ Others...



# CHANGES TO POLICY UNDER NEW ADMINISTRATION

# What Might Change and When

- Quick Changes: Executive Actions:
  - ▣ i.e. DACA, Enforcement Priorities
  - ▣ Workplace Raids
- Not As Quick But No Congressional Action Required
  - ▣ Regulations: i.e. Provisional Waiver process
- May Take More Time: Congressional Action Required:
  - ▣ Budget: More Agents/Detention, More Immigration Courts
  - ▣ Changes to Immigration Law:
    - Mandatory E-Verify
    - Tougher penalties for immigration violation

# January 25, 2017 Executive Actions

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- President signed Executive Orders (EOs)
  - ▣ Enhancing Public Safety in the Interior of the United States
  - ▣ Border Security and Immigration Enforcement Improvements

# EO: Enhancing Safety in the Interior

- ❑ Broadened priorities of immigration enforcement (to basically anyone)
- ❑ Revives “Secure Communities” Program
- ❑ Calls for taking away some funding from “sanctuary jurisdictions”
- ❑ Calls for more immigration agents



# King County as a “Sanctuary”

- Two King County ordinances
  - ▣ 2009 ordinance prohibiting Sherriff's office and other county employees from inquiring about immigration status
  - ▣ 2014 ordinance prohibiting King County jail from honoring ICE detainers unless they are accompanied by a judicial warrant
- These ordinances do not apply to local law enforcement or employees within each city, except if the jurisdiction contracts with the Sherriff's office for law enforcement
- Two jurisdictions in KC adopted their own ordinances
  - ▣ Seattle
  - ▣ Burien

# EO: Border Security and Immigration Enforcement Improvements

- 01 /25/2017 – Policy (Section 2 of EO):
  - Building a wall on the U.S.-Mexico border
  - Detaining individuals apprehended on suspicion of violating immigration law
  - Expediting determinations of claims of eligibility
  - Promptly removing those whose claims are rejected
  - Cooperating with State and local law enforcement

# January 27, 2017 Executive Action

- “Travel Ban” Executive Order
- Signed Executive Order (EO)
  - “Protecting the Nation from Terrorist Attacks by Foreign Nationals”
- Suspension of Refugee Resettlement Program (120 days)
  - Indefinite suspension for Syria
- Temporary ban on travel from citizens of 7 countries (90 days)
  - Countries: Iraq, Iran, Syria, Sudan, Yemen, Libya, Somalia

# EO: Travel Ban

- Action after EO was signed
  - ▣ Writ of Habeas Corpus –challenging legality of detention
  - ▣ National Stay of Removal (Eastern District of New York)
  - ▣ Temporary Restraining Order (Western District of Washington): Nationwide order to stop enforcing executive order, 2/3
  - ▣ 3 judge panel at 9<sup>th</sup> Circuit refuses to stay TRO (ban is still paused) 2/9
- Next steps

# Possible Add'l Executive Orders

- “Protecting American Jobs and Workers by Strengthening the Integrity of Foreign Worker Visa Programs”
  - ▣ Terminating Parole Programs
  - ▣ Expanding E-verify
- “Protecting Tax Payer Resources by Ensuring Our Immigration Laws Promote Accountability and Responsibility”
  - ▣ New standard for public charge ground of inadmissibility
  - ▣ Seek reimbursement from financial sponsors

# Expected Executive Orders

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- “Ending Unconstitutional, Executive Amnesties”
  - ▣ Ending DACA
  - ▣ Rescinding DAPA

# 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

# Consideration for Deferred Action for Childhood Arrivals (DACA)

- DACA eligibility
- Benefits of DACA
  - ▣ Protection from Deportation
  - ▣ Work Authorization
  - ▣ Advance Parole
- DACA in 2017
  - ▣ Uncertainty, proposed Executive Order to end DACA
  - ▣ Economic cost of ending DACA



# Likely Changes to Immigration Enforcement

- Increased focus on anyone who interacts with criminal justice system
- Increased enforcement near border (including northern counties and Olympic peninsula)
- Increased “fugitive operations teams” looking for those with prior deportation orders
- Workplace raids
- Eliminate use of prosecutorial discretion
- Even more immigration detention

# INFORMATION FOR COMMUNITY MEMBERS AND SERVICE PROVIDERS

# What Can Undocumented People Do?

- ❑ Know your rights (more to come)
- ❑ Create a family safety plan (more to come)
- ❑ 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

# Know Your Rights

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

# Family Safety Plan

- ❑ Important: Detention may not happen to most families but important to be prepared
- ❑ Care of children if parent(s) detained:
  - ❑ Who is authorized to pick up child from school?
  - ❑ Powers of attorney/medical authorizations
  - ❑ Documents for children (i.e. passport if US citizen)
- ❑ Template at: [www.nwirp.org/resources/know-your-rights/](http://www.nwirp.org/resources/know-your-rights/)
- ❑ Contingency planning for property (i.e. car, home, business, other assets)

# What To Do If Detained by ICE?

- ❑ Do NOT sign documents without legal help
  - ❑ Could waive important rights
- ❑ Contact attorney/legal services organization as soon as possible
- ❑ Some people may be eligible to ask for release on bond
- ❑ Implement safety plan

# Hate Crimes / Bullying

- In current climate, already seeing increase in hate crimes, harassment and bullying
- If incident rises to level of crime, contact police
  - If serious enough, undocumented victim may qualify for U visa
- Bullying / harassment resources:
  - We do encourage reporting
  - Schools: local school, ACLU-WA collecting reports
  - Against Muslim community members: CAIR-WA
  - Discrimination: federal, state, local agencies

# What is a hate crime and hate speech?

- Hate Crime (according to the FBI)
  - “criminal offense against a person or property motivated in whole or in part by an offender’s bias against a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity”
- Hate Speech (according to the Am. Bar Assoc.)
  - “Speech that offends, threatens, or insults groups based on race, color, religion, national origin, sexual orientation, disability, or other traits.”



# Breaking Down Barriers

- Enact / Support Policies Around NOT Inquiring about Immigration Status:
  - And make sure community is aware of the policy
- Don't Make Assumptions (either way)
- Outreach:
  - Connect with specific groups you are serving
- Hire Multi-Lingual, Multi-Cultural Staff

# Myths About Immigration

- “Immigrants lead to higher crime rates!”
  - ▣ False, evidence supports the opposite (lower)
- “Immigrants don’t pay taxes!”
  - ▣ False: in 2010 alone, \$13 billion in payroll taxes, \$10.6 billion in state/local taxes at national level;
  - ▣ In WA, estimated \$302 million/yr in state/local taxes
- “They should just get in the back of the line.”
  - ▣ There is no line
  - ▣ May 22, 1993

# Northwest Immigrant Rights Project

- What do we help with?
  - Asylum applications
  - Citizenship applications
  - Removal Proceedings
  - Family-based visas
  - VAWA, U visas, SIJS, T visas
  - DACA Legal Clinics
  - General Advice / Brief Services

# NWIRP Intake Process

- Western Washington:
  - Call 206-587-4009 or 800-445-5771
- 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;
- Please let clients know that they must leave a message with their name and phone number, and that we cannot take every case;
- NWIRP protects confidentiality

# What can you do to help?

- Share the Information:
  - ▣ Dispel myths about immigrants and refugees
  - ▣ Dispel myths about immigration system, ex: “getting in line”
  - ▣ Share resources with community members
- Help community members be prepared
- Contact federal, state, local representatives

# What can you do to help?

- Support organizations like 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](mailto:development@nwirp.org)