

# Preparing for Changes in U.S. Immigration Law & Policy

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# Disclaimer

- ▶ This presentation is not legal advice.
- ▶ This presentation is for informational and educational purposes only.
- ▶ If you have a question, you should contact an attorney for advice.

# Hiscock Legal Aid Society

- Non-profit legal service provider
- Free legal services:
  - Naturalization/citizenship
  - Adjustment of status
  - Special Immigrant Juvenile Status
  - VAWA, T, or U visa
  - Asylum
  - Deportation/removal defense
  - Work authorization
- Free interpreters
- Areas served:
  - Mohawk Valley
  - Central New York
  - North Country



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# Preparing for Changes in U.S. Immigration Law & Policy



## How to Prepare for Possible Changes to U.S. Immigration Law and Policy?

- Know your rights
- Create an emergency/safety plan
- What to do in the event of an encounter with the Department of Homeland Security (“DHS”)



## Know Your Rights

**EVERYONE** in the United States has  
guaranteed rights under the Constitution,  
regardless of immigration status!



## Know Your Rights

- Right to remain silent
- Right to an attorney
- Right against unreasonable searches and seizures
- Right to due process



# Right to Remain Silent

- ▶ Applies when questioned or arrested by immigration officers, police, or other officials
- ▶ Anything you tell an officer can later be used against you in immigration court





# Right to an Attorney

- ▶ If arrested by the police, you have the right to a government-appointed lawyer.
- ▶ If arrested or detained by ICE, you have the right to a lawyer, but not at the government's expense.
- ▶ If put into removal proceedings, you have the right to a lawyer, but one will not be appointed to you.
- ▶ Ask ICE/EOIR for list of free or low-cost legal service providers.



## Right Against Unreasonable Search & Seizure

- Do not have to let law enforcement into your home unless it is the police and they have a warrant signed by a judge.
- ICE warrants of removal (Form I-205) do NOT allow officers to enter a home without consent.
- Remember that you have the right to remain silent, even if the police have a warrant.

# Right to Due Process

- Due process = fair procedures
- Everyone in immigration court is entitled to a full and fair hearing before removal from the U.S.
- Rights include:
  - The right to be informed of the charges;
  - The right to an attorney (not appointed or free); and
  - The right to present evidence in one's defense.





## Create an Emergency / Safety Plan

Things that everyone can do now to prepare for the worst case scenario.

Remember, we do not know what is going to happen under new administration.





## Who is at risk?

- Immigrants with criminal convictions and/or orders of removal
- No status
- TPS and parole

# How to Prepare Creating an Emergency/Safety Plan

- Always carry evidence of status, if available
- Organize important documents
- Designate an emergency contact
- Prepare for immigration bond
- Choose caretaker for children

# What documents to carry everyday?

- If over 18 and you have status in the U.S., carry with you at all times:
  - Passport
  - Green card
  - EAD
  - I-94
  - Other evidence of status





## Documents to organize and keep in a safe place

- Passports for all family members
- Birth certificates
- Marriage certificate
- Medical records
- Proof of physical presence in the U.S.
- School records
- Emergency contact list
- Guardianship /designation of person in parental relationship



# Designate an Emergency Contact

- ▶ If possible, someone with lawful status in the U.S.
- ▶ Memorize phone #
- ▶ Inform them where you keep important documents



# Prepare for Immigration Bond

- ▶ Immigration bond: amount of money set by the government that if paid will allow a person to be released from detention while immigration court case is pending.
- ▶ May want to start saving ahead of time.
- ▶ Not everyone is eligible for bond.
- ▶ Ask ICE deportation officer and the Immigration Judge if you are eligible for a bond.
- ▶ Factors considered determining bond:
  - ▶ Criminal history
  - ▶ Length of time in the U.S.
  - ▶ Eligibility for immigration relief
  - ▶ Family and community ties
  - ▶ Good moral character





# Choose Caretaker for Children

- ▶ In New York State, there are several options to legally designate who you want to care for your children if you are detained. The two (2) most common are:
  - ▶ Designation of Person in Parental Relationship
  - ▶ Standby Guardianship



## Designation of Person in Parental Relationship

- Form OCFS-4940, available online:  
<https://ocfs.ny.gov/forms/?find=4940>
- Benefits:
  - Simple process of signing in front of two (2) witnesses, no need to go to court
- Drawbacks:
  - Temporary (12mos); limited authority; no public assistance

# Standby Guardianship

- <https://www.nycourts.gov/courthelp/guardianship/standbyguardian.shtml>
- <https://www.nycourts.gov/LegacyPDFS/FORMS/surrogates/pdfs/FillableSG-10.pdf>
- Benefits:
  - Can say it only goes into effect when a certain thing happens (“administrative separation”); guardian can make all major decisions, including medical and travel; public assistance possible
- Drawbacks:
  - More complicated for the guardian – must go to court within 60 days and provide proof of the administrative separation; requires many court appearances, background check, home inspection



## What to do in the event of an encounter with the Department of Homeland Security

- Stay calm. Don't run, argue, resist, or fight the officer, even if your rights are being violated.
- Do not lie about your status or provide false documents.



# Traffic Stop

- ▶ Ask if the officer is from the police department or DHS (ICE, CBP, BP). If DHS, follow these guidelines:
  - ▶ **If US citizen or have lawful immigration status:** show your passport, green card, work permit, or other documentation of status.
  - ▶ **If undocumented:** you have the right to remain silent and do not have to discuss your immigration or citizenship status with the police, DHS, or other officials.
    - ▶ **Request to speak with your attorney before you speak with the officer**





## What if an officer knocks on your door?

- Do NOT open the door
- Officers must have a warrant signed by a judge in order to enter your home
- Ask to see the warrant
- Form I-205, Warrant of Removal, is not signed by a judge! Does not allow DHS to enter your home!

# QUESTIONS?

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