Overview of U.S. Immigration Law & Recent Policy Changes

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New Americans Hotline: 1-800-566-7636 Monday – Friday, 9 AM–8 PM EST MULTI-LINGUAL AND CONFIDENTIAL

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

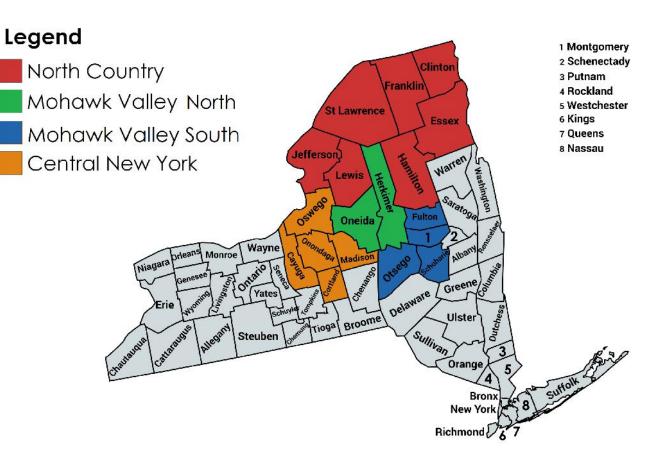


HISCOCK LEGAL AID SOCIETY

PROMOTING JUSTICE FOR ALL SINCE 1949

<u>Areas Served:</u>

- Central New York
- North Country
- Mohawk Valley North
- Mohawk Valley South



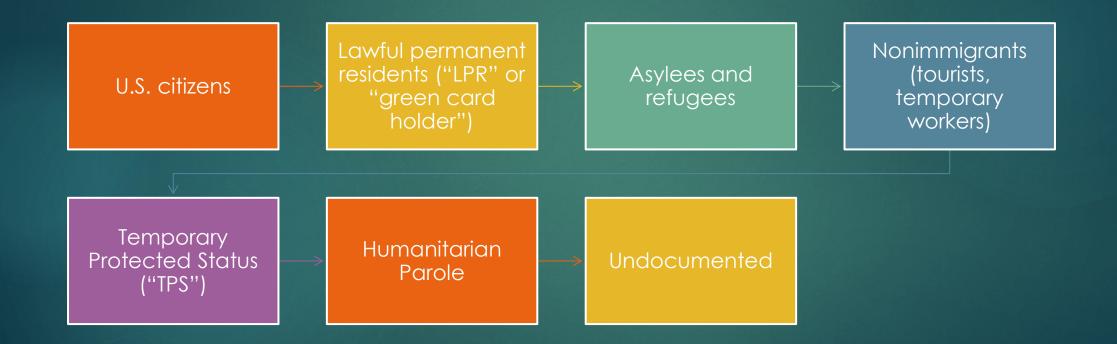


Department of State Office for New Americans

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Overview of U.S. Immigration Law

Immigration Status in the U.S.



How to become a U.S. citizen

Must meet <u>residence</u> requirement
<u>Three (3) or five (5) years as LPR</u>
Good moral character
English language proficiency
Knowledge of U.S. civics and history

How to become a U.S. LPR

- >Must fall into one of four categories:
- 1. Family-sponsored
- 2. Employment-based
- 3. Diversity visa lottery
- 4. Refugee/asylee



How to become a U.S. LPR (continued)

Immigrant visa process at U.S. Consulate overseas

Apply for adjustment of status within the U.S.
 Must have made a lawful entry and (unless immediate relative of a U.S. citizen) maintained lawful status continuously since entering the U.S.

<u>Asylum</u>

Based upon fear of persecution in home country
 Must apply within one (1) year of entering the U.S.

<u>Temporary Status</u>

 Individuals in temporary status must depart the U.S. before their status expires
 Expiration date determined by U.S. government
 Failure to depart: unlawful presence; removal (deportation) from the U.S.

<u>Recent and Potential Changes to</u> <u>Temporary Statuses in the U.S.</u>

- TPS is based upon the discretion of the Secretary of Department of Homeland Security and their determination that conditions in that country temporarily prevent people from returning safely
- Currently, 17 countries have been designated for TPS
- The current administration has indicated intentions to review TPS designations
 - > DHS Sec. has already partially vacated TPS for Haiti
 - > TPS designation for Venezuela terminated

<u>Recent and Potential Changes to</u> <u>Temporary Statuses in the U.S. (continued)</u>

- Parole is temporary and discretionary, decided on a case-by-case basis.
- Categorical parole programs: U4U, OAW, CHNV parole, etc.
- Categorical parole programs are being re-evaluated by current administration
 - CNVH parole program has <u>ended</u>
 - > U4U is "on pause"

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

Know your rights
Physical/digital documents to carry
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



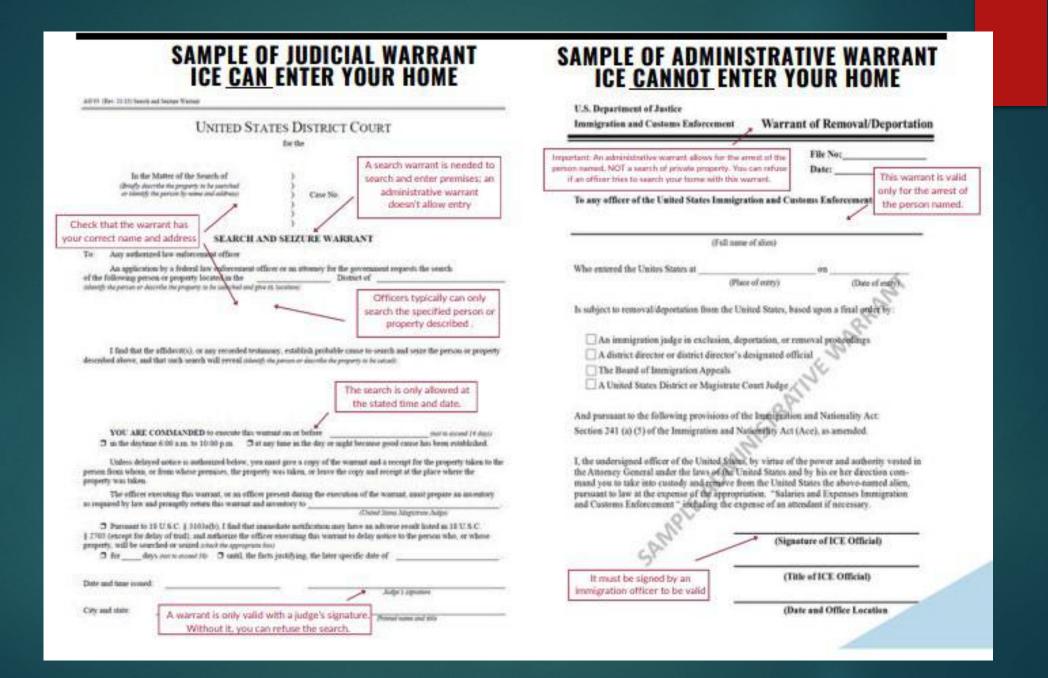
<u>Right to an Attorney</u>

- If arrested by the police, you have the right to a governmentappointed 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 lowcost legal service providers.



<u>Right Against Unreasonable Search & Seizure</u>

- 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.



<u>**Right to Due Process</u>**</u>

- Due process = fair procedures
- Everyone is 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.

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
 - -94
 - Other evidence of status







Carry a Know Your Rights card

THESE ARE MY RIGHTS.

- I have the right to remain silent.
- I do not wish to speak with you or answer your questions.
- I do not give you permission to enter my home without a warrant signed by a judge.
- I do not consent to ✦ searches of my person, belongings, vehicle, or home.

If I am detained, I want to contact my attorney immediately.

I refuse to sign anything without advice from an attorney.

New York Immigration Coalition ି NYIC nvic.org

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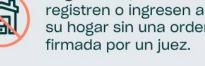
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Permanecer en silencio y no responder ninguna pregunta.

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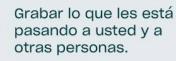


su hogar sin una orden firmada por un juez.

Saber si lo detendrán o arrestarán, y por qué.



Negarse a firmar cualquier documento y solicitar hablar con un abogado.



Si tiene contacto con un agente, puede mostrarle esta tarjeta.

VOUS AVEZ LE DROIT DE :

aux questions

Garder le silence et

de ne pas répondre

Refuser les fouilles ou

domicile sans mandat

Savoir si et pourquoi

vous êtes détenu ou

l'entrée dans votre

signé par un juge

arrêté









Refuser de signer quoi que ce soit et demander à parler à un avocat



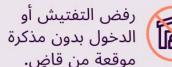
Enregistrer ce qui vous arrive et qui arrive à d'autres

Si vous êtes en contact avec un agent, vous pouvez leur donner ou leur montrer cette carte.

لديك الحق في:

التزام الصمت وعدم الإجابة على أي أسئلة.



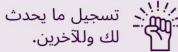


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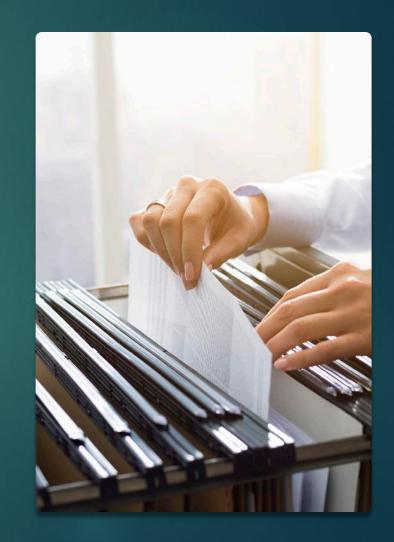




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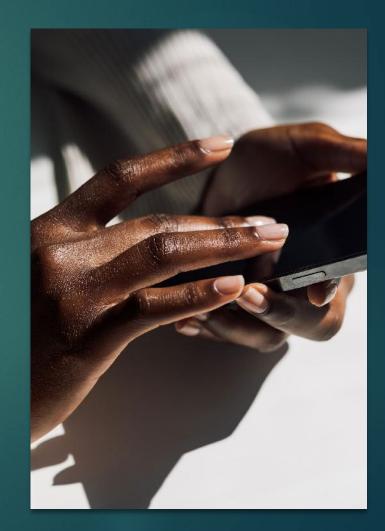
Documents to organize and keep in a safe place

- 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



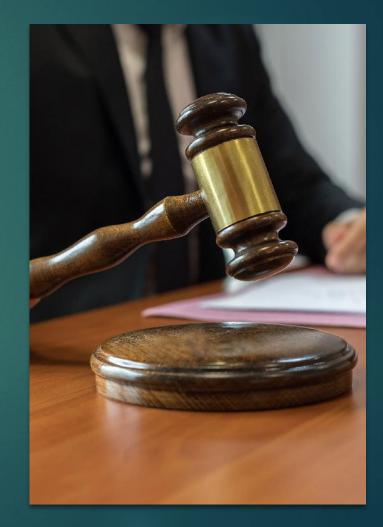
Designate an Emergency Contact

- 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: <u>https://ocfs.ny.gov/forms/?find=4940</u>
- 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

- <u>https://www.nycourts.gov/courthelp/guardianship/standbyguardian.shtml</u>
- <u>https://www.nycourts.gov/LegacyPDFS/FORMS/surrogates/pdfs/FillableSG-10.pdf</u>
- 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!

Judicial Warrants

- A judicial warrant is issued by a court and signed by a judge.
- A judicial warrant <u>does</u> give law enforcement permission to enter "private areas" such as your home, or conduct searches.
- Read the warrant carefully to make sure that it is valid.

• Examples: Arrest Warrant, Search Warrant

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Administrative Warrants

- An administrative warrant is signed by an DHS officer, not a judge.
- It <u>does not</u> give ICE or CBP any authority to demand entry to the private areas of a workplace or home.
- Examples: Warrant for Arrest of Alien, Warrant of Removal/Deportation

S. DEPARTMENT OF HOMELAND SECURITY Warrant for Arrest of Alien	DEPARTVENT OF HOMELAND SEGURITY U.S. Immigration and Customs Enforcement
	WARRANT OF REMOVAL/DEPORTATION
File No.	File No:
Date:	Date :
Any immigration officer authorized pursuant to sections 236 and 287 of the To any immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations	ation officer of the United States Department of Homeland Security: (Fullmane of stem)
we determined that there is probable cause to believe that	s United States at Dn (Ploce of entry) (Date of entry)
the execution of a charging document to initiate removal proceedings against the subject;	noval/acepartation from the Linited States, based upon a final order by:
the pendency of ongoing removal proceedings against the subject,	t immy atlion judge in asolusion, caparitation, or removal proceedings, cesignated official
	e Board of Imm gration Appea's
biometric confirmation of the subject's identity and a records check of federal	Unite: States Dated or Magiatrice Court Listy: the following provisions of the immigration and Nationality Act
U ARE COMMANDED to arrest and take into custody for removal proceedings under the Security uncert	ed officer of the United States, by write of the power and authority vested in the Secretary of Homeianc the laws of the United States in gray, high rife of ter direction, commany you to take into authory and remove States the above comparation processor to key, all the expenses of
(Signatures of Authorised Immigration Officer) (Printed Name and Title of Authorised Immigration Officer) Certificate of Service	(Sgnature of intrigration of oct)
(Location)	(Tifle of immigration officer)
	(Title of intringitation officer) (Date and office location)
(Location) (Name of Alian) on(Data of Service), and the contents of this	
(Name of Alisan) on, and the contents of this, we read to him or her in the language.	(Date and office location)

QUESTIONS?

SARAH E. MURPHY, ESQ. HISCOCK LEGAL AID SOCIETY 315-218-0106 SMURPHY@HLALAW.ORG

