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

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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

- 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 9th 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

- “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 prosecutor's 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/

- 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