

## **A. Introduction**

### **1. Who we are:**

The NLG is an organization of lawyers, legal workers, law students, and activists who believe that human rights are more sacred than property rights. The Immigration Committee opposes the government's efforts to detain, traumatize, and deport non-citizens.

### **2. Scope and Purpose of Training**

- This training is intended to provide you with an overview of your rights when interacting with immigration agents (ICE, CBP) and law enforcement. It will also cover how to get involved in supporting immigrant rights and certain laws that may help you obtain legal status.
- IT IS NOT LEGAL ADVICE. We are ask that you keep your questions general and not divulge privileged information. If you have a specific question we can refer you to an attorney or organization who can help answer your specific question.
- We will be using some Magic Words that trigger certain legal protections, note that some of these protections are not available until you are in court.
- Keep in mind that we are speaking about your rights in a general sense and interactions with enforcement can vary and how police or immigration agents respond to them can also vary and there is no guarantee that even if you assert your rights immigration agents or law enforcement won't violate them. However, it is still important that you assert your rights because it may protect you in the future.

### **3. Ice Breaker**

#### **Social Barometer**

“Do you agree or disagree with this statement?”

- “I have to talk to ICE if they detain or arrest me”
- “I must provide immigration with information about my national origin”
- “I don't have rights because I am undocumented”
- “ICE cannot lie to me”
- “ICE can come into my house at any time because I am undocumented”
- “I do not have worker's rights because I am undocumented”
- “If immigration officials ask me for an identification I have to provide one”

## **B. Interactions with ICE**

1. **If you have an interaction with an ICE agent, police officer or other law enforcement official you have the right to:**
  - Remain silent
  - Not open the door to your home
  - Speak with an attorney
  - Refuse to sign any document
  - Defend your case before an immigration judge to request to stay in the United States
  
2. **Why is it important to assert your rights?**
  - May be able to avoid arrest
  - Limit the proof that ICE has against you
  - Limit the actions of law enforcement and ICE in our communities
  - Collect proof against ICE to protect and mobilize our communities
  
3. **What to do if you witness an arrest**
  - Verify - did you witness or talk directly to someone who did?
  - Get info - names/DOB of person arrested, contact info for family, location
  - Call Rapid Response Networks and they will send someone to investigate
    - i. San Mateo: 203-666-4472
    - ii. San Rafael: 415-342-7037
    - iii. San Francisco: 415-200-1548
    - iv. San Jose/South Bay: TBD
    - v. Alameda: TBD
    - vi. California-wide: 1-844-878-7801
  
4. **On the Street**
  - If an immigration officer stops you on the street YOU ARE NOT OBLIGATED TO STAY unless they have a warrant
    - If an agent approaches you ask “Am I free to go” Magic Word
    - Stay Calm, do not run away from the scene if the officer says that you can go
    - If they say no, ask “Why am I being detained”
  - You are NEVER OBLIGATED TO SPEAK
    - Do not tell the officer your immigration status or where you were born
    - Do not respond to any questions
    - Say “I wish to remain silent” and “I wish to speak to a lawyer” Magic Word
    - Do not lie to them or give them false information
  - Asserting these rights may not prevent them from arresting you but it will limit the information they have against you and can protect you later on when you fight your case
  - If they try to search you say “I do not consent to this search”, this may not prevent them from searching you but it may protect you later

- **IDs:**
  - Do not carry an identification from your country of origin (i.e. consular id, or foreign passport)
  - Do carry a state ID, city ID, or school ID
  - Under California law you do not have to carry an ID, but if you do not identify yourself you could be arrested so that they can identify you
  - California Driver's Licenses (cover the dangers and benefits)
    - ICE has access to the database
    - People with criminal histories and prior removal orders are more vulnerable if they apply for a license
    - AB 60 license as proof of alienage?
    - BUT, in non-sanctuary jurisdictions, driving without a license can turn an ordinary traffic stop into a transfer to ICE detention.
    - Those who already have a license and decide to carry it to avoid traffic arrests may want to consider keeping it in their car instead of in their wallet/on their person.
- **Role Play/Practice**

Ask an audience member to volunteer to play a person on the street and you play the ICE agent. Try to get the volunteer to assert the Magic Words.

  - "Am I free to leave"
  - "I wish to remain silent"
  - "I want to speak with a lawyer"
  - "I do not consent to a search"

## 5. At Home

- YOU DO NOT HAVE TO OPEN THE DOOR TO IMMIGRATION AUTHORITIES OR THE POLICE UNLESS THEY HAVE A SEARCH WARRANT
- If you open the door you are giving them permission to enter you home
- ICE sometimes pretends to be the police, do not let them into your home
- If they have a search warrant, ask them to show you the warrant through the window or slip it under the door
- **Inspect the warrant- ICE almost NEVER has a valid search warrant!**
  - Check the date, make sure it is current,
  - Check to see that your name and address are correct
  - Check for a judge's signature
  - If anything is wrong or missing do not let them in!
  - If the warrant is an arrest warrant for a person and not your home, then you do not have to open the door.
- If the warrant is for an arrest warrant and valid, you should have that person go outside and close the door behind them. If the warrant is for a search of our home you must let them in, HOWEVER it is unlikely that ICE will have a search warrant so you should not

let them in.

- Record any interaction with ICE on your phone. This may help you in the future.
- You may ask to observe the search but do not interfere, even if you think it is illegal.
- Take down the officer's names, badge number, and agency they are from. Give this information to your attorney.
- Do not speak with them. Say "I wish to remain silent" and "I want a lawyer"
  - If ICE enters without a warrant/permission (as happened in Daly City this week, where they cut through the door), document any damage as proof of the illegal search.
  - The ACLU has an App on their website you can download to document abuses.
- What if they come to your house looking for someone else?
  - Same rules apply, you do not have to open the door or talk to anyone
  - If someone is documented, they can step outside (if they want) and get the officer's information
- **Role Play/Practice**

Ask an audience member to play themselves at home and try to enter without a warrant. Have the audience member practice saying the magic words.

  - "Do you have a warrant"
  - "Show me the warrant through the window" / "Slide the warrant under the door"
  - "I do not consent to this search"
  - "I wish to remain silent"

## 6. In the Car

- If you are driving, you must give the officer your license, registration and proof of insurance
- Keep your hands where the officer can see them
- Follow all of the same instructions before about remaining silent, etc.
- You do not have to consent to a search. Say "I do not consent to a search" Magic Word
  - They may still search your car but continue asserting you do not consent and document where they are searching if possible. This could help you later in court

## 7. Arrest

- If you are arrested DO NOT TALK TO IMMIGRATION
- Assert your rights: "I wish to remain silent" / "I want to speak with a lawyer"
- Do not say anything else.
- Do not tell them where you are from.
- Never sign anything that is in a language you do not understand and only sign after speaking with a lawyer and get a copy.
- If you do not have a lawyer, ask that they give you a list of attorneys.
- You have the right to make a call, call an attorney or your family to help you find an attorney.

- Do not tell your family member over the phone why you were arrested or any details about yourself, just ask them to call a lawyer, everything you say on the phone is recorded
- You have the following rights in immigration detention:
  - You have a right to a hearing before an immigration judge to fight your case
  - You have a right to a bond hearing (depending on your criminal and immigration history)
  - You have a right to request that your bond be lowered
  - You have the right to contact your consulate (do this after you have spoken to a lawyer, you do not want to tell immigration where you are from)
- Once in immigration court you have the right to:
  - Argue why you should be allowed to remain in the US
  - Tell your story and explain why you cannot go back to your country
  - Be represented by an attorney that you pay
  - Present evidence in support of your case
  - Have an interpreter in your language
  - Appeal the immigration judge's decision to a higher court
- Some people don't have right to see judge; ICE can just deport them UNLESS they tell ICE they are afraid to go back to your home country, then get chance to request asylum
  - If you were already deported (by judge or at the border)
  - If you are arrested at the airport or at the border checkpoint (arriving alien)
  - If you have been convicted of certain crimes ICE says are serious (admin order)
- If you are one of those people,
  - Tell immigration you are afraid to go back to your country
  - Ask for a reasonable fear interview
  - Only do this after you have been taken to an ICE office and told you have a prior deportation order, DO NOT VOLUNTEER that you were previously deported

#### 8. Create a Safety Plan if Detained

- Memorize the phone number of a friend or family member that you can call if you are arrested. That person should have the number of your attorney/orgs that can help.
- If you take care of children or other people, make a plan to have them taken care of if you are detained.
- Keep important documents such as birth certificates and immigration documents in a safe place where a friend or family member can access them if necessary.
- Family can use ICE's online detainee locator (<https://locator.ice.gov/odls/homePage.do>) to find an adult who is in immigration custody.
- You can call the Executive Office for Immigration Review (EOIR) hotline number 1-800- 898-7180 (toll-free) 24 hours a day, 7 days a week to get information on your case's status.

## **C. Beware of New Enforcement Tactics:**

1. Even minor crimes can make you a priority for immigration: driving without a license, performing work that requires a license without a license or an invalid license, working with a false or fraudulent SS#
  - Take whatever steps are feasible for you and your family to follow all rules so that immigration cannot use minor violations as a reason to arrest you
2. Requesting an immigration file:
  - Be sure to not include your physical address on the paperwork as a precaution
3. DUI can have grave immigration consequences:
  - DO NOT DRINK AND DRIVE
  - If you are arrested for DUI, talk to a lawyer/public defender before you accept a plea deal
4. The contradiction of state legalization of marijuana:
  - Marijuana is ILLEGAL under federal law
  - Even though it is now legal in CA, it is a federal offense and can have dire consequences under immigration law
  - If you are a non-citizen, do NOT use marijuana, even if it is legal in your state

### **5. Executive Orders & Current Administration:**

Structure of our government:

- Only legislative branch can change existing laws and/or create new laws and no super majority in Congress, which means likely lots of time and effort needed
  - Examples: immigration and nationality act, civil rights act, etc.
- The executive branch can change legal regulations and/or write new legal regulations, but this process has to go through public notice and comment, which takes time
  - Examples: provisional unlawful presence waiver, deferred action for U waitlist, etc.
- The executive branch can change policy overnight but there are limits to what the executive branch can do because of budgetary restraints, current laws, etc.
  - Examples: DACA, TPS designation and re-designation, enforcement priorities, etc.

### **6. Trump's 3 Executive Orders:**

They do not change the government structure, above, or the law, including the Immigration & Nationality Act. They change the executive branch's interpretation and implementation of the law, and try to do much more, which is why there have been legal challenges.

There are two rumored additional EOs on public benefits and DACA that have not been signed and may not be released. DACA still continues and the general recommendation is to not file new application if one is not already in immigration's systems but to file for renewals if there are no new risks and one knows the program can stop and money can be lost. Renewals are being

processed quickly. Those that have applied for advance parole or are considering applying for advance parole should consult with an immigration attorney or accredited representative as the program could end and one could be stuck outside the country. However, to date, DACA AP continues.

7. **January 25, 2017 Executive Orders related to Interior Enforcement** ([“Enhancing Public Safety in the Interior of the United States”](#) and [“Border Security and Immigration Enforcement Improvements”](#)):

- Eliminate Obama prosecutorial discretion memos and replace it with new and much harsher enforcement priority guidance
- Terminate the Priority Enforcement Program and bring back Security Communities
- Order hiring of 10,000 ICE agents and 5,000 CBP agents (even before this order CBP has not been able to hire the target number of officers)
- Provides for penalties for certain sanctuary jurisdiction (unclear how this would work as the definition does not actually include any real sanctuary city)
- Orders a process for sanctioning countries that fail to assist in a person’s removal from the U.S. after the person has a final order of deportation
- Require that the DHS issue regulations on the collection of fines and penalties from unauthorized people and those that “facilitate their presence”
- Set up interagency tables for prosecution of criminal immigration offenses and encourage the expansion and use of federal collaboration programs
- Enforcement priorities are identified as anyone that is unlawfully present and is or has been:
  - Convicted of any criminal offense
  - Charged with any criminal offense
  - Covered by any deportation ground related to crimes, criminal behavior or allegations of terrorism or national security
  - Subject to “expedited removal”
  - Subject to a final order of removal and are still here
  - Suspected of fraud or lying with their immigration cases
  - Abuser of any government benefit program
  - A threat to public safety and security in the judgement of the immigration officer
- On February 20, 2017, DHS Secretary Kelly issued two memos implementing the January 25, 2017 Executive Orders:
  - [“Implementing the President’s Border Security and Immigration Enforcement Improvement Policies”](#) and [“Enforcement of the Immigration Laws to Serve the National Interest.”](#)

## **D. The Executive Order on Refugee/Muslim Travel Ban & Recent Litigation**

1. On Friday, January 27, 2017, President Trump signed an executive order, "[\*Protecting the Nation from Foreign Terrorist Entry into the United States\*](#)." The provisions contained in the order are unlikely to make our nation safer. Instead, they will leave thousands of refugees who face life-threatening danger without protection by halting all U.S. refugee admissions for four months and Syrian refugee admissions indefinitely.
2. The Executive Order sets forth that its purpose is to ensure that those admitted, immigrants or non-immigrants, "do not bear hostile attitudes" towards the United States and do not promote "violent ideologies" over American law. Further, it is the purpose of the Executive Order to not admit those who engage in "bigotry or hatred," including violence against women, or those who "oppress members of any race, gender, or sexual orientation." This espouses an inherently Islamophobic view of the banned countries.
3. The order imposes a
  - **90-day ban on entry for all nationals of seven countries (Iraq, Iran, Libya, Somalia, Sudan, Syria, and Yemen). the order bans immigrant and nonimmigrant entries, for at least 90 days**
  - Additional security protocols, including a requirement that U.S. government officials interview every person who applies for a nonimmigrant visa.
  - Suspension of U.S. Refugee Admissions Program (USRAP): **The order suspends the USRAP for 120 days. Exceptions can be made on a case-by-case basis if it is in the national interest, the person would not pose a risk, and the person is a religious minority facing religious persecution, or the admission of the person is required to conform U.S. conduct to an international agreement, or when a person is already in transit and denying admission would cause hardship.**
  - Reduces the number of refugees to be admitted to the U.S. by more than half from an initial goal set by President Obama of 110,000 to 50,000, dropping U.S refugee admissions to the lowest level in a decade.
  - **Ban on Syrian Refugees:** The order halts the processing and admission of Syrian refugees indefinitely, until the President determines that sufficient changes have been made to ensure that the admission of Syrian refugees is in the national interest.
  - **Requires In-Person Interviews for Most Nonimmigrant Visa Applicants.** The order suspends the Visa Interview Waiver Program (VIWP), requiring all nonimmigrant visa applicants to attend an interview unless an interview is not required by statute. The VIWP allowed consular officers to waive the interview requirement for applicants seeking to renew nonimmigrant visas within 12 months of expiration of the initial visa in the same classification. The VIWP has been used to waive the interview requirement only for travelers who have already been vetted and determined to be a low security risk and who have a demonstrated track record of stable employment and stable travel.
  - **Screening of all Immigration Benefits:** The order directs federal agencies to develop screening standards and procedures for all immigration benefits to identify fraud and detect whether a person intends to do harm. Agencies are directed to create a process to evaluate the person's "likelihood of becoming a positively contributing member of society" and "ability to make contributions to the national interest."
  - **Biometric-Entry Exit:** directs agencies to expedite the completion and implementation

- of a biometric entry-exit system and includes reporting requirements.
4. Decision By U.S. Court Temporarily Freezes Key Parts of Executive Order:
    - **On February 9, 2017, the Ninth Circuit Court of Appeals denied the Department of Justice's request for an emergency stay** of the federal district court's temporary restraining order of the travel ban. *State of Washington v. Trump*. Although a Ninth Circuit judge requested that the Court re-hear the case en banc, the Court placed the en banc proceedings on hold until further notice, due to the federal government's representation that a superseding Executive Order would be released shortly. However, briefing on the merits of the appeal continues in the Ninth Circuit, as well as litigation in the district court in Washington. It remains to be determined whether the preliminary injunction/stay will hold, and for how long.
  5. **Entry into the U.S. After this Ruling:**
    - The ruling means that right now, until a court rules otherwise, all officials at U.S. airports and other ports of entry are not allowed to prohibit entry to people from Iraq, Syria, Iran, Sudan, Somalia, Yemen, and Libya who are traveling on valid visas and are otherwise admissible. Customs and Border Protection (CBP) has received these instructions to allow entry to allow entry to people from Iraq, Syria, Iran, Sudan, Somalia, Yemen, and Libya who are traveling on valid visas. The U.S. Department of Homeland Security has also confirmed that it will not be enforcing the Executive Order's ban on non-immigrant, immigrant, and refugee entry because of the U.S. District Court ruling.
  6. **Cancelled Visas:**
    - The U.S. State Department has confirmed with the American Immigration Lawyers Association (AILA) that unless there are additional issues in the case, all valid visas that were provisionally revoked/cancelled by the Executive Order have been made valid again. AILA has also confirmed with CBP that individuals who arrived last weekend and had their visas physically cancelled as a result of the EO will not need to reapply for a new visa and absent any other admissibility issues will receive an I-193 waiver (Application for Waiver of Passport and/or Visa) upon arrival to the U.S. For those traveling by air, airlines have been instructed to contact CBP to receive authorization to permit boarding
  7. Several other organizations including NIP NLG, CAIR, AIC, NILC etc. have also sued the government over the travel ban for constitutional violations on Due Process and Establishment Clause grounds.
  8. Practitioners continue to monitor the situation to determine how the EO will affect dual citizens, LPRs, and applicants for adjustment, asylum and citizenship in the United States.
  9. One Justice has coordinated legal and translation assistance at SFO up until February 3, 2017. To get involved, visit <https://onejustice.org/ourprograms/immigration/>. To sign up for shifts, see: <http://signup.com/go/FmWbet>. Or email [airports@one-justice.org](mailto:airports@one-justice.org). Also see the International Refugee Assistance Project which has KYR materials and has been coordinating airport support over the last two weeks: <https://refugeerights.org>.
  10. AROC and other community groups are part of Bay Resistance, which turned folks out at SFO two days in a row when the travel ban was announced, sign up for alerts and volunteer opportunities at: <http://bayresistance.org>.

## 11. Your rights at the airport:

- If you're travelling into the country, be sure you have a support person (Attorney with G-28 on file or otherwise) at the airport of your final destination, ideally with translation support if needed
- **TSA screening:** Know that you can “opt-out” of the full-body scanner, just be sure to verbalize this and TSA will give you a pat down (should be of the same gender). If you are wearing hijab, you can ask that it not be removed during this search. If TSA wants to remove it you can ask for a private room and can bring a friend with you.
- If you are uncomfortable being patted down in public you can ask to be patted down in a private location. **You can also bring a companion.**
- RESOLUTION PAT-DOWN: If an agent detects an “anomaly” you will be subjected to an additional pat down. Here the TSA agent will take you to a private room and conduct a more invasive pat down, using the front of the agent's hand, including the groin area. You can ask to bring a witness with you, or ask that TSA provide a witness for you. A person of the same gender should conduct this search.
  
- IF YOU ARE A GREEN CARD HOLDER OR U.S. CITIZEN: You have a right to be admitted to the United States. If you have a green card but there's a reason you would not be admissible, the govt needs to prove that there's a reason you are no longer admissible, and you have the right to a hearing in front of an immigration judge on this issue.
- CBP can ask you questions about your origin and intended destination, the purpose of your trip, who you are traveling with and your status. You should respond to these types of question but avoid giving too much detail. **HOWEVER DO NOT ANSWER QUESTIONS OUTSIDE OF THIS SCOPE, FOR EXAMPLE:**
  - You do not have to answer questions about your religion or your political beliefs. You have a right to remain silent as to those things.
  - You also DO NOT have to answer whether you are a practicing Muslim or not, what sect you belong to, what your views are on the U.S. government (including Trump), which countries you've travelled to in the Muslim world, your beliefs on jihad if any, which mosque you attend, which Imam presides at your masjid, etc.
  - ASSERT YOUR RIGHT TO REMAIN SILENT say “*I am not going to answer any questions about my religious or political beliefs, or about who I know.*”
    - Many people feel they have nothing to hide in these interactions. Remember, similar to FBI visits, anything you say to CBP officers can be used against you in immigration proceedings.
    - It is a federal offense to lie to a federal agent.
    - If you decide to answer question, know that it may lead to further law enforcement or immigration contact. Answer truthfully if you do respond to questioning.
- IF YOU ARE TRAVELING ON A NONIMMIGRANT VISA (i.e. tourist visa or other short term visa):

- o It is your burden to prove to government authorities that you are “admissible,” therefore if you refuse to respond to questioning they may refuse to admit you.
  - o Keep this in mind when deciding whether or not to respond to questioning. If your answers would not incriminate you, it may be better to respond even to inappropriate questions, but to note down the name of the officer and what the questions are so that you may make a complaint later.
- **Secondary Inspection:** If you are taken into secondary inspection, remember to assert your right to remain silent and your right to speak with an attorney. The right to remain silent applies even at the border and ports of entry, regardless of whether or not you are a United States Citizen.
    - o US Citizens have the right to an attorney at the airport, LPRs and nonimmigrants do not
    - o US Citizens cannot be denied admission regardless of how long they’ve been out of the country. LPRs need to maintain continuous residence and should not be absent longer than 180 days at a time
    - o Do **not** sign anything without an attorney present
    - o Do **not** sign any immigration papers including self-deportation
    - o Do **not** sign any immigration forms giving up your rights as an LPR
    - o You have the right to go before an immigration judge if you are forced to renounce your lawful permanent resident status
      - That said, do not affirmatively ask for a Notice to Appear before an immigration judge, as this will initiate removal proceedings against you.
  - **Fourth Amendment rights:**
    - o Your rights to be free from unreasonable searches and seizures are curtailed at airports
    - o Customs is authorized and often searches your person, luggage, phones, laptops, and other effects and electronics
    - o For this reason, it is very important you put a password on your phone, laptop and other electronic devices and invest in end-to-end encryption software for all devices to prevent government surveillance of your property
    - o If your property is confiscated, make sure to get a receipt and badge numbers and names of the officers who interrogated you and or confiscated your property
    - o It is possible to file complaints for civil rights abuses with CBP, but it is not always easy to prevail on such claims.

## **E. Public Benefits**

### **1. Medi-Cal**

- California recently made investments to extend Medi-Cal to all children and youth regardless of where they are born or their immigration status

### **2. SB 10 (Affordable Care Expansion)**

- Increases health coverage for immigrants regardless of immigration status by:
  - Requiring the state to allow undocumented immigrants and DACA recipients to buy unsubsidized health coverage through Covered California

## **F. Workers' Rights**

### **1. All workers whether you are documented or not have labor protections.** These include:

- Meal breaks - 30 min break for each 5 hours worked. See DLSE wage orders, and Labor Code 226.7.
- Rest breaks - 10 min for each 4 hours worked, or major portion thereof. See DLSE wage orders, and Labor Code 226.7.
- Overtime pay (unless qualifying under one of exemptions) - 1.5 times regular rate for all hours worked in excess of 8 per day or 40 per week, and Double time (2 x regular rate) for all hours worked in excess of 12 per day, or in excess of 8 on 7th consecutive day of work. Labor Code section 510.
- Paid Sick leave - each paystub should detail the amount of accrued sick time at the rate of 1 hour for each 30 hours worked.
- Time off to receive doctor-recommended treatment or help a close family member for treatment, if employee has worked > 1250 hours in past year of employment with that employer. California Family Rights Act/ Family Medical Leave Act.
- Time off for pregnancy leave or maternity leave.
- Equal pay for similar work for women and men. Labor Code 1197.5.
- Temporary disability benefits (including pregnancy or maternity leave) from the EDD if the employee has had such amounts deducted from paychecks, regardless of immigration status.
- Right to a workplace free from discrimination based on race, national origin, gender/sex, disability or medical condition, sexual orientation, pregnancy, veteran status, family status, etc. See Govt Code sec 12940.
- Right to not suffer retaliation for asserting above rights or other rights at work, for lawful activities outside work, or for opposing unlawful activities. Labor Code sections 98.6, 1102.5, 6310. Govt Code section 12940(i).
- Right not to be treated differently based on immigration status, and to not have immigration status used against the worker if they worker files a claim or lawsuit based on California law, to the extent not inconsistent with federal law. Labor Code 1171.5.

## 2. **AB 1066**

- Removes the exclusion of farmworkers from daily and weekly overtime requirements over a four year period for work exceeding 8 hours in a single day by decreasing the current 10 hour overtime threshold over 30 minutes steps annually
- Small farmers (with 25 or less employees) have an additional three years to phase in the overtime requirements

## 3. **SB 1001**

- Provides greater protections to workers against document abuse by prohibiting employers from:
  - Requesting more or different documents required under federal law
  - Refusing to honor documents that reasonably appear genuine
  - Refusing to honor documents or work authorization based upon the immigration status that accompanies the work authorization
  - Attempting to reinvestigate or re-verify a current employee's work authorization in a way not required by federal law
  - Starting Jan. 1, 2017 workers can file claims abuse of this new law with the CA Division of Labor Standards and Enforcement

## 4. **Labor Trafficking**

- Immigration, Civil and criminal remedies
- Exploited plus fear of retaliation
  - This can include threats of arrest or deportation
- Most trafficking survivors actually entered the country legally (70%) but fall out of status, or lose their immigration documents by the time they escape (60%)

## **G. Post-Conviction Relief / New State Laws**

In 2017, a lot of new laws came into effect in California that affect immigrants. Many of these laws were developed to help non-citizens with criminal convictions or detained by the criminal justice system. This section will cover these new laws and how they can help you if you have been convicted of a crime and that crime is now affecting your immigration status.

### 1. **Cal. P.C. 1473.3**

- Prior to the passage of this law, in California after you had completed your sentence you had no way to challenge that conviction even if you think it was illegal!
- Until 2009, you could challenge an unlawful conviction through something called a *corum nobis* conviction, however, in 2009, the California Supreme Court held that courts did not have the authority to vacate convictions under this type of petition. So that meant that many people who had criminal convictions that they did not know had immigration effects could do nothing.
- **Cal. P.C. § 1473.3 allows individuals to challenge a conviction if:**
  - The conviction or sentence was legally invalid due to the person's failure to

“meaningfully understand, defend against or knowingly accept the actual or potential adverse immigration consequences of a plea of guilty or nolo contendere”, or

- New evidence was of actual innocence exists that requires vacation of a conviction or sentence
- **What does this mean?**
  - It means that if when you plead guilty you did not understand that the conviction could affect your immigration status you can vacate your conviction
  - Even if your lawyer told you it could affect your status, you may still be able to use this section depending on whether you actually understood what your lawyer said
  - It also means that if you have recently discovered evidence that you were innocent you can ask the court to vacate your conviction
- **Why is this important?**
  - If you are successful in vacating your conviction you may no longer be deportable or you may be eligible for a form of relief that you were not eligible for before
- **Time limit for making these claims**
  - You must file the motion with “reasonable diligence” soon after the issuance of an NTA or final removal order whichever is later if you are basing it on not knowing it could affect your immigration status
  - Claims of innocence must be filed with “undue delay” from the date you discovered the new evidence
  - **TALK TO A CRIMINAL DEFENSE ATTORNEY AS SOON AS POSSIBLE IF YOU THINK THIS MAY HELP YOU**

## 2. AB 2298 GANG DATABASE

- California keeps a database with the names and personal information of people law enforcement has determined to be “gang members”
- The problem is that this database is highly discriminatory (20 % of people on the list are Black and 66% are Latino) and up until this year there was no way to challenge the designation
- Being in the database can be very difficult for non citizens as it can mean that you do not qualify for discretionary relief such as DACA, cancellation or removal, or adjustment in some cases
- Being in the database can also mean that you are incorrectly named a gang member and ICE and other law enforcement deem you an enforcement priority
- **AB 2298**
  - Requires law enforcement to notify you if they want to add you to the database and you have an opportunity to challenge the designation and appeal to a court if your request is denied
  - Allows you to request information about whether you are in the database

- Creates a standard process for law enforcement agencies for who can be added to the list
- Requires that law enforcement release data on numbers and demographics of people added or removed from the database

### 3. TRUTH ACT

- A response to state and local law enforcement agency cooperation with ICE
- Makes four changes to how ICE and law enforcement cooperate:
  - Requires miranda type advisals,
  - Notice of any ICE hold,
  - Public forums with law enforcement to disclose their dealings with ICE,
  - Transparency
- **Advisals:** Requires that prior to any interview with ICE, state and local law enforcement give you a written consent form explaining the following:
  - Purpose of the interview
  - That the interview is voluntary
  - That you can decline the interview or choose to be interviewed only with an attorney present
  - DO NOT CONSENT TO THIS INTERVIEW. If the interview happens in violation of this act, take down the names and badge numbers of the officers and assert your rights to remain silent and to an attorney
- **Notice:** If ICE places a hold on you the jail must give you a copy of the request and if they decide to notify ICE that you are there, they must tell you or your designee
- **Community Involvement/Transparency:** Beginning in 2018, there will be annual public forums where law enforcement must answer public about how they are cooperating with ICE and those records will be made public through the California Public Records Act

### 4. Cal. P.C. 18.5 / SB 1242

- Cal. P.C. § 18.5 Changed definition of misdemeanor from a conviction that has the maximum penalty of 365 days to 364 days
- SB 1242 made that definition retroactive which means that any conviction if you have an old (pre 2015) misdemeanor conviction you can request that the court resentence you to 364 days
- **Why is this important?**
  - A single conviction for a CIMT can affect your eligibility for cancellation of removal and may make you deportable if you are an LPR if the crime has the potential sentence of 365 days
  - Additional some crimes can be aggravated felonies if you were sentenced to one year
  - Under this law you can ask to be resentenced if this is you and avoid these harsh consequences

**5. BEWARE OF NOTARY FRAUD, GET SCREENED FOR IMMIGRATION BENEFITS & HEALTHY ATTORNEY/CLIENT RELATIONSHIPS:**

- See licensed attorney and/or accredited representative
- Beware of notarios - can report problems to ALCO DA Consumer Protection Hotline in resources below
- If not comfortable with person or have problems during representation look for someone else - your representative should call you back within a reasonable time (48 hours max) and provide you will a copy of your documents - you should know what is going on with your case
- Lots of local non-profits that can screen and refer if cannot take case – free and low-cost services available for many

**G. Get Involved in Your Community and Resist Trump**

1. Share what you learned with your family, friends, neighbors, and community. If we are united we can resist anything.
2. **BAY AREA RESISTANCE AND RAPID RESPONSE NETWORK**
  - A network preparing to defend our beloved communities, our movements and our earth.
  - They are organizing a rapid response network for when ICE conducts a raid. Find out more about them here: <https://actionnetwork.org/forms/sign-up-for-updates-27>
3. Contact your political representatives and let them know how you feel:
  - Find your local and national representatives here: <https://www.usa.gov/elected-officials>
  - Our political representatives represent everyone regardless of immigration status - representatives should not ask for SS#s or immigration status - they should only ask for your name and zip code
  - If you do not feel comfortable sharing your views, encourage others to do so
4. If you are a non-citizen and have children or other loved ones, create a family plan:
  - ILRC has on website in English and Spanish
5. Avoid mistakes with potentially dire consequences – DUI, DV, marijuana

## **H. Resources**

### **1. IMMIGRATION SERVICES**

- Court History/Information Line: 800-898-7180 (national)
- SF EOIR (non-detained): 415-705-4415 (Montgomery St.)
- SF EOIR (detained): 415-705-1033, ext. 222 (630 Sansome)
- ICE Detention & Removal SF: 415-844-5512, then press 2 (or call Duty Officer: 415-844-5549; or Investigations: 415-844-5455)
- ICE Bonds (SF) - detained: 415-844-5651
- ICE Bonds (SF) - non-detained: 415-844-5545 (A-L); 415-844-5547 (M-Z);
- ICE Detention & Removal – San Jose: 408-918-3815, 415-844-5516
- ICE Detention & Removal – Sacramento: 916-491-2868
- USCIS National Customer Service: 800-375-5283
- **United States Citizenship & Immigration Services website** <https://www.uscis.gov/> (immigration information, forms and more/información y formularios de inmigración y más)
- ICE Detainee Locator: <https://locator.ice.gov/odls/homePage.do> (to find someone in immigration detention/para encontrar a alguien en detención migratoria)

### **2. AREA JAILS**

- San Mateo County Jail (for men's or women's facility – Maguire – not an immigrant detention facility but they do ICE holds): 650-363-4000
- Santa Clara County: Main SJ jail & Milpitas (Elmwood) immigration contracted detention facility:
  - 408-299-3545; 408-299-2306; or 408-299-2307
  - Sacramento County Jail inmate information: [http://www.sacsheriff.com/inmate\\_information/](http://www.sacsheriff.com/inmate_information/)

### **3. LEGAL SERVICES**

#### **Legal Services for Children**

Detained Immigrant Children Project (in SF)

Andrea Del-Pan, Senior Staff Attorney (for with questions about unaccompanied detained minors):  
(415) 863-3762, ext. 330

#### **AILA Legal Referrals**

The national number for private immigration attorney referrals:  
(800) 954-0254

#### **Centro Legal de la Raza (Oakland)**

Immigration clinic open to all 3rd Thursday of each month from 9-11am, next clinic is March 16.

(510) 427-1554

**Bay Area Legal Aid**

1735 Telegraph Ave

Oakland, CA 94612

(510) 663-4744 (immigration and other services/servicios inmigratorios y más)

**East Bay Sanctuary Covenant**

2362 Bancroft Way

Berkeley, California 94704

(510) 540-5296 (immigration services/servicios de inmigración)

**East Bay Community Law Center**

2921 Adeline St.

Berkeley, CA

(510) 548-4040 (immigration and other services/servicios inmigratorios y más)

**Catholic Charities of the East Bay**

433 Jefferson Street      217 Harbour Way

Oakland, CA 94607      Richmond CA 94801

(510) 768-3100      (510) 234-5110

(immigration and other services/servicios inmigratorios y más)

**International Institute of the Bay Area**

405 14th Street, Suite 500

Oakland, CA 94612

(510) 451-2846 (immigration and other services/servicios inmigratorios y más)

**Immigrant Center for Women & Children**

1440 Broadway, Suite 402

Oakland, CA 94612

(510) 251-0150 (immigration services/servicios inmigratorios)

**Asian Pacific Islander Legal Outreach**

1305 Franklin Street Suite 410

Oakland, CA 94612

(510) 251-2846 (immigration and other services/servicios inmigratorios y más)

**Alameda County Public Defender's Office**

1401 Lakeside Drive, Suite 400

Oakland, CA 94612

(510) 268-7400 (criminal defense, clean slate/defensa criminal, limpieza de record)

**UC Davis Clinic**

Immigration Law Clinic at the law school:  
(530) 752-6942

**Alameda County District Attorney's Office**

1225 Fallon Street, Suite 900

Oakland, CA 94612

(510) 208-4824 (hate crime hotline/línea de crimen de odio)

(510) 383-8600 (consumer protection hotline for notary fraud/línea de protección al consumidor para fraude de notario)

**Arab American Legal Services**

522 Valencia St.

San Francisco, CA 94110

(415) 861-7444 (immigration services/servicios de inmigración)

**Council on American Islamic Relations**

3000 Scott Blvd., Suite 101

Santa Clara, CA 95054

(408) 986-9874 (civil rights and more/derechos civiles y más)

**Legal Services for Children**

1254 Market Street, 3rd Floor

San Francisco, CA 94102

(415) 863-3762 (immigration and other services for children/servicios inmigratorios y más para niños)

**Lawyers Committee for Civil Rights**

131 Steuart Street, Suite 400

San Francisco, CA 94105

(415) 543-9444 (immigration and other services/servicios inmigratorios y más)

**Mujeres Unidas & Activas**

2783 E. 12th Street, Suite 201

Oakland, CA 94601

(510) 261-3398 (Latina immigrant empowerment and services/fortecimiento de mujeres latinas y servicios)

**Korean Community Center of the East Bay**

1700 Broadway, Suite 400

Oakland, CA 94612

(510) 547-2662 (immigration and other services/servicios inmigratorios y más)

**Filipino Advocates for Justice**

310 8th Street, Suite 308

Oakland CA 94607

(510) 465-9876 (direct services and other programs/servicios directos y otros programas)

**Social Justice Collaborative**

420 3rd Street, Suite 130

Oakland CA 94607

(510) 992-3964 (deportation and criminal defense/defensa de deportación y criminal)

**Oakland Community Organizations**

7200 Bancroft Avenue, #2, Eastmont Mall (upper level)

Oakland, CA 94605

(510) 639-1444 (community organizing, leadership development/coordinación de comunidades y desarrollo de liderazgo)

**American Immigration Lawyers Association**

**& National Lawyers Guild's National Immigration Project**

<http://www.aila.org/>

<https://www.nationalimmigrationproject.org/>

(search options to find a private immigration attorney/opciones para buscar un abogado de inmigración privado)