



# Equip for Equality Presentation: Immigration Rights and Recent Developments

## Goals of Today's Presentation

**Answer the Question:** How should disability advocates handle calls from clients who have potential immigration issues?

**ENCOURAGE SCREENING, KNOW YOUR CLIENTS' RIGHTS:**

- Understand available immigration options
- Understand client's basic rights during an immigration encounter
- Understand Homeland Security's special obligations to people with disabilities

**ENCOURAGE CLIENTS TO PREPARE:**

- Preparing an Emergency Action Plan
- Understand how to obtain information from ICE
- Information on Detention Centers and how to contact detainees and immigrant legal services orgs

**EDUCATE, DISPEL RUMORS:**

- Understand current immigration policy developments and enforcement priorities
- Specific Concerns: Targeting Public Benefit Abuse
- Medical Deportation / Repatriation
- FAQ

## Immigration Relief Options

- **DACA:** Client currently under age 36, was in the US before they were 16, currently in school or graduated from high school in the U.S.; or has their GED; or veteran of the Armed Forces.
- **U Visas:** Client or their child has been the victim of certain crimes. Discuss screening questions.
- **T visas:** Trafficking can be sex- or labor-based. Discuss screening questions.
- **VAWA Visas:** Client experienced domestic violence from a LRP or U.S. Citizen Spouse.
- **Family-Based Visas:** Does client have any family members or a spouse who are LPRs/USCs?
- **Prosecutorial Discretion, Defenses to Removal (Cancellation of Removal):** If client in in deportation proceedings or has been ordered removed, there may still be options.

If none of the above: if client has been in U.S. for 2+ years and is detained, they may be given a bond, released, and be given a future hearing date. This will give them time to speak with an attorney and make personal arrangements.

See an immigration lawyer or authorized non-profit to check for immigration relief eligibility (ICIRR LIST) or attend screening event (<http://www.icirr.org/news-events/events>)

## Client's Rights

**Regardless of Immigration Status, an individual always has the right to:**

- **REMAIN SILENT: The \*\*Know Your Rights Palm Card \*\***
- **REQUEST TO SPEAK WITH AND BE REPRESENTED BY AN ATTORNEY**
  - In immigration, it will be at your own expense
  - For families in deportation crisis, please refer them to the Illinois Family Support Hotline **1-855-HELP-MY-FAMILY** (staffed 24 hours a day, 7 days a week with volunteers who can provide families with referrals for legal, financial, and counseling assistance). May be a call-back.
- **REQUEST A LOCAL TELEPHONE CALL**
  - Encourage clients to memorize phone numbers of family/friends with legal status. If memorization isn't an option, at least write down an important number on the Palm Card.
  - Immigrants have the right to call their Consulate if detained.

## Client Interactions With ICE or the Police

### What Clients Should NOT Do:

- **DO NOT LIE:** Clients can tell the police they want to remain silent but should NOT provide any false or incorrect information (name). Clients shouldn't give police a fake ID (don't carry one).
  - Clients should NOT claim to be a US Citizen if they are not!
  - Contact First Defense Legal Aid if a client or a client's family member is being questioned by police (1-800-529-7374)
- **DO NOT SIGN** any document you don't understand.
- **DO NOT DISCUSS** citizenship or immigration status with anyone other than your lawyer.
- **DO NOT RUN.** Ask if you are being detained. If not, you can leave. You can walk away unless the police tell you to stop.

### If ICE Comes to the Home:

- **DO NOT OPEN THE DOOR:** Client is NOT required to open the door *unless* ICE has a warrant *signed by a judge*. They should ask ICE to show them the warrant, but should not open the door. Have the agent slide the warrant under the door or hold it up to the

## Sample Order by Judge - Heading

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

United States of America,

Plaintiff,

v.

This area will list your name and/or address

The Premises Known As,

Swift & Company, located at 1700 Highway 60 NE, Worthington, Minnesota, and all its appurtenances, parking areas, and outdoor working areas

Defendant.

CIVIL NO. 06mj457JSM

ORDER  
FOR WARRANT FOR  
ENTRY ON PREMISES TO  
SEARCH FOR ALIENS  
WHO ARE IN THE UNITED  
STATES WITHOUT LEGAL  
AUTHORITY

This area will list the purpose of the warrant (why it was issued)

The United States of America, having filed an application to authorize officers of United States Immigration and Customs Enforcement to enter the building on the premises described above in order to search for persons who are aliens in the United States without legal authority, together with an Affidavit and memorandum

### Sample Order by Judge - Signature

order to locate persons who may be such aliens in the United States without legal authority and, if any such persons are found on the premises, to exercise their authority pursuant to section 287 of the Immigration and Nationality Act, 8 U.S.C. § 1357, to question them to determine whether they are such aliens and, if there is probable cause to believe they are such aliens, to arrest them.

IT IS FURTHER ORDERED that U.S. Immigration and Customs Enforcement shall conduct the entry and search during daylight hours with ten (10) days of the issuance of this warrant, and make its return to this Court with ten (10) days of the date the entry and search have been completed.

Dated: December 8, 2006

*Janie S. Mayeron*  
JANIE S. MAYERON  
United States Magistrate Judge

Make sure the date is recent (within a few months)

Make sure the order is signed by a Judge!

### Client Interactions With Immigration/ICE Outside the Home

#### ICE Interactions at a Shelter, at Community Organization, at the Hospital, or at work:

Immigration/ ICE does not need a warrant to enter a public space.

If a shelter, hospital or employer gives ICE permission to enter their space, ICE can enter. But even if the person in charge has given ICE permission to enter, the person still has rights. He/she has the right to:

- Remain silent.
- Refuse to consent to a search of their person, their car or their home.
- Calmly leave if not under arrest.
- Speak with a lawyer if arrested. Ask for one immediately.

Immigration must have a warrant signed by a judge or permission from one's employer to enter a workplace.

Report any incidents with ICE to ICIRR Family Support Hotline: **1-855-HELP-MY-Family (1-855-435-7693) 24/7**

## DHS' and CBP's Duties to People with Disabilities

The Department of Homeland Security (DHS) and Customs and Border Protection (CBP), are **prohibited from discriminating against people with disabilities.**

People with disabilities **arriving at airports** and interacting with CBP officers and those **in detention facilities** are **entitled to reasonable accommodations/modifications** if necessary to avoid disability discrimination.

If an individual requires modifications due to a disability, he/she should request a **“reasonable accommodation,”** and **state the disability and the reason it makes the requested accommodation necessary.** Examples of accommodations include:

- Access to food, water, and/or medication.
- Effective communication (sign language, translation, interpretation, Braille)
- Accessible restrooms
- Wheelchairs
- Protection from extreme temperatures
- If handcuffs must be used, may need to be looser (circulation) or in front (so a deaf detainee can communicate).

## Client Preparation: Emergency Plans

Clients should be encouraged prepare an emergency plan, in case of a detention or deportation.

In an Emergency Plan, clients should consider:

- Who they would want to care for their children if they are detained or deported
- If a Power of Attorney is appropriate for their situation
- Informally or formally communicating wishes to friends, family
- Registering their children with their Consulate
- Memorizing important phone numbers, including the consulate
  - Centro de Información y Asistencia a Mexicanos (CIAM) is available to assist with connecting individuals to consular assistance - **1-855-463-6395**

Clients should gather all important documents, and put them together in a safe place. This may include:

- Passports (client and their children)
- Birth certificates or social security cards
- Medical records, health insurance
- Bank account information

**\*\* See Safety Plan / Action Plan Handout \*\***

## How to Obtain Information from Immigration/ ICE

### **To find out if a person has a deportation or removal order from an Immigration Judge:**

Call 1-800-898-7180 (Executive Office of Immigration Review). You will need the person's 9-digit A-number.

- It is possible that the person will have a deportation or removal order even if this information line says they do not. This is because immigrants summarily removed at the border do not go before a judge. If they have had contact with Immigration or Border Control and are worried they have a deportation order, they should speak to an attorney.

### **Locate someone in ICE custody:**

- Go online to [locator.ice.gov](http://locator.ice.gov). Search by either:
  - The person's name, date of birth AND country of birth OR
  - The person's 9-digit A-number AND country of birth

**\*\* See Hand Out on Detention Center Information \*\***

## New Developments in Enforcement

New Department of Homeland Security policy memos were released February 20, 2017. These memos lay out enforcement priorities for the new administration. Although not as narrow as under Obama, the categories remain somewhat limited.

### **DHS will be focusing on those individuals:**

1. Convicted of any criminal offense;
2. Charged with any criminal offense that has not been resolved;
3. Who have committed acts which constitute a chargeable criminal offense;
4. Who have engaged in fraud or willful misrepresentation in connection with any official matter before a governmental agency;
5. Who have abused any program related to receipt of public benefits;
6. Who are subject to a final order of removal but have not complied with their legal obligation to depart the US;
7. Pose a risk to public safety or national security.

## Enforcement Priority #5: Public Benefit Abuse

The Department of Homeland Security policy memo outlined that the DHS will focus on removable aliens who:

#5 Have abused any program related to receipt of public benefits;

- This priority is vague and unclear
- It likely needs to have more detail, through regulations
- Most non-citizens are ineligible for public benefits with some exceptions (Kid-Care, Emergency care, Pregnancy Care, egs.)
- This priority should not include US citizen children of undocumented immigrants

## Medical Repatriation / Medical Deportation

### **Medical Repatriation:**

Returning a non-citizen patient to their home country based on the patient's wishes. This can allow non-citizens to move closer to relatives and a familiar culture while they receive long-term care. However, it can raise concerns if people are sent to facilities that cannot adequately meet their medical needs or they feel pressured to return.

### **Medical Deportation:**

Transferring patients with disabilities or serious illness (usually uninsured and undocumented) who have significant long-term care needs, outside the United States, either:

- (1) directly from a healthcare facility, or
- (2) through a court order (from a non-immigration court), and
- (3) without the informed consent of the individual involved or their legal decision-maker.

When the patient does not consent to return, their repatriation is effectively an order of deportation.

## In the News

It is important to stay up-to-date on current events in the immigration community. Many clients will hear rumors that spread through the community causing fear.

Three recent events that are frequently mentioned by clients:

**Detention of DACA Recipients**

**Detention of Person at Markham Court House**

**Screenings at CTA Stations**

## Frequently Asked Questions

**Will ICE use my information on my immigration application to deport me and my family?** In the past, administrative programs have not been used for deportations. However, Trump is less predictable than past presidents. For this reason, clients should be encouraged to get screened for immigration remedies, and create an Emergency Plan.

**I plan, or want to apply, to travel on advance parole soon. Should I still travel?** We encourage you to seek legal review from a qualified immigration attorney or a BIA accredited representative, since anyone traveling with advance parole is always at some risk of not being permitted to reenter the US.

**I am a Lawful Permanent Resident (LPR, Green Card Holder), will Trump be able to deport me?** Under current immigration law LPRs can be deported only based on certain grounds. If any of the following apply to you, we encourage you to seek legal counsel:

- You traveled outside the US for longer than six months with your green card;
- You have any criminal charge or conviction;
- You ever registered to vote or voted in the United States.

**I am undocumented, I don't have DACA or any immigration protection. Am I at risk of deportation?** If you have any of the following on your record we encourage you to seek legal review:

- a felony conviction / conviction for an "aggravated felony" (which could be a misdemeanor)
- a conviction for a "significant misdemeanor," which can include a DUI, domestic violence, sexual abuse, firearms offenses, drug sale, or burglary/theft;
- convictions for three or more misdemeanors, excluding minor traffic or juvenile offenses;
- an arrest by immigration agents after entering unlawfully after January 1, 2014;
- a final order of removal issued after January 1, 2014.

If you are undocumented in IL, you may be eligible for a Temporary Visitor's Driver's License (TVDL).