



Library podcast

Immigration 101 for Allies and Service Providers - Part 1

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[00:00:35] This podcast is being presented in two parts. You are listening to part 1.

[00:00:42] Good evening. My name is Davida Ingram and I am the Public Engagement Programs Manager at the Central Library. Tonight's program is made possible with support from the Seattle Public Library Foundation and the Northwest Immigrant Rights Project also known as NIRD you gave them a round of applause. I'm delighted to bring our event partner the Seattle Office of Immigrant and Refugee Affairs to the stage to do our opening welcome and I'll be back to introduce our speaker Jorge Baron. So please give a warm round of applause for walking we

[00:01:26] Hello my name is Joaquin Uy with the Seattle Office of Immigrant and Refugee Affairs one of the sponsors of tonight's event. Thank you all for being here tonight. The mission of our office is quite simple. It's to improve the lives of Seattle's immigrant and refugee communities. And as you can imagine our mission has been more important than ever and more challenging than ever. Some of you may have heard that at the request of Mayor Ed Murray we organized the event titled Seattle United for Immigrant and Refugee families offering free legal assistance to immigrants of any status. On January 20th inauguration day. We wanted to send a message that the city of Seattle stands as a welcoming city and that the authoritarian anti-immigrant values coming from the other Washington are contrary to our values here in the city of Seattle.

[00:02:27] And we're just getting started.

[00:02:32] We're honored to be partnering with the Seattle Public Library on this event. The Office of Immigrant refugee affairs is committed to ensuring that all departments in the city integrate welcoming city policies initiatives and actions. I also wanted to let you know that we'll be passing around a clipboard with a pen if you want to join the email list just for the Office of Immigrant refugee affairs. You can sign up on that piece of paper. We promise not to spam you but that's a good way to learn about upcoming Immigrant and Refugee events. You can also follow us on Facebook and Twitter. Just search for the Office of Immigrant and Refugee Affairs. Ok. Back to Davida. Thank you.

[00:03:12] Applause applause All right.

[00:03:16] I'm cutting some of my remarks short so we can get to Jorge's presentation and I'd love to bring up more Jorge Baron. I mean just share a little bit about him. He's the executive director of the Northwest Immigrant Rights Project. He's passionate about advocating on behalf of immigrants and is firmly rooted in his own immigrant experience. He is originally from Bogota Colombia and came to the United States at the age of 13. Here he is a graduate of Yale Law School and Duke University.

[00:03:42] So please give a warm round of applause for a Jorge thank you very much and I want to say thank you. Just

[00:03:52] Start off thank the Seattle Public Library and the Office of Immigrant Refugee Affairs for their partnership with us and helping us put together this event. This is like the best thing when other people do all the work to set up the event.

[00:04:05] So and I want to start off just by saying thank you to to all of you for being here.

[00:04:11] I'm going to actually skip over some of these slides here that we we didn't use the you know I think it's really important that you're here because I think one of the things that we find with regard to immigration policy is that people are oftentimes you know it's a controversial subject. And so people oftentimes don't engage because they're worried about it they're they're afraid they might say the wrong thing and it's complicated. I mean I think a lot of folks are talking about this theme sometimes make it as a very simple matter and I want to acknowledge in the beginning and you'll see and part of what we're hoping you will see is how complicated it can be for people navigating the system. And so I want to I want to say thank you for being here and for spending the time to understand the issues and to figure out how we can best serve immigrant refugee communities. I also wanted to just acknowledge that we're trying to pack a lot of information in. You know it's a good chunk of time but but there's a lot of information to pack. So you're gonna be hear me talk for a while and I want to acknowledge that and I appreciate your patience. We're gonna have a Q and A that I hope will be a good way for us to converse. And for me to address questions that people might have but I want to acknowledge that I'm going to be talking at you for a while which is not always the best way to do things. But given the amount of information this is the way we're we're going to run the program so let's let's get started.

[00:05:36] I also want to tell you we do have copies of the PowerPoint up front except that it's a slightly older version of the PowerPoint that we I screwed up and is sending to our folks. So if you do have a copy you're trying to follow along. I'll just flag that there are just a slight variations from the powerpoint that we'll show but we're gonna do is that we're going to post this on our Web site under the Resources tab and I'll show you where that is at the end of the presentation. So if you're following through and you want to get a copy of the PowerPoint deck you can you can pull it down and I know obviously we're also live streaming and recording this. So that will be up by tomorrow on our Web site which I'll sure share at the end. So just a quick note for those of you that don't know about Northwest

I'm going rice project I want to just give a quick overview of what we do where we're a nonprofit organization that's been providing services here in the state for 33 years.

[00:06:29] We started serving our Central American refugees back in that time of the mid 1980s. We now have grown to serve people from 130 countries and we are primary role is to provide assistance on individual cases as people navigate the immigration system but we also do community education and systemic advocacy where we're trying to change immigration policies and practices around the state. We have four offices two in eastern Washington and a Wenatchee and Granger an office in Tacoma that's mostly focused on certain people at the immigration detention center which I'll explain and then our office here in Seattle.

[00:07:07] So let's let's talk about what we're going to cover today. And again we have a packed agenda. So and I know there may be some folks in the in the audience who've already attended some of these presentations and so I hope you'll bear with me or or some folks who already have familiarity with the immigration system. So the first section we're gonna do kind of a quick overview of what our immigration system looks like and it's just very basic and I hope you understand that there's a lot of complexity and a lot of these areas. So we're going to try to just make it very quick and then we're gonna talk about the deportation process deportation and detention and how that works. And then we're gonna get it too. I'm going to talk briefly about some special protections that don't cover a lot of people in the community but that are also sometimes not as well known and I want to make sure that people are aware about them particularly folks are working with immigrants and refugee communities to make sure that if they find out people who might benefit from these protections that they're aware of them. And then I'm leaving towards the end the second half the developments that have been happening were recently and the changes that are happening that are race starting to happen and that might happen under the new administration. And because I fear that I think that's probably a lot of what you want to hear about us. So if I did at the beginning you would all walk out and I don't want to do that.

[00:08:25] And then we're going to talk a little bit about how we can empower communities and provide information to community members about about what's happening and information and then we'll tackle some frequently asked questions that I'm hoping to address before we turn it over to all of you for questions and hopefully some good answers. So let's get started. We're going to start with this basic overview of our immigration system. And again this is a very high level system before we get started into like that dynamic I want to talk about some acronyms and names and agencies because I'm going to be talking about him throughout the presentation. So let me just tell you about the immigration agencies that are involved in our system. So most of our immigration agencies are now focused in the Department of Homeland Security and we're talking about at the federal level to the Department of Homeland Security has a lot of components to it. It includes things like TSA and Secret Service and all that stuff but it also has three agencies in particular that are very involved with immigration. The first one is U.S. Citizenship and Immigration Services or USCIS. They are basically the agency that that grants benefits. So when you go to apply for citizenship or to apply for a green card and I'll explain what a green card is in a minute.

[00:09:41] That's the agency that you go to. There's also Immigration and Customs Enforcement or ICE which is probably the agency that gets the most attention in the news. That is the what I effectively call the law enforcement arm of immigration. They're the ones that people who are in charge of going to the poor people and to put people in deportation proceedings and we'll talk about them throughout the presentation. There's also customs and border protection that has a role customs and border protection is the agency that when you travel internationally you get to the airport they stamp your passport those folks are from CBP but they're also here in Washington state. We have a pretty big presence of Border Patrol agents which is also part of the Customs and Border Protection Agency. And we actually have a lot of Border Patrol agents in our state particularly in the northern counties and in the Olympic Peninsula. So we'll talk about how they may interact with people as well. So those are part of the Department of Homeland Security. I always flagged to people here in our state that sometimes community members here DHS DHS for Department of Homeland Security at the federal level and then they also hear DHAS at the state level and there is some confusion there.

[00:10:47] So if people things seem confused about that understanding those acronyms do a lot of people sound pretty similar and they do vastly different things right. So we got to be careful when we're explaining things as if you're talking about the essay chest of somebody who just came in. Remember that people might be confused about about who we're talking about. We also have the Department of the federal Department of Justice the U.S. Department of Justice that handles the immigration court system and we're going to be talking about that system in a little bit. There's the immigration courts and then there's an administrative appeal body called the Board of Immigration Appeals and then finally the Department of State has a lot of rules in immigration with people are coming from abroad. You know it's where you get visas but it also when we're trying to bring when family members are trying to reunify they're involved in the other country and people interest interact with the Department of State. Now I still hear people talk about INS. That was the agency that was in place for many many years handling immigration.

[00:11:42] I hate to break the news to those of you that did not know that INS is no longer with us. Rest in peace. INS was disbanded after the 9/11 attacks and 2000 2002 and so all of its functions were kind of scattered to different agencies most of them in DHS. So that that when you hear people say like INS came for them that probably mean ICE because because INS is no longer with us. All right. So let's get started and talking about the immigration system now when we talk about immigration. I want to flag that we're going to be talking we're going to be focusing most of our presentation on people who are not yet U.S. citizens. And so let's talk about who is a U.S. citizen. So people who are U.S. citizens are people who are born in the United States who've now naturalized then gone through the entire process and have now cheap U.S. citizenship. There's also people who sometimes have acquired U.S. citizenship because they were born abroad but they're but their parents were U.S. citizens. And so there are special rules for that too. We're going to mostly focus on people who are not in that category people who are already in the United States are not yet U.S. citizens. And when we talk about those at that group of people they can be you know if I showed you kind of like all the different immigration status and somebody could have you know be this like huge chart of all these different types of immigration status.

[00:13:03] So I'm not going to bore you because I'll put you to sleep very quickly. So we're going to talk about three big categories of people who are not yet U.S. citizens and who are present in the United States. Now the first category are people that we call lawful permanent residents. I'm going to throw out the presentation and you might see LPR lawful permanent residents. They're often called green card holders. And I'll talk about green cards in a minute. Now that group is a group of people that have been given permission to live here and to work here indefinitely. And now it's this permanent but I do want to flag that people can be deported even if they are lawful permanent residents primarily the happens if people have been convicted of certain criminal offenses or they can also be deemed to have abandoned their residence if they left they went abroad and started working and living somewhere else. And when they try to come back the government can say you've abandoned your permanent residence and so it is permanent but not quite. Now I put it issue if you see the presentation I put people who are granted asylum and refugee status in this category and I'm going to talk a little bit more about those those two things. But I I'm going to put them in this category because both those groups can quickly get lawful permanent residents and they also get to stay here.

[00:14:23] Again in this kind of indefinite situation. So that's one group. Second group are people who are here on some sort of temporary status. Now this is where it could be him you know many different types of categories. It could be somebody who is here and is on a tourist visa somebody who was on a student visa who's on a temporary work visa. So there's different things that people can do depending on their immigration status. But the key point here is that there's some period of time that they have or that they have to keep renewing their process. They're not here entitled to be here indefinitely. And on this temporary status and then the third category and the one that probably gets the most attention are people who are undocumented and people who are undocumented are people who are here in the United States but who do not currently have permission to live or work in the United States. And that could be two groups that could be people who came to the country without permission in the first place and haven't had an opportunity to legalize their status or people who came initially in that second category of temporary status and now have overstayed. So it could be somebody who came on a tourist visa was given permission to be here for two months and is now here three years later.

[00:15:35] So even though they came in legally they're now here undocumented because they don't have permission right now. Now a quick word about undocumented I want to acknowledge that there's in the debate and in the conversation a lot of people use other terms they might use the phrase illegal immigrant or more discouraging they might use the word illegal to describe people in that category. And I want to just quickly note about the reasons that I do not use that term in organization. A lot of people and we we encourage people not to use terms involving illegal or illegal immigrant. And the reason for that is simply because the U.S. Constitution grants everybody in the United States basic constitutional protections. You see how our country got started with the idea that everybody has basic rights and so we believe very firmly that nobody is beyond the law. Nobody is somebody who's who's presence who's being is unlawful. And so we don't as on a moral and principle ground we don't believe people are illegal. And it's also important to note that you know part of the work a lot of the work that we do is to try to figure out a lot of people who are not currently have

type permission may actually qualify for formal protection. So so that's where we use the term undocumented we're describing people who don't currently have permission.

[00:16:53] All right. Let's keep going. So we talked about this category of people who have lawful permanent residents or green card and so a big question that people ask us both people who are here on temporary status or people who are undocumented is how do I get to this magic you know green card stage that will allow me to live here and stay in the United States.

[00:17:16] And so that's the question of how to get a green card. And I'm showing you what a green card used to look like. And this was already a source of confusion for people because it's not green. It's kind of this. It was its pink color. And so they're like wise wise. That's not a green card. People say it's not a green card. Well it was a green card and you know the reason was because the green cards originally the registration cards were actually a green color and then immigration change him to pink and made him pink for many years. But eventually but the name of green card had stuck and ever be called him green card. So a few years ago immigration decided you know I give up. We're just gonna make green again. So the new green cards are green. You might still see some green cards that are pink and you can see how it's really confusing already the immigration system. All right. So how do we get a green card. Well if you look at the numbers this is the breakdown of on an average year. I think I pulled these numbers from the last the last year that we have statistics for 2015 is how many people get Green Cards in which categories and about two thirds of people who get green card status get it through a family member here in our country. Ok. So we're gonna be exploring that that category in more depth in a second. About 40 percent do it through employment.

[00:18:32] We'll talk a little bit more in detail about that too. And then 40 percent through either asylum or refugee status and we'll we'll get some more depth and then you know that that as you can see that doesn't add quite up to 100 percent. There's other categories that are more specific that will also allow people to get a green cards to get permanent residence. I'll just quickly note one of those categories something called a diversity visa lottery and people will say well I heard that somebody told me that there was a lottery and that's clearly a scam. I mean you know there's no scam and there are a lot of lottery for for green cards. And I have to say actually that's one thing that sounds like a scam but it's actually true. We do actually have a diversity visa lottery program that is basically structured to allow people who. But the key thing about diversity is a lot of program is that it's it is excludes the countries that send the most people to the United States. And so it's it's only for certain countries and it's also difficult for people who are out of status to be able to pursue that program at this point. So anyway I'm not gonna talk more about that I just mentioned that it is something real in case people have heard about it. So let's get into more depth about each of these categories. So how do people get green card through a family member.

[00:19:48] So there is a process to petition people here and I'm I show you on the screen the different categories of people that can qualify for to petition for somebody. So there's two categories of family members of family relationships that qualify. The first one is called the immediate category. And I want to flag that immediate is not what we understand to be like an immediate family member immediate was meant to convey the fact that this was a category that would not have a waitlist that

could get the green cards pretty quickly except that in immigration law immediate is like nine months to a year it still takes some time but there's just not this like long waitlist that I'll talk about in a minute. So the categories of relationships where it's in the immediate category are if you're a U.S. citizen you can petition for your spouse. You can petition for your child who's under 21. And then you can petition if you are over 21. You can petition for your parent if you're a U.S. citizen. Ok. Now there are other relationships where you can also start a process but there's going to be a waitlist and immigration law is known as the preference categories but preference makes it sound like it's a good good thing. Right. That's good. And it's actually actually those relationships actually have a longer waitlist. So that is if you're a green card holder if lawful former resident and you're petitioning for your spouse your unmarried children you can now. You can do that or your adult children marry children or siblings if you're a U.S.

[00:21:24] citizen. Ok. And I'm going to get into a little bit more depth now beyond those relationships that I just highlighted. You can't petition. Ok. So sometimes people come in and they'll say you know my grandmother raised me. She's like a parent to me. And so can she petition for me because she's kind of like a parent. And I've heard parents can petition. No I mean just because their relationship was like that is not sufficient. Or my cousin or my aunt or my uncle. No if they're not on the list of categories that I talked about that's not going to be sufficient. Up until a few years ago same sex marriages were not recognized but now under federal law because of some Supreme Court decisions now same sex marriages are recognized on the same basis as opposite sex marriages. So that is being recognized right now. Now a quick note. Sometimes people say to me well I've heard that somebody needs a sponsor and I want to clarify that issue because in or in family visa petitions and these petitions you need first of all you need somebody to petition. There needs to be one of these relationships. Right. But on top of that you need also somebody who is a financial sponsor and basically during the process that person is saying I am taking financial responsibility for this person who's coming in and I have enough resources to support them financially. Now most of the time it's the same person who is petitioning.

[00:22:51] They they they act as as the sponsor but there are some situations where the person may not have the resources and so they have to find somebody else who's willing to take that role on. The key thing is that sometimes people come in and say oh I heard that there's a way that you can sponsor somebody to get a green card. Right. And and it's not quite true. They've heard about the sponsorship part but you can't have the sponsorship without the petitioning. Right. So you need to have the family relationship and then you need to have the sponsor. You can't just do the sponsorship by itself. All right. So we talked about the waitlist. And so you know there's some relationships that don't have a waitlist but there are some that do. And I'm showing you here. What how long some of those wait list can be. And it just all depends based on the relationship and the country that you're from. Because we have different lines essentially for and so it's sometimes hard to explain this to people. But the way I try to do it as you know this was a pretty popular event. So let's let's say that we had different doors and different lines for people to get in depending on where you were from and what you know what the relationship you had. And so what this chart tells you and it's something that's actually available online is called the Visa Bulletin is if you go to the person who's about to get

in who's just coming in now who's finally given their turn to come in and you ask them how long have you been waiting.

[00:24:19] And so if somebody comes into our office right now and says you know I'm trying to bring in my sister I'm a U.S. citizen I'm trying to petition for my sister from the Philippines. And how long is it going to take. And I say Well I don't I can't tell you how long it's going to take for you. What I can tell you is that the person who filed for this has been waiting since August of 1993. That's how long people have been waiting. And so that's that's you know you can appreciate how long that is. And you can see some of the other dates on countries. So what happens is that people filed this petition and one of the things that also throws people off sometimes is that they file this petition and they all of a sudden they realize that they get it they get something in approval notice from immigration and so they get all excited. They're like my petition has been approved but all that means is that they basically have a turn in the line. They still have to wait until the petition becomes what immigration laws called current meaning that that they get up to that date. That's when the person actually is able to come to United States or be able to get the green card.

[00:25:30] So sometimes people are having to wait for you know over 20 years in certain categories. And while the person is waiting in that line if they're in the United States that doesn't mean that they actually have permission to live here. So they still can get deported in that situation. Now we talked about family. Let me tell you about employment. So employment is a way that people can get green cards. And that is true. But employment visas as a practical matter are only available to people who have either advanced education educational degrees or particular skills or particular or very specialized things. So I you know I mean I'm overstating this but you know fashion models basketball players baseball players folks like in those categories may be able to musicians some some people who are in certain categories or they specialized levels may be able to get green cards if they have advanced degrees might be able to get green cards for folks who working in what are traditionally sort of low wage work construction. You know agriculture there's no realistic path to get a green card through those kind of employments. So for a lot of folks certainly organization is working with employment visas are not really an option for folks in that situation. Now the other big category that I talked about was asylum and refugee status. Let me explain that. So both of these types of immigration status asylum and refugee status are based on the principle and the idea and the concept that comes from international law the Refugee Convention that says that we are not going to send back to country people who are going to be harmed in that in that country.

[00:27:23] So both of them are founded on that principle. Now refugee status is something that somebody obtains before they come to the United States. So there is a refugee program that is handled outside of the United States. There are people who are refugees all around the world and there is an entire program that I'm not going to be able to get into detail that will then try to place people in different countries. And there are many many many more people who want to be able to get relocated to the United States than we allow every year the president gets to make the determination each year of how many people we allow in refugee status. And from what regions. And one of the things that happened recently and I'll just quickly touch on is that for example President Obama had set a limit of one hundred ten thousand for this this federal fiscal year and President Trump as soon

as he came into office. He lowered that to fifty thousand and the president gets to make that determination of how many people are allowed in via refugee status. So those are people that when they get to United States they already have that status and once they come in with refugee status after a year they're eligible to apply for lawful permanent residence which is why put them in that category because they can they have this this right to be able to apply for lawful residence people who are granted asylum are people who apply for that when they already arrived to the United States and they could be pursuing that they could have come in without permission and apply for asylum.

[00:28:59] They could have been caught right at the border and applied for asylum. They could have come on a temporary visa and later applied for asylum. And so that's how asylum works. Now one of the things that is important about this that I want to explain about both of the Refugee and Asylum protections is that it is not sufficient merely to show that you are going to be harmed in your home country. So that is one component of it that you're going to be persecuted that you have a well-founded fear of persecution in your home country. You also have to establish that the reason you're going to be harmed is one of five things political opinion nationality race or race or ethnicity religion or membership in a particular social group. So you could prove you could show that you are going to be harmed in your home country for example because there's just general violence in your home country and everybody in your country might be harmed. But if the reason is simply that is general strife and it's not based on one of these five reasons then you are going to be denied asylum or refugee protection. It has to be one of those five things.

[00:30:15] And and there's a few things say you might say well I mean so most of those are kind of pretty clear on what they what they are. Membership in a particular social group is this is I don't want to call it a catchall because I think that implies that it kind of covers everything. But there are some things that have been recognized. For example sexual orientation gender identity are being recognized. There's other categories of people who might might fit into that criteria. It's a very case by case a specific thing and so something that somebody needs to really review the case to figure out if they're going to qualify for protection. But the key thing is that sometimes we get people who come from regions let's say parts of Mexico or other parts of the world where there's a lot of violence and that that person may be legitimately in fear about being sent back because there's a high risk that they may be harmed.

[00:31:09] One good example is Central America with with gang violence. Right. And there may be a lot of gang violence in the region and the person may be legitimately concerned and may have a legitimate fear that they're going to be harmed if they if they go back there or if they're sent back. But if it's not one of these categories and oftentimes it might not be one of these categories then the person may not ultimately qualify for protection and that might be kind of counterintuitive for a lot of community members because some might say it's really terrible there. How could it possibly be that you don't get asylum. It's because our asylum law is much narrower than that people realize. Now one of the other things when you know for those of you that we do work around for example of discrimination and you see this list of categories what what seems to be missing when you hear race religion nationality when we think of discrimination what's the other category gender sex right. Well so

that's not on the list. Ok. So if you're being persecuted on account of your sex that by itself is not sufficient reason to be granted asylum.

[00:32:16] Now there's been some development of case law regarding the membership in a particular social group where some claims for example of domestic violence survivors who could not get protection who are in certain relationships have been developed but it's very case specific. And so that's another situation where we see a lot of claims that a lot of people would perceive as being able to get protection that do not qualify as of people who are granted asylum asylum or refugee status also have a different path where they may be able to petition for for spouses and minor children after they're granted that status. So that's a little bit of it's kind of like a little special family visa petition for people in that group that I wanted to make sure and flag. OK. So I want to jump back a little bit so I've talked about the three main categories and I want to talk a little bit about an important thing with regard to that it mostly applies to family visa petitions. OK. And one of the key barriers so I talked about the situation where that a lot of people are able to get immigration status through their family and through a family member.

[00:33:26] But one of the things that I did not touch on yet is that that's not always enough. So there's a there's a lot of barriers facing people who came to United States without permission in the first place. I mentioned how somebody could be undocumented because they came into the country without permission or because they overstayed their visas. And so they're both. Both of those people might be out of status but the way that somebody if somebody came in without permission they have additional barriers to try to legalize their status. So let me let me explain how this works. So let's say a couple walks into our office and they say I'm married too. So they come in to say like we're married. I'm a U.S. citizen and my wife is undocumented. And I've heard that as a U.S. citizen I can apply for her to get a green card. And so we'd like to start that process and I'll say yes you're right. As a U.S. citizen you can petition for you for your spouse. But let me ask your wife what how she came into United States. And she says well I came across the border without permission 15 years ago and I am now here and I have been here the whole time. And they say ok well here's the thing is that you can you can start the process but because you came to the country without permission you are not you can not get the green card here in the United States you're not eligible for this.

[00:34:53] What immigration law is called adjustment of status to adjust your status here in the U.S. to become a lawful resident and get you a green card.

[00:35:01] You have to leave the country and get your green card outside the U.S.. Now a lot of people in that situation they'll say well and that's that's big because you know I have to travel it's complicated I had to pay but ok we can try to do that and I say well. But there's another wrinkle. You told me that you've been here now for 15 years without permission and because of that the moment you leave the country you are barred from returning to the United States for 10 years you are subject to something called immigration law the 10 year bar.

[00:35:35] Now that's something that came into being in 1996.

[00:35:38] And so they say well wait a minute you tell me like a whole point is that I want to legalize my status but if I can't do it here I have to leave the country. But if I leave the country I'm stuck outside for 10 years. Yes. So that's. One of the biggest barriers there's a lot of people that I've been put in this very much a catch 22 in terms of legal status. The people who have this relationship where they can pursue this. Now I want to flag. There is a waiver of the 10 year bar so there is a way that you can ask the government to not keep you out for 10 years. Now before 2013 you could only ask for the waiver after you left. So it was a big gamble. Right. You had to leave the country and then ask well you let me back in before the 10 years and hope for the best. Needless to say a lot of people decided not to do that because they didn't want to take the chance. One of the reforms that President Obama launched in 2013 was to create this program called a provisional waiver that allows people to apply for the waiver before they leave. So they have some certainty well and wants a certainty but they have some sense of whether they're going to be allowed back in.

[00:36:52] So that reform has been operating and it's allowing people to do that. And you know it's not it's not an easy waiver to get. But it's also not impossible and so people can pursue this and a lot of people are being able to do this to to get the green cards and situations that they wouldn't have otherwise. But it's still pretty complicated and expensive process and and people really need good advice in trying to navigate this process because we've seen way too many cases where the people have left and you know they've they've ended up stuck outside and that's another thing. That's one of the things that could potentially you know go away under the new administration. Currently it's still in place. But I do want to flag that. It's something that the new administration could try to take away. So that's that's this issue of adjustment of status is a big reason it's a big barrier for a lot of people who would otherwise have an ability to be able to legalize their status. ok so if people have managed to get to that to the green card stage once they get to Green Card stage what happens. Can they apply for citizenship. Yes. Now the U.S. does not.

[00:38:04] There's some countries where they don't allow you to be in the equivalent of green card stage for too long. They force you to decide whether to become a permanent they become a citizen. or you have to leave. We do not do that. And so there's a lot of people in the United States who stay on green card stage for a long time. You have to renew your green card every 10 years. And but you know there's no requirement that you become a citizen. However people can become citizens. The general rule is that you can become a citizen after five years. People are married to U.S. citizens. The time line gets reduced to three. Now you have to meet other requirements that I'm not going to get into about how much time you've lived here could be disqualified by certain criminal convictions and other issues. But this is that's the general rule. Now I think it's very important. And we've seen you know with with the travel ban that I'll be talking a little bit more later. Some of the benefits of having citizenship and of course there's all kinds of benefits. The fact that people can vote participate fully they don't have to worry about their permanent residence being taken away. So there's a lot of reasons that we encourage and we think people should become U.S. citizens. However it's also important that when they do this make that decision that they make sure and get good advice to make sure that the application for citizenship is not going to lead to adverse consequences.

[00:39:32] Because sometimes we have lawful permanent residents who had a problem particularly problems with the criminal justice system years ago. That wasn't an issue then but maybe an issue now. So somebody might have might be a lawful permanent residence resident who had a drug conviction 15-20 years ago that back then never got flagged and all of a sudden when they apply for citizenship it becomes an issue and could actually lead to somebody being placed in deportation proceedings because you can lose your permanent residence based on that. So again I'm not trying to discourage people from applying for from a residence because because it's important for people to get citizenship get that protection. But it's just important that people make sure that they get good advice and get screened by an immigration attorney or an accredited representative to make sure that they are not getting good in trouble when they're pursuing citizenship. All right. Sometimes people will say you know I I know I don't qualify for permanent residence. I know I don't qualify. All I want is just a work permit. I've heard that you can just apply for a work permit and that's all I need. I just want a social security number so I can work here legally. Can I just. Can I apply for one of those. And the problem is that there's not a way to simply just apply for a work permit because you want to.

[00:40:54] There are a number of situations where somebody qualifies for a particular form of immigration status that makes you eligible to apply for a work permit. But there isn't just a stand alone way that you can apply for a work permit. If you don't currently have immigration status. So we're going to talk about some of these protections. We'll talk about the U.S. and a DACA program for Dreamers and a few other things where you can apply and sometimes when you're in the process of applying for a green card you can get a temporary work authorization. But the key thing that I want to emphasize is that there isn't just you know just a separate path to apply for a work permit just because now when you get the work permit you can get a social security number associated with it. Oftentimes a social security card will say only valid with with employment authorization so that it's only it's only tied to your work permit and that the Social Security number by itself isn't evidence that you have permission to work forever. You it's the work permit that actually authorizes you to work. So I'll just touch on that quickly. So let me just quickly show you this chart because I want to explain again this issue because this is the part that kind of confuses a lot of folks about how family visa petitions which again I think one of the main ways that people can get immigration status in the U.S.

[00:42:20] So the first question that people have to ask is am I even eligible to apply for somebody you know do I. Do I have one of these relationships that I can qualify to get to petition for them. Let's say the answer's yes. Ok. Well then the next question is. And I filed a petition. The next question is is there a waitlist and so I might file a petition but then be stuck on this waitlist for decades before I can even move to the next stage. If you are married to a U.S. citizen if it's through U.S. citizenship relationship a spouse of a U.S. citizen you won't have the waitlist but if you are a sibling trying to petition for your sibling from from another country yeah you will have to wait in the waitlist. So let's say it's a spouse. So you don't have to wait so you can't move to the next stage. Well Ok. So then the next question is if there is the other person already in the U.S. if they're in the US then you go to that to that stage and then the question is ok are you eligible to adjust status.

[00:43:22] Are you able to get the green card here because you came in with permission or not if you came in with legally with a visa then you can adjust the status and you can do the processing here if

you did not. If you do not qualify to to adjust your status you're going to have to leave the country. And then there's the question about whether you're going to be subject to one of those bars that is going to prevent you from from doing it. And you're going to have to apply for a waiver and decide whether you want to take the risk of leaving the country. Now if the person is outside the U.S. obviously they're going to have to go through the processing outside outside the United States. So that's the pathway that people have to follow to be able to get a green card through through family relationships.

[00:44:08] Now I've spent some time talking about how people can get green cards. So let me talk about the ways that you that are not necessarily a path to get green cards but that a lot of people think might be paths to get green cards. People who came to United States at a young age. So I have I had to sit in the Tacoma detention center representing and talking to somebody who when I asked her when I was doing the intake and I was asking her how long have you been in the United States. She told me since she said I don't remember but my mom tells me that I was eight months old when she carried me as a baby across the border and that's all I remember. I mean that's all I know because I've. Since I remember I've been in the United States and she was 19 when I talked to her at the detention center and unfortunately this was in 2007 and after I completed the intake there was no option for her. She she was ultimately deported because there was no there's no no law currently and still no law currently that says that just because you came here at a very young age and you've lived your entire life in the United States that you can get a green card or lawful permanent residence.

[00:45:31] There's been a proposal in Congress for many years. Known as the DREAM Act that has been introduced in every session since I think at least 1999. And but that unfortunately has never passed Congress. And so that it remains a proposal. And therefore under our immigration laws the fact that you came at a very young age does not mean that you can get a green card. Now some of you may know and we'll talk a little bit more in detail. President Obama launched a program in 2012 that provides some temporary relief to people in this situation known as the DACA or Deferred Action for Childhood Arrivals. And I'll get into more detail about that program later. So there is a temporary program that provides temporary protection but it's still not green card right. You still can't get a green card that way. Under current law. Now I have maybe I've lived in United States for a long time and so I've done intakes with people who tell me I've been in the United States for 32 years some undocumented and I've been here for over 30 years and you know is there some program for me because I've lived here for that long.

[00:46:37] No. The fact that you've lived here for that long does not mean that you're going to get a green card right. You still have to have one of the.

[00:46:44] In order to do that you need to have one of the categories that I talked about before having U.S. citizen children under the age of 21. So that's another one. And sometimes you hear that in the news where they say oh people come here have babies here and that allows them to stay. Well you know my response to that is you know it's a very inefficient way to get immigration status because here's how it would work. So if that's the way you're going to try to get a law from residents here's where you'd have to do it you have to come to United States to have a baby ok. You have to wait until

they're 21 years old. Then they can petition for you. Right. But if you can't do United States without permission you're subject to the 10 year bars a year you're not eligible to adjust. Right. So you can't get the green card here. So then you have to leave the country to get your green card. And when you leave the country you're subject to a 10 year bar because you've been undocumented that whole time and you can't get a waiver in that situation where you're being petitioned through your through your child if you're not married to a U.S. citizen.

[00:47:50] And so so you are basically looking at when the kid is 31 years of age at potentially getting a green card. And so like I said I think that's a pretty inefficient way to be able to get lawful from a residence. So that's not really that. Now the other question that we get is being a very committed worker. So oftentimes we get employers to come to our office and say my you know a guy I work with just got detained. He's at the detention center and he's like runs my business he's the foreman of my landscaping crew and he's essential for my business.

[00:48:23] You know surely that must count for something no.

[00:48:27] I mean that's not going to be a that's not going to mean it counts for something but not for a green card. That's not gonna be enough to do that. Now the other thing is people ask is having a serious medical condition. If I have a serious medical condition can I get a green card that way. No.

[00:48:42] There is no humanitarian program that says that because you have a serious medical condition you're gonna be allowed to stay.

[00:48:49] If my child has a serious medical condition. Now some this is a little bit of there's a little bit of a wrinkle in this one. There is some those people that said like I've heard that if you if you have a child with a serious medical condition you might be able to stay. There is a form of protection.

[00:49:06] Defensive thing when you're in deportation proceedings is known as the self referred to as 10 year cancellation of removal that only you could only apply for it once you're ready in a deportation process which allows you to ask the judge to not deport you based on the fact that you have 10 years at least 10 years in the United States and that either your child your spouse or your parent who is a U.S. citizen or permanent resident is going to suffer exceptional and extremely unusual hardship because if you get deported you used to just say extreme hardship but then Congress felt like they were giving the way too easily. And so they changed the language to say exceptional extremely unusual hardship because basically a lot of people were in that situation they'll say hey I have 10 years. And if you if you deport me that's going to be a really bad hardship for my kid right. I mean just any time that you get separated from your parent it's gonna be like really bad. And they say no no no. That's just normal hardship because in deportation processes that happen all the time.

[00:50:11] And so just so so.

[00:50:13] So it's only in situations where you can demonstrate that it's kind of it's unusual it's out of the norm. And so oftentimes in situations where that where the where the child or the spouse has a

serious medical condition or something else that requires specialized treatment that is going to be hard to do elsewhere.

[00:50:32] All right. So we got through that first section. Let's talk about a removal and deportation proceedings now. Why do I use the word removal. That is the formal name of this process now in immigration court a up to 1996 they used the terms deportation and exclusion but I guess they felt that that was like too harsh. And so they changed the name. Now we're not deporting you. We're just removing you from the country gently gently removing it but it's the same thing. It's deportation. So I'll kind of use the terms interchangeably. So what is this deportation process. So this deportation process is a way that the government is trying to decide if you should be kicked out of the country. And there are basically two questions that get asked in a deportation case. The first question is is this person somebody should be who who is subject to deportation. And the second question is even if it is somebody who is normally subject to deportation. Is there a defensive strategy of protection that they qualify to be allowed to stay in the United States. So let me explain that in more detail. So the first question is. Well first question is you know if you're a U.S. citizen he shouldn't be deported right. And most people think well that's easy right. We know who are U.S. citizens. Well let me tell you about one of our clients. Name is Radisson Castillo Radisson was born in Belize.

[00:51:56] He came to the States when he was about six years old and he became a lawful progresses through his family lived here eventually served in the U.S. Army and then he came a U.S. citizen while he was in the army in fact the army told them that he could stay in the army unless he became a U.S. citizen who became a U.S. citizen. And later after he left the army he was arrested in Pierce County. And then he was told that he was being released from the from the Pierce County jail that he was being transferred to the Northwest Detention Center. And he was like that immigration was going to pick him up. He said why is immigration picking me up on this. I'm a U.S. citizen. They're like I don't know. Talk to them. And so when he got to the central center he kept asking like I shouldn't be here I'm a U.S. citizen. They're like we don't see anything on your record that you're a U.S. citizen and talk to the judge. So he finally had his hearing and he had this hearing without a lawyer explain in a minute. And he kept saying I'm a U.S. citizen and served in the army and the judges like we don't have any record of you being a U.S. citizen where your citizenship documents. And he's like I don't know maybe at home but I don't have anybody who can get him. He's like well you admit that you were born in Belize. He said yes. He said well then it's your burden to prove that you're a U.S. citizen. And if you can't prove it you're going to be ordered deported. And he could.

[00:53:12] So the immigration judge ordered him deported. He filed an appeal on his own. We actually started got involved in this case while he was on appeal and finally were able to get the military records that ultimately showed that what had happened was that immigration for some reason had created two different files for him and they had a one file that had nothing on it although that he was born to beliefs. And the other file had all of his lawful residence and citizenship information. And when they detained him they just looked at one file and they never they never saw the other file.

[00:53:44] And so when finally we pointed that out and we showed the other file number they're like oh yeah it's true except that it took eight months. While he was detained for that for that to happen.

So anyway he was he was I don't want to say lucky but he was eventually released after that so that question of whether you're a U.S. citizen is actually not a simple sometimes as people might believe. There's also situations where people are lawful permanent residents and the government government's saying you committed a criminal offense that makes you deportable and that's oftentimes not clear. And so that first question can be very important but let's say it's somebody who's undocumented who doesn't have current permission. So the answer to that first question may be yes they are undocumented. They don't have permission to be here so they could be subject to deportation. So then we move to the second question which is - Is there a protection for which they qualify. And that could be a number of things. It could be they they qualify they can pursue asylum.

[00:54:37] They can pursue maybe they have a family relationship maybe they're married to a U.S. citizen and they're eligible to adjust their status here maybe they're eligible for this cancellation or removal that I talked about the 10 year cancellation so there is a process that the court would have to go through to decide whether they are eligible for that and whether they get to stay.

[00:54:55] So that's what the deportation proceedings are about. Now one key thing that I want to talk about is that sometimes people get detained and they don't get a hearing before the immigration judge. And so there are some situations where people are going to be detained by immigration and they're not entitled to a hearing before the immigration judge. Generally it's people who either just arrive to United States at the border or people who have had prior deportations in the past and maybe who are deported before now they come back. They're not necessarily entitled to an immigration court hearing. And so there are certain situations where that can happen. Now how do people end up in this process. This is this has admitted many different paths and some of these parts are sort of changing. One of the biggest ways that people end up in deportation process is interactions with the criminal justice system. So they are arrested by local law enforcement for some reason and and they end up in the scope of immigration. Now I do want to flag and I'll talk a little bit about this more later that one of the reasons is because the fingerprint databases have now been connected.

[00:56:07] And so when people are arrested and their fingerprints are taken that information ultimately through the FBI is shared with ICE and it's not necessarily a decision of the local governments I want to emphasize ok but just because everybody's checking against the FBI database the information is being shared with with ice and that if the person its fingerprints are in the database that gets flagged for people. So that's one big significant way that people are identified. Filing an application that is denied so. Remember I talked talked to you about this couple who wanted to apply for citizenship.

[00:56:39] Let's say they didn't go to an immigration attorney they just had heard that a U.S. citizen can apply for the spouse. And so they say hey let's just do it ourselves right. And so I'll apply for a spousal file the paperwork I can that all loaded from the Internet and you know it all looks good. They filed the application. They get an interview notice and they're thinking that everything's working right. They go to the interview and the USCIS officer says well let's see it says here that you're your you came to the country without permission. And the woman says yes it's ok. Well well you're not eligible for four just missed that as you can't get your green card here you're married to a U.S. citizen but you have to go through consular processing. Oh I didn't know that. Yes. Well but now I know that you're

here undocumented. So I'm gonna refer your case to ICE and you're gonna be placed in deportation proceedings because before immigration may not have known that they were here but now that she's filed this application they do people apply for asylum. And then they get denied by U.S. Citizenship and Immigration Services that also will go to that may go to deportation proceedings. Now this is something that would it has changed because under the Obama administration that person in that situation when they're married to a citizen they don't have a record. It's likely that they would not have been referred to ICE ok.

[00:57:55] But under this new administration I think it's very likely that they would be referred to ICE. So people have to understand that there's a heightened risk in those situations. Now we also see other interactions with ICE and Border Patrol.

[00:58:08] So I mentioned that one of the for example one of the groups that they're going after right now that immigration is looking actively looking for are people with prior deportation orders. And you know that sounds kind of bad in a lot of situations. People say well you know they were previously deported. You know that sounds like they're like bad people. Well you know I think what happens a lot is like the people who have the biggest ties of the people who come back. So somebody who's been living here for 10 or 15 years undocumented they get caught up with immigration. They get deported but their entire families here. Guess what happens. A lot of them decide to come back again.

[00:58:44] And now they have this prior deportation order and immigration is actively looking for them. And so what what's happening frequently Now in our communities under the new administration and what's happening to a lesser extent even under the Obama administration is that ICE will go look for them and identify them. They run their names through different databases and then we'll identify them.

[00:59:02] And so they'll go looking and so they say oh Jorge Baron has a deportation order or we're gonna go find them right now under the Obama administration. They would have just picked up her hand taking him away. But under this new administration what we're seeing in the last few weeks is that they'll go to Jorge's house they'll detain Jorge and they also start questioning everybody else was in the house who happened to be there and if any of them admit to being undocumented then they'll pick them up too. And that's happening very frequently. There's. Right now we're seeing situations where the border patrol is checking documents in at bus stations and Spokane is where we've seen them more frequently. So they're checking documents if the person admits that they're not here without permission. They're going to be placed in deportation proceedings. We are expecting that we might see things like workplace raids later where people are detained at their workplace. That's how they might end up in deportation proceedings. So there's just a number of ways that people might end up in those situations. Now when people are placing these proceedings in deportation proceedings immigration has some discretion in some cases to detain or not detain the person so they could give them a a notice to appear in court here in Seattle. But more and more frequently what we see is that people do get detained at the Northwest Detention Center. And so let's let's we'll talk about that in a minute. So where does this deportation process happen. It happens in immigration court.

[01:00:32] There are two immigration courts in our area and Seattle in Tacoma in our state. If you're not detained you go to court in Seattle. If you are detained it's in the Northwest Detention Center in Tacoma. And one of the key challenges is that people do not have the right to an appointed attorney in immigration court. So this is not like criminal a criminal case where you if you can't afford an attorney you will be provided one. And so this is kind of what it looks like in the immigration court. And you know you see that there's a judge with black robe and on the one side is the government attorney who's the prosecutor who's making the case for for why the person should be deported. And on the other there's a table. And if you have the resources and can hire a private attorney then you get you know you can bring your attorney and have him or her represent you. But if you don't then you're going to be representing yourself. And the statistics are pretty bad. If you're in Seattle about 35 percent cases are represented but if you are in Tacoma the detention center about ninety two percent of the cases in the in a five year period where I'm represented. Meaning that they had to they had to proceed on their own and try to make the case themselves. Now they do give people if they don't have a lawyer they will provide them a list of free legal service providers in Tacoma that will have that have three different listings there.

[01:02:01] Unfortunately it's our Tacoma office our Seattle office and our Granger office. So it's really just us on that list. But it is plural. So there are providers. This just happens to be the same organization. So. So that's the Northwest Detention Center. The northwest then she center is a private facility. I want to just quickly tell you it's a private facility it's run by a corporation named the geo group.

[01:02:25] That is an international corporation that runs detention centers not only here in the U.S. but also in Australia and the UK and a number of other places. The it's in the Port of Tacoma area. A lot of people from those even in come area don't know where it is. It's expanded as we speak here this evening.

[01:02:42] There's about over 15 hundred community members who are detained some of them right now it's a mix of people from the border from the southern border who are brought up here for their deportation case. And then people from the local community. I think what we expected is we're going to see more and more people from the local community and they're going to detain the asylum seekers down in the south.

[01:03:02] There's the immigration court within the facility the government attorneys are there and then and then the GEO Group guards that run the facility are there.

[01:03:14] This is a little bit what the what the detention center looks are oftentimes people ask us about what it what the conditions are.

[01:03:23] I think what we hear from a lot of community members is that it's very cramped. It's this kind of big dorm. I mean like dorm areas where they have a lot of bunks and not a lot of privacy and people are really concerned and one of the things that's really difficult is for people who are fighting their case cases that they don't know how long they're going to be detained. I've had I had one client

who is they're detained for over four years in this detention center. Now some people get you know they're not fighting the case then they get processed very quickly if they had a prior deportation order they may get processed even more quickly.

[01:03:59] But that's one of the big challenges with people in the detention center now people who end up detained are going to end up leaving the detention center one of a few ways so they will get deported. They will get a removal order and they will get sent back and basically get driven to depends on where they're from if they're from Mexico or Latin America.

[01:04:18] They generally get sent by plane from the detention center.

[01:04:23] They tend to get taken to Boeing Field where their plane takes them to the southern border and then they either get bussed across the border or they get transferred to another plane that takes them for example to Central America.

[01:04:35] The voluntary departure is something that people who are in detention might get but it's still means that they get kicked out is just on the record it's not going to show up as a deportation. There are ways that some people can ask the judge to release them on bond if they pay a certain amount.

[01:04:54] Not everybody is going to have that but some people do get the opportunity to do that and can get released. Now that just means that they're going to continue their deportation case into non detained docket in Seattle or somewhere else if they go there. In some cases people can be paroled if there are asylum seekers they can be granted something called parole.

[01:05:13] I think one of the things the administration as the new machines said is that they're not going to do that very frequently and so we're going to see less of that or they make a big grant that some for our protection right there may be granted asylum they may granted cancellation removal adjustment of status or something else and they're able to stay here in the United States and they get released. So that's a quick overview of detention and deportation.

[01:05:39] This concludes Part 1. Listen to part two for the conclusion of this podcast.

[01:05:48] This podcast was presented by the Seattle Public Library and Foundation and made possible by your contributions to the Seattle Public Library Foundation. Thanks for listening.