

**PLANNING AHEAD, JUST IN CASE:
PREPARING YOUR TENNESSEE FAMILY FOR AN IMMIGRATION RAID
AND THE POSSIBILITY OF IMMIGRATION DETENTION AND DEPORTATION**



A free practical guide brought to you by

OZMENT LAW



Fighting for Immigrant Rights | Luchando por los Derechos de los Inmigrantes

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This booklet is for general informational purposes only and as a service to the community and should not be construed as legal advice. You should contact your attorney to obtain advice with respect to any particular issue or problem. Every case is different, depending on the specific factual and legal circumstances of each matter. You should not rely upon the information contained in this document as comprising an attorney-client relationship.

IMPORTANT INTRODUCTION

This guide was prepared for *you*. Ozment Law cares about our community and the people who live in it, regardless of whether they have papers or where they were born. From having represented many victims of immigration arrests and immigration raids, we know what a chaotic time it can be when federal agents appear at your door. After a person is arrested by immigration, everything seems to move very quickly. That is why preparing **now**, just in case, is important for you and your family, especially if you have children or others who depend on you.

We also understand that we are living in challenging times. With the unexpected election of President Donald Trump, who has promised mass deportations, the construction of a border wall, and other destructive and barbaric policies, now is an important time to make sure your affairs are in order in case immigration agents visit you at home, at work, or in public. Pressure from activists and our community influenced President Barack Obama to reduce the number of large immigration raids that often resulted in dozens of arrests and deportations through a single visit to a workplace or apartment building. However, President Trump can easily reverse the progress we have made in ensuring that the immigration process is as humane as possible. The new president can order raids like those that occurred in our community in the past, even if the raids are illegal. We suggest that every family have a plan and keep a secure set of important documents stored in a safe place in the event of your arrest. We also suggest keeping this packet in a safe space, in case you or your loved ones need to access the information and contact information contained in it.

All noncitizens risk contact with immigration officers, regardless of whether they have a visa or permanent resident or “green” card. Immigrants with work permits may also be at risk, depending on their specific circumstances. Thus, even if you and your family are in the United States legally, it is a good idea to review this packet and prepare the documentation described in these materials. Of course, if you or any

member of your family does not have papers, you are at a higher risk of becoming a victim of an immigration enforcement action or a raid.

Also keep in mind that recipients of DACA (Deferred Action for Childhood Arrivals) may need to speak with a qualified immigration attorney about alternative arrangements, in case President Trump cancels the DACA program. DACA recipients (also called "Dreamers") may have other opportunities for immigration relief. If the president cancels DACA and you do not obtain alternate relief, you may lose your work authorization and could be subject to deportation.

We know the new government's treatment of immigrants and migrants is not fair. We campaigned tirelessly to point out the dangers of Donald Trump and the Republican Party's incendiary and hate-filled political campaign. Now, we will campaign tirelessly to protect immigrants' rights. Just as we held President Obama accountable when his administration fell short of their promises of dignity and respect for immigrant communities, **we are more committed than ever to ensure that the government does not violate your rights.** To be sure, the environment is challenging for all undocumented persons, and the future is uncertain. While we cannot predict exactly what the new administration will do, *we can prepare now for the worst while working for a better future for ourselves and our children.*

How may we build strength in our community despite damaging policies from Congress and the White House? We are reminded of the words and success of César Chávez entreating us to **organize**. The fight for immigrant justice and equality has proved to be a long and difficult struggle, but we are convinced that equality for immigrants is coming. Just a decade ago, in 2006, thousands of immigrants and their friends took to the streets of Nashville in protest of destructive immigration policy. We are prepared to stand side-by-side with you again, if necessary. We are convinced that justice will prevail because our cause is right and just and honors the longstanding American tradition of welcoming new peoples. As the Statue of Liberty symbolizes, America has stood as a beacon of light and hope to the oppressed. America is a country of immigrants, and we must never forget that. Chávez reminded us that together, we can oppose violations of workers' and immigrants' rights. In that spirit, we at Ozment Law are prepared to challenge the new administration's actions when they violate the law. We are committed to protecting our clients' rights, regardless of their documentation status. ¡Viva la causa!

One of the most unfortunate things I have noticed in my years of immigration law practice is that many undocumented persons do not believe they have *any* rights

in the United States, since they have no papers. This mistaken belief allows many new Americans to believe that they are *not* Americans and can have their civil rights violated without consequence.

However, you have rights in this country, even if you are here without proper documentation! For example, you have constitutional rights to be free from illegal arrests and searches, the right to protest unjust government conduct, the right to live without discrimination and to speak the language of your choice, among other valuable rights protected by the United States Constitution and Bill of Rights. You have the right to be treated fairly, even if you are arrested and detained by immigration or are charged with a crime. You have the right to speak with an attorney and for any court actions against you to be fair and not biased against you or your family. These are only some of the many rights enjoyed by all persons in this country. **We firmly believe that America's history of civil rights, equal protection of the law, and the rule of law are what made America a uniquely special place, and it is steadfast adherence to our constitutional principles that will continue to make our society great.**

If you are a client of Ozment Law, thank you for entrusting us with the solemn duty to represent your interests as vigorously as possible. If you are not a client and would like to schedule a consultation, please call our office at (615) 321-8888.

The environment for immigrants in this country—and indeed, around the world—is unsettling. We know that the specter of immigration raids is frightening. As you prepare for the worst and organize for the best, keep in mind the timeless rallying cry of the migrant grape harvesters and their fellow farmer and leader, César Chávez: **¡Sí, se puede!**

We commend you for taking the time to read these materials and planning ahead in case you encounter police or immigration agents.

Sincerely,

Elliott Ozment
Ozment Law

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WHAT ARE THE AGENCIES RESPONSIBLE FOR IMMIGRATION?

Immigration is complicated. There are many different government organizations tasked with enforcing the United States immigration laws. These "agencies" (departments or subdivisions of the federal government) are confusing and often have overlapping responsibilities. *Do not speak with agents of any of these agencies, or any other law enforcement agency, without consulting with an attorney.*

Department of Homeland Security

There are several sub-agencies in the Department of Homeland Security ("DHS"). All of them are responsible for immigration enforcement—including arrests and deportations—to some degree. They include, among others:

- **Immigration and Customs Enforcement ("ICE").** ICE is the most likely agency to take part in raids on homes and workplaces. ICE agents may also speak to immigrants over the phone after they have been arrested. They may dress in dark colors with vests saying "POLICE" or "ICE," or they may wear casual clothes. Even if you are in the country illegally, they must have a warrant signed by a judge or some legal basis to enter your home, unless you grant them permission to enter. ICE also runs some immigration detention facilities, explained below, and often conducts the deportations. ICE is the agency usually responsible for processing immigration bonds. ICE's lawyers are the "prosecutors" for immigration. If you are in Immigration Court, you will be opposed by an ICE attorney.
- **Citizenship and Immigration Services ("USCIS").** USCIS is responsible for deciding whether to grant immigration benefits (such as visas, green cards, and employment documents) by applying the immigration law to the facts presented (along with supporting documentation or evidence) in an application or petition. Documents filed with USCIS are often called "application" or "petition." You should not assume that ICE knows that you have any paperwork pending with USCIS. Thus, you should keep copies of documents you have filed with USCIS. While USCIS does not have the right to detain or arrest you, USCIS sometimes gives information to ICE that leads to arrests. Therefore, it is always advisable to have a professional review anything you file with USCIS.
- **Customs and Border Protection ("CBP").** CBP is responsible for ensuring that no person enters the United States without being "inspected" by an

immigration officer. For lawful border crossings, the CBP may give the person a Form I-94 (Arrival/Departure Record), for example. CBP reviews passports, visas, and travel documents for correctness and decides whether to “admit” an immigrant into the country. In addition to working at designated “ports of entry” at the border and at airports, CBP also patrols the United States-Mexico border (and to a lesser extent, the U.S.-Canada border) by foot, truck, helicopter, surveillance camera, and unmanned aerial vehicles (drones) and arrests people they catch crossing the border illegally.

- **Homeland Security Investigations (“HSI”).** HSI investigates a wide range of conduct, primarily criminal in nature. HSI investigates cross-border narcotics and fraud syndicates, in partnership with other law enforcement agencies. Even though criminal charges are rare during immigration raids at homes, ICE officers in Nashville have been known to recruit HSI agents to assist them in arresting persons they suspect of being in the country illegally.

Department of Justice

The Department of Justice also includes several sub-agencies, with varying involvement in immigration. Most importantly, the Department of Justice oversees the U.S. Immigration Courts, located across the country. The head of the Department of Justice is the Attorney General of the United States.

- **Executive Office for Immigration Review.** This sub-agency includes the Immigration Courts and the Board of Immigration Appeals. Most courts in the United States are independent of the control of the governor of a state (state courts) or president (federal courts), and most are also independent of the law-making authority, like Congress. Thus, the courts are free to exercise independent judgment, a cornerstone of the U.S. “separation of powers” doctrine to ensure that no branch of government has too much power. However, the Executive Office for Immigration Review does not have independent courts. The Immigration Courts and Board of Immigration Appeals are directly under the control of the attorney general, who is in turn controlled by the president. The Immigration Court is responsible for ensuring fairness while ICE argues for your continued detention or deportation.
- **Federal Bureau of Investigation (“FBI”).** The FBI is strictly a law enforcement agency. However, the FBI may investigate immigrants charged with or suspected of certain federal crimes. They are roughly the federal equivalent of state police. Like DHS employees, we suggest you speak with a lawyer if the FBI has asked to speak with you. Remember, if FBI or any other officer,

including the local police and ICE, come to your door, *you do not have to answer the door or speak to them.* Other law enforcement agencies part of the Department of Justice include the U.S. Marshals Service, the Drug Enforcement Administration, and the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

WHAT ARE THE AGENCIES NOT RESPONSIBLE FOR IMMIGRATION?

Not all law enforcement has the authority to detain you on suspicion of being in the country illegally. However, some officers have ignored the limits of their legal authority and detained suspected noncitizens while calling ICE. As a general rule (exceptions are always possible, and the law is complex), local police departments and Tennessee state officials do not have the right to question you and detain you for a suspected immigration violation. However, these agencies may investigate and arrest you for any *other* crime, such as driving without a license, driving while intoxicated (DUI), assault, and others.

Thus, even though these agencies may not investigate immigration violations, they may arrest you. Once arrested, many jails may communicate with ICE. If ICE thinks you may be here illegally or have violated some other part of the immigration law (by committing certain crimes, for example), they may arrest you for immigration violations *in the jail*. The ICE agents may not allow you to leave the jail and may send you to an immigration jail in Alabama, Louisiana, or elsewhere, until you see an immigration judge or are deported.

Sample of Agencies without Immigration Enforcement Powers:

- Metropolitan Nashville Police Department (“MNPD” or “Metro”)
- Davidson County Sheriff’s Office – **Caution:** The Sheriff’s Office runs the jails in Nashville and has an agreement to communicate the names and identity information of persons born outside the United States to ICE. If ICE believes you to be in the country illegally, ICE may put a “hold” or “detainer” on you (good for 48 hours beyond the time you would ordinarily be released from jail, excluding Saturday, Sunday, and federal holidays). The “detainer” gives ICE the time and opportunity to come arrest you from the jail and begin deportation proceedings against you. It is up to the sheriff whether to honor an ICE detainer request.
- Franklin Police Department
- Tennessee Highway Patrol (“state trooper”)
- Tennessee Bureau of Investigation (“FBI”)
- Tennessee Alcoholic Beverage Commission (“ABC”) – **Caution:** Under current policy, you must be lawfully present in the United States to get a Tennessee permit to serve alcohol, including beer and wine, except in limited circumstances. ***Do not provide false documents to any law enforcement agency!***
- Brentwood Police Department

- Dickson Police Department
- Rutherford County Sheriff's Office
- FBI, ATF, DEA, etc.

WHAT DO I DO IF POLICE OR IMMIGRATION ARE AT THE DOOR?

An immigration “raid” can happen at home at any time, on any day. They can be frightening, chaotic, and confusing to go through. There are no sure signs that an immigration raid is about to happen, so you should prepare now in case it happens when you don’t expect it.

While it is not usually possible to predict that a raid is about to occur, suggestive signs include:

- Loud sounds of men yelling in broken Spanish
- Presence of lots of police cars and officers wearing vests, especially those that say “ICE”
- Sounds of banging on multiple doors
- Seeing many people of Latino appearance taken away at the same time
- Presence of suspicious vans
- Officers banging on your door, loudly giving commands such as, “Open the door! Police!”

You may find that ICE agents identify themselves only as “police,” rather than “immigration” or “ICE.” If you have an attorney, call your attorney’s office if you believe ICE is trying to enter your home. First and foremost, **remain calm**. Remember, you have rights in this country. Becoming agitated or irate may give police an excuse to take some action against you.

DO NOT OPEN THE DOOR. It is typical to find several officers (sometimes with weapons) prepared to storm into your home as soon as you open the door, even if you do not give them permission to enter. Even if immigration officers have an administrative warrant (e.g., Form I-200, I-205), that does not give them permission to enter your home without your permission! You are required to allow agents entrance *only* if the warrant is signed by a judge or magistrate. You may lawfully ask them to leave.

Do not speak to ICE or police. You have a right to remain silent and refuse to answer the agents’ questions. If you choose to speak with agents, only speak to them through the closed door or with the door chain lock latched. Tell everyone in your residence to remain silent.

Do not consent to any searches, even if you have nothing to hide. The police may use your invitation to search as an opportunity to investigate you.

If officers enter your home anyway, do not resist them. Resisting ICE agents or police can have deadly consequences. If you threaten or resist the agents in any way, it is possible that the officer could claim he feels “threatened” and deploy a weapon against you. If you survive, you may be charged with a crime. Officers can legally shoot people under certain circumstances, such as when they are threatened.

If you are arrested, **remain silent** and **do not sign anything** until you speak with a lawyer. It may be possible to challenge the arrest later. You do NOT have to answer agents’ questions, even if they tell you to answer.

Unfortunately, it has been our experience that ICE agents have verbally insulted the people they arrest. They have been known to call immigrants ugly names. They may laugh at you. These are actions that try to dehumanize you. They are trying to enrage you. It is in your best interest to remain calm and collected. Focus your energy on remembering what they said and who said it, so that you can tell a lawyer later. Do not fall for their trap and overreact.

If you are in public and an agent tries to question you, you may give the agent a document such as the sample rights card in this packet or simply ask if you are free to leave. If the agent says you are free to leave or are not being detained, calmly and slowly walk away. If you do not understand, request a translator.

ARE THERE DOCUMENTS I CAN SHOW OFFICERS INSTEAD OF TALKING TO THEM?

You may wish to copy these cards to slip under the door or to give directly to officers if you do not wish to speak or interact with them. Keep copies in your vehicle, wallet, purse, or backpack. You may also wish to print these cards on heavier paper and/or laminate them to prolong durability. Make sure you have these cards in English, too, in case the law enforcement officer does not speak Spanish or another language.

You may also pick up professionally printed cards from our office here in Nashville!

I do not wish to speak with you, answer your questions, or sign or hand you any documents based on my 5th Amendment rights under the United States Constitution.

I do NOT give you permission to enter my home based on my 4th Amendment rights under the United States Constitution, unless you have a warrant to enter signed by a judge or magistrate with my name on it that you slide under the door. I do NOT give you permission to search *any* of my belongings or items under my control, based on my 4th Amendment rights.

I choose to exercise my constitutional rights.

Entregue esta tarjeta al agente.

Remember: Do not open the door. *No abra la puerta.*

The following card is for information only:

Usted tiene derechos constitucionales.

• NO ABRA LA PUERTA SI UN AGENTE DEL SERVICIO DE INMIGRACION ESTA TOCANDO A LA PUERTA.

• NO CONTESTE NINGUNA PREGUNTA DEL AGENTE del Servicio de Inmigración si el trata de hablar con usted(es).

Usted tiene derecho a mantenerse callado. No tiene que dar su nombre al agente. Si está en el trabajo, pregunte al agente si está libre para salir y si el agente dice que sí, váyase. Usted tiene derecho de hablar con un abogado.

WHAT HAPPENS AFTER AN IMMIGRATION ARREST?

The most common way noncitizens end up in deportation proceedings is because they were interviewed and arrested by ICE at the local jail. That happens most often after a person has been arrested by local law enforcement (like the Metro Police) for a crime. It is important to note that immigration may take a suspected noncitizen even if he or she is found not guilty or if the charges are dismissed. **If you are not a U.S. citizen, consult with an attorney knowledgeable on immigration matters when you or a loved one has been arrested, even if you consider the charge minor or the arrest unjustified.** Similarly, do not post a criminal bond until you consult with an attorney knowledgeable about immigration. Pleading guilty just “to get out of jail” could have devastating consequences on your ability to remain in the country.

The other way a person could be brought into immigration custody is from a “raid” by many officers at home or at work. In these situations, the person is not usually charged with a crime, but they can be. The process may move very quickly after a person is arrested as part of a large-scale immigration raid. **ICE starts deportation proceedings by issuing and serving a “Notice to Appear.” The Notice to Appear means that ICE trying to deport the person, and the immigration court will decide the person’s case.** Technically, deportation proceedings are not criminal in nature; they are “civil” matters, and therefore, the legal rules concerning civil cases apply more readily than criminal law standards.

After a person is turned over to ICE from the local jail or after ICE arrests someone in a raid, ICE will decide whether the detained person qualifies for an **immigration bond**. An immigration bond (“*fianza de inmigración*”). It is possible the ICE agents will decide that a detained person can be released without a bond in exchange for the person’s promise to appear in immigration court. Immigration could determine that a detainee does *not qualify* for a bond, based on a number of factors, such as **criminal history, ties to the community, possibility of obtaining relief or immigration benefits, risk of flight (i.e., not showing up to immigration court), being granted voluntary departure and not departing, and dangerousness to the community.**

ICE may determine a person does not qualify for any bond at all, meaning the person remains in immigration detention. A person’s immigration history and criminal record are the most important factors that decide whether ICE holds a person without being able to post bond. If ICE determines that a noncitizen was found guilty (or pled

guilty) to an “**aggravated felony**,” then the law does not allow ICE to set a bond for that person. Similarly, conviction for “**crimes involving moral turpitude**” may result in ICE finding the person ineligible for a bond. The law surrounding what constitutes an “aggravated felony” or “crime involving moral turpitude” is complicated, and a noncitizen should consult with an immigration lawyer immediately if ICE says the person is ineligible for a bond. The immigration officers may refer to their decision to not allow a person to post an immigration bond as “**mandatory detention**.” Even green card holders (lawful permanent residents) may be subjected to mandatory detention in certain circumstances.

Remember, *an immigration bond is different from a criminal bond*. If the noncitizen completes the immigration court process and attends the hearings, the person who posts the bond (called the bond “obligor”) usually gets the bond amount back, depending on the requirements and conditions of the specific bond that is issued. If the person does not appear for immigration court proceedings, the bond amount may be “forfeited” or surrendered to the government, depending on the terms of the bond paperwork the obligor signs. Thus, it is the obligor’s responsibility to ensure the person goes to court and complies with any court orders. The terms of the bond the obligor signs is what controls, so read all immigration bond paperwork carefully. You may wish to consult an attorney.

How to pay the immigration bond

An immigration bond involves ICE and relates to a noncitizen’s case in immigration court. A person other than the person in immigration custody may post the bond with ICE. ICE has bond offices throughout the country where a person may post the bond.

The terms of the immigration bond describe what the noncitizen (called the “principal”) must do to keep the bond valid. Violation of some terms of the bond may result in the bond being canceled. If the noncitizen violates the terms of the bond, ICE may send the obligor a Form I-323, Notice - Immigration Bond Breached, and/or may communicate to you a demand to deliver the noncitizen to ICE. Failure to comply with the bond’s terms may result in the full bond amount being owed to ICE. **The person posting the bond must be lawfully present in the United States.** Do not use fake documents to secure a bond!

If the noncitizen is eligible for a bond, the obligor (or more than one obligor, in some situations) normally must post the full amount of the bond. You can pay the

bond at ICE bond offices. For Tennessee, the bond may be paid with Homeland Security in Memphis. If you choose to pay the bond to DHS directly, you should call for details in advance, but typically, bonds are required to be posted by cashier's check or money order, payable to the Department of Homeland Security.

Alternatively, many noncitizens choose to use a private company to post a bond. In those situations, the process differs with each company. Immigration bond companies usually handle the details and most of the work for you. Each company may have different rules or requirements. Our clients have been generally pleased with the services of Gonzales y Gonzales. We also have noticed that Gonzales often returns the bond to the obligor (after the noncitizen has completed all the requirements on the bond) more quickly than by posting the bond directly with ICE. Gonzales also stays open later than most ICE offices. We have no relationship with Gonzales and do not receive any kind of kickback. Our clients have reported that the process is relatively smooth through Gonzales y Gonzales, who may be reached at:

Gonzales & Gonzales
1-800-628-8888
gandgbonds.com
gandg@gandgbonds.com

Make sure you read all forms and paperwork carefully and understand all fees and charges that may apply.

Your loved one may be released within hours of posting the bond. If you believe there has been some unnecessary delay in releasing your loved one, consult your lawyer.

Even if ICE takes your loved one to an immigration detention facility in another state, such as Louisiana, ICE does not normally pay for the noncitizen to be returned to Tennessee. Instead, you may have to secure a bus ticket for your loved one or find someone who is able to pick them up.

Other kinds of immigration bonds

The most common immigration bond is the "delivery" bond, that is, a bond requiring the immigrant appear in court and be surrendered to ICE upon demand. There are other kinds of bonds, too:

- **Departure Bond.** A departure bond is for a noncitizen granted “voluntary departure.” This type of bond is to ensure that a noncitizen departs (the noncitizen should have documentary proof the obligor can use to show that the person did leave the country) or turns the person over to ICE as required by the terms and conditions of the bond document.
- **Order of Supervision Bond.** Sometimes, ICE or the immigration court will place a person on an *order of supervision*, which allows the noncitizen to continue living in the community as long as he or she complies with the requirements of the order of supervision, including going to ICE offices at designated times. If the noncitizen fails to fully perform all the conditions of the order of supervision, or if the person fails to surrender for deportation after being required to appear, the bond becomes due from the obligor.

ICE said no bond, or the bond is too high

If ICE determines that a noncitizen should not have a bond or is subject to “mandatory detention,” in some cases, the person (or his or her attorney) can ask the immigration court to review ICE’s decision. This is called a motion for **bond redetermination**. A “motion” is a request that the court take action. After filing the motion, it could take a few weeks for the immigration court to hear your loved one’s bond case. Collecting certain documents may help your attorney with bond redetermination. **We suggest you keep these documents in a safe yet accessible location, just in case** (legible copies are acceptable):

- U.S. citizen and permanent resident family birth certificates or naturalization certificates
- Deeds, notes, mortgages, or documents showing ownership of land, homes, vehicles, trailers, etc.
- Documents (such as bills) showing a longstanding or stable address
- Paycheck stubs
- Identity documents for the detained person (passport, consular or matricular ID cards, visas, work authorization documents, receipt notices from USCIS, etc.)
- Records showing the detainee’s health conditions and/or pharmaceutical prescriptions
- Documents evidencing a likelihood that a U.S. citizen or permanent resident would suffer particularly unusual hardship without the detained person’s support

- Documents or records corroborating an immediate relative with a serious illness, severe psychological problems, or close to death

It is important not to give these documents directly to ICE, but rather to submit relevant documentation to the immigration court, if the noncitizen is *eligible* for a bond but it is *too expensive*. There is no “standard” bond in immigration court; each case is unique.

It is also possible that your attorney has arguments that you or your loved one should not be subject to “mandatory detention” as a legal matter. If your attorney believes there is an argument that the detained person should not be subject to “mandatory detention,” he or she may suggest filing a motion based on those legal arguments. Usually, the immigrant will remain detained until the judge issues a decision. If you and your attorney decide to appeal the judge’s decision on bond (meaning a request for the Board of Immigration Appeals to review the judge’s decision), the immigrant may remain in the immigration detention facility until the Board makes its decision.

WHAT ABOUT IMMIGRATION COURT HEARINGS & APPEALS?

Ordinarily, the immigration courts deal with bond or custody issues before they address the noncitizen's deportation case. After the court makes its decision on bond or custody (if the noncitizen files a motion for bond redetermination or a motion arguing that the immigrant should qualify for a bond), the court will typically set a hearing in the future. Detained immigrants usually have their immigration court hearings at the detention facility. *If your loved one is released on bond*, the location of the hearing (called the "venue") will probably change. Your immigration attorney may suggest filing a "**motion to change venue**" to get future hearings closer to the immigrant's home. In Tennessee, for example, the immigration court is in Memphis. Often, immigrants released on bond from detention centers in Louisiana (such as Oakdale and Jena) have their cases automatically transferred to the New Orleans Immigration Court. If the court grants the motion to change venue, to Memphis, for example, you would not have to go to the court in New Orleans.

It is also possible that ICE will release you on an "order of supervision" or on your own "recognizance." In those situations, you likely do not have to post a bond. You are more likely to be granted an order of supervision or recognizance if you do not have any significant criminal or immigration history. In these cases, you may be required to check in with ICE at their offices near your home from time to time. You may also be required to wear a GPS monitor that records your location at all times.

You may also choose to file an **appeal** if you are unsatisfied with the immigration judge's bond decision. *However*, you will most likely remain in detention pending the appeal. The Board of Immigration Appeals will hear the appeal, most usually based only on the papers you or your attorney file. In other words, you will probably not have an opportunity to argue in person before the Board.

After the issue of bond is resolved, the immigration judge will proceed to the **merits** portion of the case. In the merits proceedings, the court has to decide whether you are inadmissible or deportable from the United States. If you are here without papers, the government must prove that you are not a citizen. Sometimes, the government is unable to meet its burden, and the government must release you or terminate the case. If you are a lawful permanent resident, you may be inadmissible or deportable because of your conduct, including crimes and fraud. ***You should consult a qualified immigration lawyer right away if you have a criminal record. Do not wait until you are under arrest!***

Even if you do admit to being inadmissible or deportable, you may qualify for one or more forms of **relief**. Relief is complicated and depends on each person's case. Most types of relief that the immigration judge can grant have multiple requirements

and also call for the immigration judge to make a discretionary decision on whether he or she thinks you are deserving of the type of relief requested. Your immigration attorney will discuss the particular requirements of each form of relief with you.

Relief from a deportation order includes, but is not limited to:

- Cancellation of Removal
 - You may qualify if you are **undocumented** and have been in the United States for the last 10 years and have a spouse, parent, or child who is a U.S. citizen or permanent resident (“green card” holder) who would suffer extreme hardship without you. You must also possess “good moral character,” which is a specialized term in immigration law that your attorney can explain, and not have certain criminal convictions. Consult an immigration attorney if you cannot show hardship to a spouse or parent because that person physically abused you.
 - You may qualify if you are a **legal resident** if you have had your green card for at least five years, have lived in the United States for seven years (even if part of that time was as an undocumented person), and have not been convicted in court of an “aggravated felony,” which is another specialized term that requires an immigration attorney to decide.
 - If you have been **abused by your spouse or parent**, you may qualify for cancellation under the Violence against Women Act (“VAWA”). It is called “VAWA cancellation of removal.” It is not limited to women! That is simply the name of the law that it involves. Men can also obtain VAWA cancellation of removal. The person who abused you (or your child) must be a citizen or permanent resident, you must have been physically present in the United States for three years, a person of good moral character, and not inadmissible under certain sections of the law, among other requirements. While it may be embarrassing, make sure you tell your lawyer if you have been abused or subjected to battery or extreme cruelty by a U.S. citizen or permanent resident (“green card” holder). This may be a form of relief available to you.
 - Cancellation is limited to a certain number of immigrants each year.
 - The standards may be high in order to satisfy all the requirements.
 - If successful, you will get a green card through the court, as well as worth authorization.
- Adjustment of Status to Permanent Resident or to a Nonimmigrant or Immigrant Visa
 - If your spouse, employer, or other qualifying family member can “petition” for you, and you have not had certain convictions or engaged

in certain types of conduct, you may be able to convince the immigration judge to put off your case to allow you to file the necessary paperwork. This is more likely to happen when an immigrant visa is “immediately available.”

- *This same process may apply if you are in the process of applying for a U visa (for crime victims), T visa (trafficking victims), S visa (witnesses), and other nonimmigrant visa types that do not automatically lead to a green card but allow you to continue to stay here and work.*
- *If you came to the country as an **unaccompanied minor**, meaning you were under 18 and came without your parents or legal guardians, you may qualify for special relief. There are specific requirements, however, and you will need your attorney to make certain filings in your state’s juvenile court.*
- Relief based on a fear of returning to your country of origin
 - *If you are afraid that you will be hurt, tortured, or killed if you are deported to the country of your citizenship, you may qualify for relief.*
 - *There are several forms of fear-based relief, and each is very complex. They include **asylum, withholding of removal, and deferral of removal under the Convention against Torture (CAT)**. Some are easier to get than others, which depends on how long you have been in the United States and your immigration and criminal background.*
- Voluntary Departure
 - *With voluntary departure, you are allowed to leave the United States within a certain period of time. Make sure you follow instructions carefully, including having any necessary paperwork signed at the border or before boarding the airplane. Voluntary departure is often considered the relief of “last resort,” because it requires that you leave the country. However, it does not carry the same stigma as having a deportation or removal order.*
 - *You may be required to post a “departure bond.”*
- Termination
 - *While not a form of relief in its own right, your attorney may file a motion with the court to “terminate” or end your case in certain situations, such as when:*
 - *The crime that made you “deportable” does not make you deportable as a matter of law*
 - *The police or ICE violated your rights when you were arrested*
 - *It would not be in the government’s interest to continue trying to deport you*

WHAT IF I HAVE BEEN ABUSED BY AN EMPLOYER?

*In the past, ICE conducted raids at workplaces believed to employ many immigrants. Sometimes, these same employers mistreat immigrants and refuse to pay them the wages owed to them. Some employers wrongly believe that if a worker doesn't have papers, they can abuse them and threaten them into staying silent. **Regardless of your status in this country, you are entitled to the wages you agreed to with your employer.** With only a few exceptions for certain types of work, your employer must pay you the **minimum wage** required by law and 1 ½ times your normal wage for work going past 40 hours a week (“overtime”).*

At present, the minimum wage is:

\$7.25

per hour

At present, the minimum overtime wage (more than 40 hours per week) is:

\$10.88

per hour

You may also be a victim of slavery, witness tampering, or obstruction of justice. Those crimes may happen when your employer threatens you or tells you that you are not allowed to quit working or ask for your money. Sometimes employers tell their workers that they will call immigration authorities unless workers stop complaining about their payments. They sometimes also make you work long hours and abuse you. That includes beatings, sexual abuse, depriving you of food, or promising you something and then taking it back. Forcing workers to live and/or work in dangerous conditions can also be a crime. If you paid a fee to do temporary agricultural work on an H-2A visa, you may also qualify for a U or T visa. **Consult an immigration attorney such as those at Ozment Law if you believe you may have been a victim of wage theft or mistreatment at work.**

The U and T visas are “nonimmigrant” visas, which mean they do not result in a green card. They usually come with work authorization as well. You may receive a U or T visa for immediate family, too. You and your relatives may qualify to “adjust status” and **become a permanent resident** (i.e., get a green card) if certain conditions are met. It is important that you discuss your unique situation with your attorney.

WHAT IS PHYSICAL AND PSYCHOLOGICAL ABUSE?

DOMESTIC VIOLENCE includes physical violence and threats of physical violence, like punching, slapping, grabbing, pushing, telling someone you are living with that they will hurt you, wielding a knife, etc. It can also include psychological and verbal abuse (calling you names or intimidating you), isolation (telling you to stop talking to your family or that you cannot get a job outside the house), and sexual abuse (forcing you to have sex when you do not want to).

Keep in mind that you do NOT have to be married to the person abusing you for it to be domestic violence. If you have had sex or have lived together, you may be a domestic assault victim.

What should I do if I am a victim of domestic violence or sexual assault?

1. If you are in immediate danger, call police or 911.
2. Consult a lawyer.
3. Get help through hospitals, police victim coordinators, shelters, etc. You may call the Tennessee Domestic Violence hotline for free at **1-800-356-6767**.
4. Make a plan that takes into account the things you and your children will need to do (and the documents you will need) if you had to leave your home quickly.
5. Try to keep or obtain any records describing the abuse, including police reports, medical records, pictures, etc. This may help your case.
6. If you leave your home, bring important documents with you.
7. You may find it helpful to write down some of the things you experienced so you can remember later.
8. Consider filing for an "order of protection" with the local court against your abuser. An order of protection is a court order to keep the abuser from coming near you (or your children) or even contacting you.

If your abuser is a U.S. citizen or permanent residents, *you* may have additional rights and may qualify for a green card.

WHAT DO I DO IF THERE ARE IMMIGRATION RAIDS AT WORK?

It is possible (some even say it is likely) that President Trump will order large-scale raids by ICE agents at workplaces believed to employ many undocumented workers. These tactics have two main objectives: First, they signal to the president's "fans" that he is getting tough on immigrants, who he has called "rapists" and "bad hombres." Second, these raids instill fear in the immigrant community by stoking paranoia.

The United States has not had large workplace raids by immigration officers in many years, so it is impossible to predict what workplace raids will look like under Trump. If the past is any guide, the risk of a workplace raid is greater if you:

- Have a lot of people working at your workplace (*officers do not typically waste their time with small employers and are more likely interested in raiding worksites with many workers, so they can say that they detained dozens of immigrants*);
- Work with a large proportion of undocumented workers;
- Work in agriculture or food factories; or
- Work in a place with a reputation for lax paperwork requirements.

Some warning signs that a workplace raid may be imminent include:

- Unusual aerial activity, such as frequent helicopter hovering above or near the workplace
- Unusual or unexpected assembly of vans (used to carry away the immigrants they arrest)
- Unusual people coming to the workplace and asking questions, who may be undercover ICE agents (be wary of anyone who asks for too much information, seemingly for no reason, especially whether the employer checks for work authorization)

Remember, in the United States, police and immigration officers are allowed to lie and pretend to be someone they aren't. Unlike in some countries, they do not have to wear uniforms. This is a common tactic to get you to incriminate yourself. Be dubious of suspicious people whom no one seems to know and who asks intrusive questions.

SAMPLE FORM: PERMISSION FOR CHILD TO TRAVEL ABROAD

Immigration and customs officers sometimes hinder a person who is bringing someone else's child to a different country, even Mexico and Canada. They may even give you a hard time if you are traveling with your own child but without the other parent. If you have custody of your child through a court order, make sure you have that paper with you. This sample document is simply a guide and may not fit all situations or your situation. You should consult a licensed attorney if you have any questions or concerns. If the child has both a legal mother and father, use the mother and father's names for "Parent 1" and "Parent 2," respectively. Complete one form per child.

PARENTS' PERMISSION FOR CHILD TO TRAVEL TO _____
(país)

Child: _____, born _____
(nombre y apellido del niño) (fecha de nacimiento)

Parent 1: _____, born _____
(nombre y apellido de Parent 1) (fecha de nacimiento)

Parent 2: _____, born _____
(nombre y apellido de Parent 2) (fecha de nacimiento)

Address of Child: _____

Address of Parents: _____
(if parents live apart, provide both addresses in the space below)

Escort for Child: _____, born _____
(nombre y apellido del acompañante) (fecha de nacimiento)

(dirección del acompañante)

WITNESSETH:

We, the parents of _____, _____, years of age, do
(niño) (edad)

hereby give our permission for this child to travel to _____ under the
(país de destino)

escort of _____, beginning on or around
(niño)

_____. This permission gives _____ authority

(fecha del viaje) _____ (nombre y apellido del acompañante)
to exercise temporary physical custody and control over our child for the exclusive
purpose of travel and for any related emergency. This permission shall expire upon the
child's safe arrival, but no later than _____, 20____.
(fecha de llegada del niño)

Signed this, the _____ day of _____, 20____.

PARENT 1 (firma del Padre 1)

PARENT 2 (firma del Padre 2)

STATE OF _____)
COUNTY/PARISH OF _____)

Subscribed and sworn before me by _____ *and*

_____ *on this the* _____ *day of* _____, 20____.

NOTARY PUBLIC

My commission expires:

SAMPLE FORM: GENERAL (LIMITED) POWER OF ATTORNEY

Carta de Poder General

Use this form to give another person complete authority over your property and affairs. This person will be allowed to act in your name in any way that you could act for yourself under Tennessee state law. It is extremely broad and covers almost everything. You can be held responsible for the things your "attorney-in-fact" does on your behalf while acting under this power of attorney. Consult your lawyer if you have any questions.

General Power of Attorney

STATE OF TENNESSEE

COUNTY OF _____

I, _____, the undersigned, being a resident of
(your full name; nombre completo)

_____, County, Tennessee, hereby appoint
(county of residence; condado de residencia)

(full name of the person you want to act on your behalf; nombre completo de la persona que desea actuar en su nombre)

to be my attorney-in-fact to act in my name in any way for which I could act for myself with respect to the following matters as each of them is defined by Tennessee Code Annotated § 34-6-101, *et seq.*

This Power of Attorney is limited in nature and only grants such powers upon the happening of a specified event.

1. Temporary authority regarding those matters is being given to the designated attorney-in-fact above ONLY upon the occurrence of:

(check at least one; debe seleccionar al menos uno)

(_____) incarceration of the principal;

(_____) the detention, deportation, or removal of the principal;

(_____) other (describe; describes): _____

2. Temporary authority is limited in nature ONLY to the areas I have designated below:

- (_____) real property and lease transactions (residential contracts);
(transacciones inmobiliarias y arrendamiento, contratos residenciales)
- (_____) personal property transactions *(transacciones de propiedad personal)*;
- (_____) banking and financial transactions *(bancario, transacciones financieras)*;
- (_____) estate matters and transactions *(la heredad)*;
- (_____) contractual agreements *(acuerdos contractuales)*;
- (_____) insurance matters or insurance transactions *(seguros)*;
- (_____) medical matters *(asuntos medicos)*;
- (_____) legal matters *(asuntos legales)*;
- (_____) Social Security matters *(asuntos de Seguridad Social)*;
- (_____) tax matters *(asuntos de impuesto)*
- (_____) employment of agents and service professionals
- (_____) personal relationships and affairs

3. The undersigned, being first duly sworn, states:

- (_____) I also give to my attorney-in-fact named above full power to appoint another to act as my attorney-in-fact and full power to revoke such appointment;
- (_____) This power shall NOT be affected by my subsequent incapacity or mental capacity;
- (_____) The powers granted herein shall be considered continuing and relate as fully to any property which I may hereafter acquire as to any property which I may now own, and may be exercised

repeatedly. The powers herein granted shall exist to their full extent in any jurisdiction (including in any State of the United States of America) and in any foreign country where such powers may be necessary. The powers herein granted shall exist to their full extent regardless of my whereabouts within or without the United States of America;

(_____) This Power of Attorney has been provided to me at the moment of execution (signing) in both the English and Spanish languages, if necessary. I am able to read and understand the Spanish language, and by being provided the English versions of this Power of Attorney, I have fully understood every term and condition contained herein as translated by the person below.

I declare under penalty of perjury, under the laws of the State of Tennessee, that the foregoing is true and correct.

Signature of Principal (Person Assigning Power of Attorney)
Firma del principal (la persona que asigna el poder)

STATE OF _____)
COUNTY/PARISH OF _____)

Subscribed and sworn before me, this the _____ day of _____, 20____.

NOTARY PUBLIC

My commission expires:

This is to certify that I am proficient in both English and Spanish and that the above document was translated from English to Spanish and from Spanish to English for the above-named affiant, and the above document represents an accurate and true record of her sworn statement.

Date

Translator Signature

SAMPLE FORM: POWER OF ATTORNEY FOR THE CARE OF A CHILD

Use this form to provide for the care of your child under 18 years of age. See Tenn. Code Ann. § 34-6-301, et seq. Completion of this form may be sufficient to authorize the enrollment of a child in school and to authorize medical treatment. It is possible that a school district may require additional documentation or information as permitted by law before enrolling a child in school. If you have any questions about this form, consult your attorney before signing.

This Power of Attorney is limited in nature and ONLY grants such powers upon the happening of a specified event.

Part I: Information from Parents

(Parent(s): Sign your INITIALS in the blanks you agree to)

1. Child’s Full Name (*nombre completo del niño*): _____

2. Parent 1 (or Guardian) Full Name and Address:

3. Parent 2 (or Guardian) Full Name and Address:

4. Caregiver’s Name and Address:

5. (____) Both parents are living, have legal custody of the minor child, and have signed this document;

OR

(____) One parent is deceased;

OR

(____) One parent has legal custody of the minor child and both parents have signed this document and consent to the appointment of the caregiver named above;

OR

(____) One parent has legal custody of the minor child, and has sent by Certified Mail, return receipt requested, to the other parent at his or her last known address, a copy of this document and a notice of the provisions found at Tenn. Code Ann. § 34-6-305, or the noncustodial parent has not consented to the appointment and consent cannot be obtained because _____.

6. Temporary caregiving authority regarding the minor child is being given to the caregiver ONLY upon the occurrence of (check at least one):

- (____) a serious illness or incarceration of a parent or legal guardian;
- (____) the detention, deportation, or removal of a parent or legal guardian;
- (____) the loss or uninhabitability of the child's home because of a natural disaster;
- (____) the need for medical or mental health treatment (including substance abuse treatment, if necessary) by the parent or legal guardian;
- (____) a physical or mental condition of the parent or legal guardian or the child insofar that care and supervision of the child cannot be provided;
- (____) other (please explain): _____.

7. I/we, the undersigned, authorize the named caregiver to do one or more of the following (check all that apply):

- (____) enroll the child in school and extracurricular activities;
- (____) obtain medical, dental, and mental health treatment for the child;
- (____) provide for the child's food, lodging, housing, recreation, and travel;
- (____) any additional powers: _____.

8. (____) I/we understand that this document does NOT provide legal custody to the caregiver I/we have named above. If at any time I/we disagree with a decision of the named caregiver or choose to make any health care or educational decisions for my/our child, I/we must revoke the Power of Attorney, in writing, and provide written documentation to the health care provider and/or the local education agency (e.g., school system).

9. (____) I/we understand that this document may be terminated in another written document signed by either parent with legal custody or by any order of a court with competent jurisdiction.

Part II: Information from Caregiver

(Caregiver: Sign your INITIALS in the blanks you agree to)

- 10.(____) I understand that this document, properly executed, gives me the right to enroll the minor child in the local public education agency serving the area where I reside.
- 11.(____) I understand that this document does not provide me with legal custody.
- 12.(____) I understand that, prior to enrollment, the local education agency may require documentation of the minor child's residence with a caregiver and/or documentation or other verification of the validity of the stated hardship.
- 13.(____) I understand that, except where limited by federal law, I shall be assigned the rights, duties, and responsibilities that would otherwise be assigned to the parent, legal guardian, or legal custodian, pursuant to Title 49 of the Tennessee Code Annotated.
- 14.(____) I understand that, if the minor child ceases to reside with me, I am required by law to notify any person, school, or health care provider to whom I have given this document.

Part III: Understandings between Parent(s) and Caregiver

(Parent(s) and Caregiver: Sign your INITIALS under the column corresponding to your role next to the statement you agree with.)

Parent 1 Parent 2 Caregiver

- 15.(____) (____) (____) We understand that, by accepting this power of attorney, if we enroll a student in a school system while fraudulently representing the child's current residence or the parents' hardship or circumstances for using this power of attorney, either or both of us is liable for restitution to the public school district for an amount equal to the per-pupil expenditure for the district in which the student is fraudulently enrolled. Restitution shall be cumulative for each year the child has been fraudulently enrolled in the system and may include costs and fees related to litigation.

I/we declare under penalty of perjury, under the laws of the State of Tennessee, that the foregoing is true and correct.

Parent 1 (or "mother") (or legal guardian)

Parent 2 (or "father") (or legal guardian)

Caregiver

STATE OF)
COUNTY/PARISH OF)

Parent 1, _____, personally appeared before me and whereupon executed the foregoing under oath on this the ____ day of _____, 20__.

NOTARY PUBLIC

My commission expires:

STATE OF)
COUNTY/PARISH OF)

Parent 2, _____, personally appeared before me and whereupon executed the foregoing under oath on this the ____ day of _____, 20__.

NOTARY PUBLIC

My commission expires:

STATE OF)
COUNTY/PARISH OF)

Caregiver, _____, personally appeared before me and whereupon executed the foregoing under oath on this the ____ day of _____, 20__.

NOTARY PUBLIC

My commission expires:

This is to certify that I am proficient in both English and Spanish and that the above document was translated from English to Spanish and from Spanish to English for the above-named affiant, and the above document represents an accurate and true record of her sworn statement.

Date

Translator Signature

WHAT CAN I DO ABOUT TRAVELING IN THE TRUMP AGE?

Traveling outside the United States (and then trying to come back to the United States) is riskier than ever given Trump's executive orders. Cases challenging Trump's orders banning some adherents to Islam from entering the country are being litigated in court. The president has issued many orders that we believe to be in violation of law. He is able to sign a new executive order with no advance notice, and as a result of his governance and potential court intervention, this information may change at any time without warning.

If you are from a majority Muslim country, expect extra scrutiny by border patrol agents at airports and land borders. The president has already expressed his strong desire to stop all migration from Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen.

Ordinarily, persons designated by the government as "refugees" receive specialized and streamlined migration treatment. However, even designated refugees may have difficulty entering the United States under President Trump, who has repeatedly criticized the United States' longstanding international treaty obligations to protect persons displaced by war and persecution.

Be prepared to present your electronic equipment for inspection by Customs and Border Patrol. It has been suggested that people power off electronic devices prior to landing or arriving in the United States. You may be asked about your political or religious practices. Answer honestly, simply, and calmly.

Do not make any jokes or comments concerning border security or airport security.

You may also be subjected to additional scrutiny if you are present within 100 miles (161 km) of the U.S. border. President Trump has expressed desire to expand the 100-mile zone to 500 miles (805 km). This so-called "Constitution-free zone" extends from both the Mexican and Canadian borders, as well as water boundaries. Most cities in California, the entire state of Florida, and most cities in the Northeast (e.g., New York, Philadelphia, Boston, Detroit, Cleveland, Washington, Chicago) are within the 100-mile zone. If the president is successful in expanding the 100-mile "border" zone to 500 miles, most of the United States (including Nashville) would fall within the border zone. *If traveling within a "border" zone (i.e., within 100 miles of a land or sea boundary), such as the Interstate 10 corridor, be sure to bring documents showing*

that you are authorized to stay in the United States, or if you are here without papers, keep with you copies of bills, school records, and other documents showing that you have been in the United States for the preceding two years.

If you are a permanent resident (green card holder), it is highly advisable to keep your green card ("Permanent Resident Card") with you at all times. If you have special permission to enter or remain in the United States (such as if the government has granted you deferred action, parole, or any other benefit), you should keep copies of Approval Notices, agreements between you and ICE, and any relevant court papers with you at all times. Consult your immigration attorney if you have any questions about which documents you should carry to prove your ability to enter or remain in the country.

Do not carry false or stolen documents! Every person traveling should have his or her passport if desiring to travel outside the country, even if the person is a child. ***Remember, children born in the United States are United States citizens!*** Citizens are eligible for a U.S. passport. You may apply for a passport for your citizen-child with the documents found on the following pages.

*For comprehensive and up-to-date instructions and current processing times, visit <https://travel.state.gov/content/passports/en/passports/under-16.html>
Website in Spanish: <https://travel.state.gov/content/passports/spanish/menores.html>
Some of these documents may be completed online.*

WARNING: Do NOT submit an application for a passport for yourself if you are not a U.S. citizen. False statements on a passport application is a serious crime.

Relevant forms may include: Form DS-11 (Application for a U.S. Passport); Form DS-3053 (Statement of Consent – Issuing a Passport to a Minor Under Age 16); and Form DS-5525 (Statement of Exigent/Special Family Circumstances – Issuing a Passport to a Minor Under Age 16).

WHAT ABOUT ANSWERING OFFICERS' QUESTIONS & PRODUCING DOCUMENTS?

Remember that officers may seek other information to prove that you are not a citizen and/or that you are in the country without papers. Be considerate of your neighbors, friends, and family, and never tell agents whether anyone has papers. That is their business, not yours and the agents'.

Here are some tips in dealing with officers when they ask questions or tell you they want to see your papers:

- ✓ If you have legal immigration documents, such as a work card (also called a Employment Authorization Document or EAD), border-crossing card (Form I-94), or green card, carry these with you at all times. Keep copies of these very important documents in a safe place. Replace lost or expired documents as soon as possible. If you have valid documents and the officer asks to see them, you may wish to give them your valid documents. If you are a noncitizen who is 18 years old or older, and who has valid U.S. immigration paperwork, the law requires you to carry these documents with you at all times.
- ✓ Never show an officer fake immigration documents.
- ✓ Never misrepresent yourself as a citizen if you aren't one. This could have very serious consequences.
- ✓ If you are a nonimmigrant (a person with a visa allowed to stay for a limited time in the United States for a specific reason, e.g., farm work, temporary work, religious practice, to help prosecute crimes in the case of S, T, or U visas, or visitor, student, or tourist visas), you are required to answer immigration officers' questions concerning immigration status. However, even as a nonimmigrant, you can still tell the agent you want your lawyer present before answering any questions.

HOW CAN I AVOID NOTARIO FRAUD?

A notario is not a lawyer and cannot represent you in immigration court or with the immigration service. Nashville and the surrounding community has several “notarios” who represent themselves as qualified to offer legal advice or services concerning immigration or other areas of the law. Notarios do not have the training, qualification, or license to represent you. Some noncitizens choose notarios because they are cheap. Sometimes, notarios also prey upon Latin Americans’ perception of notarios as having a quasi-legal function in civil law (*i.e.*, Napoleonic law) countries. In the United States, notarios have no authority or license to represent anyone. Find a qualified attorney, and do not use notarios. Notarios have even been known to misrepresent that they are “legal assistants” or even “abogados.” We have seen many immigrants come to our office only to learn—to their horror—that a notario missed an important deadline, filed false documents, or worse. Sometimes, clients report that they paid a notario a lot of money for legal services only to have the notario disappear or stop answering calls. A “notary public” cannot practice law in Tennessee. Unfortunately, Tennessee is a hotbed for unethical practices by notarios.

Unlike notarios, attorneys in Tennessee are highly regulated. Attorneys must possess good moral character, graduate from a law school, pass an ethics examination, pass a bar exam testing the person’s knowledge of the law, and take additional classes every year to remain current on the law. Attorneys are required to comply with a number of obligations that are designed to protect the public. Notarios have none of these requirements.

If you have been victimized by a notario, you may call the Tennessee Attorney General’s Office, Department of Commerce and Insurance, Division of Consumer Affairs toll-free at (800) 342-8385.

WHAT IF I HAVE BEEN CHARGED WITH A CRIME?

Information concerning what to do after you have been arrested or cited for a crime in Tennessee is beyond the scope of this packet. However, ***it is important to find a criminal defense attorney who knows about immigration issues!*** Many criminal defense attorneys wrongly believe that just because a “deal” is good for their citizen clients, it is a good deal for everyone. NO! The immigration law is complex and confusing. You may assist your criminal defense attorney by hiring an immigration attorney who will communicate and strategize with your criminal attorney to reduce, minimize, or eradicate—as much as possible—the potential harm to your immigration situation.

While no one can predict the future, current ICE priorities for deportation include those convicted of crimes—even relatively minor crimes like driving under the influence of alcohol or drugs. The immigration consequences of certain criminal convictions can be wide-ranging and permanent. Some attorneys have suggested their clients plead guilty to crimes just to get out of jail quickly, but unknown to the lawyer at the time, he has advised his client to accept a plea that will have devastating impacts on the noncitizen’s ability to remain in the country or even seek immigration relief in the future. The consequences of certain crimes are severe, and the government does not apply the rules leniently. It is vital to either hire a criminal defense attorney knowledgeable about and experienced in immigration or have an immigration attorney consult with your defense attorney. At Ozment Law, for example, we regularly work in collaboration with criminal defense attorneys to inform clients of the risks and benefits of pleas, trial, and other dispositions, and we often suggest strategies that may lessen the impact of a crime on the immigrant’s ability to remain in the country or return in the future.

Every case is different. For that reason, it is not advisable to perform research into your case by reading internet postings or by seeking advice from criminals in the jail. If they were so knowledgeable about the law, you must wonder why they got caught and are now incarcerated! Consult a qualified attorney comfortable dealing with noncitizens. Do not feel embarrassed to ask your attorney questions!

If you have been arrested for a crime, REMAIN SILENT except to ask for a lawyer. DO NOT PLEAD GUILTY until you have discussed your circumstances with your attorney.

Be honest and forthcoming to your attorney.

Remember that a criminal bond is different from an immigration bond. Usually, it is not suggested that an undocumented person post a criminal bond, even though you may be told that it will get you out of jail. You may be subject to an ICE “detainer” request, and if so, it is likely that you will remain in jail until ICE comes to the jail and arrests you. ICE may arrest you and take you to Oakdale, Louisiana, even before your criminal case is resolved. It is exceptionally difficult to persuade ICE to allow immigrants to return to Tennessee to finish their criminal cases, so they often will have violated any probationary terms and be subject to rearrest for that violation. Carefully consider the risks and benefits of posting bond before doing so, despite the urge to post it and get out of jail. **It is critical that you speak with an immigration attorney before posting bond.**

CHECKLIST OF DOCUMENTS

Store these documents in a safe, secure, yet accessible place.

Tip: You may also find it convenient to store these documents online as a backup. Having a digital backup of this information can be very helpful in case the original documents become lost, stolen, or damaged. If you choose to keep electronic copies of these documents, make sure the system you use is well-protected and that you use a strong password to protect sensitive personal information.

- Birth certificates for you and your family
- Passports for you and your family
- Visas for you and your family (if applicable)
- Marriage license/certificate (if applicable)
- Paycheck stubs and/or bank records
- Tax returns from recent years
- Power of Attorney (such as the sample included in this packet)
- Permission for your child to travel with others (sample included in this packet)
- Papers given to you by an immigration court or immigration officer
- Border crossing cards (I-94)
- Criminal dispositions/expungements
- If traveling within 100 miles of any land or sea border: Proof of U.S. residency (even if not legal) for the previous two years or more