



## WHAT TO DO IF YOU ARE IN EXPEDITED REMOVAL OR REINSTATEMENT OF REMOVAL

**WARNING:** This booklet provides general information about immigration law and does not cover individual cases. Immigration law changes often, and you should try to consult with an immigration attorney or legal agency to get the most recent information. Also, you can represent yourself in immigration proceedings, but it is always better to get help from a lawyer or legal agency if possible.

**NOTE:** As of March 1, 2003, The Immigration and Naturalization Service (INS) is now part of the Department of Homeland Security (DHS). Immigration enforcement functions, including immigration detention and removal cases, are handled by the **U.S. Immigration and Customs Enforcement (ICE)**. The **U. S. Citizenship and Immigration Services (USCIS)** will handle other immigration matters, including citizenship, asylum and refugee services.

### • GENERAL INFORMATION

#### • Who wrote this booklet?

This booklet was prepared by the Florence Immigrant and Refugee Rights Project, a non profit law office that supports human and civil rights. The money to pay for this booklet came from the Ford Foundation. This booklet was updated in November, 2007 with money from the Executive Office for Immigration Review.

This booklet was not prepared by DHS, or by any other part of the United States government. The booklet contains information and advice based on the Florence Project's many years of experience assisting people in immigration detention. Immigration law, unfortunately, is not always clear, and our understanding of the law may not always be the same as the DHS's viewpoint. We believe that the information is correct and helpful, but the fact that this booklet is made available in the libraries of detention centers for the use of detainees does not mean that the DHS or any other branch of the U.S. government agrees with what it says.

#### • Who was this pamphlet written for?

There are several legal procedures DHS can use to remove you from the country. This pamphlet is for individuals who are in Expedited Removal, Reinstatement of Removal or **Administrative Removal**. This pamphlet does not apply to people in regular removal, deportation, or exclusion proceedings. You can tell what type of proceedings you are in by the document you should have received from DHS that explains the reasons why you may be removed from the U.S.

\* If DHS says that you were arrested at or near the border and you received **Form I-860 “Notice and Order of Expedited Removal”** or **Form M-444 “Information About Credible Fear Interview,”** then you are in **Expedited Removal**.

\* If DHS says that you entered the United States illegally after having been deported or removed and you received a **Form I-871 “Notice of Intent/Decision to Reinstate Prior Order,”** then you are in **Reinstatement of Removal**.

\* If DHS says that you have been convicted of an aggravated felony and you do not have legal permanent residence in the United States, and you received **Form I-851 “Notice of Intent to Issue a Final Administrative Deportation Order,”** then you are in **Administrative Removal** proceedings.

\* If you received a document called a **Form I-862 “Notice to Appear,”** then you are in removal proceedings.

\* If you received a document called a **Form I-221 “Order to Show Cause,”** then you are in **deportation** proceedings.

\* If you received a document, which is numbered at the bottom **“Form I-110”** and/or **“Form I-122,”** then you are in **exclusion** proceedings.

This pamphlet explains what will happen to people in **Expedited Removal**, **Reinstatement of Removal** and **Administrative Removal**. If you are in regular removal proceedings, ask to watch a video called “Know Your Rights” which explains the removal process and the different forms of relief from removal. You can also ask for other pamphlets, which explain each of the forms of relief from removal more thoroughly.

**This pamphlet explains what will happen to people in:**

- \* **Expedited Removal,**
- \* **Reinstatement of Removal, and**
- \* **Administrative Removal.**

**If you are in regular removal proceedings,**

 **ask to watch a “Know Your Rights” video and consult the booklets that go with the video.**

## • **EXPEDITED REMOVAL**

### • **What is Expedited Removal?**

**“Expedited Removal”** is a process that DHS uses to remove people from the United States (U.S.) who attempt to enter the country without proper documents. When individuals try to enter the U.S. through a border checkpoint, international airport, or

shipping port, DHS officers interview them to see if they have valid travel documents and if they are coming for the reasons stated in their documents. If the DHS officer believes that someone is trying to enter the country either by fraud or without proper documents, the officer can refuse the person's entry and order him or her immediately removed from the U.S. After being removed from the country through expedited removal, you are barred from returning to the U.S. for 5 years or longer, although in some cases exceptions may be possible. The DHS officer's decision is final and generally there is no right to speak with an Immigration Judge.

**If you are in Expedited Removal, there will be some review of your request to enter the United States if:**

-  **1. You fear being returned to your native country or**
-  **2. You already have legal status in the United States.**

There are two situations when you will not be refused entry at the border and there will be some review of your request to enter the U.S. The first is if at the point of entry, you **expressed a fear** of returning to your home country or asked to apply for **asylum or protection under the Convention Against Torture** in the United States. In this situation, you will be given a chance to talk to an asylum officer who will determine whether you have a "credible fear" of returning to your home country. We will explain this process in more detail below.

The **second** is if you claim **some legal status in the U.S.**, such as U.S. citizenship, legal permanent residence, or refugee or asylee status in the U.S. In this case, the DHS officer should first try to find proof of your claim in immigration records. If the DHS officer finds proof of your claim to U.S. citizenship or to legal permanent residence, refugee, or asylee status in the U.S., then he or she will decide if you can enter the country or if you should be placed in regular removal proceedings to have a judge review your case. If no proof is available, then first, you will be required to make a statement under oath; second, the officer will give you an order of expedited removal; and third, you will have your case reviewed by an Immigration Judge. You will be detained until you speak with the judge. Although in some cases, for example if there is a medical emergency, you may ask DHS for release during this time. If the Immigration Judge affirms the DHS officer's order of expedited removal, you will be removed with no opportunity for further review or appeal.

**• What happens next if I am someone seeking asylum or protection against torture?**

After expressing fear to a DHS officer at the border, international airport or shipping port, you should have a screening interview called a "credible fear interview" during which you will be interviewed by an asylum officer about your fear of returning to your country. This may be because you either suffered persecution or torture in the past or you fear

persecution or torture in the future if you return to your home country. At the credible fear interview, the asylum officer will try to determine whether you have a “credible fear” of being returned to your home country, in other words, whether you have a significant chance of winning your asylum or Convention Against Torture case.

**If you expressed a fear of returning to your country or the desire to seek asylum in the United States,**  
 **you will have a “credible fear interview” with an asylum officer.**

• **What is asylum?**

Under the laws of the United States, people who flee their countries because they fear **persecution** can apply for asylum which gives them protection and the right to stay in the United States. **Persecution** can be harm or threats of harm to you or your family or to people similar to you. A person also can get asylum if he or she has suffered persecution in his or her country in the past. You only can win asylum if at least one of the reasons someone harmed or may harm you is because of your race, religion, nationality, political opinion (or a political opinion someone thinks you have), or the fact that you are part of some particular group.

This group could be a village, family, clan, union, political party, religious organization, student or human rights group, or some other threatened group such as homosexuals, people who are HIV positive, women who oppose certain practices in their home countries (such as genital mutilation), or people who oppose their government’s policy on birth control and family planning.

However, if the only reason you left your country was to look for work and you do not have any fear of returning or have not been harmed in the past, then you probably do not qualify for asylum.

**If you win asylum**, you will be allowed to stay in the United States legally and to get a work permit. You may later apply to be a legal permanent resident and, eventually, a U.S. citizen.

There also is protection available in the United States **if you are likely to be tortured by a government official in your country for any reason**. The United States has signed a treaty promising that it will not return anyone who is likely to be tortured in their home country. You may have rights under this treaty if you have this fear. Tell the asylum officer and also your deportation officer if you fear you will be tortured in your home country.

This is just a brief summary of asylum and protection from torture. To learn more about the law and how to prepare your case, ask for another booklet called “**How to Apply for Asylum and Withholding of Removal.**”

- **Where and when will the credible fear interview take place?**

The interview will take place at the detention center, or, in some cases, at the DHS office, normally at least 48 hours after your arrival. It will last about one to two hours. After your interview, the asylum officer will call you back again, usually about a week after your interview, to give you his or her decision.

- **What happens after the asylum officer makes his or her decision?**

**If the asylum officer finds that you have a credible fear of returning to your home country,**

 **you will be allowed to stay in the U.S. to apply for asylum before a judge in Immigration Court.**

If you pass the credible fear interview, you have the right to apply for asylum in front of an Immigration Judge. The asylum officer should ask you whether you want to go to court right away or whether you need time to find a lawyer. Because immigration law is very complicated, it is much better to be represented by a lawyer when applying for asylum. If you do not have a lawyer or if you need extra time to get evidence to prove your asylum claim, you should ask for more time before you go to court. Normally you will be given ten days. **If you cannot afford a lawyer**, you can ask DHS for a list of free or low cost legal services organizations in the area where you are detained. To learn more about the law and how to prepare your case, ask for the booklet called **“How to Apply for Asylum or Withholding of Removal.”**

**If the asylum officer finds that you do not have a credible fear of returning to your home country,**

 **he or she will order you “removed” (deported) from the United States.**

If you do not pass the credible fear interview, you will be ordered removed from the United States. You can ask for an Immigration Judge to review your case. Within a week, a judge will interview you to decide whether or not the asylum officer made the right decision. This is not a full asylum hearing, only a review of the asylum officer’s credible fear decision and interview notes. This review will either take place in person, or by telephone or video connection. You can ask for an interpreter to help you speak to the judge. You also can ask to have your attorney or legal representative at the hearing. However, he or she only can be with you as a consultant.

If the judge agrees with the asylum officer, you will be ordered removed. You are not allowed to appeal your case to another court. But, if the judge decides that you do have a credible fear, you will be allowed to have a full asylum hearing before an Immigration Judge.

If you do not want to apply for asylum and you want to go back to your home country, you should tell the asylum officer. Ask him if you can withdraw your application for admission to the United States.

### **Who can help me prepare for the credible fear interview?**

You should have received a **Form M-444 “Information about Credible Fear Interview”** which explains the interview process and your rights. You have the following rights:

- **Outside Contacts:** While in detention, you have the right to contact family members and friends by telephone, usually by calling collect or at your own expense.
  - **Consultation:** You may consult with any person that you choose before your interview with an asylum officer or before an Immigration Judge reviews your case. But the government will not provide legal assistance and the consultation cannot unreasonably delay the process.
  - **Legal Assistance:** You should use the time before your interview to try to contact a legal representative to assist you. If you cannot afford a lawyer, ask a DHS officer for a list of free or low cost legal services groups in the area where you are detained. You also may want to contact the United Nations High Commissioner for Refugees in Washington, D.C. (toll free) at: 1-888-272-1913, Monday, Wednesday, or Friday from 2:00 to 5:00 p.m. (Eastern Standard Time).
- **What happens at the credible fear interview?**

To pass the credible fear interview, you have to convince the asylum officer that you have a significant chance of winning asylum. It is very important that you tell the officer your whole story. First, answer all the officer’s questions. Then, if there are parts of your story that the officer did not ask about, tell the officer about those things.

• **Can someone go with me to the interview?**

Anyone you consulted with about your asylum claim can be present at the interview. They also can make a statement on your behalf at the end of the interview.

• **Is the interview private?**

You have the right to have your interview in a private area. If you feel uncomfortable talking to the asylum officer because other people can hear you, you should tell the asylum officer.

• **Will I have an interpreter at the interview?**

If you do not speak English, you should ask for an interpreter. DHS must provide one for you. The interpreter, will either be at your interview or, more likely, will be connected to you by a speaker phone on the desk next to you. If you understand some English, you should listen carefully to hear whether the interpreter makes mistakes, and you should

correct any mistakes. You also can ask for another interpreter if you are not satisfied with the one assigned to you.

• **How much detail about myself should I tell the asylum officer?**

It is very important that you do not leave anything out, even if you do not like to talk about it. DHS must keep the information that you give them confidential.

If you need to tell the asylum officer information that is very personal and difficult to talk about, you may request a female officer and female interpreter or a male officer and male interpreter. You also can ask to speak with the asylum officer alone, without your family, if you wish.

It is important to answer all of the asylum officer's questions truthfully. If you do not tell the truth, it can be used against you now or in the future to deny your claim.

• **Do I have to stay in detention if I pass the credible fear interview?**

You have to stay in detention at least until you have your interview with an asylum officer. However, if you pass your credible fear interview, then you may be able to get released from detention on what is called "parole." DHS may require you to pay a bond to be released or let you go "on your own recognizance" without paying a bond. To be released on parole you need to have a family member or friend who lives in the U.S. who will allow you to live with him or her. This person should be a legal permanent resident (has a green card) or a U.S. citizen. If you have such a friend or relative, they should write a sworn statement (called an "affidavit") to DHS promising to support you. To learn more about how to ask for release from detention on parole, ask for another booklet called "**How to Apply to the Department of Homeland Security for Release From Immigration Custody.**"

DHS makes the decision whether you can be released. If you are released, you can go to your immigration court hearings and apply for asylum outside of detention. If you pass your credible fear interview but you are not released, you can still apply for asylum from inside the detention center.

• **REINSTATEMENT OF REMOVAL**

**What is Reinstatement of Removal?**

**Reinstatement of Removal** is a process used by DHS to quickly remove people from the U.S. who have been deported or removed in the past and have reentered the U.S. without permission. It also applies to people who left the United States on their own while under an order of deportation or removal. You are in this type of proceeding if you have been given a document called a **Form I-871 "Notice of Intent to Reinstate Prior Order."**

In Reinstatement of Removal, DHS has the power to remove you from the country based on your previous order of deportation or removal. You will not be able to speak with an Immigration Judge.

A DHS officer will make a decision based on DHS records and other documents. A DHS officer will first investigate your case to:

- determine whether you had a **prior order of exclusion, deportation or removal**;
- **confirm your identity** (In some cases, the DHS officer may take your fingerprints to compare with DHS records); and
- **determine whether you illegally reentered the United States**. You should tell the DHS officer if you believe that you entered legally. The officer then can check the relevant entry records.

If the DHS officer decides that you should be put into Reinstatement proceedings, the officer will give you a written notice called **Form I-871 “Notice of Intent/Decision to Reinstatement Prior Order.”** You have the right to dispute DHS’s decision, either by writing down your argument or by talking to the DHS officer. The officer will then make a final decision after reviewing your arguments. If you are afraid to return to your country or if you want to apply for asylum, you will be given a chance to talk to an asylum officer to determine whether you qualify for an asylum hearing in removal proceedings before an Immigration Judge. If the asylum officer decides that you do not have a reasonable fear of persecution, you may ask that an Immigration Judge review that decision. Otherwise, the decision of the DHS or asylum officer is final. You will not be able to appeal this decision to an Immigration Judge.

Depending on what jurisdiction your immigration case is in, you may be able to challenge your prior removal order in the federal Circuit Court of Appeal if you believe the removal order was issued in error. You may also be able to challenge the DHS officer’s finding on any of the three issues listed above. Filing an appeal in federal court is complex and is not covered in this material. You will need a lawyer to assist you, but you must act quickly. You only have 30 days to file an appeal in federal court from the date of the Reinstatement Order.

### **When do I have the right to challenge reinstatement of removal?**

You can challenge the reinstatement of removal in two extremely limited situations.

**First, you can challenge DHS’s decision to put you in Reinstatement of Removal proceedings if you**  
 **fear you will be harmed if returned to your home country.**

**First, if you fear you will be harmed or tortured if you return to your home country or if you have suffered harm there in the past, you should tell DHS.** You will be given a chance to have an interview with an asylum officer who will determine whether you have a “reasonable fear” of persecution or torture. If the asylum officer determines

that you have established that there is a reasonable possibility that you will be persecuted or tortured if removed from the United States, you will be placed in regular “removal” proceedings before an Immigration Judge. You will then be allowed to apply for two different types of protection from removal from the United States. These forms of protection are called withholding of removal and protection under the Convention Against Torture. For more information about the court process, applying for these forms of protection and preparing your case, ask for another booklet called **“How to Apply for Asylum and Withholding of Removal.”**

If the asylum officer decides that you do NOT have a “reasonable fear” of persecution or torture, you have the right to ask that an Immigration Judge review the asylum officer’s decision. If the judge agrees with the asylum officer, your case will go back to the DHS for removal from the United States. You cannot appeal the Judge’s decision in this situation. But, if the Immigration Judge disagrees with the asylum officer and thinks your fear is reasonable, you will be allowed to apply for withholding of removal and protection under the Convention Against Torture before the Immigration Judge. Again, for more information about the court process, applying for these forms of protection and preparing your case, ask for another booklet called **“How to Apply for Asylum and Withholding of Removal.”**

**Second, you also have the right to challenge DHS’s claim that you should be in reinstatement proceedings in any of the following situations:**

- **You believe that you are a U.S. citizen**

There are various ways to be a U.S. citizen besides being born in the U.S. To learn more about whether you are a U.S. citizen and how to present your claim, ask for the booklet called **“Are You a United States Citizen?”**

- **You believe that DHS has the wrong information about you**

If you think that DHS has mistakenly put you into Reinstatement proceedings based on incorrect information it has about you - for example, it has mistaken you for someone else by the same name - tell the DHS officer. It is important to provide as much detailed information as possible to prove the mistake.

- **You have a visa ready for you**

If one of your family members has already applied for a visa for you and the visa is both a) approved and b) immediately available, you should try to find a lawyer to assist you and quickly file an Application for Permission to Reapply for Admission Into the U.S. After Deportation or Removal (**Form I-212**). Depending on which jurisdiction you are in, there may be an argument that you should be able to apply for your legal permanent residency and permission to reenter the United States. This is a complicated argument, and may require going to a federal court. We are not able to explain this process in this booklet and if you are in this situation, try to get advice and assistance from an experienced immigration

lawyer. For more information, you can ask for a booklet called “**How to Get Legal Status Through a Family Member.**”

**• You are from Nicaragua, Cuba Guatemala, El Salvador, Haiti, or certain countries in Eastern Europe and you are eligible to apply for relief under the Nicaraguan Adjustment and Central American Relief Act (NACARA) or under the Haitian Refugee Immigration Fairness Act (HRIFA).**

Originally, the NACARA and HRIFA laws did not apply to individuals who were subject to reinstatement of removal (i.e. they entered the United States illegally after a prior deportation order). However, a law enacted on December 21, 2000, allowed eligible individuals to apply for relief under NACARA or HRIFA even though they had prior deportation orders. Certain Nicaraguans, Cubans, or Haitians may have been able to file a motion to reopen no later than June 19, 2001, if they originally failed to apply for NACARA or HRIFA because they were subject to reinstatement of removal

If you are from El Salvador, Guatemala, or certain Eastern European countries, you may be eligible for NACARA even if you are subject to reinstatement. If you have been placed in reinstatement proceedings and you believe that you are eligible for NACARA, you should contact the DHS immediately, as DHS policy is against reinstating an order if the applicant is eligible for NACARA. To learn more about these laws and whether you qualify ask for another booklet called “**How to Apply for Three or Ten Year Cancellation of Removal.**”

**• You believe that you reentered the U.S. legally**

If you believe that you reentered the United States legally after being inspected by an immigration officer, tell DHS. Again, provide as much detailed information as possible, such as how and where you entered, the date and time of entry, and any documentation you may have shown the immigration official when you entered the country.

**• You left the U.S. under an order of voluntary departure**

Reinstatement of Removal only applies to people who reenter the United States after an order of deportation or removal. If you left the country with a voluntary departure order and then returned illegally, you should not be in reinstatement. Tell DHS. If it can verify you left through voluntary departure, you will be moved to regular Removal proceedings and you will have the opportunity to speak with a judge.

If any of the above apply to you, tell a DHS officer immediately. Give as much detailed information and proof about your case as possible. Reinstatement proceedings take place very quickly. If you do not have a basis for challenging the reinstatement, you will be removed. If you fear returning to your country, or if you believe that you have been incorrectly put into reinstatement proceedings, you must act fast if you want to find legal assistance or to fight the charges on your own. You should try to contact a lawyer or legal

services organization to help you. If you cannot afford a lawyer, you can ask DHS for a list of free or low cost legal services, which may be available near where you are detained.

**If you believe that you can challenge the reinstatement of your removal,  tell a DHS Officer and look for an attorney immediately to represent you.**

• **ADMINISTRATIVE REMOVAL**

**What Is Administrative Removal?**

No matter how long you have been in this country, if DHS believes that you have been convicted of an aggravated felony and that you do not have legal permanent resident status in this country, DHS may put you into a special proceeding called **Administrative Removal**. If you are in this type of proceeding, you will be given **Form I-851 “Notice of Intent to Issue Final Administrative Removal Order.”**

In Administrative Removal, you will not see an Immigration Judge. Instead, DHS will decide whether you should be ordered removed based on evidence that you have an aggravated felony conviction and that you do not have legal permanent residence in the U.S. It will make its decision based on its records and other documents.

You should be given information about the charges against you in the Form I-851. You are allowed to review the evidence that DHS uses to make its decision, and you have the right to bring in other information, including documents, written sworn statements (“affidavits”), or other specific materials to challenge the charges. If you disagree with the charge, you will be given 10 days from the date DHS gave you the information (or 13 days if it was mailed to you) to respond to them in writing. In the event you are to be removed, you may indicate in writing the country to which you choose to be deported.

If the DHS officer finds that removability is clearly established by the evidence, the officer shall serve upon you a Final Administrative Removal Order. If the officer finds there is not sufficient evidence for a removal order, DHS will terminate Administrative Removal proceedings and serve a Notice to Appear to begin regular removal proceedings before an Immigration Judge.

In any event, DHS must maintain a record of the Administrative Removal proceeding in case you want to challenge the final Administrative Removal Order in the federal Circuit Court of Appeal. As stated above, appealing your case in federal court is complex and is not discussed here. To appeal to a federal court, you should get legal assistance.

• **Do I have the right to challenge administrative removal?**

Yes. You have the right to challenge DHS’s determination that you should be administratively removed. The two main issues that you can challenge are:

- whether you, in fact, do have legal permanent residence or are a U.S. citizen;
- and

- whether you have been convicted of an aggravated felony.

**•What is an aggravated felony?**

Many crimes can be aggravated felonies. The crime does not have to be a felony in the state where you were convicted. Often misdemeanors and minor crimes are considered aggravated felonies under immigration law. Immigration law is not the same as criminal law. In the next box are some of the most common aggravated felonies. For the complete list, see volume 8, section 101(a)(43) of the United States Code, or section 101(a)(43) of the Immigration and Nationality Act.

**SOME CRIMES THAT ARE AGGRAVATED FELONIES**

**• Certain drug crimes or trafficking in firearms, explosive devices or drugs. Drug trafficking includes:**

- **transportation, distribution, importation**
- **sale and possession for sale**
- **certain cocaine possession offenses** (depending on what circuit court of appeals jurisdiction your case is in)
- **certain simple drug possession offenses**

**• Certain crimes for which you received a sentence of one year or more**

(whether you served time or not) including any of these:

- **theft** (including receipt of stolen property)
- **burglary**
- **a crime of violence** (including anything with a risk that force will be used against a person or property, even if no force was used)
- **document fraud** (including possessing, using, or making false papers - unless it was a first offense and you did it only to help your husband, wife, child, or parent)
- **obstruction of justice, perjury, bribing a witness**
- **commercial bribery, counterfeiting, forgery, trafficking in vehicles with altered identification numbers**
- **certain gambling crimes** (if you have another gambling conviction)
- **rape**
- **sexual abuse of a minor**
- **murder**
- **firearms offenses**, including possession of prohibited firearms
- **gambling offenses**, for which a term of imprisonment of one year or longer *may* be imposed

- **felony alien smuggling** (unless it was your first alien smuggling crime and you were helping only your husband, wife, child, or parent)
- **fraud or income tax evasion**, if the victim lost over \$10,000
- **failure to appear** if you were convicted of (1) missing a court date on a felony charge for which you could have been sentenced to at least 2 years (even if you were not sentenced to 2 years) or (2) not showing up to serve a sentence for a crime for which you could have been sentenced to 5 years
- **money laundering** (of over \$10,000)

You are also an aggravated felon if your conviction was for **attempt or conspiracy** to commit one of the crimes listed above.

If you have been convicted of an aggravated felony and can get assistance from an immigration lawyer, ask your lawyer to review your conviction carefully. Sometimes an immigration lawyer has an argument that your conviction is not an aggravated felony.

Also, in some cases, a criminal defense lawyer might be able to reopen your conviction to change the sentence or the nature of your conviction. It is difficult to reopen criminal cases once you have been convicted of a crime and only certain ways of changing your conviction in criminal court will change your conviction for immigration purposes. DHS may oppose a change to your conviction or sentence if the change is made only to avoid being removed from the United States. To find out more about this, you will need to talk to an experienced immigration lawyer.

- **Are there other ways to challenge administrative removal?**

There are two other situations in which you may be able to challenge your administrative removal.

**You may be able to challenge your removal from the United States if:** 

- 1. you have an approved visa through a family petition and the visa is immediately available; OR**
- 2. you fear you will be harmed if returned to your home country.**

**First if one of your family members has already applied for a visa for you** and the visa is both a) approved and b) immediately available, you should tell DHS. You can argue that you should not be put in Administrative Removal because it was not intended for people in this situation. Instead you should ask to be put into regular Removal proceedings where you will have an opportunity to talk to the judge about your visa and whether any of your criminal convictions prevent you from obtaining the visa.

**Second if you fear you will be harmed if you return to your home country** or if you have suffered harm there in the past, tell DHS. You should be referred to an asylum officer for a reasonable fear determination and ask to apply for “**withholding of removal**” in front of an Immigration Judge. This is a form of protection similar to asylum. See page 4 above for a more complete description of asylum. You also can ask for another booklet called “**How to Apply for Asylum or Withholding of Removal,**” which explains withholding of removal in greater detail and how to prepare your case. If you want to apply for withholding, ask to see a judge or an asylum officer.

Also, **if you fear that you will be tortured by a government official** if returned to your home country, you might qualify for relief from removal to that country. The United States has signed a treaty promising that it will not return anyone to a country where they might be tortured. Tell your deportation officer if you fear you will be tortured in your home country.

The administrative removal procedure is complicated. If you fear returning to your country or if you believe that you have been incorrectly put into administrative removal, you should try to contact an attorney or legal services organization to help you. If you cannot afford an attorney, you can ask DHS for a list of free or low cost legal services, which may be available near where you are detained. This procedure takes place very quickly so you must act fast if you want to find legal assistance or to fight the charges on your own.

**If you believe that you can challenge DHS’s decision to remove you from the United States,**



**tell an Immigration Officer and look for an attorney immediately to represent you.**

If you do not want to fight the charges and you are willing to accept administrative removal, you should tell DHS. In some cases, you can leave quickly instead of waiting 14 days for the review period to finish.

#### • CONCLUSION

We hope this information is helpful to you and we wish you luck with your case.

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This pamphlet was written by Andrea Black, Eloy Representative and edited by Elizabeth Dallam, former Director of the Florence Immigrant and Refugee Rights Project. Funding was provided by the Ford Foundation, the National Association of Public Interest Law, and the Berkeley Law Foundation.

We are grateful to Mary McClenahan of Catholic Legal Immigration Network (CLINIC) for use of her materials on expedited removal as well as her editorial assistance. We also wish to thank Dan Kesselbrenner, Director of the National Immigration Project of the National Lawyers Guild, and Regina Germain, Senior Legal Counselor, the United Nations High Commissioner for Refugees, for their editorial assistance. Any mistakes are the author's own.