

RELEASE FROM IMMIGRATION DETENTION

This memo provides a very brief overview of the different ways to seek release from immigration detention in the United States, including the basic eligibility requirements. For more detailed information about seeking release from detention, please review the materials included with this memo.

In seeking release from detention, we strongly suggest that asylum seekers contact a lawyer or an organization that represents asylum seekers for advice and possible legal representation. We have included a list of non-profit organizations in your area that may be able to provide representation or assist you finding representation.

After release from detention, asylum seekers must attend all court appearance and comply with all court orders. Only an immigration judge can decide to grant or deny asylum for an individual in removal proceedings. Failure to appear in court to present the claim will result in a removal order being issued in the asylum seeker's absence.

There are five main ways to be released from detention: parole, bond, "humanitarian" parole, post-order custody review, and writ of habeas corpus. The meaning of each of these and their eligibility requirements are discussed briefly below.

Release Before Completion of Immigration Proceedings

Parole

"Parole" is a form of release from detention before the completion of immigration court proceedings on the condition that the individual will continue to appear at all required court hearings for the duration of the court process. Parole may be available for an individual who:

- Requested asylum at a "port of entry" to the United States, which is an official border crossing or an airport; and
- Has been found to have a "credible fear" of persecution or torture.

Individuals in this situation are considered "arriving asylum seekers." Under U.S. law, arriving asylum seekers can only ask Immigration and Customs Enforcement (ICE) to release them from detention - an immigration judge cannot order an arriving asylum seeker to be released from detention.

As of 2010, ICE is required to evaluate all arriving asylum seekers found to have a credible fear for eligibility to be released on parole. A document from United States Citizenship and Immigration Services (USCIS) will provide written information about the parole process and requirements for parole with a "credible fear decision if, after an interview process, it is determined that an asylum seeker has established a "credible fear" of return to their country of origin.

Bond

“Bond” is an amount of money, set by an immigration judge, to be paid to the U.S. government as a financial guarantee that an individual released from detention will attend all of his/her court dates and obey the court’s decisions. Individuals who comply with all court dates and decisions will have the money returned to them. Those who do not will forfeit the bond money. Bond may be available for individuals who:

- Were apprehended by immigration authorities after having crossed unlawfully into the United States at a place other than a lawful port of entry; and
- Have been found to have a “credible fear” of persecution or torture.

Such individuals can only ask an immigration judge to be released from detention on bond. ICE cannot set bond for individuals in this situation.

“Humanitarian” Parole

Individuals in detention may also request release through “humanitarian” parole, a process designed for special cases where there are urgent reasons why an individual should not be in detention. These special cases can include individuals requiring emergency medical care, pregnant women, victims of torture or rape, an individual serving as a witness in a criminal prosecution, and any other situation in which the release of the individual would be in the public interest. Humanitarian parole is almost never available to individuals being held under mandatory detention provisions.

Release following a Final Removal Order

Post-Order Custody Review

An individual who has been issued a final order of removal can seek to have his or her custody reviewed after 90 days of detention and again after 180 days. This procedure does not challenge the removal order but seeks release from detention until the individual can be deported. An individual may be eligible for release through a post-order custody review if she or he:

- Has received a final order of removal, deportation, or exclusion, all of which are commonly referred to as a “removal order”;
- Has been detained for more than 90 days (three months) since the order; and
- Can show that he/she is unlikely to be removed in the reasonably foreseeable future

Writ of Habeas Corpus

A petition for a writ of habeas corpus is a request to a federal district court to be released from “indefinite”, or long-term, detention following a final order of removal.

It does not challenge the removal order but seeks release from detention until the individual can be deported. An individual may be eligible to petition for Habeas Corpus if he or:

- Has received a final order of removal, deportation or exclusion;
- Has been detained for more than 180 days (six months), since the final order; and
- Can show that s/he is unlikely to be removed in the reasonably foreseeable future.

All asylum seekers who meet these three criteria are eligible to file a habeas corpus petition to request release from detention.

Conditions or Treatment in Detention Facilities or More Habeas Corpus Information

If you would like information on reporting conditions or abuse in a detention facility, or more detailed information on seeking release from detention through a habeas corpus petition, you may wish to contact the American Bar Association at the following address:

American Bar Association
1050 Connecticut Avenue, NW
Suite 400
Washington, DC 20036
Phone: 202-662-1005
E-mail: immcenter@americanbar.org

Information in the Attached Packet

Based on the information provided, we have included the following materials:

1. A list of non-profit organization in your area that maybe able to help you if you do not have legal representation;
2. *How to Protect Yourself from Immigration Fraud and What should you Expect from your Legal Representative*, EOIR Legal Orientation Program;
3. *ICE Hotline*, ICE Enforcement and Removal Operations;
4. *Options for Release from Detention for Asylum Seekers*, Texas Rio Grande Legal Center;
5. *Information About Parole*, American Bar Association
6. *Credible Fear & Hearing Process*, Legal Orientation Program
7. *Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture*, ICE Policy Directive;
8. *How to Request Humanitarian Parole*, The Florence Refugee and Immigrant Rights Project;
9. *Parole Advisal and Scheduling Notification*, Sample ICE Form
10. *Getting a Bond: Your Keys to Release from Detention*, Florence Immigrant & Refugee Rights Project;
11. *Steps for Reducing your Bond*, EOIR Legal Orientation Program; and
12. *Immigration Bond: How to Get Your Money Back*, Catholic Legal Immigration Network Inc.

If you have internet access, you may wish to visit www.refworld.org UNHCR's online database that includes reports on human rights conditions in countries worldwide.

How to Protect Yourself from Immigration Fraud

Who Can Help You with Your Immigration Case?

- **Only two groups of people may provide legal advice and services on your immigration case:** (1) attorneys and (2) accredited representatives of non-profit religious, charitable, or social service organizations established in the U.S. and recognized by the Board of Immigration Appeals (BIA).
- **A notary public, *notario*, or a *notario público* is NOT an attorney or an accredited representative and CANNOT provide legal advice or services** on your immigration case unless he has been accredited by the BIA and works for an organization recognized by the BIA.
 - In the U.S., a notary public is a public officer who is authorized by law to certify documents, take affidavits, and administer oaths.
- **Immigration consultants and immigration assistance providers are not attorneys and cannot give legal advice or provide legal services.** This means that they:
 - CANNOT tell you what forms to use or what answers to put on the forms
 - CANNOT keep your original documents
 - CANNOT do special favors for you
 - CANNOT claim to know of secret laws or have special connections to government agencies

What Should You Do To Protect Yourself from Fraud?

- **Before you pay any money, educate yourself about who may help you with your immigration case**
 - Do not trust people who claim to have a special relationship with U.S. Citizenship and Immigration Services (USCIS) or who guarantee results.
 - Beware of anyone who advertises that he is a notary, *notario* or a *notario público* and can represent you in immigration proceedings.
 - Beware of consultants, travel agencies, and real estate offices that offer legal services in immigration matters.
 - Beware of anyone working in the United States who claims to be an attorney in a foreign country and who is not a licensed attorney in the United States.
 - Ask to see copies of attorney bar certificates issued by a state in the United States or BIA accreditation letters before accepting legal advice or services.
- **Follow Some Precautions**
 - If you decide to use professional services for help with your case, get and keep a written contract.
 - Do not pay cash for professional immigration services. If you can, use a check or credit card instead, and get and keep a receipt.
 - Never give your original documents (birth certificates, passports, or other documents) to anyone who is helping you with immigration matters.
 - Never sign a blank form, application, or petition.
 - Do not sign any forms, applications, or papers containing false statements or inaccurate information.
 - Beware of anyone who offers to file a legalization application for you as they may be putting you in danger of removal or deportation.

What Should You Do if You Have Been the Victim of Fraud?

- Contact a non-profit law office, immigrant rights group, or other trusted community organization for advice.

This information sheet was prepared by the EOIR Legal Orientation Program

What Should You Expect from Your Legal Representative?

Only two groups of people may provide legal advice and services in your immigration case:

- attorneys and
- accredited representatives who work for non-profit religious, charitable, or social service organizations established in the U.S. and recognized by the Board of Immigration Appeals (BIA).

ATTORNEYS

- **In the U.S., an attorney is someone who:**
 - attended law school and received a Juris Doctor (J.D.) degree;
 - is a licensed member of a state bar association in “good standing,” and
 - passed an exam given by the state bar association.

An attorney also is called a “lawyer.”
- **Attorneys can give legal advice and provide legal services.** They can file papers and applications and represent you before:
 - The Department of Homeland Security (DHS)
 - The U.S. Citizenship and Immigration Service (USCIS)
 - Any immigration court
 - The Board of Immigration Appeals (BIA)
 - The state court where he/she is a member of the bar
- **You can ask to see your attorney’s licensing documents.** You should make a note of the admission number if any.
 - There are two places you can learn whether an attorney is licensed and in “good standing”:
 - State Bar Associations keep track of attorneys. A list of the State Bar Associations in the U.S. can be found at <https://www.americanbar.org/directories/bar-associations.html>.
 - The American Immigration Lawyers Association (AILA) can help you find an immigration lawyer. Call 1-800-954-0254 to speak with a representative or send an e-mail to ilrs@aila.org.

ACCREDITED REPRESENTATIVES

- **An accredited representative** has been given permission by the BIA to provide immigration legal services.
 - Generally, a fully accredited representative may represent you before:
 - The Department of Homeland Security (DHS)
 - The U.S. Citizenship and Immigration Service (USCIS)
 - Any immigration court
 - The Board of Immigration Appeals (BIA)
 - A partially accredited representative can only represent you before USCIS.
 - An accredited representative *cannot* represent you in state court on non-immigration matters.
- **The best way to know that an individual is a legitimate accredited representative is** to ask to see a copy of the BIA decision accrediting representative status to the accredited representative and to the BIA recognized organization. Keep in mind that an accredited representative’s status expires every 3 years unless the BIA renews it.
 - You can also view a list of the non-profit organizations and accredited representatives recognized by the BIA on its website, <https://www.justice.gov/eoir/recognized-organizations-and-accredited-representatives-roster-state-and-city>.

What You Should Expect from Your Legal Representative

- **Your attorney or accredited representative cannot share what you tell him with anyone else, unless you give him permission to do so.** Your legal representative works for you, he does not work for the government.

- **Your legal representative should:**
 - Help you find an interpreter
 - Be patient and listen carefully to you
 - Not harass you about payment
 - Explain your options and what is going to happen in court
 - Check on the progress of your case
 - Keep you informed about your case and answer your questions
 - Return your phone calls promptly
 - Keep appointments with you

What You Can Do if You Have a Problem with Your Attorney or Accredited Representative

- **You have the right to hire or fire your attorney or accredited representative,** and you should not accept any legal representation that you do not understand or that makes you feel uncomfortable.

- **Get help if you think your legal representative has cheated you or works for traffickers.**
 - Contact a non-profit law office, immigrant rights group, or other trusted community organization for advice. They might be able to tell you how to fire or file a complaint against your legal representative.
 - Contact the State Bar Association for the state where your lawyer is licensed. A list of the State Bar Associations in the U.S. can be found at <https://www.americanbar.org/directories/bar-associations.html>.
 - If your legal representative represented you before the immigration court or the BIA, you can file an Immigration Practitioner Complaint Form (Form EOIR-44) with the Executive Office for Immigration Review. The form can be found at <https://www.justice.gov/eoir/file/eoir44/download>.



Call for Assistance

اتصل للمساعدة

如需帮助请致电

Appel à l'assistance
clientèle

Rele pou asistans

Telefone para obter auxílio

Gọi vào nhờ giúp đỡ

Llame para obtener ayuda

ICE Detention Reporting and Information Line

1-888-351-4024

ICE stakeholders, including the public, family members, attorneys, faith-based leaders, and non-governmental organizations, can contact the ICE Detention Reporting and Information Line for:

- General inquiries about **immigration enforcement and detention**.
- Questions on **basic immigration case information**. For information on an individual's immigration court date please call 1-800-898-7180.
- Reporting an incident of **sexual or physical assault or abuse** in detention.
- Reporting **serious or unresolved problems in detention**.
- Reporting that someone in detention is a **victim of human trafficking or other crimes**.
- Reporting that someone in detention was separated from a **minor child or other dependent**, or they have **other parental related issues**.
- Reporting that someone in detention has a **serious mental disorder or condition**. If the disorder or condition may impact the individual's ability to represent themselves or participate in an immigration court case, you should also notify the immigration judge.

ICE is committed to maintaining a collaborative and transparent dialogue with the public over the agency's mission and core values.

Language assistance, including Spanish-speaking operators, is available.





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Línea de información y denuncias del Centro de Detenciones del ICE 1-888-351-4024

Todas las partes relacionadas de alguna manera con el ICE, incluido el público, los familiares, los abogados, los líderes religiosos y las organizaciones no gubernamentales, pueden comunicarse con la Línea de información y denuncias del Centro de Detenciones del ICE para:

- Realizar preguntas generales sobre **control de inmigraciones y detenciones**.
- Averiguar **información básica sobre un caso de inmigración**. Para informarse sobre la fecha de presentación ante los tribunales de una persona, llame al 1-800-898-7180.
- Denunciar abuso o **agresión sexual o física** durante el período de detención.
- Denunciar **problemas de detención graves o sin resolver**.
- Denunciar que una persona detenida es **víctima de trata de personas u otros delitos**.
- Denunciar que a una persona detenida la separaron de un **hijo menor u otro dependiente**, o que tiene otros **problemas parentales**.
- Denunciar que un detenido padece de una **enfermedad o trastorno mental grave**. Si dicha enfermedad o trastorno afectaran la capacidad de dicho individuo de representarse a sí mismo o de participar en una causa judicial sobre inmigración, también deberá notificarle el hecho al juez de inmigración.

El ICE está comprometido a mantener un diálogo colaborativo y transparente con el público acerca de la misión y los valores centrales de la agencia.

Tiene a su disposición ayuda con el idioma, que incluye operadores de habla hispana.



Options for Release from Detention for Asylum Seekers

PAROLE

What is parole?

- Parole is a form of release from detention for certain individuals.
- Immigration and Customs Enforcement (“ICE”) has a policy that creates a **presumption in favor of release** on parole for persons who demonstrate a credible fear of persecution if they are returned to their country, but **there is never a guarantee that you will be released on parole!**
- An officer from ICE must review your case and decide whether you will be released. The person who makes this decision is usually your deportation officer.
- You must demonstrate to ICE that you are not a dangerous person, and that if you are released you will continue to appear at your immigration hearings in the future.

Will I be considered for parole?

- Not everyone is eligible for parole.
- If you are an “**arriving alien**” and you have passed your credible fear interview, then you will automatically be considered for parole. An “arriving alien” is a person who came to the border (the international bridge between Mexico and the United States) and applied for asylum.
- Remember, this does not mean that you will definitely be released from detention. There is never a guarantee that anyone will be released on parole.

Who decides if I will be released on parole?

- The immigration judge cannot release you on parole. The judge will not know anything about the status of your parole request.
- Only an immigration officer (someone who works for ICE) can make the decision to release you on parole.
- Immigration judges and ICE officers work for completely different departments in the government. Judges work for the Executive Office for Immigration Review (“EOIR”) and immigration officers work for Immigration and Customs Enforcement (“ICE”).
- If you have questions about parole or there is a problem with your case you should talk to your deportation officer.

What are the requirements to be released on parole?

1. You must **pass your credible fear interview** with the asylum officer.
2. You must have **sufficient identity documents**.
3. **You must provide a name and address of a friend or family member with whom you will reside if you are released. Your deportation officer will call this person.**

What do I do about my asylum case while I am waiting to be released from detention?

While you are waiting to be released from detention, your case will continue to proceed with the immigration court. **You can and should ask the judge to continue your case while you are waiting for release.** At Willacy Detention Center, the immigration judges will typically allow you to continue your case at least two times without issue. However, in our experience, the judge may grow tired of continuing your case and may expect you to turn in your asylum application by your third court date.

***Most people are released before they are expected to turn in their I-589 application for asylum. However, if the judge gives you a deadline to file your application, you need to file it by that date. If you do not file your application, the judge could order your removal. ***

WARNING: These instructions provide general information only and may NOT be construed as legal advice. Immigration law changes often and the information provided here may not be up to date. You should consult with an immigration attorney to get the most recent information.

How long will it take before I am released?

- There is no way to know for sure how long it will take to be released, or even if you will ultimately be released. Because this policy of release is still new, there are often problems in the system, and it is difficult to estimate the average waiting time.

What happens after I am released on parole?

- When you are released, you will be dropped off at a local gas station near the detention center in Raymondville, Texas. Some local bus lines make stops at the gas station.
- Your deportation officer will typically give you one free phone call before you are released.

What do I need to do after I am released from detention to make sure my asylum case continues normally?

- When you arrive at the address where you plan to stay (with a friend or family member) you must update your address with the immigration court. Do this by completing form EOIR-33/IC (the blue form you received upon release) and filing it with the immigration court. It is extremely important that the immigration court has your correct address so that you will receive any hearing notices or documents they file in your case.
- Remember that until you ask the court to transfer it, your asylum case will proceed with the immigration court in Harlingen, Texas. You will need to ask the immigration court to transfer your case to the court closest to where you live. For example, if you are still living in Atlanta, you can ask for your case to be moved to the court in Atlanta. We can provide you with a sample document that you can file with the court in order to ask to have your case transferred.

BOND

What is Bond?

- Some individuals are eligible to pay a bond and be released from detention while their immigration cases are pending.
- A bond is an amount of money that is meant to ensure that you will continue to appear at your immigration hearings if you are released from detention.

Am I eligible for bond?

- If you are an “arriving alien”—**if you arrived at the bridge seeking asylum—you are not eligible for bond from an immigration judge. Your only option for release from detention is parole.**
- In addition, you are not eligible for bond if you have been convicted of certain crimes.
- You can ask for a hearing with the immigration judge to determine what your bond amount will be.
- If you believe you are eligible for bond, please speak with us to get more information about how to ask for a bond or how to have your bond reduced if you already have one.

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Parole Information

**Immigration Justice Project
of San Diego**

401 B Street, Suite 1700
San Diego, CA 92101-4297

Phone: (202) 442-3440

Fax: 619-568-3674

www.americanbar.org/groups/public_services/immigration/projects_initiatives/immigration_justice_project_ijp_of_san_diego.html

[immigration_justice_project_ijp_of_san_diego.html](http://www.americanbar.org/groups/public_services/immigration/projects_initiatives/immigration_justice_project_ijp_of_san_diego.html)

Information about Parole

What is parole, and who is eligible for parole?

- Parole is a temporary release from immigration detention.
- If you are granted parole, it does not mean that you have been lawfully admitted into the U.S. You will still have to go to court after you are released so that a judge can hear and decide your case.

Can I request parole?

YES, IF YOU MEET THESE FACTORS:

- You are an arriving alien **and**
- You are found to have a credible fear of persecution.

TO REQUEST PAROLE:

- Quickly gather evidence to show the ICE officer.

Who is an “arriving alien?”

- You are an arriving alien if you were stopped while entering the United States.
- You are NOT an arriving alien if you were detained somewhere inside of the U.S.
- Your Notice to Appear will say that you are an arriving alien.

What does it mean to have “credible fear of persecution?”

- An asylum officer will determine whether you have a credible fear of persecution at an asylum interview.
- During the interview, the officer will ask of your fear of return to your native country.
- If the officer believes that you are or were afraid to return to your native country because you would be tortured or killed because of your race, religion, nationality, membership in a particular social group, or political opinion, the official will give you a positive credible fear determination.

You may also be eligible for parole if:

- You have a serious medical condition.
- You are pregnant.
- You are a certain type of juvenile.
- You will be a witness in a judicial, administrative, or legislative proceeding.

What do I need to prove to be granted parole?

There are three factors, discussed in more detail below. You must prove all three:

1. Your identity (that you are who you say you are)
2. That you are not a flight risk, and
3. That you are not a danger to the community

1. PROVING IDENTITY

- The best way is to show government issued identity documents, such as a **birth certificate** or **passport**.
- If you do not have government issued identification, you must give an explanation as to why you do not have them. You should also provide the government with sworn **affidavits** from family and friends who know you and can prove your identity.
 - These affidavits should contain information such as how the person knows you, how long that person has known you, and how often you see or speak to that person. The more information you provide, the better.
 - Those who write the affidavits must include their address, and include a copy of a valid, government issued photo identification document.
- If you cannot obtain identification documents or affidavits from family or friends, you may still be able to establish your identity but you are less likely to be granted parole.

2. PROVING THAT YOU ARE NOT A FLIGHT RISK

- You must show that it is very likely that you will come to court for your hearings.
- Evidence that you own property in the U.S., have family ties in the U.S., or a history of employment in the U.S., are helpful.
- If you have had court in the past, you should provide proof that you came to your hearings.
- The officer will also look at how you entered the U.S., the length and stability of your prior residence in the U.S., your prior immigration and criminal history, your ability to post bond, and possible relief available to you.
- You must also provide the government officer with an address where you will be living.

3. PROVING THAT YOU ARE NOT A “DANGER TO THE COMMUNITY”

- You can show that you do not have a criminal record.
- You must also show that you have not acted contrary to U.S. national security.
- You must also show that you will not be a threat to public safety. Threats to public safety can include:
 - Serious mental illness
 - A history of disciplinary problems or incident reports
 - Any criminal or detention history that shows that you have harmed or would likely harm yourself or others.

**Legal Orientation Program
Credible Fear Interview & Parole Process
General Orientation**

Credible Fear & Hearing Process

Why are you here? You are being detained by the Immigration and Customs Enforcement (ICE), which is a part of the U.S. Department of Homeland Security (DHS). Sometimes ICE/DHS are simply referred to as “Immigration.” You are here because the U.S. government thinks you broke an immigration law – that you came to the U.S. illegally.

The government is trying to remove you from the U.S. This process is also sometimes called “deportation.” If you do not fight your case, you will be ordered to leave the U.S. and may not be able to legally return to the U.S. for many years. If you are still in detention when you receive a final removal order, the U.S. government will physically send you back to your home country.

You may qualify to stay in this country. Most of you requested asylum when you first entered the country or when you were detained by ICE after entering the country illegally and without talking with an ICE officer. You probably went through the following process:

- **Request Asylum.** You are probably in one of the following two situations:
 - You are an **Arriving Alien**. This means you came to the border and told the immigration officer that you have a fear of returning to your country.
 - You **Entered without Inspection**. This means you entered the U.S. illegally and were here for some period of time before you were arrested by ICE. When you were arrested, you informed an ICE official that you have a fear of returning to your country.
- **Expedited Removal.** You were put in “expedited removal” proceedings. This is a type of removal (or deportation) proceeding for persons who come to the U.S. without proper documentation. While you are in expedited removal, you are not eligible for bond and you will not appear before an Immigration Judge. (We talk more about these issues later.)
- **Credible Fear Interview.** Because you expressed a fear of returning to your home country, an asylum officer interviewed you and decided whether you have a credible fear of persecution if you are returned to your country.
 - **What does it mean to have “credible fear of persecution?”** An ICE asylum officer determined whether you had a credible fear of persecution at a Credible Fear Interview. During the interview, the officer asked of your fear of return to your native country. The official gave you a positive Credible Fear determination, if he believed that you are or were afraid to return to your native country because you would be tortured or killed because of your race, religion, nationality, membership in a particular social group, or political opinion,
- **Credible Fear Interview Decision.** The asylum officer will make a written decision on your case. You will be provided with a copy of the decision. There is no fixed timeline for how long it can take to receive an interview or a decision. You may have your interview and receive the decision within 3-4 weeks of being detained, but it could take longer. You may have already received a decision.

- Remember, even if the asylum officer decided that you do have a credible fear of persecution, your case is not over and you have not yet won asylum or the right to remain in this country. **Passing this stage simply means that you have the right to apply for asylum in front of an Immigration Judge.** Depending on the facts of your case, you will also have the right to apply for parole – that is to leave immigration detention while you fight your asylum case. We talk more about this later.
- **Notice to Appear filed with the Court.** If you pass your Credible Fear Interview, your case will be moved to regular removal (deportation) proceedings. DHS will file a document called a “Notice to Appear” with the Immigration Court (sometimes this document is called an “NTA”). This document has basic information about you, as well as the immigration charges against you (typically, the charges are that you tried to enter the country without proper documentation).
- **Appealing a Credible Fear Decision.** If you do not pass your Credible Fear Interview, you have the right to request a quick appeal before an Immigration Judge who must make a determination within 7 days. You may also request a second Credible Fear Interview, if your circumstances have changed since the first one.

Now that you have received an NTA and are in regular removal proceedings, what are your rights?

- You have the right to talk with the judge and to understand what is being said in court. Let the judge know if you do not understand what is being said in court. The court will give you someone who speaks your language and English to help you talk and understand what happens while you are in court. Let the judge know if you are still do not understand clearly.
- You have the right to a hearing. At that hearing, you can have a lawyer, who can help you explain to the court why you should be allowed to stay in the U.S. But the government will not pay for your lawyer. You can also represent yourself.
- You have the right to give the judge information that will support your case.
- You have the right to ask questions to anyone who speaks against you in court.
- If the judge decides that you cannot stay in the U.S., you have the right to have another court, the Board of Immigration Appeals, hear your case. This is called an “appeal.”

What happens at a hearing? Once you’ve passed the Credible Fear Interview you will receive a court date and attend your first court hearing. The judge usually sits at the front of the courtroom. There are usually two additional tables. The lawyer for Immigration, or DHS/ICE, sits at one table, and you sit at the other table with your lawyer if you have one. Sometimes, the judge or government lawyer will be on a television. At the first hearing be prepared to answer these questions:

1. Is the information the court has about you correct?
2. Do you want to fight against removal from the U.S.?
3. Do you have a lawyer?
4. Do you want to try to find a lawyer?

We give you information about each of these questions below.

1. Is the information the court has about you correct?

As we mentioned above, you should have received a paper called a "Notice to Appear". This paper is very important. If you do not have this paper with you, you will get a copy when you go to court. The Notice to Appear shows what the government thinks is your name, your country of nationality (where you will be returned if you are ordered removed), your immigration number (or "A number"), the date you entered the U.S., how you entered, and the reasons why they are trying to remove (deport) you. You must look at this paper very carefully.

If there is an error in the information about you that is written on your Notice to Appear, tell the judge (even if it seems like something minor, like the spelling of your name). If you cannot read the paper, the person who speaks your language and English will read it to you in the courtroom. In the hearing, the judge should read the information from the Notice to Appear and ask you if it is correct. You should answer: "Yes, it is correct" if all the information is correct, or "No, it is not correct" when there is something wrong.

2. Do you want to fight against removal from the U.S.?

If you want to fight your case, you need a reason the government should let you stay in the U.S. Most of you are here because you expressed a fear of returning to your home country and passed a Credible Fear Interview. If this is the case, you will probably tell the judge at this point that you would like to fight your case and apply for asylum. The judge will give you an application form, called an I-589, and will give you a deadline for turning the application in. We talk more about the application process below.

3. Do you have a lawyer?

A lawyer can answer your legal questions and represent you at hearings. If you have a lawyer, call the lawyer to represent you. If you have a lawyer, your lawyer should be with you at all of your hearings and tell the judge that he or she is your lawyer. Your lawyer should prepare all of your documents for you, submit them to the judge when necessary, keep you informed about what is happening in your case, and explain the proceedings to you. If you are having problems with your lawyer, and you would like to fire him or her, please tell the judge or speak with a volunteer lawyer. Remember, you can also be your own lawyer.

4. Do you want to try to find a lawyer?

If you do not have a lawyer, but have money to hire one, get a lawyer as soon as possible. If you want to look for a lawyer, but the lawyer will not be with you at your first hearing, ask the judge for time to look for a lawyer. The judge will give you another date for your hearing. If you do not have money for a lawyer, you can try to find a lawyer who will take your case for free. You can ask the court for a list of free lawyers.

How does the judge make a decision? If you decide to fight your case, you will have additional hearings. In these additional hearings, you will need to provide the judge with any information about why you should not be removed (deported) and, if you're applying for asylum, why you should win asylum. If you do not have a lawyer, you will have to speak for yourself. The government lawyer is trying to show why you should be removed (deported) from the U.S. The judge has to listen to both of you and make a decision. After the judge has all the information, the judge will make a decision.

How should I speak to the judge? It is very important to be direct and clear when speaking to the judge. Speak up and always make eye contact with the judge, even if you are speaking through an interpreter. Tell the judge if you don't understand something.

Can the judge's decision be changed? You have the right to appeal your case – have another judge review your case – if you think the judge in your hearing made a mistake. If you want to appeal, you must tell the judge at the end of your hearing and you must file your Notice of Appeal with the Board of Immigration Appeals within thirty (30) days of the judge's decision. An appeal can take 3 to 6 months. Usually, you have to stay in detention while you wait. If you lose your first appeal, and you decide to appeal again to another court (a federal circuit court of appeals), the appeal can take longer, sometimes as long as a year or 2.

Asylum

What are the Requirements for winning Asylum? Remember, although you passed your Credible Fear Interview, you have not yet won asylum. You simply won the chance to apply for asylum. You must still apply for asylum in Immigration Court. To win asylum you must show the Immigration Judge that you have been harmed in the past or believe you would be harmed if returned to your country. The harm must be because of your:

- Race
- Religion
- Nationality
- Political opinion (Political opinion may include resistance or opposition to forced abortions or other forms of coerced population control measures.)
- Membership in a particular social group (A particular social group can include victims of domestic violence in their home country; people who are gay or transgender; people who have life-threatening diseases or mental illness; and sometimes people who are ex-gang members or victims of gang members.)

If you have been convicted of a serious crime, you may not be eligible to receive a grant of asylum. Generally, you **must apply for asylum within one year of arriving in the U.S.** or you may not be able to apply for asylum except for certain limited reasons.

But there are alternative forms of protection available to people who have been in the U.S. for more than one year or who have been convicted of a serious crime. (For example, two of these alternative forms of protection are called “**withholding of removal**” and “**withholding under the Convention Against Torture.**”) Try to talk to an attorney if you are afraid to return to your country of origin to see if you qualify.

What do I get if I am granted asylum? If you are granted asylum, you can apply for your green card after one year and you can apply to bring your spouse and children to the U.S. You may also qualify for employment, housing, and medical benefits. However, be careful not to travel to your home country if you win asylum, because your green card and lawful status might be taken away.

If you are granted withholding of removal, you will be able to live and work lawfully in the U.S., but you will not be able to get a green card nor will you be able to bring your spouse or children to the U.S. Withholding of removal just means that you cannot be returned to the country where you fear harm. You should also know that if you leave the U.S. without getting permission from DHS/ICE first, you may not be able to return to the U.S., especially if you return to the country where you fear harm. You should talk to a lawyer if you are not sure.

What if I am not granted asylum? If you are not granted asylum, you can file an appeal. (See the question about changing a judge's decision above.) If you do not want to file an appeal, you will be deported unless you request something that is called "**voluntary departure.**" With voluntary departure, you will still have to leave the United States, but you may be able to return here more easily in the future. Keep in mind that with voluntary departure, you must generally pay for your own ticket home.

Getting Out of Detention: Parole & Bond

What is Parole? Parole is a temporary release from immigration detention. If you are granted parole, it does not mean that you have been lawfully admitted into the U.S. You are still required to go to court after you are released so that a judge can hear and decide your case. If you fail to attend your immigration hearings while released on parole, you will be ordered removed (deported).

Will I be considered for parole? Not everyone is eligible for parole. If you are an **arriving alien** and you have passed your Credible Fear interview, then you will automatically be considered for parole by ICE/DHS. You are considered an arriving alien if at the border you turned yourself in to an immigration official. Your Notice to Appear should state whether or not you are considered an arriving alien. Remember, this does not mean that you will definitely be released from detention. You may also qualify for parole if you have a serious medical condition, are pregnant, or are in certain other situations. There is never a guarantee that anyone will be released on parole.

Who decides if I will be released on parole? Only someone who works for ICE/DHS can make the decision to release you on parole. Usually the person who makes these decisions is called a deportation officer. If you have questions about parole or there is a problem with your case you should talk to your deportation officer.

The Immigration Judge cannot release you on parole. The judge will not know anything about the status of your parole request. Immigration Judges and ICE officers work for completely different departments in the government. Judges work for the Executive Office for Immigration Review (EOIR) and deportation officers work for Immigration and Customs Enforcement (ICE).

When will I be considered for parole? The parole interview usually happens before your asylum application is due. It is not a formal "interview" like the Credible Fear interview is. You will be expected to provide certain information (such as identity documents and an address) in the parole interview (see below). The deportation officer is supposed to conduct the parole interview within 7 days of receiving a written decision from your Credible Fear interview.

What do I need to show to be granted parole? ICE/DHS considers three factors, discussed in more detail below. You must prove all three:

1. Your **identity** (that you are who you say you are)
2. That you are **not a flight risk**, and
3. That you are **not a danger to the community**

How do I prove my identity? The best way is to show government issued identity documents, such as a **birth certificate** or **passport**.

If you do not have government issued identification, you must give an explanation as to why you do not have it. You should provide any other documents that prove your identity, such as school records or baptismal

certificates. You should also provide the government with sworn **affidavits** from family and friends who know you and can prove your identity. Some detention centers require the affidavits to be notarized.

- These affidavits should contain information such as how the person knows you, how long that person has known you, and how often you see or speak to that person. The more information you provide, the better.
- Those who write the affidavits must include their address, and include a copy of a valid, government issued photo identification document.
- Affidavits can also include information about why you are not a flight risk and why you are not a danger to the community (see below).

If you cannot obtain identification documents or affidavits from family or friends, you may still be able to establish your identity by your own testimony, but you are less likely to be granted parole.

How do I prove that I am not a flight risk? You must show that it is very likely that you will come to immigration court for your hearings. You should provide as much documentation as possible to show that you will show up for your hearings and not run away.

- You must provide the government officer with an address where you will be living.
- If you have friends or family writing affidavits, ask them to include statements about why they think you will continue to attend your hearings.
- If you have resided in the U.S. prior to your detention, it is helpful to provide information about the following:
 - The length and stability of your prior residence in the U.S., your prior immigration and criminal history, your ability to post bond, and possible relief available to you (e.g. asylum) are also important factors.
 - Evidence that you own property in the U.S., have family ties in the U.S., or a history of employment in the U.S. are helpful.
 - If you have had court in the past, you should provide proof that you came to your hearings.

How do I prove that I am not a “danger to the community”?

- ICD/DHS may conduct a background check and this can help show that you are not a danger.
- You can show that you do not have a criminal record.
- You must also show that you have not acted contrary to U.S. national security.
- You must also show that you will not be a threat to public safety. Threats to public safety can include:
 - Serious mental illness
 - A history of disciplinary problems or incident reports

- Any criminal or detention history that shows that you have harmed or would likely harm yourself or others.
- If you have friends or family writing affidavits, ask them to include why they think you are not a danger to the community.

What happens after the parole interview? ICE will make a decision about whether you will be released on parole. If they deny your parole, they will give the reason in the letter they provide you (for example, because you have not provided a sufficient identity document).

What if I am denied parole? There is no guarantee of release on parole. If you are denied parole and you have new evidence or your circumstances have changed, you can ask ICE/DHS for a redetermination of your parole decision.

What does it mean if I was given a “parole bond”? ICE/DHS can and frequently does require you to pay a parole bond before you are released from detention. A parole bond is an amount of money you must pay in order to be released. The parole bond is imposed to assure that you will attend your future immigration hearings after you are released from detention. You will not be released until that bond is paid.

What is Bond? A judge may permit you to leave the detention center if you pay money, called a bond, and you promise to come to all of your court hearings. (The judge will not give everyone a bond and permission to leave the detention center.) If you get a bond and then miss a court hearing, the judge can order you deported, and you will lose the money you paid for the bond.

Am I eligible for bond? You are not eligible for bond if you are considered an arriving alien (in this case, you may be eligible for parole). You are also not eligible for bond if you have been convicted of certain crimes in the United States. If you are not an arriving alien and have not committed certain crimes, you may be eligible for bond if you can show that you are not a danger to other people or property and that you will attend all of your future court hearings. If you think you may be eligible for bond, ask the judge for a bond hearing.

What do I do about my asylum case while I am waiting to be released from detention? While you are waiting to be released from detention, your case will continue to proceed with the immigration court. You can and should ask the judge to continue your case while you are waiting for release. Most people are released before they are expected to turn in their I-589 application for asylum. However, if the judge gives you a deadline to file your application, you must file it by that date. If you do not file your application, the judge could order your removal.

How long will it take before I am released? There is no way to know for sure how long it will take to be released, or even if you will ultimately be released. Because this policy of release is still new, there are often problems in the system, and it is difficult to estimate the average waiting time.

What happens to my asylum case when I am released from detention? Your immigration case continues after you are released from detention. If you are able to obtain parole, **it is not the end of your immigration case.** You must still fight your case and obtain immigration relief (such as asylum) in Immigration Court. **You must attend all future Immigration Court hearings** – if you do not appear in Immigration Court **in person**, you may be ordered deported. If you do not have a lawyer, you must still go to court to ask for more time to find a lawyer or to fight your case on your own.

Where will I have court after I am released? You will need to ask the immigration court to transfer your case to the court closest to where you plan to live. For example, if you will be living in Atlanta, you can ask for your case to be moved to the court in Atlanta. **Remember that until you ask the court in writing to transfer it, your asylum case will proceed with the non-detained immigration court in the place where you were detained.**

How will I know when my next hearing is? After you are released, a **Hearing Notice** will be sent to the address you provided to immigration officials, directing you to go to the Immigration Court closest to that new address (you do not have to return to the detention center for previously scheduled court hearings – your hearing will be re-set to your new location).

What if I move? If you change addresses, you **MUST notify DHS and the Immigration Court immediately by filing two forms: AR-11 and EOIR-33/IC.** If you do not notify DHS or the court and as a result you miss your Immigration Court hearing, you may be ordered deported.

What if I haven't heard from the court? If you have not heard from the court, or you want to be certain about when and where your next hearing is scheduled, you can call the Immigration Court hotline at 1-800-898-7180. You will have to enter your "A Number," and you will be told when and where your next hearing is. When you arrive at the address where you plan to stay (with a friend or family member) you must update your address with the immigration court. Do this by completing form EOIR-33/IC (the blue form you received upon release) and filing it with the immigration court. It is extremely important that the immigration court has your correct address so that you will receive any hearing notices or documents they file in your case.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture

DISTRIBUTION:	ICE
DIRECTIVE NO.:	11002.1
ISSUE DATE:	December 8, 2009
EFFECTIVE DATE:	January 4, 2010
SUPERSEDES:	See section 3.
FEA NUMBER:	601-05

1. **PURPOSE.** The purpose of this ICE policy directive is to ensure transparent, consistent, and considered ICE parole determinations for arriving aliens seeking asylum in the United States. This directive provides guidance to Detention and Removal Operations (DRO) Field Office personnel for exercising their discretion to consider the parole of arriving aliens processed under the expedited removal provisions of section 235 of the Immigration and Nationality Act (INA) who have been found to have a “credible fear” of persecution or torture by U.S. Citizenship and Immigration Services (USCIS) or an immigration judge of the Executive Office for Immigration Review. This directive establishes a quality assurance process that includes record-keeping requirements to ensure accountability and compliance with the procedures set forth herein.
 - 1.1. This directive does not apply to aliens in DRO custody under INA § 236. This directive applies only to arriving aliens who have been found by USCIS or an immigration judge to have a credible fear of persecution or torture.
2. **AUTHORITIES/REFERENCES.**
 - 2.1. INA §§ 208, 212(d)(5), 235(b), and 241(b)(3); 8 U.S.C. §§ 1158, 1182(d)(5), 1225(b), and 1231(b)(3); 8 C.F.R. §§ 1.1(q), 208.30(e)-(f), 212.5 and 235.3.
 - 2.2. Department of Homeland Security Delegation Number 7030.2, “Delegation of Authority to the Assistant Secretary for the Bureau of Immigration and Custom Enforcement” (Nov. 13, 2004).
 - 2.3. ICE Delegations of Authority to the Directors, Detention and Removal and Investigations and to Field Office Directors, Special Agents in Charge and Certain Other Officers of the Bureau of Immigration and Customs Enforcement, No. 0001 (June 6, 2003).
3. **SUPERSEDED POLICIES AND GUIDANCE.** The following ICE directive is hereby superseded:
 - 3.1. ICE Policy Directive No. 7-1.0, “Parole of Arriving Aliens Found to Have a ‘Credible Fear’ of Persecution or Torture” (Nov. 6, 2007).

4. BACKGROUND.

- 4.1. Arriving aliens processed under the expedited removal provisions of INA §235(b) may pursue asylum and related forms of protection from removal if they successfully demonstrate to USCIS or an immigration judge a credible fear of persecution or torture.
- 4.2. Arriving aliens who establish a credible fear of persecution or torture are to be detained for further consideration of the application for asylum. INA § 235(b)(1)(B)(ii). Such aliens, however, may be paroled on a case-by-case basis for “urgent humanitarian reasons” or “significant public benefit,” provided the aliens present neither a security risk nor a risk of absconding. 8 C.F.R. § 212.5(b); *see also* 8 C.F.R. § 235.3(c) (providing that aliens referred for INA § 240 removal proceedings, including those who have a credible fear of persecution or torture, may be paroled under § 212.5(b) standards).
- 4.3. The applicable regulations describe five categories of aliens who may meet the parole standards based on a case-by-case determination, provided they do not present a flight risk or security risk: (1) aliens who have serious medical conditions, where continued detention would not be appropriate; (2) women who have been medically certified as pregnant; (3) certain juveniles; (4) aliens who will be witnesses in proceedings being, or to be, conducted by judicial, administrative, or legislative bodies in the United States; and (5) aliens whose continued detention is not in the public interest. *See* 8 C.F.R. § 212.5(b). *But compare* 8 C.F.R. § 235.3(b)(4)(ii) (stating that arriving aliens who have not been determined to have a credible fear will not be paroled unless parole is necessary in light of a “medical emergency or is necessary for a legitimate law enforcement objective”).
- 4.4. While the first four of these categories are largely self-explanatory, the term “public interest” is open to considerable interpretation. This directive explains how the term is to be interpreted by DRO when it decides whether to parole arriving aliens determined to have a credible fear. The directive also mandates uniform record-keeping and review requirements for such decisions. Parole remains an inherently discretionary determination entrusted to the agency; this directive serves to guide the exercise of that discretion.

5. DEFINITIONS:

- 5.1. **Arriving Alien.** For purposes of this directive, “arriving alien” has the same definition as provided for in 8 C.F.R. § 1.1(q) and 1001.1(q).
- 5.2. **Credible Fear.** For purposes of this directive, with respect to an alien processed under the INA § 235(b) “expedited removal” provisions, “credible fear” means a finding by USCIS or an immigration judge that, taking into account the credibility of the statements made by the alien in support of the alien’s claim and such other facts

as are known to the interviewing USCIS officer or immigration judge, there is a significant possibility that alien could establish eligibility for asylum under INA § 208, withholding of removal under INA § 241(b)(3), or protection from removal under the Convention Against Torture.

- 5.3. **Parole.** For purposes of this directive, “parole” is an administrative measure used by ICE to temporarily authorize the release from immigration detention of an inadmissible arriving alien found to have a credible fear of persecution or torture, without lawfully admitting the alien. Parole does not constitute a lawful admission or a determination of admissibility, *see* INA §§ 212(d)(5)(A), 101(a)(13)(B), and reasonable conditions may be imposed on the parole, *see* 8 C.F.R. § 212.5(d). By statute, parole may be used, in the discretion of ICE and under such conditions as ICE may prescribe, only for urgent humanitarian reasons or for significant public benefit. As interpreted by regulation, “urgent humanitarian reasons” and “significant public benefit” include the five categories set forth in 8 C.F.R. § 212.5(b) and listed in paragraph 4.3 of this directive, including the general category of “aliens whose continued detention is not in the public interest.”

6. **POLICY.**

- 6.1. As soon as practicable following a credible fear determination by USCIS for an arriving alien detained by DRO, DRO shall provide the alien with the attached *Parole Advisal and Scheduling Notification*. This form informs the alien that he or she will be interviewed for potential parole from DRO custody and notifies the alien of the date of the scheduled interview and the deadline for submitting any documentary material supporting his or her eligibility for parole. The contents of the notification shall be explained to such aliens in a language they understand. In determining whether detained arriving aliens found to have a credible fear should be paroled from custody, DRO shall proceed in accordance with the terms of this directive.
- 6.2. Each alien’s eligibility for parole should be considered and analyzed on its own merits and based on the facts of the individual alien’s case. However, when an arriving alien found to have a credible fear establishes to the satisfaction of DRO his or her identity and that he or she presents neither a flight risk nor danger to the community, DRO should, absent additional factors (as described in paragraph 8.3 of this directive), parole the alien on the basis that his or her continued detention is not in the public interest. DRO Field Offices shall uniformly document their parole decision-making processes using the attached *Record of Determination/Parole Determination Worksheet*.
- 6.3. Consistent with the terms of this directive, DRO shall maintain national and local statistics on parole determinations and have a quality assurance process in place to monitor parole decision-making, as provided for in sections 7 and 8 of this directive.

- 6.4. In conducting parole determinations for arriving aliens in custody after they are found to have a credible fear of persecution or torture, DRO shall follow the procedures set forth in section 8 of this directive.
- 6.5. DRO shall provide every alien subject to this directive with written notification of the parole decision, including a brief explanation of the reasons for any decision to deny parole. When DRO denies parole under this directive, it should also advise the alien that he or she may request redetermination of this decision based upon changed circumstances or additional evidence relevant to the alien's identity, security risk, or risk of absconding. DRO shall ensure reasonable access to translation or interpreter services if notification is provided to the alien in a language other than his or her native language and the alien cannot communicate effectively in that language.
- 6.6. Written notifications of parole decisions shall be provided to aliens subject to this directive and, if represented, their representative within seven days of the date an alien is initially interviewed for parole or the date the alien requests a parole redetermination, absent reasonable justification for delay in providing such notification.
- 6.7. A decision to grant or deny parole shall be prepared by a DRO officer assigned such duties within his or her respective DRO Field Office. The decision shall pass through at least one level of supervisory review, and concurrence must be finally approved by the Field Office Director (FOD), Deputy FOD (DFOD), or Assistant FOD (AFOD), where authorized by the FOD.

7. **RESPONSIBILITIES.**

- 7.1. The **DRO Director** is responsible for the overall management of the parole decision-making process for arriving aliens in DRO custody following determinations that they have a credible fear of persecution or torture.
- 7.2. The **DRO Assistant Director for Operations** is responsible for:
 - 1) Ensuring considered, consistent DRO parole decision-making and recordkeeping nationwide in cases of arriving aliens found to have a credible fear;
 - 2) Overseeing monthly tracking of parole statistics by all DRO Field Offices for such cases; and
 - 3) Overseeing an effective national quality assurance program that monitors the Field Offices to ensure compliance with this directive.
- 7.3. **DRO Field Office Directors** are responsible for:
 - 1) Implementing this policy and quality assurance processes;

- 2) Maintaining a log of parole adjudications for credible fear cases within their respective geographic areas of responsibility, including copies of the *Record of Determination/Parole Determination Worksheet*;
 - 3) Providing monthly statistical reports on parole decisions for arriving aliens found to have a credible fear;
 - 4) Making the final decision to grant or deny parole for arriving aliens found to have a credible fear within their respective areas of responsibility or, alternatively, delegating such responsibility to their DFODs or AFODs (in which case, FODs nevertheless retain overall responsibility for their office's compliance with this directive regardless of delegating signatory responsibility to DFODs or AFODs); and
 - 5) Ensuring that DRO field personnel within their respective areas of responsibility who will be assigned to make parole determinations are familiar with this directive and corresponding legal authorities.
- 7.4. **DRO Deputy Field Office Directors** are responsible for reviewing, and forwarding for their respective FODs' approval, parole decisions prepared by their subordinates in the cases of arriving aliens found to have a credible fear of persecution or torture. Alternatively, DFODs delegated responsibility under paragraph 7.3 of this directive are responsible for discharging final decision-making authority over parole determinations in such cases within their respective areas of responsibility.
- 7.5. **Assistant Field Office Directors** are responsible for reviewing, and forwarding for their respective DFODs' or FODs' approval, parole decisions prepared by their subordinates in the cases of arriving aliens found to have a credible fear of persecution or torture. Alternatively, AFODs delegated responsibility under paragraph 7.3 of this directive are responsible for discharging final decision-making authority over parole determinations in such cases within their respective areas of responsibility.
- 7.6. As applicable, **DRO field personnel** so assigned by their local chains-of-command are responsible for providing detained arriving aliens found to have a credible fear with the attached *Parole Advisal and Scheduling Notification* and for fully and accurately completing the attached *Record of Determination/Parole Determination Worksheet* in accordance with this directive and corresponding legal authorities.
8. **PROCEDURES.**
- 8.1. As soon as practicable following a finding that an arriving alien has a credible fear, the DRO Field Office with custody of the alien shall provide the attached *Parole Advisal and Scheduling Notification* to the alien and explain the contents of the notification to the alien in a language he or she understands, through an interpreter if

necessary. The Field Office will complete the relevant portions of the notification, indicating the time when the alien will receive an initial interview on his or her eligibility for parole and the date by which any documentary evidence the alien wishes considered should be provided, as well as instructions for how any such information should be provided.

- 8.2 Unless an additional reasonable period of time is necessary (e.g., due to operational exigencies or an alien's illness or request for additional time to obtain documentation), no later than seven days following a finding that an arriving alien has a credible fear, a DRO officer familiar with the requirements of this directive and corresponding legal authorities must conduct an interview with the alien to assess his or her eligibility for parole. Within that same period, the officer must complete the *Record of Determination/Parole Determination Worksheet* and submit it for supervisory review. If the officer concludes that parole should be denied, the officer should draft a letter to this effect for the FOD's, DFOD's, or AFOD's signature to be provided to the alien or the alien's representative and forward this letter for supervisory review along with the completed *Record of Determination/Parole Determination Worksheet*. The letter must include a brief explanation of the reasons for denying parole and notify the alien that he or she may request redetermination of parole based upon changed circumstances or additional evidence relevant to the alien's identity, security risk, or risk of absconding.
- 8.3. An alien should be paroled under this directive if DRO determines, in accordance with paragraphs (1) through (4) below, that the alien's identity is sufficiently established, the alien poses neither a flight risk nor a danger to the community, and no additional factors weigh against release of the alien.

1) Identity.

- a) Although many individuals who arrive in the United States fleeing persecution or torture may understandably lack valid identity documentation, asylum-related fraud is of genuine concern to ICE, and DRO must be satisfied that an alien is who he or she claims to be before releasing the alien from custody.
- b) When considering parole requests by an arriving alien found to have a credible fear, Field Office personnel must review all relevant documentation offered by the alien, as well as any other information available about the alien, to determine whether the alien can reasonably establish his or her identity.
- c) If an alien lacks valid government-issued documents that support his or her assertion of identity, Field Office personnel should ask whether the alien can obtain government-issued documentation of identity.

- d) If the alien cannot reasonably provide valid government-issued evidence of identity (including because the alien reasonably does not wish to alert that government to his or her whereabouts), the alien can provide for consideration sworn affidavits from third parties. However, third-party affiants must include copies of valid, government issued photo-identification documents and fully establish their own identities and addresses.
- e) If government-issued documentation of identity or third-party affidavits from reliable affiants are either not available or insufficient to establish the alien's identity on their own, Field Office personnel should explore whether the alien is otherwise able to establish his or her identity through credible statements such that there are no substantial reasons to doubt the alien's identity.

2) Flight Risk.

- a) In order to be considered for release, an alien determined to have a credible fear of persecution or torture must present sufficient evidence demonstrating his or her likelihood of appearing when required.
- b) Factors appropriate for consideration in determining whether an alien has made the required showing include, but are not limited to, community and family ties, employment history, manner of entry and length of residence in the United States, stability of residence in the United States, record of appearance for prior court hearings and compliance with past reporting requirements, prior immigration and criminal history, ability to post bond, property ownership, and possible relief or protection from removal available to the alien.
- c) Field Office personnel shall consider whether setting a reasonable bond and/or entering the alien in an alternative-to-detention program would provide reasonable assurances that the alien will appear at all hearings and depart from the United States when required to do so.
- d) Officers should exercise their discretion to determine what reasonable assurances, individually or in combination, are warranted on a case-by-case basis to mitigate flight risk. In any event, the alien must be able to provide an address where he or she will be residing and must timely advise DRO of any change of address.

3) Danger to the Community.

- a) In order for an alien to be considered for parole, Field Office personnel must make a determination whether an alien found to have a credible fear poses a danger to the community or to U.S. national security.
- b) Information germane to the determination includes, but is not limited to, evidence of past criminal activity in the United States or abroad, of activity contrary to U.S. national security interests, of other activity giving rise to concerns of public safety or danger to the community (including due to serious mental illness), disciplinary infractions or incident reports, and any criminal or detention history that shows that the alien has harmed or would likely harm himself or herself or others.
- c) Any evidence of rehabilitation also should be weighed.

4) Additional Factors.

- a) Because parole remains an inherently discretionary decision, in some cases there may be exceptional, overriding factors that should be considered in addition to the three factors discussed above. Such factors may include, but are not limited to, serious adverse foreign policy consequences that may result if the alien is released or overriding law enforcement interests.
- b) Field Office personnel may consider such additional factors during the parole decision-making process.

8.4. Assigned DRO officers should, where appropriate, request that parole applicants provide any supplementary information that would aid the officers in reaching a decision. The *Record of Determination/Parole Determination Worksheet* should be annotated to document the request for supplementary information and any response from the detainee.

8.5. After preparing and signing the *Record of Determination/Parole Determination Worksheet*, and in the case of a denial of parole, drafting a written response to the alien, the assigned DRO officer shall forward these materials and the parole request documentation to his or her first-line supervisor for review and concurrence.

8.6. Upon his or her concurrence, the first-line supervisor shall sign the *Record of Determination/Parole Determination Worksheet* where indicated and forward it, along with any related documentation, to the FOD (or, where applicable, the DFOD or AFOD) for final approval.

8.7. The FOD (or, where applicable, the DFOD or AFOD) shall review the parole documentation, consult with the preparing officer and supervisor as necessary, and

either grant or deny parole by signing the *Record of Determination/Parole Determination Worksheet* where indicated and, in the case of a denial, signing the written response to the alien.

- 8.8. Following a final decision by the FOD to deny parole (or, where applicable, the DFOD or AFOD), the Field Office shall provide the written response to the alien or, if represented, to the alien's legal representative, indicating that parole was denied. If parole is granted, the Field Office shall provide the alien with a date-stamped I-94 Form bearing the following notation: "**Paroled under 8 C.F.R. § 212.5(b). Employment authorization not to be provided on this basis.**"
- 8.9. If an alien makes a written request for redetermination of an earlier decision denying parole, the Field Office may, in its discretion, reinterview the alien or consider the request based solely on documentary material already provided or otherwise of record.
- 8.10. The supporting documents and a copy of the parole decision sent to the alien (if applicable), the completed *Record of Determination/Parole Determination Worksheet*, and any other documents related to the parole adjudication should be placed in the alien's A-file in a record of proceeding format. In addition, a copy of the *Record of Determination/Parole Determination Worksheet* shall be stored and maintained under the authority of the FOD for use in preparing monthly reports.
- 8.11. On a monthly basis, FODs shall submit reports to the Assistant Director for Operations, or his or her designee, detailing the number of parole adjudications conducted under this directive within their respective areas of responsibility, the results of those adjudications, and the underlying basis of each Field Office decision whether to grant or deny parole. The Assistant Director for Operations, or his or her designee, in conjunction with appropriate DRO Headquarters components, will analyze this reporting and collect individual case information to review in more detail, as warranted. In particular, this analysis will rely on random sampling of all reported cases for in-depth review and will include particular emphasis on cases where parole was not granted because of the presence of additional factors, per paragraph 8.3(4) of this directive. Any significant or recurring deficiencies identified during this monthly analysis should be explained to the affected Field Office, which will take appropriate corrective action.
- 8.12. At least once every six months, the Assistant Director for Operations, or his or her designee, shall prepare a thorough and objective quality assurance report, examining the rate at which paroled aliens abscond and the Field Offices' parole decision-making, including any noteworthy trends or corrective measures undertaken based upon the monthly quality assurance analysis required by paragraph 8.11 of this directive.

9. **ATTACHMENTS.**

- *Parole Advisal and Scheduling Notification.*
- *Record of Determination/Parole Determination Worksheet.*

10. **NO PRIVATE RIGHTS CREATED.** This directive is an internal policy statement of ICE. It is not intended to, shall not be construed to, may not be relied upon to, and does not create, any rights, privileges, or benefits, substantive or procedural, enforceable by any party against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.

Approved:



John Morton
Assistant Secretary
U.S. Immigration and Customs Enforcement

HOW TO REQUEST HUMANITARIAN PAROLE¹

What is Humanitarian Parole?

Humanitarian parole is a way to be released from detention during your immigration case. It is granted in special cases where there are urgent humanitarian reasons for why a person should be released from detention, or when release from detention would significantly benefit the public. These special cases typically include people with a serious medical condition that requires emergency medical attention, women who are pregnant, people who are serving as witnesses, victims of torture or rape, Cubans, or people applying for asylum who have passed a credible fear interview. If you are subject to mandatory detention, it is unlikely that your request for humanitarian parole will be granted.

- ***Note for Asylum Seekers:*** If you are seeking asylum and you presented yourself to an immigration official at the port of entry and have passed credible fear you may be eligible for release under a special kind of parole for asylum seekers. This is different from humanitarian parole, though you can request both. If you have not received paperwork about this parole or been asked to provide information about your identity and where you would stay if released you should ask your deportation officer if you can be considered for release the new parole guidelines for asylum seekers. If you haven't received any paperwork or response from your deportation officer, contact the Florence Project.

How do I request Humanitarian Parole?

If you think your case might merit humanitarian parole, you should fill out a Request for Humanitarian Parole. A blank request is attached here as Attachment A. In your request, you must 1) prove your identity, 2) state why you are not a flight risk, 3) state why you are not a danger to society, and 4) describe the reasons why your case merits parole.

1. Identity

List the documents you have that establish your identity. This evidence could include government issued-identification documents or affidavits confirming your identity from people who know you. A copy of each document should be attached to the Request for Humanitarian Parole. If you use an affidavit from someone who knows you, you should include a copy of their government-issued identification and their address.

¹ This self help packet was created in July 2009 by the Florence Immigrant & Refugee Rights Project to assist pro se respondents detained in Florence and Eloy, Arizona. The Florence Project's copyright protection permits dissemination and use of our pro se materials for educational and legal assistance purposes. We kindly ask that credit be given to the Florence Project when circulating our pro se materials or adapting them into your own materials for circulation.

2. Flight Risk

In this section, you need to list the reasons why you will continue to appear for your court hearings if you are released. These reasons could include family or community ties, employment history, length and stability of residence in the United States, a record of appearance at prior immigration court hearings, property ownership, availability of relief, or ability to post bond.

3. Danger to the Community

List the reasons why you will not pose a risk to the community. Evidence of your peaceful character could include affidavits from someone who knows you well, a mental health evaluation, or the lack of a criminal record.

4. Circumstances Meriting Parole

Humanitarian parole is only available when a) there are urgent humanitarian reasons why a person should be released, or b) a person's release would significantly benefit the public.

a. Urgent Humanitarian Reasons

List the urgent humanitarian reasons why you should be released. These reasons could include a serious medical condition that makes detention inappropriate, pregnancy, serving as a witness for a law enforcement agency, or that you are a juvenile. You should attach evidence documenting your medical condition, your pregnancy, a request to serve as a witness, or your age.

b. Public Interest

State the reasons why your release will benefit the public. Some reasons could include the impact your detention will have on your family members, the support of local church groups, strong ties to the community, or if you are a survivor of torture or rape. Affidavits from family members, colleagues, clergy members, or medical professionals should be attached to support your request.

A

January 2010

Ms. Katrina Kane
Field Office Director
2035 N. Central Ave.
Phoenix, AZ 85004

HUMANITARIAN PAROLE REQUEST

Ms. Kane;

I, (name) _____ A# _____, am requesting that I be released on humanitarian parole because my continued detention is not in the public interest.

Identity

I have established my identity through the following documents:

See attachments.

Thank you very much for your consideration of this request,

Respondent

Date

ATTACHMENTS:

The following documents have been attached to this request:

A. _____

B. _____

C. _____

D. _____

E. _____

F. _____

G. _____

H. _____

PAROLE ADVISAL AND SCHEDULING NOTIFICATION

Alien's Claimed Name(s) (including AKAs) _____
_____ A#(s) _____
Detention Facility Name and Location _____
Field Office _____

NOTICE TO THE ALIEN

Because you have been determined to have a "credible fear" of persecution or torture, U.S. Immigration and Customs Enforcement (ICE) will consider whether to parole you from custody pending the resolution of your immigration proceedings. As an Asylum Officer may have already explained to you, ICE may grant you parole if you can establish to ICE's satisfaction: (1) your identity; (2) that you are likely to appear for all scheduled hearings and enforcement appointments (including for removal from the United States if you are ordered removed); and (3) that you do not present a security risk to the United States or a danger to the community. ICE has scheduled you for an interview to assess whether you meet these qualifications. That interview will take place at the time and place indicated below.

If you would like ICE to consider any documents as part of its assessment whether to parole you from detention, you must provide those documents as soon as possible to allow ICE sufficient time to review the documents thoroughly before your interview. You may also request additional time to obtain documents for ICE's consideration, but should make that request as soon as possible. Such documentation might include identity documents issued by a government entity, affidavits from other persons confirming your identity, evidence of family or community ties to the United States, an explanation of any past criminal activity, and any other information you believe could help ICE confirm your identity and determine whether you will appear for all scheduled official hearings and appointments and not harm the United States.

Following your interview, you will be notified in writing of ICE's decision, usually within 7 days. If your request is denied, you will receive a written explanation of the denial.

Your parole interview has been scheduled with an ICE officer at the following date and time:

_____ @ _____
(Month, Day, Year) (Time – indicate "a.m." or "p.m.")

Please provide any paperwork you would like considered (or any request for additional time to gather paperwork) no later than

_____, to:
(Month, Day, Year)

(ICE Detention and Removal Operations Field Office Personnel: Indicate Manner in Which Alien Should Provide Documentation)

Bond Information

Getting a Bond: Your Keys to Release from Detention



This guide was prepared and updated by the staff of the Florence Immigrant & Refugee Rights Project and was written for immigrant detainees in Arizona who are representing themselves pro se in their removal proceedings. This guide is not intended to provide legal advice or serve as a substitute for legal counsel. The Florence Project is a nonprofit legal services organization and does not charge for its services to immigrant detainees in Arizona. This guide is copyright protected but can be shared and distributed widely to assist indigent immigrants around the country. All of our guides are available to download on our website: www.firrp.org. We kindly ask that you give credit to the Florence Project if you are adapting the information in this guide into your own publication.

Important Words to Know

Immigration Law has a lot of technical words. Here's a list below of some of the words you'll see a lot in this guide and an short explanation of what they mean.

- **Immigration Judge (“Judge”):** this is the person who will make a decision about your case. He or she holds hearings in the courtroom and wears a black robe. This person doesn't work for ICE. It's her job to look at the facts of your case and apply the law fairly.
- **Immigration and Customs Enforcement (“ICE”):** this is the agency that has put you in deportation proceedings and is in charge of detaining you. ICE is part of the Department of Homeland Security, or “DHS.”
- **Government Attorney:** this is the lawyer who represents ICE when you go to your court hearings. He or she sits at the table next to you and also talks to the Judge. It's usually this attorney's job to ask the Judge to order you deported.
- **Deportation:** ICE has put you in deportation proceedings, which are also called “removal proceedings.” If the Judge orders you deported or “removed” from the United States, you will be sent back to the country where you are a citizen and will not be able to return legally to the U.S. for at least ten years.
- **The Florence Project:** this is a group of lawyers and legal assistants who provide free legal help to people without lawyers. The Florence Project wrote this guide to help you understand your case.

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1. What is a Bond?

A bond is a promise to Immigration and Customs Enforcement, or ICE. You are promising that, if they release you from detention, you will go to all your court hearings and do what the Judge orders you to do—even if that includes being deported.

ICE wants you to guarantee your bond with more than just your promise. That's why the Judge will require one of your friends or family members who has legal immigration status in the U.S. to give ICE a certain amount of money to make sure that you keep your promise. The lowest bond that the Judges usually give is \$1500. There is no maximum amount for bond.



If you go to all your hearings and interviews, the person who paid your bond will get the money back at the end of your case. If the Judge orders your deportation, you will have to leave the country in order for the person who paid your bond to get his money back.

Remember, if you get out of detention on bond it is not the end of your deportation case. If you make sure to give the Judge a request to change courts, your case will be moved to the Immigration Court closest to your home so you won't need to come back to the detention center. **But, you will still need to go to all your court dates.** If you miss even one hearing, you will likely be ordered deported without the chance to give evidence to the Judge or ask for permission to stay in the U.S. The bond money will be lost.





This packet will give you the keys you need to be released on bond. It includes information about who is eligible for a bond, how to apply for bond, and what evidence you need to convince the Judge to give you a low bond.

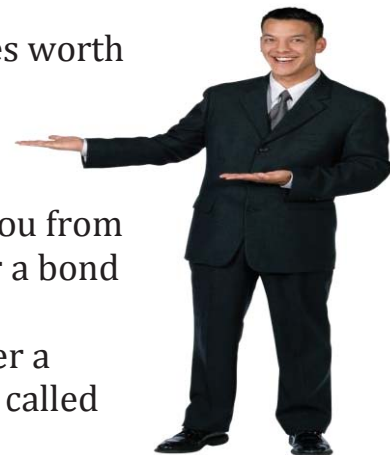
Preparing your case as best you can is one of the keys to getting a low bond and being released from detention, so take your time and gather everything you need. We wish you the best of luck with your case!



2. Am I Eligible for a Bond?

Not everyone can apply for a bond. If you have certain criminal convictions, you will not be allowed to apply for a bond. Your criminal history can affect your chances to apply for a bond. Also, if you've been ordered deported in the past or you are still waiting for an interview with an asylum officer, you won't be able to apply for a bond.

There are a few other types of bonds or releases worth mentioning before we get started with how to apply for bond. The first is a bond for people who have been in detention for a very long time. Even if you have a conviction that stops you from applying for bond, you may be able to apply for a bond once you've spent a certain amount of time in detention. The Florence Project has put together a separate guide for people in this situation, also called "prolonged detention."



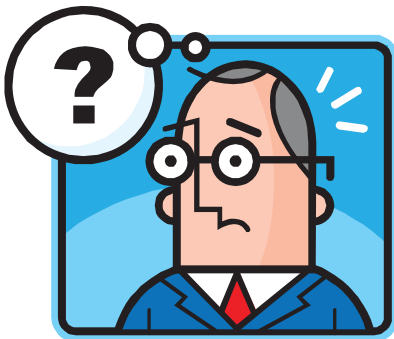
Also, if you can show that you are a United States citizen, you cannot be detained—even if you have very serious criminal history or a

deportation in the past. If you believe that you are a U.S. citizen, tell the Judge as soon as possible and try to speak to an attorney as well.

3. How to Ask For a Bond Hearing

The first key to getting a good bond is asking for a bond hearing. When you were detained, ICE may have given you paperwork with a bond amount or the words “no bond.” You can ask the Judge to give you a bond hearing and consider setting a bond or lowering the amount that ICE gave you. Remember, the Judge can also raise the amount that ICE set, so be sure to do your homework and prepare for your bond hearing as much as possible!

There are a few ways to ask for a bond hearing.



- Tell the Judge at your first hearing that you’d like a bond hearing as soon as possible. Bond hearings are totally separate from your deportation hearings, even though you will be presenting your bond case to the same Judge who considers your deportation case. If you ask for a bond hearing when you’re at court, the Judge will give you a hearing in the coming days or weeks.
- Write the Judge a bond hearing request letter. There’s a sample at the end of this guide that you can fill out and send to the Judge. Be sure to include your name, A-number, and your request to have a bond hearing as soon as possible.

Once you tell the Judge that you’d like a bond hearing, she’ll schedule one for the next available date—usually a few days to a few weeks away. Watch out! You’ll likely only have one opportunity for a bond hearing, so it’s best to make sure that you have all your evidence ready **before** you ask for the bond hearing.

The Judge will not be happy if you appear at your bond hearing unprepared. If your hearing is scheduled very quickly and you are still gathering evidence, you can tell the Judge you are waiting for more

letters and you want to reschedule the hearing to give you more time to get the documents you need.

Remember, even if the Judge denies your request for a bond hearing and says that you're not eligible for bond, that doesn't mean you'll be deported. It means that, if you want to fight your deportation case, you'll probably have to do it while detained.

4. Putting Your Bond Application Together: Gathering the Key Evidence

You have the best chances of getting a good bond if you gather all your materials ahead of time and prepare your testimony the best you can. Good supporting documents that show the Judge that you're a responsible person are very important! This section will give you some ideas about exactly what you need.

A "Sponsor Letter." This is the most important document that you'll give the Judge. There's a sample at the end of this guide that you can use, or you can tell your sponsor to write a letter that includes:



1. How your sponsor knows you
2. What legal immigration status your sponsor has (for example, a U.S. citizen or a legal permanent resident). **Your sponsor must also attach proof of his immigration status to the letter.**

3. An address where you and the sponsor will live. You'll need a street address, not a P.O. Box. **Your sponsor must attach a piece of mail with his name and address on it to prove that he is living at the address. He can use a phone or electric bill with his name and address on it.**

Supporting documents

The Judge considers two big factors when deciding what bond amount to give you. The



first is whether you're a flight risk, or someone who won't come to court dates in the future. The Judge will consider whether you have lots of ties to the community that give you a reason to go to all your court dates. These include whether you own a house or car, whether you have family and children with legal status, and whether you have a job.

The second factor the Judge will consider is whether you're a danger to the community. She'll look at all your past arrests and convictions to see whether it's likely that you'll continue to commit similar offenses if you're released.



In order to prepare for your bond hearing, it's your job to gather as much proof as possible to show the Judge that you have strong ties to the community and that you won't commit any crimes if you're released. These documents are the keys that will unlock the detention center doors for you. Here are some examples of good evidence for a bond hearing:

- Letters from friends, family, and employers. Ask people you know to write a letter to the Judge that explains how they know you and why you're a good person. Ask them to explain why you should be released and why you should be able to stay in the United States. If the letters aren't in English, you'll need to translate them and include the "Certificate of Translation" that's at the end of this packet. **Make sure that each person writing a letter includes a copy of his identification with the letter, including a driver's license, a permanent resident card, or a passport.**
- Drawings from your children. If your kids are too young to write a letter to the Judge, ask them to draw a picture about things that you do together as a family.



Pictures of you with your family. Show the Judge pictures of you and

your spouse, kids, and other family members.

- A letter from you. If you've gotten into trouble with the police in the past, you'll need to explain to the Judge how you've changed and how you know that you won't get into trouble in the future. Think carefully about what you've learned from your trouble in the past and why you want to be able to leave detention. Do you want to be able to work and support your family? Do you want to be able to spend time with your spouse or children? Tell the Judge about those hopes.
- Evidence of the time you've spent in the U.S. If you've been in the U.S. for a number of years, gather documents that show that. You can include rent receipts, utility bills, birth certificates for your children with your name on them.
- Evidence of the difficulties that your family faces while you're detained. If your family has letters from debt collectors or overdue notices, include those. Were you taking care of a family member or helping a sick friend? Ask your family members and friends to include information like that in their letters.
- Evidence that you own property in the U.S. Make copies of the deed to your home, car, or trailer. These can show the Judge that you have many ties in the U.S. and a strong reason to come to your court hearings.
- Your ties to the community. If you attend church or volunteer with a school or other group, ask a leader at that organization for a letter. If that's not possible, remember to tell the Judge about your community activities at the bond hearing.



- Any rehabilitation you've completed. If you had a problem with drugs or alcohol and have attended AA or NA meetings, include that proof. Or, if you've had a problem with domestic violence and completed anger

management classes, make a copy of proof that you attended.

There is a longer checklist of documents at the end of this guide. It's worth taking the time to gather as many letters and documents as possible. The more you get, the lower your bond might be. But, don't worry if you can't gather all of these documents. Do your best to put together as many as you can!

Turning in your evidence to the Judge



Once you have all of your papers together, you should make a list of everything that you are giving to the Judge and put that on top. Sign and attach the document called "Certificate of Service" at the end of this packet. That document is used to prove that you also gave a copy of all your documents to the government attorney.

When your packet is complete, make copies of all original documents. Then, make two copies of the whole packet. One copy will go to the Judge. The other copy will go to the government attorney. You'll keep the third packet for you. You can either mail your packet to the government attorney and the Judge or bring it with you to your hearing.

5. Preparing Your Testimony

Your testimony is one of the most important keys to convince the Judge to give you a good bond. Practice makes perfect, so start thinking about how you want to present your case to the Judge now.

Keep these tips in mind when practicing your testimony:

- **Be prepared.** Write a list of the specific reasons why you're willing to attend all your hearings if the Judge releases you. Write another list of the reasons you know you



won't get into trouble with law enforcement. Don't just say things like "I want to be out of detention" or "I promise I won't get arrested." Write down a list of the specific things you want to mention to the Judge on a piece of paper. Practice telling them to a friend.

- **Be honest.** Your job is to tell the Judge about the circumstances of your life. If you have criminal convictions and the judge asks you about them, tell her what happened. Lying will just make things worse, and the Judge and government attorney often have ways to figure out if you are lying.
- **Turn negatives into positives.** If you had a problem with drugs and alcohol in the past, explain how you've overcome those problems—did you go to AA meetings or complete a rehabilitation program? Tell the Judge about those things, too.
- **Speak from the heart.** Judges see a lot of people every day. You can make your testimony stand out by speaking sincerely. Think of a funny story about your family to share. Think about a story that will show the Judge how much your family needs you. Explain to the judge why your deportation would hurt your family very much. Tell her about your plans for the future. Write all of these down on a piece of paper so you won't forget. Don't worry if you become nervous or emotional in court—it's pretty common.
- **Don't be defensive.** Admitting that you made mistakes can show the Judge that you are sorry. It can also show the judge that you won't repeat those mistakes in the future.
- **Answer the Judge's questions.** The judge may want to ask you some specific questions. Remember, be respectful when the judge speaks. Refer to the judge as "Your Honor," "Ma'am," or "Sir."



6. Your Bond Hearing

When you go to your bond hearing, there will be a few people in the courtroom. The first is the Immigration Judge, the same one you see when you go to your other hearings.



There will also be a government attorney there representing ICE. That attorney will usually say that you should get a high bond amount or no bond at all.

If you don't speak English well, there will also be an interpreter in the courtroom or over the phone to help you understand.

Your friends and family members can come to your hearing to and support you. It will help show the Judge that you have many people who care about you. Make sure that the people who want to come to your hearing call the detention center first and understand the rules for coming to court.

When the hearing starts, the Judge will probably ask if ICE has given you a bond and what the amount of that bond is. The Judge may ask you questions about your criminal history and your time here in the United States. Remember, answer all the questions honestly and respectfully.

Next, the government attorney will speak to the Judge. If you have a criminal record or if you have been deported before, the government attorney will tell the Judge about that. The government attorney will tell the Judge what she or he thinks is a fair bond in your case. The government attorney also has the right to give the Judge papers to consider, as long as you also get a copy of the papers. If you think it is not fair for the Judge to look at those papers, you should say that. Unless you have a good reason, the Judge will consider the papers.

After the government attorney is done, the Judge may ask you more questions. If you think something the government attorney said was wrong, you should tell the Judge. If you also think you haven't had enough opportunity to speak on your behalf, tell the Judge you would like to say something.



It's best to go to court with a short statement written out. Tell the Judge sincerely why he should give you a good bond amount. For example, if you're the person who supports your kids and your parents, tell the Judge about that and the ways that your family has been hurt by your detention.

7. The Judge's Decision: Weighing the Evidence



After hearing from the government attorney and from you, the Judge will decide whether you should be allowed a bond and how much you should have to pay. **The lowest bond that Immigration Judges usually give is \$1500. There is no maximum amount for bond.** The Judge will then ask both you and the government attorney whether you want to appeal the decision to another court.

An appeal means that you or ICE don't agree with the decision and are asking another court to look at the Judge's decision to see if there were legal mistakes. If you say "yes," you have 30 days to file appeal forms with the Board of Immigration Appeals, and if you say "no," that means you accept the Judge's decision.

The Florence Project has a separate guide to appeals that you may consult if you decide to file an appeal. It is very difficult to win an appeal of an Immigration Judge's decision. The Board of Immigration Appeals will only change the Judge's decision if there was a serious legal mistake made.

8. Paying your Bond

Once the Judge gives you a bond, or your loved ones may pay it immediately. You can pay the bond and be released even if you or ICE decides to appeal the Judge's decision.



In order to be released, you or your family must pay the entire amount of the bond with a money order or cashier's check made out to the "Department of Homeland Security." **You need to use the exact words "Department of Homeland Security" on the check or money order.**

The government will not allow you to make payments or to offer your house or some other property as a guarantee. If you are unable to pay the full price of the bond, you may consider whether a bail bonds company is willing to loan a portion of the bond payment.

The bond can be paid at the Detention Center or the closest ICE office to the person paying the bond. The person who pays needs to have your ICE file number and your full name. Your ICE file number has nine digits and begins with the letter "A." It should be listed on any documents you've received from the Judge.

9. Changing Your Hearing Location

One of the most important things for you to remember about your bond is that it doesn't stop the deportation case against you—even if you leave the detention center! You still need to go to every hearing that's scheduled in your case.



Before you leave the detention center, you need to ask the Judge to let you move your case to the Immigration Court that's closest to your home. That way, you won't have to come back to the detention center every time you have a hearing.

You must fill out the paper called “Motion for Change of Venue” that’s at the end of this packet at give it to the Judge at your bond hearing. Make two copies of the motion. Give one to the government attorney and you’ll keep the other for your records. Put your street address on that form so that the Immigration Court can mail you information about when your next hearing is scheduled.

You can also called the Immigration Court hotline at 1-800-898-7180 to find out when your next court date will be.



You can double-check that your case has been transferred by calling the Immigration Court hotline at **1-800-898-7180**. It may take a few days for the telephone system to update itself with new hearing information. If your case is not transferred to a new court, but you think that you gave the court a "Motion for Change of Venue," you can also call the detention center’s Immigration Court directly to make sure they have a copy. Remember, you must attend your court hearing wherever it is or you will be ordered removed from the United States!

10. Getting Your Bond Money Back

ICE has to give your bond money back once your case is over—that is, if you’ve gone to all your hearings with the Immigration Court and all appointments.



When the person who pays your bond goes to the ICE office with the money order to pay your bond, ICE will give him some paperwork. Make sure that he or she keeps that paperwork in a safe place because it will have information about how to get the money back at the end of your case. Follow the directions on those forms and remember that it may take a long time for ICE to process your paperwork and send the bond money back.

Final Thoughts

We hope that this guide provides you with helpful information when preparing for your bond hearing. We wish you the best of luck with your case!

Appendix 1.

BOND REDERTEMINATION REQUEST

(PEDIDO PARA UNA NUEVA DETERMINACION DE FIANZA)

NAME: _____ A# _____
(NOMBRE) (NUMERO DE EXTRANJERIA)

HOUSING: _____ REQUEST DATE: _____
(UNIDAD) (FECHA DEL PEDIDO)

CURRENT BOND AMOUNT: _____
(CANTIDAD PRESENTE DE SU FIANZA)

**I HEREBY REQUEST THAT THE OFFICE OF THE IMMIGRATION JUDGE
SCHEDULE A BOND REDETERMINATION HEARING FOR ME AS SOON AS
POSSIBLE
(POR LA PRESENTE PIDO QUE LA OFICINA DEL JUEZ DE IMIGRACION ME CITE
PARA UNA VISTA DE REDETERMINACION DE MI FIANZA LO MAS PRONTO
POSIBLE.)**

SIGNATURE: _____
(FIRMA)

CERTIFICATE OF SERVICE

I CERTIFY THAT A COPY OF THIS MOTION WAS SERVED ON DHS- LITIGATION IN
_____ BY INTRAFACILITY MAIL, BY DELIVERY THROUGH MY HOUSING
COUNSELOR, OR BY UNITED STATES POSTAL SERVICE ON THE DATE INDICATED
BELOW.

Signature/ Firma

Date/ Fecha

Appendix 2. DOCUMENT CHECKLIST FOR YOUR BOND HEARING

Received

Any evidence that you are eligible or have a strong case for relief from deportation (eg. I-130 approval notice, evidence of past persecution, etc.)	
Letters of support from as many family members as possible (including drawings from children) <u>and</u> a copy of the identification of the person who wrote the letter	
Letters of support from friends <u>and</u> a copy of the identification	
Letters from people who know me (neighbors, landlord, etc.)	
Letters showing community involvement (church, volunteering)	
Proof of financial support my family (rent receipt, child support)	
Letters from religious organizations I belong to	
Photos of family (birthday parties, holidays, pets, babies, etc.)	
Certificates from Rehabilitation Programs	
Informational Pamphlets on rehabilitation programs in my area (domestic violence, alcohol or drug abuse, anger management)	
Tax Records	
Social Security Records	
Certificates and diplomas	
Copies of my medical records and my close relatives	
Proof that my close relatives have legal status in the United States	
Copy of my marriage certificate	
Proof of any debt that I have (mortgage, car loans, medical, etc.)	
Proof of insurance (car, medical, etc.)	

Appendix 3 Motion for Change of Venue

UNITED STATES DEPARTMENT OF JUSTICE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

City and state where court is

_____)	IN REMOVAL PROCEEDINGS
In the Matter of)	
)	File No. A_____
_____)	
(your name))	
Respondent)	MOTION FOR CHANGE OF
_____)	VENUE

The Respondent has bonded out and will be residing at:

(your address outside of detention)

The Respondent requests that his case be transferred to the Immigration Court that covers the area of his residence.

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this motion by mailing a copy to:

ICE District Counsel

(address of the ICE office that handled your case when you were in custody)

Date:_____

Signed:_____

Appendix 4.

Sponsor Letter

Dear Immigration Judge,

I would like to be the sponsor for _____.

I know _____ because he/she is my

_____.

I have the following immigration status in the United States: _____

_____.

I have attached a copy of proof of that immigration status to this letter.

If _____ is released on bond, he/she will live at the following street address: _____

_____.

Sincerely,

Steps for Reducing Your Bond

What is a Bond?

- **A judge may permit you to leave the detention center if you pay money**, called a bond, and you promise to come to all of your court hearings. (The judge will not give everyone a bond and permission to leave the detention center.) If you get a bond and then miss a court hearing, the judge can order you deported, and you will lose the money you paid for the bond.
- **If you are eligible for a bond, you must show**
 - You are not a person who is dangerous to other people or property and
 - You will attend all of your future court hearings.

You Can Ask the Judge to Reduce the Amount of Your Bond.

1. Ask for a bond hearing

- Ask the judge at your first hearing for a bond hearing or
- Send a message to the immigration court saying you want a bond hearing.

2. Collect documents to support your case. Call your family, friends, employers, and religious leaders and ask them to:

a. Write letters of support. Letters of support must:

- Be written in English (or translated into English)
- Begin with “Dear Honorable Immigration Judge”
- State your full name and identification number (“A number”)
- Include the writer’s address and immigration status
- Explain why you are a good person and why you can be trusted to return to the immigration court for all future court hearings
- If the writer will be providing help with your housing and food, state this in the letter

b. Collect evidence for your bond hearing. Evidence may include:

- Birth certificates, copies of green cards, and other papers showing members of your family are U.S. citizens or legal permanent residents
- Copies of your marriage certificate if your spouse is a U.S. citizen or legal permanent resident
- Employment pay stubs
- Proof that you pay your taxes
- Certificates from any classes you have completed
- Any other information that shows you have connections in the U.S. and are a good person

3. Present your evidence at the bond hearing.

- Make three copies of all of your letters of support and other documents.
- Ask anyone who supports your case, and has legal U. S. immigration status, to testify for you. They may come to the court and talk with the judge or talk with the judge by telephone.

If You Pay Your Bond.

- **If you pay your bond, the judge will transfer your case to an immigration court outside of the detention facility.** If you live in another state, you may ask the judge to transfer your case to that state. It is very important that you give your updated address to the immigration court and to the Department of Homeland Security.
- **Leaving the detention center on bond is not a defense against deportation, and is not permission to work in the U.S.**

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Immigration Bond: How to Get Your Money Back

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Michelle Mendez

Immigration and Customs Enforcement vows to continue mass enforcement of asylum-seeking mothers and children who have entered the United States since January 2014 and have been ordered deported by an immigration judge. Now that immigration courts have been instructed to prioritize these “Adults with Children” cases resulting in quickly scheduled merits hearings, advocates will want to know how to get their bond (“fianza”) money back.

What is an immigration bond and how do I obtain one?

The bond refers to money paid to secure a detained foreign national’s release that serves as a guarantee to the government that, once out of detention, the bonded individual will attend all immigration court hearings. After ICE detains a foreign national, ICE sets the bond amount, assuming the person is eligible for a bond. The bond amount is based on a “risk classification assessment,” which measures the risk to public safety and the risk of flight posed by the particular individual. If the foreign national can afford to pay the bond amount set by ICE, the individual will be released upon payment. If the individual cannot afford to pay the bond amount set by ICE, he or she can request that the immigration judge review and lower the bond amount. 8 CFR §§ 236 and 1003.19(a).

Such review takes place in the context of a bond proceeding, which the regulations require to be “separate and apart” from the individual’s removal proceedings. *Id.* § 1003.19(d); *see also Matter of Chirinos*, 16 I&N Dec. 276 (BIA 1977). The standard that applies during bond proceedings and that factors into the decision of whether the foreign national merits a lower bond is whether an alien’s release pending deportation

proceedings will pose a danger to the safety of individuals or property and whether the alien is likely to appear for any scheduled proceeding. *Matter of Drysdale*, 20 I&N Dec. 815 (BIA 1994). In addition, the immigration judge must consider evidence establishing the significant implication of national security interests in cases involving foreign nationals seeking to enter the United States illegally. *Matter of D-J*, 23 I&N Dec. 572, 575 (A.G. 2003).

Who is an obligor?

An obligor is the person who pays the bond and completes the paperwork with ICE at the closest ERO Field Office, which is commonly known as “posting the bond.” Call the selected [ICE ERO Field Office](#) to ensure that the office accepts bond payment and to ask the preferred manner of payment. While a certified check from a bank or a money order in the amount of the bond made out to the Department of Homeland Security is the preferred method, some ICE ERO Field Offices require a money order from specific sources such as the U.S. Post Office. No cash or personal checks are ever accepted.

Only someone who is 18 or older and has legal status can be a bond obligor. Generally, the ICE ERO Field Office requires that the obligor provides a valid Employment Authorization Document, a U.S. birth certificate or passport, an original Certificate of Citizenship or Certificate of Naturalization, or a Lawful Permanent Resident card. In addition to these, the obligor should also bring a state-issued driver’s license. Upon posting the bond, ICE provides the obligor with ICE Form I-352, Immigration Bond, and ICE Form I-305, Receipt of Immigration Officer. The obligor should safeguard the receipt, ICE Form I-305, as it will be required for the bond refund process. Once the ICE ERO Field Office where the obligor posted the bond communicates this completed transaction to the detention center holding the individual, the detention center will release the individual. Communication between the ICE Field Office and the detention center often takes hours, so the obligor will want to post the bond as soon as the office opens to increase the chances of the individual being released the same day.

What happens to the money once I post the bond?

Currently, about 91 percent of the immigration bonds issued each year are secured by cash, while the other 9 percent are issued by surety companies that are certified by the Treasury Department to post bonds on behalf of the federal government. ICE deposits any cash paid as security on cash bonds in a fund maintained by the Treasury Department, known as the Immigration Bond Deposit Account. These funds are held in trust for the obligor and earn the Treasury Department market-based rate effective on the date the obligor posted the bond. Per regulation, from 1971 to June 16, 2015, the interest rate was set at 3 percent per year. When ICE issues the bond refund, the check should reflect the bond amount paid plus the interest as set by the Treasury Department.

How does the obligor get the bond refund?

Fast-forward to perhaps a year or more after release on bond, and the individual has obtained legal status or he or she has been deported. Either of these outcomes meets the conditions of the bond and triggers a bond refund via its cancellation. Upon its cancellation, ICE sends the ICE Form I-391, Notice Immigration Bond Cancelled, to the DHS Debt Management Center in Vermont and to the obligor at the address he or she provided. For this reason, if the obligor moves after posting the bond, he or she should inform ICE of the new address via ICE Form I-333, Obligor Change of Address. Otherwise, the obligor will not receive notice due to ICE sending it to an incorrect address. In practice, the obligor should affirmatively contact the ICE

Field Office to initiate this process, instead of waiting for the ICE Field office to send the ICE Form I-391.

When the obligor obtains Form I-391, Notice Immigration Bond Cancelled, the obligor should send it along with Form I-305, Receipt of Immigration Officer, and a cover letter with a request for the refund to:

Debt Management Center
Attention: Bond Unit
P.O. Box 5000
Williston, VT 05495-5000

If the obligor has questions about immigration bond refunds, it is better to call the Financial Operations of the DHS Debt Management Center at (802) 288-7600 and select option 2 to speak with someone.

If the obligor has misplaced Form I-305, Receipt of Immigration Officer, the obligor can execute a notarized ICE Form I-395, Affidavit in Lieu of Lost Receipt of United States ICE for Collateral Accepted as Security, as a substitute. Ensure the use of the most current version, as these forms, like USCIS forms, expire. For example, the ICE Form I-305 will expire on March 31, 2016.

Because of the requirement that the obligor have legal status, the obligor is often a family friend or acquaintance, rather than an immediate family member of the detainee. This often poses a hurdle in recuperating the bond refund, as the obligor may lose touch with the family of the bonded individual. Unfortunately, even though the obligor merely posted the bond instead of providing the actual funds, the bond will be refunded to the obligor absent a prior assignment by the obligor authorizing someone else to receive the refund.

The obligor can designate someone else to receive the bond refund via a notarized ICE Form I-312, Designation of Attorney in Fact. This document is the equivalent of a “power of attorney” in the specific transaction of accepting on the “obligor’s behalf the return of cash or United States bonds or notes deposited to secure an immigration bond upon cancelation of the bond for performance by obligor.” The person whom the obligor wishes to designate does not have to be an attorney. The attorney or Board of Immigration Appeals representative can be designated to receive the bond refund. However, keep in mind ethical obligations, in particular a conflict of interest, if representing the previously detained foreign national. It is advised that soon after the obligor posts the bond that he or she assign a close member of the bonded individual’s family to ensure that the refund returns to the appropriate individual regardless of the whereabouts of the obligor.

In much the same manner that the obligor can designate someone to receive the bond refund, the obligor can revoke that designation using a notarized ICE Form I-312. If the revocation is deemed invalid, the ICE Financial Operations Bonds Unit will return ICE Form I-312 with an explanation of why it is not acceptable. Since the obligor has broad powers over the bond refund, it is advised that the family of a bonded individual choose the obligor carefully before entrusting the person with this responsibility and power. If the family does not know many LPRs or U.S. citizens to serve as the obligor and therefore is limited to one or two people whom the family may not know well, it is advised that the family execute proper signed documents proving that the family provided the obligor with the money to post the bond.

What if the bonded individual fails to comply with the bond conditions of appearing in immigration court or at an ICE check-in?

If the bonded individual fails to appear at an immigration court hearing or at an ICE ERO appointment and thereby becomes a fugitive, that individual will be in breach of the bond terms. When this happens, ICE sends the obligor an ICE Form I-340, Notice to Obligor to Deliver Alien, via certified mail, return receipt

requested. The notice demands that the obligor present the bonded alien at the ICE Field Office at a specific date and time, usually in the morning. The date will likely be within a few weeks after receipt of the notice, so the obligor will have limited time to find and make arrangements with the bonded individual. If the obligor fails to present the bonded individual at the requested date and time, ICE will send an ICE Form I-323, Notice of Immigration Bond Breached. In this case the obligor will not receive a bond refund.

For those who were not detained but received a voluntary bond, the bond serves the same purpose – security that the foreign national will depart per the voluntary departure terms. The ICE Form I-210, Voluntary Departure and Verification of Departure Form, documents the foreign national's agreement to voluntarily depart from the United States. Prior to leaving the United States, the foreign national and ICE sign the printed form and ICE provides a copy. Upon returning to his or her home country, a State Department official at a U.S. consulate or embassy completes the remainder of the form and sends it to DHS/ICE Headquarters Office at VD-Bond-Verifications@dhs.gov, showing that the foreign national did depart. ICE then uploads the form to its Bond Document Repository, an electronic storage for bond related documents.

What if the bonded individual returns to his or her country without completing the removal proceedings?

If the obligor finds after receiving ICE Form I-323, Notice of Immigration Bond Breached, that the bonded individual has self-deported, it is possible to obtain the bond refund. The obligor will seek rescission of the bond breach, reinstatement of the bond, and then bond cancellation. The obligor will require proof that the bonded individual has departed, such as travel confirmation, boarding passes and a stamped passport. The bonded individual should also report to the U.S. Embassy or consulate in his or her home country and request an ICE Form I-210, Voluntary Departure and Verification of Departure, to be sent to DHS/ICE Headquarters Office at VD-Bond-Verifications@dhs.gov. Although the bonded individual did not technically receive voluntary departure from the immigration judge, the “Verification of Departure” part of the form is the relevant piece. The bonded individual should request a copy of this document and submit a copy to the obligor.

Here is a sample successful letter addressed to the ICE Field Office requesting a bond refund in this self-deportation scenario:

Re: Bond Receipt Number XXX; Bond Breach Number XXX; Alien Number XXX (Name)

Dear Bond Officer Handy:

Catholic Charities of the Archdiocese of Washington represents U.S. citizen bond obligor X who seeks rescission of a breach of the immigration bond, its reinstatement, and ultimately its cancellation. The obligor in this matter has good cause for this request and encloses documentary evidence that supports rescission, reinstatement, and cancellation.

The cash bond, which was posted on June 7, 2011, was held to be breached after the alien failed to appear at her master calendar hearing on June 13, 2012. The obligor subsequently received an ICE Form I-323, Notice of Immigration Bond Breached, dated October 1, 2012. However, the alien did not appear at her hearing on June 13, 2012 because she had already departed to El Salvador, her country of origin, due to a family emergency in El Salvador. The alien departed on May 7, 2012 before her master calendar hearing. This is established by the airline confirmation information. Upon arriving in the United States, the alien reported to ICE at the U.S. Embassy in El Salvador and was issued the enclosed “Verification of Departure” by Mr. John

W. Duncan, Assistant Attaché for Removals, dated January 4, 2013, that confirms her departure on May 7, 2012. Thereafter, the obligor received ICE Form I-340, Notice to Obligor to Deliver Alien, dated August 16, 2012. As the alien had already departed, the obligor could not deliver the alien as instructed.

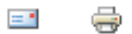
Please see enclosed the following documents, which will allow you to make the determination the obligor seeks.

- G-28, Notice of Entry of Appearance
- ICE Form I-323, Notice of Immigration Bond Breached dated October 1, 2012
- Verification of Departure from USA on May 7, 2012 from ICE in San Salvador, El Salvador dated January 4, 2013
- ICE Form I-340, Notice to Obligor to Deliver Alien dated August 16, 2012
- Order of Removal entered by the immigration judge on June 13, 2012
- Travel confirmation for May 7, 2012 (showing purchase date May 1, 2012)
- ICE Form I-352, Immigration Bond dated June 7, 2011
- ICE Form I-305, Receipt of Immigration Officer dated June 7, 2011

If you do not agree that the obligor should obtain the actions she seeks, please provide written notice along with an explanation. If you need additional documentation to come to a determination, please do not hesitate to contact me and I will be happy to provide the documentation. Thank you very much for your time and consideration of this request.

CLINIC Newsletter:

General



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