

# Introduction to Immigration

June 10, 2015



# Roadmap

- Definitions & Abbreviations
- History and structure of U.S. immigration
- Nonimmigrants
- Immigrants
  - » Undocumented
    - Executive Action
  - » Family-based
  - » Employment-based
  - » Diversity visas
- Humanitarian-Based Statuses
  - » Refugees and Asylees
  - » T Visa
  - » U Visa
  - » VAWA
  - » SIJS
  - » TPS
- Inadmissibility & Deportability
- Legal Permanent Residents
- Citizenship
  - » Acquisition
  - » Derivation
  - » Naturalization



# Security of Statuses

Least  
Secure



Most  
Secure

<p>Removal order</p> <p>Deportation proceedings</p>	<p>Un-documented</p> <p>Entered without inspection (EWI)</p>	<p>Non-Immigrant Visa Holders</p> <ul style="list-style-type: none"> <li>• Visitor</li> <li>• T Visa</li> <li>• U Visa</li> <li>• Fiancée</li> </ul>	<p>Temporary Status</p> <ul style="list-style-type: none"> <li>• TPS</li> <li>• Parolee</li> <li>• Deferred Action pending LPR</li> </ul>	<p>Asylees</p> <p>Refugees</p>	<p>Lawful Permanent Resident (LPR)</p>	<p>United States Citizen</p>
---	--	--	---	--------------------------------	--	------------------------------

# Definitions

- Nonimmigrant: a person who is in the U.S. for a temporary period of time but intends to return to his/ her residence abroad.
- Immigrant: a person who intends to remain permanently in the U.S.
- Undocumented: a person who does not have legal permission to be in the U.S.
- Refugee/ Asylee: a person seeking protection because of persecution in his/ her home country.
- Lawful Permanent Resident (LPR): an immigrant who is legally recognized as living in the U.S. permanently.
- Adjustment of Status: change from nonimmigrant status to immigrant status.

# Abbreviations

- DHS: Department of Homeland Security
  - » USCIS: U.S. Citizenship and Immigration Services
  - » ICE: Immigration and Customs Enforcement
  - » CBP: Customs and Border Protection
  
- DOJ: Department of Justice
  - » EOIR: Executive Office for Immigration Review
  - » BIA: Board of Immigration Appeals
  
- INA: Immigration and Nationality Act
  
- FOIA: Freedom of Information Act



# Abbreviations

- NIV: Nonimmigrant Visa
- DACA: Deferred Action for Childhood Arrivals
- DAPA: Deferred Action for Parents of Americans
- TVPA: Trafficking Victims and Protection Act
- VAWA: Violence Against Women Act
- TPS: Temporary Protected Status
- SIJS: Special Immigrant Juvenile Status
- LPR: Lawful Permanent Resident
- EWI: Entry Without Inspection



# History of the U.S. Immigration System

1891	Office of the Superintendent of Immigration created	Treasury Department
1895	Becomes Bureau of Immigration	Treasury Department
1903	Bureau of Immigration transferred	Department of Commerce and Labor
1906	Naturalization Service created; becomes Bureau of Immigration and Naturalization	Department of Commerce and Labor
1913	Bureau separated into Bureau of Immigration and Bureau of Naturalization	Department of Labor
1924	U.S. Border Patrol created	Department of Labor
1933	Recombined into Immigration and Naturalization Service (INS)	Department of Labor
1940	INS transferred	Department of Justice
2003	INS abolished and functions are divided	Department of Homeland Security



# Current System



## Department of Homeland Security (DHS)

Functions are divided between three sub-agencies:

- » Citizenship and Immigration Services (USCIS)
- » Immigration and Customs Enforcement (ICE)
- » Customs and Border Protection (CBP)

## Department of Justice (DOJ)

- Executive Office for Immigration Review (EOIR)
- Board of Immigration Appeals (BIA)
- Office of the Special Counsel for Immigration-Related Employment Practices
- Office of Immigration Litigation (OIL)





# Current System



## Department of State

- Bureau of Consular Affairs
- Passports

## Department of Labor

- Board of Alien Labor Certification Appeals (BALCA)
- Workforce enforcement



# Sources



- Immigration and Nationality Act (INA)
- Code of Federal Regulations (CFR)
- U.S. Code (USC)
- Executive Orders
- A agency memoranda and policy manuals

# USCIS Offices

- Affirmative applications are sent to different offices, depending on the type of benefit for which the person is applying.
  - » Field offices handle scheduled interviews on any non-asylum related applications (adjustment of status, naturalization).
  - » Asylum offices handle scheduled interviews on asylum-related issues.
  - » National Records Center processes Freedom of Information Act (FOIA) requests.
  - » Application Support Centers provide fingerprinting.
  - » Service Centers process certain types of applications and e-filed.
    - Nebraska
    - Texas
    - Vermont
    - California
  - » Lockbox Facilities process fee waivers and certain applications.



# USCIS District Office Locations

## • District Offices:

- » Boston, MA
- » Buffalo, NY
- » NYC, NY
- » Newark, NJ
- » Philadelphia, PA
- » Baltimore, MD
- » Washington, D.C.
- » Atlanta, GA
- » Miami, FL
- » Tampa, FL
- » New Orleans, LA
- » Detroit, MI
- » Cleveland, OH
- » Chicago, IL
- » Kansas City, MO
- » Dallas, TX
- » Houston, TX
- » San Antonio, TX
- » Denver, CO
- » Seattle, WA
- » San Francisco, CA
- » Sacramento, CA
- » Los Angeles, CA
- » San Diego, CA
- » Phoenix, AZ
- » Honolulu, HI



# USCIS Field Office Locations

- Atlanta, GA
- Anchorage, AK
- Phoenix, AZ
- Tucson, AZ
- Fort Smith, AR
- Memphis, TN
- Chula Vista, CA
- Fresno, CA
- Los Angeles County, CA
- Los Angeles, CA
- Sacramento, CA
- San Bernardino, CA
- San Diego, CA
- San Fernando Valley, CA
- San Francisco, CA
- San Jose, CA
- Santa Ana, CA
- Denver, CO
- Hartford, CT
- Dover, DE
- Philadelphia, PA
- Hialeah, FL
- Jacksonville, FL
- Kendall, FL
- Miami, FL
- Oakland Park, FL
- Orlando, FL
- Tampa, FL
- West Palm Beach, FL
- Honolulu, HI
- Boise, ID
- Spokane, WA
- Chicago, IL
- Saint Louis, MO
- Indianapolis, IN
- Des Moines, IA
- Kansas City, MO
- Louisville, KY
- New Orleans, LA
- Portland, ME
- Baltimore, MD
- Boston, MA
- Lawrence, MA
- Detroit, MI
- Saint Paul, MN
- Jackson, MS
- Helena, MT
- Omaha, NE
- Las Vegas, NV
- Reno, NV
- Manchester, NH
- Mount Laurel, NJ
- Newark, NJ
- Albany, NY
- Buffalo, NY
- Long Island, NY
- New York, NY
- Queens, NY
- Saint Albans, VT
- Albuquerque, NM
- El Paso, TX
- Charlotte, NC
- Raleigh-Durham, NC
- Cincinnati, OH
- Cleveland, OH
- Columbus, OH
- Oklahoma City, OK
- Portland, OR
- Philadelphia, PA
- Pittsburgh, PA
- Providence, RI
- Charleston, SC
- Greer, SC
- Dallas, TX
- Harlingen, TX
- Houston, TX
- San Antonio, TX
- Salt Lake City, UT
- Norfolk, VA
- Fairfax, VA
- Seattle, WA
- Yakima, WA
- Milwaukee, WI
- Washington, D.C.
- San Juan, PR
- Charlotte Amalie, VI
- Barrigada, Guam
- Hagatna, Guam



# NONIMMIGRANTS



# Nonimmigrants

- Definition: a person who intends to remain temporarily in the U.S. and then return to his/ her residence abroad.
- He/ she will be required to attend an interview with a consular official at the nearest U.S. consulate.
- All nonimmigrants are required to undergo inspection upon arrival in the U.S.



# Nonimmigrant Visas

- Due to the temporary nature of NIVs, an applicant must prove that he/she intends to return to his/her home country by the time the visa expires.
  - » Residence abroad
  - » Ties to home country (family, business)
- All applicants are also photographed and fingerprinted to check if the person has had past visa issues or criminal activity.





# Nonimmigrant ABCs

Visa	Reason for Travel to the U.S.	Visa	Reason for Travel to the U.S.
B-1	Business visitor	R	Religious worker
B-2	Tourist	H-2A/B	Temporary agricultural or seasonal worker
D	Alien crewmember	U	Victim of a violent crime
A	Diplomat/foreign government official	T	Victim of human trafficking
J	Exchange visitor (scholar, professor)	H-1B	Occupation of highly specialized knowledge
O	Extraordinary ability	L	Intra-company transferee
I	Media/journalist	A-2	Foreign military personnel
P	Athlete, artist or entertainer	G1-G5	Employee of international organization
F	Student	H-3	Training program

*These are not all of the NIVs available.*



# Nonimmigrant Visa Caps

- Some types of nonimmigrant visas have a limit, or cap, which is set by Congress.
  - » Examples for FY15
    - H-2B (non-agricultural temporary worker): 66,000
    - H-1B (specialty occupation): 65,000
- Some visas are restricted to individuals from certain countries, such as temporary agricultural workers (H-2A), which is limited to 68 countries.



# Visa v. Status

- A person's lawful presence begins with his/ her admission to the U.S.
  - » Admission is based on permission to enter subject to a certain classification (tourist, business, etc.)
- Visa: entry document, gives the person permission to enter the U.S.
- Status: a person's immigration classification.
  - » Initially, visa = status but a person can change his/ her status once he/ she is in the U.S.



# Unlawful Presence

- Unlawful presence is when a person is in the U.S. without authorization or permission.
- It can be triggered by:
  - » EWI (entry without inspection)
  - » Visa overstay
  - » Termination of nonimmigrant status
- Bars to reentry
  - » 3 year bar: between 6 months and one year
  - » 10 year bar: more than 1 year
  - » Permanent bar: more than 1 year and unlawful reentry



# IMMIGRANTS



# Immigrants

- Definition: an immigrant is a person who intends to reside permanently in the United States.
- Depending on how the person is applying to come to the U.S., he/she may have different requirements in terms of interviewing, place of application, evidence, etc.



# Undocumented Immigrants

- Undocumented immigrants are people that are living in the U.S. but do not have a valid visa or permission from the government to be in the U.S.
  - » Some have come into the U.S. on a valid visa and stayed beyond the expiration (visa overstay).
  - » Some have come into the U.S. without any valid permission (entry without inspection – EWI).
  - » Some have applied for and were denied relief, such as asylum or cancellation of removal.



# Executive Action

## Deferred Action for Childhood Arrivals (DACA)

As of June 15, 2012:

- Under the age of 31;
- Came to the U.S. before age 16;
- Resided continuously in U.S. for the previous 5 years;
- Physically present in the U.S.;
- No lawful status;
- In school, graduated from high school, have a GED, or were honorably discharged from the Armed Forces or Coast Guard; and
- Have not been convicted of a felony, significant misdemeanor, or 3+ misdemeanors, and are not a threat of national security or enforcement priority for removal.

If previously granted, can renew. No new applicants at this time.

## Deferred Action for Parents of Americans & LPRs (DAPA)

- Lived in the U.S. continuously since Jan. 1, 2010;
- Physically present in the U.S. on Nov. 20, 2014 and at the time of application;
- No lawful status as of Nov. 20, 2014;
- Had a son or daughter who is a U.S. citizen or LPR; and
- Have not been convicted of a felony, significant misdemeanor, or 3+ misdemeanors, and are not a threat to national security or enforcement priority for removal

Not currently in effect.





# Family-based Immigrants

- Immediate Relatives
  - » Spouse of U.S. citizen
  - » Unmarried child (under 21) of a U.S. citizen
  - » Orphan adopted by a U.S. citizen
  - » Parent of U.S. citizen
    - U.S. citizen must be at least 21
  - » Widower of U.S. citizen
    - If married for at least 2 years and petition is filed within 2 years of death.
  
- There is no fiscal year limit to immediate relative visas.



# Family-based Immigrants

- Family Preference

- » F1: Unmarried sons and daughters of U.S. citizens, and any minor children (23,400)
- » F2A: Spouses, minor children, and F2B: unmarried sons and daughters of LPRs (114,200)
- » F3: Married sons and daughters of U.S. citizens, and any spouses and minor children (23,400)
- » F4: Brothers and sisters of U.S. citizens, and any spouses and minor children (65,000)

- Family preference visas are limited each year. Petitioners are notified when the visa becomes current through the Visa Bulletin.



# Family-based Immigration: Visa Bulletin (May 2015)

<b>Family-Sponsored</b>	<b>All Chargeability Areas Except Those Listed</b>	<b>CHINA-mainland born</b>	<b>INDIA</b>	<b>MEXICO</b>	<b>PHILIPPINES</b>
F1	15AUG07	15AUG07	15AUG07	08NOV94	01FEB05
F2A	01SEP13	01SEP13	01SEP13	08AUG13	01SEP13
F2B	15SEP08	15SEP08	15SEP08	01APR95	22APR04
F3	22FEB04	22FEB04	22FEB04	15APR94	15AUG93
F4	01AUG02	01AUG02	01AUG02	15JUL97	22OCT91

A new visa bulletin is issued each month, and is updated by the Department of State – Bureau of Consular Affairs.



# Visa Bulletin: Retrogression

- Retrogression is when the Visa Bulletin changes the priority date to require an earlier filing date than the previous month required.
- Example:
  - » May 2015 priority date for F1 is August 15, 2007.
  - » June 2015 could be June 30, 2007 for F1.
- It is very important to check the Visa Bulletin frequently and file as soon as the applicant's priority date becomes eligible.



# Employment-based Immigrants

- E1: Priority workers (28.6% of worldwide employment)
  - » Persons with extraordinary ability
  - » Outstanding professors and researchers
  - » Multinational managers and executives
- E2: Professionals holding advanced degrees and persons of exceptional ability (28.6%)
  - » Professionals holding advanced degree
  - » Persons of exceptional ability
- E3: Skilled workers, professionals, and unskilled workers (28.6%)
- E4: Certain special immigrants (7.1%)
- E5: Immigrant investors (7.1%)



# Employment-based Immigration: Visa Bulletin

Employment-Based	All Chargeability Areas Except Those Listed	CHINA - mainland born	INDIA	MEXICO	PHILIPPINES
1st	C	C	C	C	C
2nd	C	01JUN12	15APR08	C	C
3rd	01JAN15	01MAY11	15JAN04	01JAN15	01JUL07
Other Workers	01JAN15	15NOV05	15JAN04	01JAN15	01JUL07
4th	C	C	C	C	C
Certain Religious Workers	C	C	C	C	C
5th Targeted Employment Areas/ Regional Centers and Pilot Programs	C	01MAY13	C	C	C

C = Current  
(available for  
all qualified  
applicants)



# Diversity Visas (Lottery)

- A set number of visas become available each year to nationals of certain countries with low rates of immigration to the U.S. (**50,000** for 2016).
- Registration occurs each year and is only open for about one month.
- Eligibility:
  - » Born in an eligible country (or spouse/parents); and
  - » At least a high school education or 2 years of work experience.



# Diversity Visas (Lottery)

- The following countries are not eligible for FY16:
  - » Africa: Nigeria
  - » Asia: Bangladesh, mainland China, India, Pakistan, South Korea, Philippines, Vietnam
  - » Europe: UK (and dependent areas)
  - » North America: Canada, Mexico
  - » South America/ Central America/ Caribbean: Brazil, Colombia, Dominican Republic, Ecuador, El Salvador, Haiti, Jamaica, Peru
- Any other country not listed here is eligible for the FY16 lottery.





# HUMANITARIAN-BASED STATUSES

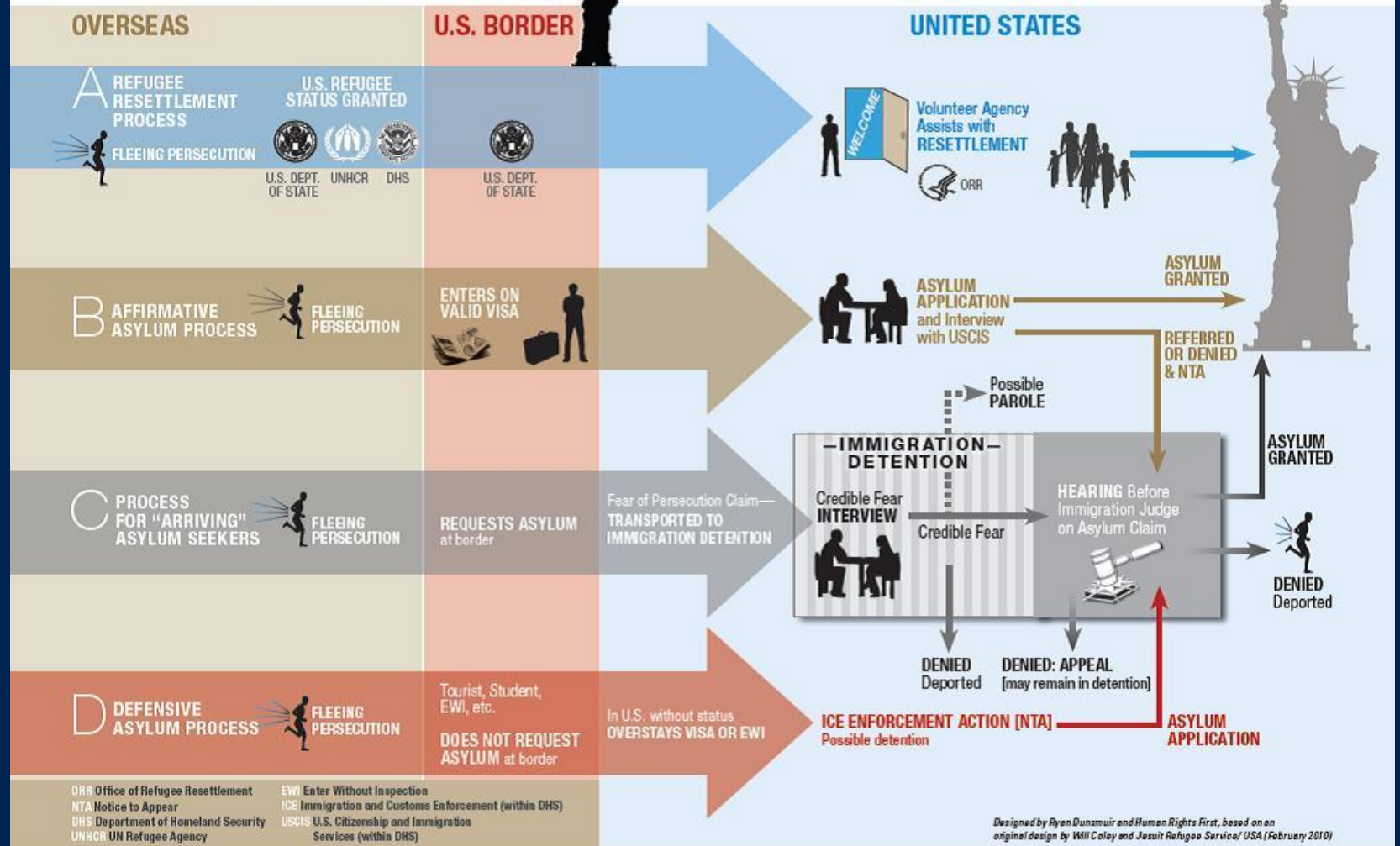


# Refugees and Asylees

- Refugee: a person seeking protection in the U.S. from fear of persecution in his/her home country.
  - » The person applies while outside of the U.S., usually in a refugee camp or designated place outside of his/her home country.
- Asylee: a person seeking protection in the U.S. from fear of persecution in his/her home country.
  - » The person applies for such status once he/she enters the U.S.



# How Refugees Get to the U.S.



ORR Office of Refugee Resettlement  
 NTA Notice to Appear  
 DHS Department of Homeland Security  
 UNHCR UN Refugee Agency

EWI Enter Without Inspection  
 ICE Immigration and Customs Enforcement (within DHS)  
 USCIS U.S. Citizenship and Immigration Services (within DHS)

Designed by Ryan Dunsmuir and Human Rights First, based on an original design by Will Coley and Jesuit Refugee Service/ USA (February 2010)



# Fear of Persecution

To show a 'well-founded fear of persecution,' an alien need not prove that it is more likely than not that he or she will be persecuted in his or her home country.

John Paul Stevens

- Evidence of past persecution or a well-founded fear of future persecution based on:
  - » Race;
  - » Religion;
  - » Nationality;
  - » Membership in a particular social group; or
  - » Political opinion.

8 CFR §208

Asylees must file within one year of entering the U.S. unless there are:

- Changed circumstances concerning eligibility to apply for asylum; or
- Extraordinary circumstances directly related to failure to file.



# Withholding of Removal & CAT



## Withholding of Removal

Similar to asylee status

- » Application for asylum also encompasses an application for withholding of removal

Will be granted when the alien's life or freedom would be threatened in his/her home country due to one of the enumerated grounds

## Convention against Torture (CAT)

- UN Convention entered into force in 1987
  - » Check box on the application for asylum
  - » No eligibility bars
- Applicant must demonstrate that it is more likely than not that he/she will be tortured if removed.
- Torture: “must be an extreme form of cruel and inhuman punishment” that “must cause severe pain or suffering” and done by or with the acquiescence of a public official.
- Two forms of relief:
  - Withholding of removal
  - Deferral of removal (temporary)



# T Visa (Nonimmigrant)

- Authorized under the Trafficking and Violence Protection Act (TVPA).
- Cap of 5,000 per year (no cap for family derivatives).
- Eligibility:
  - » Are or were a victim of trafficking;
  - » Are in the U.S. due to trafficking;
  - » Comply with any reasonable request from law enforcement to assist in the investigation and prosecution of trafficking;
  - » Demonstrate that you would suffer extreme hardship (unusual and severe harm) if you were removed from the U.S.; and
  - » Are admissible to the U.S. (or eligible for a waiver).



# T Visa

- Severe forms of trafficking:
  - » Sex trafficking
    - *Recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act where the commercial sex act is induced by force, fraud, or coercion, or the person being induced to perform such act is under 18.*
  - » Labor trafficking
    - *Recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of involuntary servitude, peonage, debt bondage, or slavery.*
- A person who is granted a T Visa may apply for permanent residence after 3 years.



# U Visa (Nonimmigrant)

- Created under the TVPA in 2000.
- Cap of 10,000 per year (no cap for family derivatives).
- Eligibility:
  - » You are the victim of a qualifying criminal activity;
  - » You have suffered substantial physical or mental abuse as a result;
  - » You have information about the criminal activity;
  - » The crime occurred in the U.S. or violated U.S. law;
  - » You were helpful or are likely to be helpful in the investigation or prosecution of the crime; and
  - » You are admissible (or eligible for a waiver).
- May apply for permanent residence after 3 years.





# U Visa

## Qualifying Crimes:

- Abduction
- Abusive sexual contact
- Blackmail
- Domestic violence
- Extortion
- False imprisonment
- Female genital mutilation
- Felonious assault
- Fraud in foreign labor contracting
- Hostage
- Incest
- Involuntary servitude
- Kidnapping
- Manslaughter
- Murder
- Obstruction of justice
- Peonage
- Perjury
- Prostitution
- Rape
- Sexual assault
- Sexual exploitation
- Slave trade
- Stalking
- Torture
- Trafficking
- Witness tampering
- Unlawful criminal restraint

# VAWA

- Violence Against Women Act
- Eligibility:
  - » You are the spouse/ child/ parent of U.S. citizen or LPR;
  - » You suffered battery or extreme cruelty by your U.S. citizen or LPR spouse/ parent/ child;
  - » You entered into the marriage in good faith (spouse only);
  - » You resided with the abuser; and
  - » You are a person of good moral character.
- A person applying for VAWA may also apply for work authorization and a green card at the same time.



# Special Immigrant Juvenile Status (SIJS)

- Available to children who have been abused, neglected, or abandoned.
- Can apply for green card and work authorization.
  - » May never petition for parents.
  - » May petition for siblings once the child becomes a U.S. citizen.
- Eligibility:
  - » Under 21 years old and unmarried at the time of filing;
  - » Physically present in the U.S. at the time of filing; and
  - » Have a state court order that declares:
    - The child is a dependent of the court or legally places the child with a state/private agency;
    - It is not in the child's best interest to return to the child's home country; and
    - The child is unable to be reunited with a parent because of abuse, abandonment, or neglect.



# TPS

- Temporary Protected Status
  - » TPS does not lead to a green card or any other immigration status.
- Allows qualified individuals from certain countries to stay in the U.S. for a period of time because of conditions in his/her home country, which may include:
  - » Ongoing armed conflict;
  - » Environmental disaster;
  - » Health epidemic; or
  - » Other extraordinary and temporary conditions.
- Individuals granted TPS are able to obtain work authorization.



# Eligibility for TPS

## Requirements:

- Be a **national** of one of the specified countries;
- File during the **registration** or re-registration period;
- Have been continuously **physically present** in the U.S. since the most recent TPS designation; and
- Have been continuously **residing** in the U.S. since the date specified for your country.

- El Salvador (2001)
- Guinea (2014)
- Haiti (2011)
- Honduras (1999)
- Liberia (2014)
- Nicaragua (2001)
- Sierra Leone (2014)
- Somalia (2012)
- Sudan (2013)
- South Sudan (2014)
- Syria (2015)

# INADMISSIBILITY & DEPORTABILITY



# Inadmissibility

- Grounds of inadmissibility apply to any non-U.S. citizen who is seeking admission to the U.S.
  - » Admission: the lawful entry of an alien into the United States after inspection and authorization by an immigration officer.
    - INA §101(a)(13)(A)
- Persons found to be inadmissible are not eligible to receive a visa or be admitted to the U.S., unless eligible for a waiver.
- Nonimmigrants applying to adjust status to permanent residence will be subject to the grounds of inadmissibility.
- LPRs are not considered to be seeking admission unless he/ she has
  - » Abandoned his/ her status
  - » Been absent from the U.S. for more than 180 days
  - » Engaged in illegal activity after leaving the U.S.
  - » Left the U.S. during removal proceedings
  - » Committed certain criminal offenses
  - » Attempted to enter at an undesignated place or time



# Grounds of Inadmissibility

- (1) Health-related grounds
  - » “communicable disease of public health significance”
  - » “failed to present documentation of having receive vaccination against vaccine-preventable diseases”
  - » “physical or mental disorder . . . that may pose a threat to the property, safety or welfare . . . of others”
    - Waiver authorized
  
- (2) Criminal and related grounds
  - » Crime involving moral turpitude (CIMT)
    - Exception if occurred under age 18 or less than 6 mo. sentence
  - » Multiple criminal convictions with total 5+ year sentence
  - » Violation of any law relating to a controlled substance
  - » Drug trafficking
  - » Prostitution or commercialized vice



# Grounds of Inadmissibility

- Criminal grounds (cont'd)
  - » Trafficking in persons
  - » Money laundering
  
- (3) Security and related grounds
  - » Espionage, sabotage
  - » Terrorist activities
    - **Exception** for some spouses and children
  - » Membership in totalitarian party
  - » Participation in Nazi persecution between 1933 and 1945
  - » Recruitment of child soldiers

# Grounds of Inadmissibility

- (4) Public charge
- (5) Labor certification and qualifications
- (6) Illegal entrants and immigration violators
  - » EWI
    - **Exception** for certain battered women and children
  - » Failure to attend removal proceeding
  - » Misrepresentation (falsely claiming U.S. citizenship)
    - **Exception** for some persons present in U.S. as children
  - » Stowaways
  - » Smugglers
    - Some **exceptions** for family reunification prior to 1988



# Grounds of Inadmissibility

- (9) Previous removal/ deportation
  - » If an alien was ordered removed upon initial arrival in U.S., he/ she is inadmissible for 5 years.
  - » If an alien was removed at any time after arrival or departed the U.S. during an outstanding removal order, he/ she is inadmissible for 10 years.
  - » If a person was unlawfully present between 6 months but less than one year, he/ she is inadmissible for 3 years.
  - » If a person was unlawfully present for more than 1 year, he/ she is inadmissible for 10 years.
    - Some waivers available depending on circumstances.
  
- (10) Miscellaneous
  - » (A) Polygamists
  - » (D) Unlawful voters



# Deportability

- Grounds of deportability apply to any non-U.S. citizen.
  - » INA §237(a)
- An LPR is subject to the grounds of deportability at any time prior to naturalizing.



# Grounds of Deportability

- (1) Inadmissible at time of entry/ adjustment of status or violates status
  - » (E) Smuggling
  - » (G) Marriage Fraud
  
- (2) Criminal Offenses
  - » CIMT within first 5 years of being admitted and sentence of 1+ year may be imposed
  - » Convicted of two CIMTs at any time.



# Grounds of Deportability

- (2) Criminal grounds (cont'd)
  - » Aggravated felony →
  - » Failure to register as sex offender
  - » Controlled substance conviction
  - » Firearms offenses
  - » Crimes of domestic violence
  - » Trafficking

An aggravated felony is a group of serious crimes in the INA. They include:

- Murder
- Rape
- Drug trafficking
- Crime of violence
- Theft/burglary
- Child pornography
- Forgery
- Bribery
- Obstruction of justice



# Grounds of Deportability

- (3) Falsification of documents
- (4) Security and related grounds
- (5) Public charge
- (6) Unlawful voters



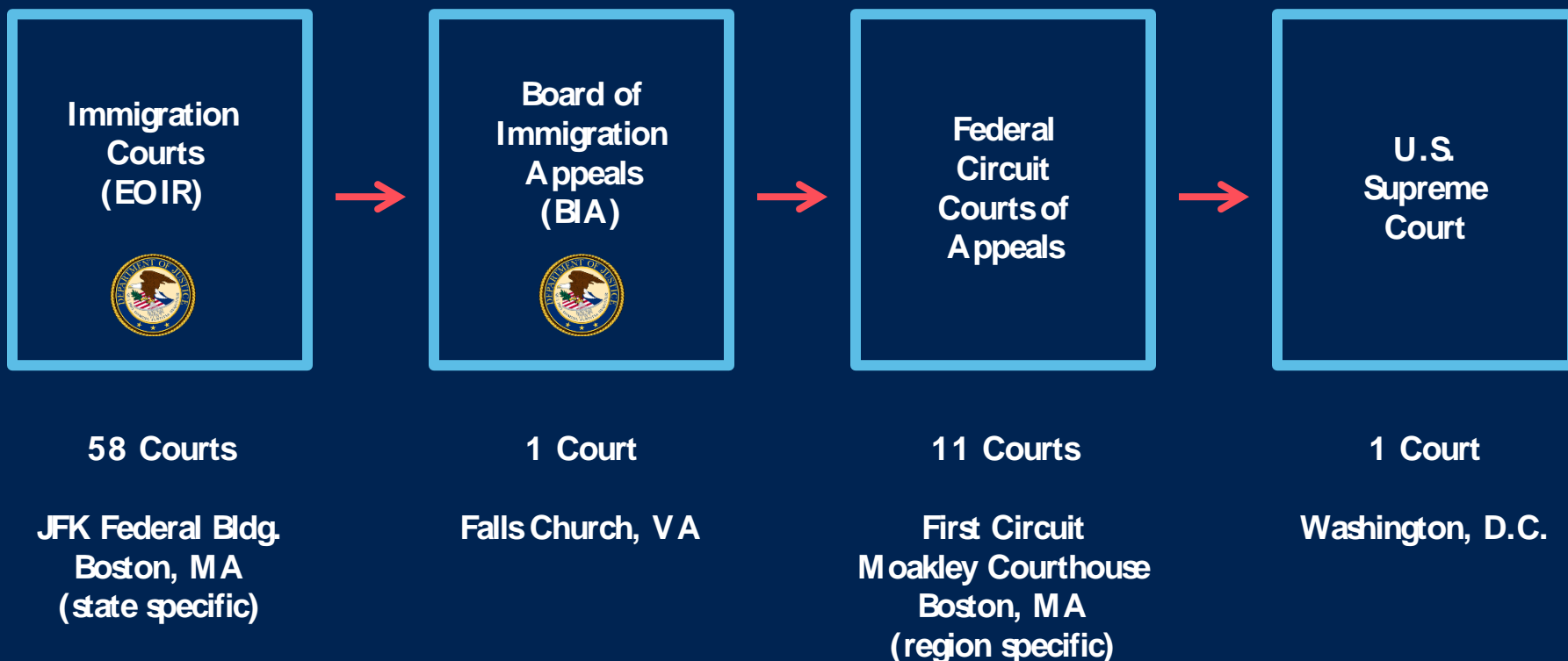
# Removal Proceedings

- Notice to Appear (NTA) is issued
  - » List of allegations about why the person is removable.
  - » Scheduled hearing with an Immigration Judge (IJ).
- Possible detention
  - » Some offenses trigger mandatory detention.
  - » Some people will have the ability to be released on bond.
- Hearing
  - » IJ determines whether the person is removable based on evidence brought by the government attorney.
  - » IJ determines whether the person is eligible for any relief from removal.
- Decision
  - » Deportation ordered: Departure date from U.S. is scheduled.
    - A person may appeal the deportation order.
  - » Deportation withheld: Person is allowed to apply to extend his/her stay in the U.S.





# Potential Path for Immigration Case



# Immigration Court



Immigration Judge (IJ)  
DOJ



Immigrant



DHS  
(ICE/OCC)

# Relief from Removal

- Adjustment of Status
  - » Person must be admissible
  - » Person must have immigrant visa available
- Cancellation of Removal
  - » Non-LPR (10 years in U.S.)
  - » LPR (7 years in U.S.)
- Voluntary Departure
  - » Person concedes removability but will not be subject to time bars for reentry to the U.S.



# LAWFUL PERMANENT RESIDENTS



# Number of people becoming LPRs

## 20th Century

- 1900: 448,572
- 1910: 1,041,570
- 1920: 430,001
- 1930: 241,700
- 1940: 70,756
- 1950: 249,187
- 1960: 265,398
- 1970: 373,326
- 1980: 524,295
- 1990: 1,535,872
- 2000: 841,002

## Last 10 Years

- 2005: 1,122,257
- 2006: 1,266,129
- 2007: 1,052,415
- 2008: 1,107,126
- 2009: 1,130,818
- 2010: 1,042,625
- 2011: 1,062,040
- 2012: 1,031,631
- 2013: 990,553



# Other Green Card Programs

- Amerasian Child of U.S. citizen
  - » Born in Korea, Vietnam, Laos, Cambodia, or Thailand
  - » Between January 1, 1951 and October 21, 1982
  - » Fathered by a U.S. citizen
- American Indian born in Canada
- Cuban Native or Citizen
- Haitian Refugee Immigration Fairness Act (HRIFA)
- Informant to U.S. government (S Visa)



# Other Green Card Programs

- Indochinese Parole Adjustment Act
  - » Vietnam, Cambodia or Laos
  - » Inspected/ paroled in the U.S. before 1997
- Lautenberg Parolee
  - » Religious minorities from former Soviet Union
- Nicaraguan Adjustment and Central American Relief Act (NACARA)
  - » Guatemala, El Salvador, and former Soviet Union
  - » Entered at specified times between 1990 and 1996

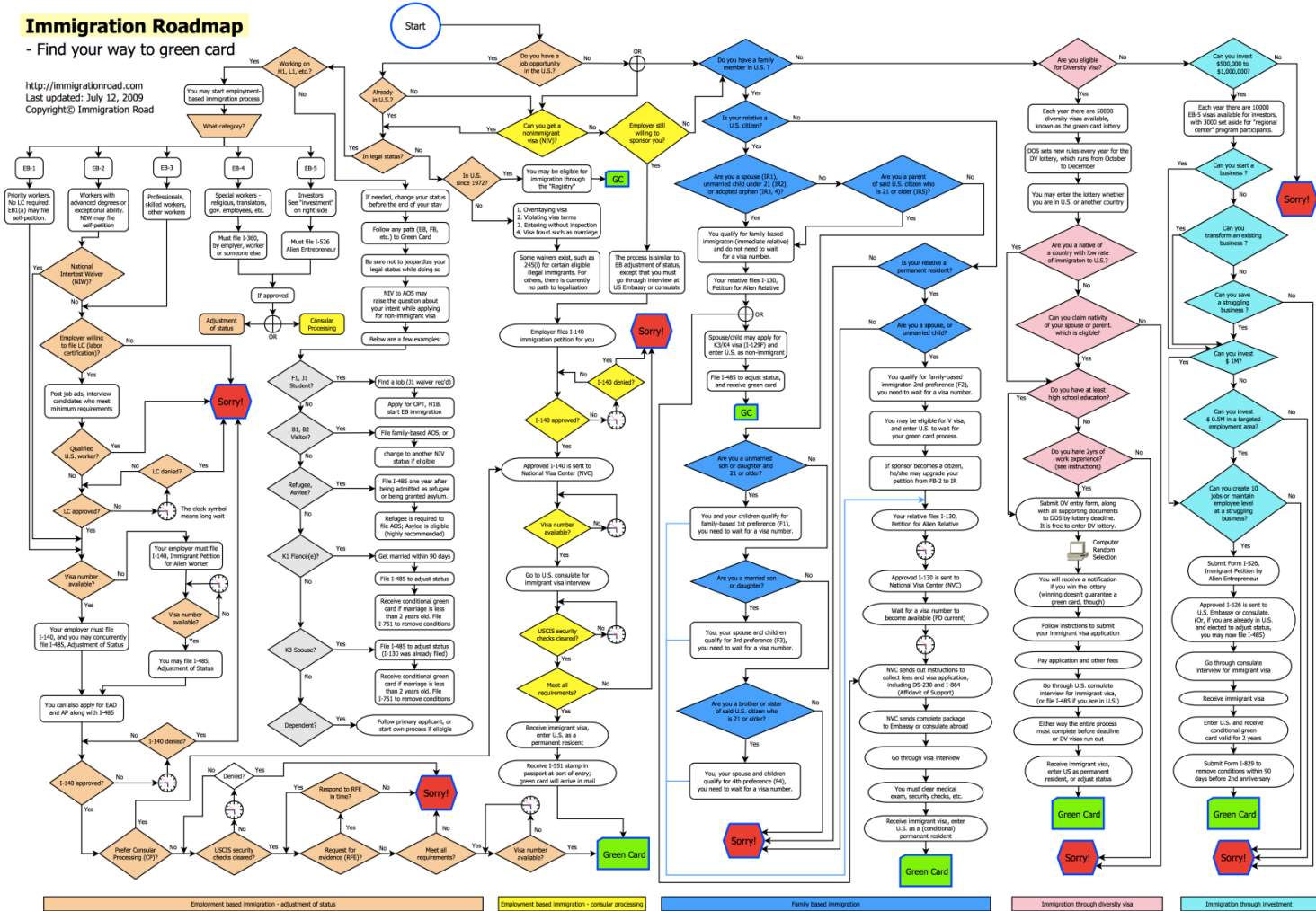


# Green Card "Roadmap"

## Immigration Roadmap

- Find your way to green card

http://immigrationroad.com  
Last updated: July 12, 2009  
Copyright © Immigration Road



Disclaimer: This Immigration Roadmap is for general guidance only and shall NOT be construed as legal advice; U.S. immigration laws and regulations are ever changing, so always confirm with USCIS and/or consult a qualified professional with regard to your case; No warranty is made regarding the accuracy of any information; Not all possible ways to GC are covered by this flowchart, and appeal/reopen to reopen are not included; You may start multiple processes if your are eligible.





# CITIZENSHIP



# Acquisition

- Citizenship acquired at birth
  - » Born in the U.S. or its territories
- If born outside of the U.S., a person must have had one or both parents who were U.S. citizens at the time of the person's birth.
  - » The requirements vary depending on when the person was born.
    - Physical presence requirements for parent(s)
    - Born in or out of wedlock
      - » Legitimation
- Form N-600

OMB No. 1615-0047, Expire 01/31/2012  
**N-600, Application for Certificate of Citizenship**

Department of Homeland Security  
U.S. Citizenship and Immigration Services

Print clearly or type your answers, using CAPITAL letters in black ink. Failure to print clearly may delay processing of your application.

**Part 1. Information About You** (Provide information about yourself. If you are a person applying for the Certificate of Citizenship. If you are a U.S. citizen parent applying for a Certificate of Citizenship for your minor child, provide information about your child.)

**1. Current legal name**  
Family Name (Last Name) \_\_\_\_\_  
Given Name (First Name) \_\_\_\_\_ Full Middle Name (if applicable) \_\_\_\_\_

**2. Name exactly as it appears on your Permanent Resident Card** (if applicable)  
Family Name (Last Name) \_\_\_\_\_  
Given Name (First Name) \_\_\_\_\_ Full Middle Name (if applicable) \_\_\_\_\_

**3. Other names used since birth**  
Family Name (Last Name) \_\_\_\_\_ Given Name (First Name) \_\_\_\_\_ Middle Name (if applicable) \_\_\_\_\_

**4. U.S. Social Security #** (if applicable) \_\_\_\_\_ **5. Date of Birth** (mm/dd/yyyy) \_\_\_\_\_

**6. Country of Birth** \_\_\_\_\_ **7. Country of Prior Nationality** \_\_\_\_\_

**8. Gender**  
 Male  Female

**9. Height** \_\_\_\_\_

**Part 2. Information About Your Eligibility** (Check only one box A, B, C, or D.)

**A. I am applying for MYSELF because I have:**

A U.S. citizen father or a U.S. citizen mother  
 Both U.S. citizen parents  
 A U.S. citizen adoptive parent(s)  
 An alien parent(s) who naturalized

**B. I am a U.S. citizen parent applying for a Certificate of Citizenship on behalf of my minor (under 18 years of age) BIOLOGICAL child**

**C. I am a U.S. citizen parent applying for a Certificate of Citizenship on behalf of my minor (under 18 years of age) ADOPTED child**

**D. Other** (Explain fully) \_\_\_\_\_

**For USCIS Use Only**

If your child has an A-Number, write it here:  
A \_\_\_\_\_

Returned \_\_\_\_\_  
Date \_\_\_\_\_  
Resubmitted \_\_\_\_\_  
Date \_\_\_\_\_  
Reloc Sent \_\_\_\_\_  
Date \_\_\_\_\_  
Reloc Rec'd \_\_\_\_\_  
Date \_\_\_\_\_  
Date \_\_\_\_\_

Remarks \_\_\_\_\_

Action Block \_\_\_\_\_

To Be Completed by  
 Attorney or Representative, if any  
Fill in box if Form G-28 is attached to represent the applicant.

ATTY State License # \_\_\_\_\_

Form N-600 (1/9/01)13

# Derivation

- » Derived citizenship after birth but before turning 18.
- » Different laws depending on when the person fulfilled all requirements.
  - » For anyone born on/after 02/28/1983, the Child Citizenship Act of 2000 applies.
- » Requirements (under CCA):
  - » At least one parent is a U.S. citizen before the child turns 18;
  - » Child is unmarried;
  - » Child is an LPR; and
  - » Child is living in legal and physical custody of citizen parent.
- » Form N-600



# Naturalization

- Final step in the immigration process.
- Eligibility:
  - » At least 18 years old;
  - » LPR for 5 years, or 3 years if married to a U.S. citizen;
  - » Physically present in the U.S. for at least half of the previous 5 or 3 years;
  - » Continuous residence in the U.S. for the past 5 or 3 years;
  - » Ability to read, write, and speak basic English;
  - » Basic knowledge of U.S. government and civics;
  - » Person of good moral character; and
  - » Have an attachment to the Constitution and principles of the United States.



# Naturalization



- Process:
  - » Complete and submit Form N-400
  - » Biometrics
  - » Interview
  - » Oath Ceremony