

IMMIGRATION **JUSTICE** CAMPAIGN



Release from Detention; Hot Topics and Emerging Trends

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Agenda

- Introduction
- About the Justice Campaign
- Background and Basics
- Options for Release From Detention
- Practicalities of Remote Representation

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IMMIGRATION
JUSTICE
CAMPAIGN



AN INITIATIVE OF:



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COVID-19 Updates

The COVID-19 pandemic is having profound impacts on the immigration detention system and the immigration courts. On this page you will find updates related to detention, release from detention, the operation of the immigration courts, and legal arguments related to COVID-19.

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IMMIGRATION **JUSTICE** CAMPAIGN

Our model

- Joint project of AILA and American Immigration Council
- We partner with local nonprofit service providers around the country that refer cases to us
- We recruit, train, support and mentor pro bono attorneys on cases

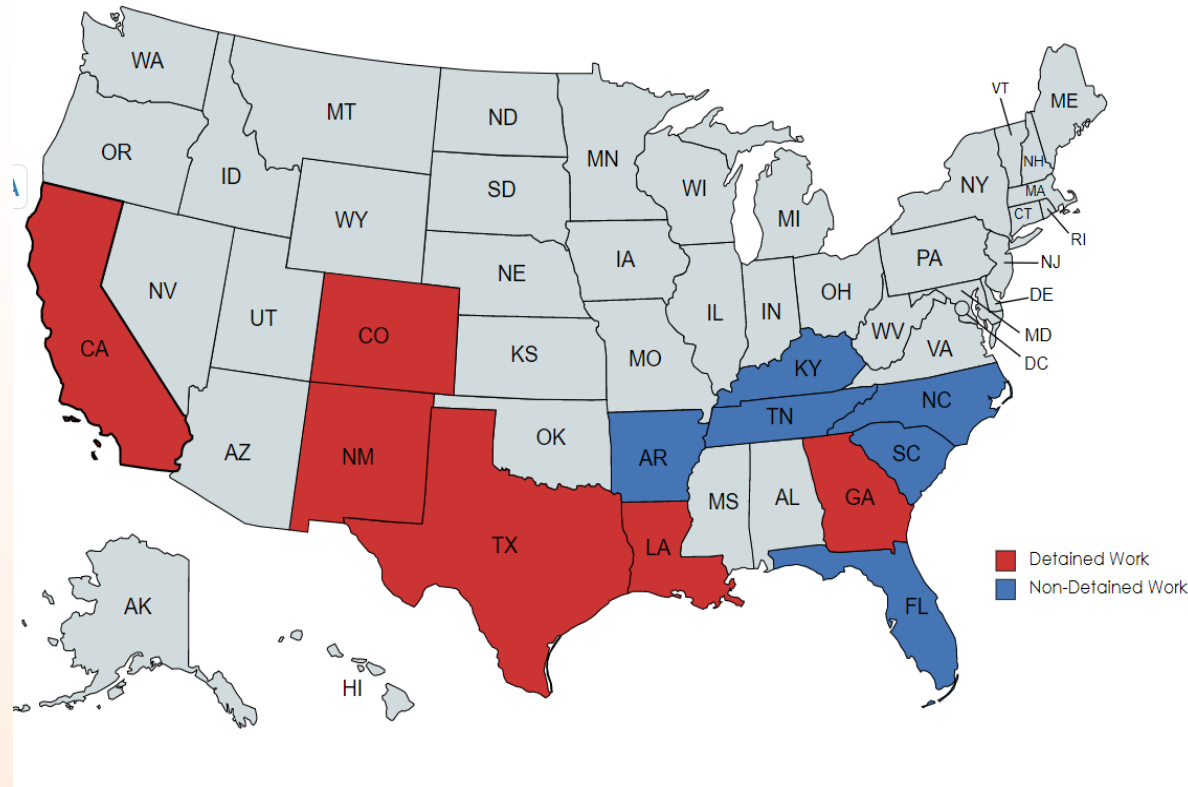
Where We Work

Detained Work

- San Diego, CA
- Denver, CO
- Georgia
- El Paso and Harlingen, TX
- Louisiana
- New Mexico

Non-detained work

- Arkansas (Memphis)
- Tennessee (Memphis)
- South Carolina (Charlotte)
- North Carolina (Charlotte)
- Kentucky (Memphis)
- Florida (Orlando)



Afghan Affirmative Asylum Project
Denver; Salt Lake City; Atlanta

Work We Support

- Parole requests
- Bond hearings
- Detained & non-detained Merits hearings (asylum, cancellation of removal)
- BIA and Federal Circuit Court Appeals
- Affirmative asylum cases
- Work authorization applications

How We Support Attorneys

- Training and practice resources to help pro bonos through every part of their case
- Expert mentoring
 - Group mentoring for merits cases
 - “Office hours” for parole and bond cases
 - Review of draft filings

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BACKGROUND

Who is in Detention?

Anyone not in lawful immigration status, including status violators, can be detained.

- Recent arrivals
- Interior apprehensions
 - Long-time U.S. residents
 - Parents of U.S. citizen children

Where are People Detained?

- ICE Detention Facilities Operated by Private Prison Companies
- County Jails and Prisons

Barriers at the Border

- Title 42
- MPP
- Other arrivals

Border Processing for Asylum-Seekers

- Expedited Removal
- Credible Fear Proceedings
- (Asylum Merits Interview)
- Notice to Appear for Removal Proceedings

Removal Proceedings

- To Determine Whether to Deport
- No Right to Appointed Counsel
- Burden is on Non-Citizen
- Fast-Track for People in Detention

Release from Detention

- **Mandatory Detention - Ineligible for Release**
 - Serious Criminal History
 - Security Threats
 - Expedited Removal
 - People Awaiting Deportation

- **Release Eligible**
 - Bond Proceedings in Immigration Court
 - Release Requests to ICE

Custody Redetermination (Bond) Proceedings

- Conducted by Immigration Judges
- No Jurisdiction Over:
 - Arriving Aliens (Parolees)
 - Individuals Who Went Through Expedited Removal Proceedings
- Weighs flight risk and dangerousness to the community against the individual's liberty interest in release
- \$1,500 Minimum

ICE Release Requests

The only option for people not eligible for IJ bond proceedings

- Parole
- Release on Recognizance
- *Fraihat* / ICE COVID-19 Pandemic Response Requirements

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REMOTE REPRESENTATION

Remote Representation

- Allows us to Reach Underserved Populations
- Information-Gathering for Policy Work and Impact Litigation
- Changes Since 2020
 - Improved Phone Access in Detention
 - Immigration Court Practices

Remote Representation

- WebEx and telephonic appearances
- No uniform rules
- Must request leave for remote appearance for attorneys, clients and witnesses

Electronic Courts and Appeals (ECAS)

<https://www.justice.gov/eoir/ECAS>

E-filing is mandatory for all cases which have an electronic ROP

- Cases which originated in an ECAS pilot court
- Cases which commenced after Feb 11, 2022
- ROPs converted from paper to electronic

Reviewing and Requesting the Record of Proceedings

- In-person file review
- FOIA
- New email request procedure:
 - EOIR.xyz.ROP.Requests@usdoj.gov
 - EOIR.BIA.EROP.requests@usdoj.gov

<https://www.justice.gov/eoir/eoir-policy-manual/VIII/Q>

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HOW CAN I HELP?

Current Projects

- Afghan Affirmative Asylum
- Post-MPP Defensive Asylum
- EAD
- Detained work

How do I volunteer?

- Talk to your Pro Bono Coordinator or liaison!
- Two step process:
 1. Sign up on our [website](#)
 2. Fill out a [volunteer application](#) and choose the appropriate MPP opportunity
- Review [Current Volunteer Opportunities](#) and email Rosa at rrad@immcouncil.org to take a case

Cases

Relief Sought: Release on Parole
Location: Aurora Detention Center
Country of Origin: Honduras
Language: Spanish

Ms. PF is a woman in her mid-twenties from Honduras who has lived in the United States since she was five years old. She has a young daughter that was born in the United States. Ms. PF has two DUI convictions, one which resulted in injury to a passenger. Ms. PF has multiple family member able to serve as her sponsor. Ms. PF seeks pro bono assistance in her parole case so that she may seek to defend against deportation from outside of detention.

Relief Sought: Release on Bond
Location: Aurora Detention Center
Country of Origin: Nicaragua
Language: Spanish

Mr. BB is a man in his late 30's from Nicaragua. He is afraid to return to Nicaragua due to his political opinion. Mr. BB is seeking pro bono assistance for representation in his bond case so that he may pursue asylum outside of detention. Mr. BB has a sponsor.

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Questions?

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