

Legal Challenges Facing People in Immigration Detention

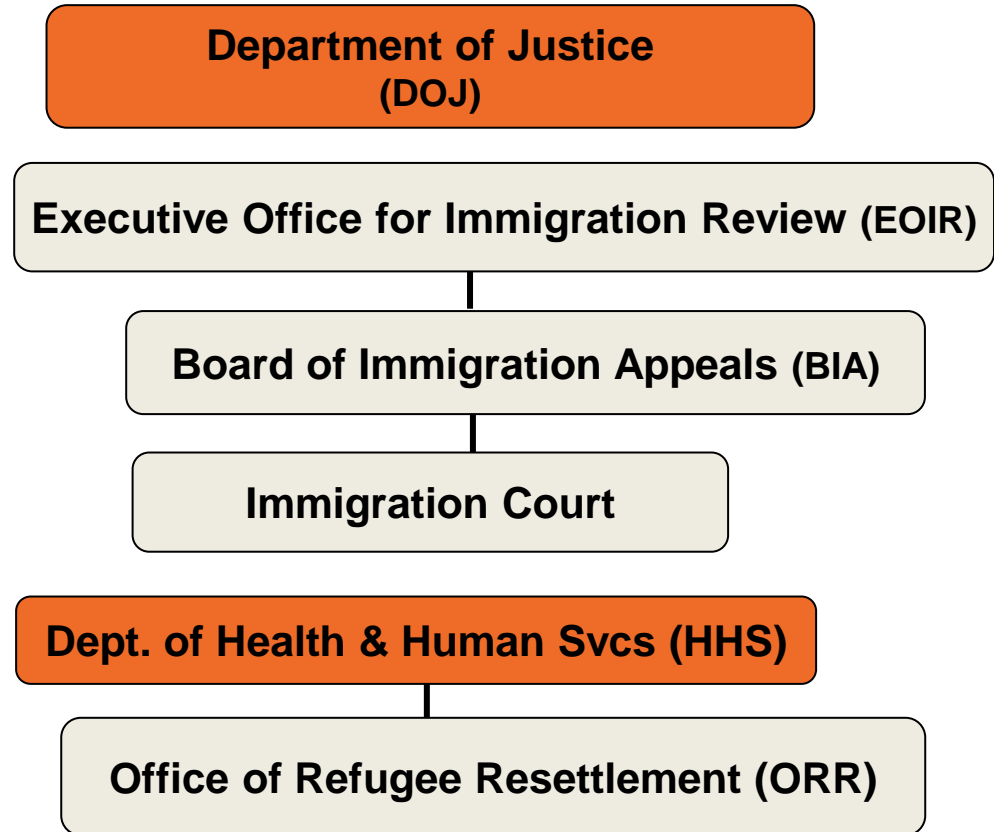
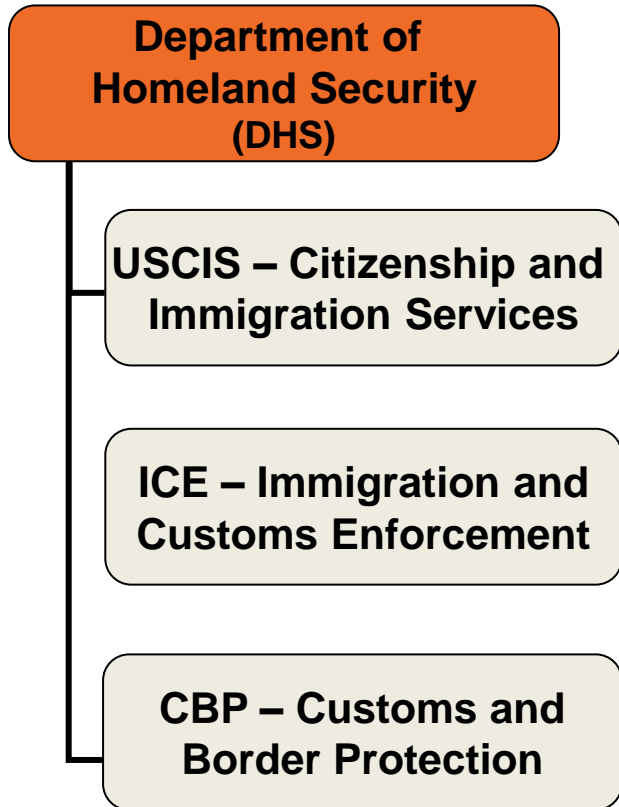
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Northwest Immigrant Rights Project

Northwest
IMMIGRANT
RIGHTS
Project

Northwest Immigrant Rights Project

- Founded in 1984
- Largest organization providing comprehensive immigration legal services for low-income people in Washington State
- Focus primarily on direct legal services
- Also engage in: impact litigation, systemic advocacy, community education
- Four offices in Washington State: Seattle, Granger, Wenatchee, Tacoma

Terminology of Immigration Agencies



Immigration Detention System

- **Network of over 140 detention center/jails used for civil immigration detention**
- **Different types:**
 - Contract Detention Facility (CDF): Private owner, operated under contract;
 - County/local jails: Local gov't entity contracts with ICE
 - ICE-run detention centers
- **System has grown dramatically:**
 - Average Daily Population:
 - 1994: ~ 7,000
 - 2001: ~19,000
 - 2019: ~50,000
 - January 2021: ~15,000
 - Aug. 6, 2021: 25,526

Northwest Detention Center – Tacoma, WA



Who Is Detained?

- **Primarily Two Categories of People Detained:**
 - People detained within the U.S. (Interior Enforcement)
 - People arriving at border (mostly Southern border) – asylum-seekers
- **Interior Enforcement - ICE:**
 - Undocumented individuals living in the U.S.
 - Could be visa overstays
 - Green card holders (Lawful Permanent Residents) w/ criminal conviction
 - Note: prosecutorial discretion initiative should (?) reduce interior detention
- **Processing for Those Detained in Interior:**
 - Bond hearings (for some)
 - Full deportation (removal) hearing
 - Reinstatement (if previously deported)

People Arriving at Southern Border

- **Single Adults / Families with children:**
 - If no visa and no credible fear if returned, quickly deported
 - Prior to 2019: if expressed fear, most were detained but allowed to seek asylum;
 - During pandemic: Title 42 expulsions for most single adults and some families (no way to pursue asylum, no hearing)
- **Unaccompanied children:**
 - Under 18 and no parent/legal guardian available to care for;
 - Supposed to be detained by Border Patrol no longer than 72 hours;
 - Transferred to Office of Refugee Resettlement (ORR) contracted locations:
 - Either larger influx facilities or nonprofit shelters
 - Most are placed with parent/family member already in U.S.

Processing for Single Adults Arriving (Normally)

- **Detained by CBP, if fear expressed, transferred to ICE detention**
- **Credible Fear Interview**
 - Conducted by USCIS asylum officer (often by phone);
 - If CFI positive: opportunity to apply for asylum in immigration court
 - If CFI negative: cursory review by immigration judge; then usually deported
- **Immigration Court Hearing:**
 - Some asylum seekers may be able to seek release from detention
 - Removal hearing (detained or not) to consider asylum case
- **Asylum / Withholding of Removal:**
 - Well founded fear of persecution
 - On account of protected ground: race, religion, nationality, political opinion, membership in particular social group
 - Cannot obtain protection in home country

Tacoma Immigration Court



Challenges for People in Immigration Detention

- **No Right to Appointed Legal Representation**
 - Unless person can afford attorney, must “represent” themselves (even children)
- **Inhumane Detention Conditions**
 - DHS Office of Inspector General [Report](#) (2019):
 - “Our observations confirmed concerns identified in detainee grievances, which indicated unsafe and unhealthy conditions to varying degrees at all of the facilities we visited.”
 - Detention Watch Network ([DWN](#))
- **Multiple Levels of Trauma:**
 - Asylum seekers – trauma that led them to leave home country
 - Trauma of harrowing trip to U.S.
 - Separation from family (potentially permanent if deported from interior)
 - Trauma of being in detention

Challenges (cont'd) and Ways to Help

- **Additional Challenges:**
 - Language/cultural barriers
 - Inability to contact family loved ones
 - Uncertainty about end of detention/timing
 - Vulnerability of certain groups: people with mental health concerns; LGBTQ+
- **Ways to Help:**
 - Connect people to resources (though unfortunately limited)
 - E.g. [National Immigration Legal Services Directory](#)
 - Provide hope (but not false hope) in an often hopeless system
 - To the extent possible, make connections to family
 - Understand trauma
 - Serve as witness and (if possible) advocate for change

“Maria”



Federal Detention Center - SeaTac



“Maria”



Resources:

- www.nwirp.org
- www.detentionwatchnetwork.org
- www.immigrationadvocates.org/legaldirectory
- www.americanimmigrationcouncil.org/