



FAMILIES FOR FREEDOM



FINANCIAL HANDBOOK FOR FAMILIES FACING DETENTION & DEPORTATION

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Introduction to the Handbook by Families for Freedom

Since 1996, over 1.8 million immigrants have been deported. Hundreds of thousands of families are torn apart each year by the cruel immigration laws of this country. The personal costs of these laws are tremendous. The financial costs are somewhat more insidious.

Did you know that under-compensated, overtly-vilified undocumented workers are saving the social security system for the next generation of citizen retirees? That system will work because those undocumented workers have dutifully paid in, but will never be permitted, under existing law, to withdraw a single penny. What about other immigrants? What about permanent residents? They too may never see a penny of their hard-earned benefits, money they rightfully feel they have earned, if they are deported. Additional hidden costs of deportation include money-wiring fees, resettlement fees, disappeared personal belongings, accounts robbed by red tape, stolen identities, never-refunded bond money. Together, they all tell a story about how the U.S. government and U.S. companies get rich at the expense of immigrants and their families, of how the U.S. is picking immigrants' pockets through the sleight-of-hand of deportation.

This Handbook is a testimony to the injustice of the current immigration laws. This Handbook demonstrates the financial costs to immigrants and the financial gains to the U.S. of the current immigration system. This Handbook underscores why it is all-the-more important for folks to continue fighting their individual immigration cases and fighting for greater, overall reform. This Handbook puts information back into the hands of people and their families so that they may plan for what will be—both personally and financially—the greatest struggle of their lives.

Founded in September 2002, Families For Freedom is a New York-based multi-ethnic defense network by and for immigrants facing and fighting deportation. We are immigrant prisoners (detainees), former immigrant prisoners, their loved ones, or individuals at risk of deportation. We come from dozens of countries, across continents. FFF seeks to repeal the laws that are tearing apart our homes and neighborhoods; and to build the power of immigrant communities as communities of color, to provide a guiding voice in the growing movement for immigrant rights as human rights.

FFF has evolved into an organizing center against deportation. We are a source of support, education, and action for directly affected families and communities - locally and nationally.

1. Overview

The Focus of the Handbook

This Handbook is designed to assist families facing detention and/or deportation. The focus is on planning to minimize the financial burdens and difficulties caused by detention and deportation.

General v. Specific: How the Handbook Works

The Handbook is meant to give a general idea of the range of issues that can come up in relation to particular financial areas and is up-to-date as of April 2008. It is not a substitute for individual consideration and legal advice. There may be unique concerns that you have that will not be addressed by this Handbook. The Handbook will alert you to basic issues to look out for; it is your job to think about how these things affect you and to seek follow up information from the relevant company, organization, or agency.


Not Everything Applies to Your Situation

Within each Chapter, attention is given to how concerns differ depending upon what stage you are at in the immigration system—namely, whether you are in detention, are about to be deported, or have been deported. Also, many of the ideas that are offered may be more or less helpful to you depending on how much your loved ones can be involved in helping you with your financial planning and management.

Who Needs the Handbook?

Anyone who is a noncitizen or that has a family member that is a noncitizen may someday face the problems addressed in the Handbook. This is true because noncitizens are always vulnerable to detention and deportation. Permanent residents who commit even minor crimes may be deported. TPS* beneficiaries, no matter how long they have lived in the U.S., may find tomorrow that their home country is no longer designated for TPS and that they must leave or face deportation.


Important Information to Note

Some information in the handbook may discuss terms with which you are unfamiliar. In some cases, the handbook pulls this information out in a box marked with a  that provides more detailed information about that particular term. For example:



***What's TPS?**

Temporary Protected Status (TPS) is a temporary immigration status granted by the Secretary of Homeland Security to eligible nationals of certain countries that have been designated as TPS countries. The idea behind TPS is that the conditions in a TPS country are so dangerous, due to ongoing conflict, natural disaster or other extraordinary and temporary condition, that its nationals that are temporarily in the United States cannot safely return home. A person that was out of status prior to receiving TPS that did not obtain any status while his/her country was TPS designated will become out of status once more, upon the termination of the TPS designation.

There are many choices facing families dealing with the detention or preparing for the deportation of loved one. All choices carry risks; however, the handbook highlights some of the more common concerns that should be considered. The handbook uses a  to alert you to specific concerns.

Financial Concerns v. Your Immigration Case

The fact that all noncitizens are vulnerable to detention and deportation does not mean that you should give up on or ignore your immigration case. The Handbook does not deal with the specifics of how you can fight your case. You and your immigration attorney are responsible for fighting your case. However, some of the financial concerns addressed in the Handbook may affect the decisions that you and your attorney make in your immigration case. You should talk to your immigration attorney about the financial implications of different options in your case. You will have to think about what weight you give financial concerns compared to other concerns. Also, the Handbook does try to address how your financial concerns may intersect with your case in the final stages of your case or if your case goes on after your deportation.

The Handbook is accurate as of April 2008

****Check with Relevant Companies for Updates****

Quick Find of Financial Considerations Covered by the Handbook

This Quick Find will point you to issues addressed by the Handbook that might be useful in starting to address the financial implications of the detention or deportation of a loved one.

❖ Assets

- ✓ Do you have a bank account?
 - What kind of bank account?
 - How will you manage your finances from detention or once you are deported? Go to the chapter on Managing Your Bank Account.
- ✓ Will you need help from someone outside of detention or who is still in the U.S.? Go to the chapter on Power of Attorney.
- ✓ How will you pay your bills? Go to the chapter on Maintaining your Credit and the chapter on Forwarding Your Mail.
 - Are you concerned about the bond money someone posted for you? Go to the chapter on Getting Bond Money Back.
- ✓ How will you protect your credit? Go to the Chapter on Protecting your Credit.
- ✓ How will you support yourself during the transition to your home country? Go to the chapters on Receiving Money in Detention, Managing Your Bank Account, Traveling with Money, and Maintaining your Credit.
- ✓ Are there any other assets (other personal property or cash) that need to be considered?
 - Do you want to gift these items?

- Will you take items with you? Go to the chapter on Traveling with Money.
- Do you need to arrange for certain items to be mailed to you? Go to the chapter on Receiving Packages in Detention.
- Do you need to budget for the cost of shipping these items?

❖ Government Benefits

- ✓ Do you receive government benefits now or are you expecting to receive benefits, such as social security, in the future?
- ✓ Will detention or deportation affect that? Go to the Chapter on Social Security Benefits and Detention and the chapter on Social Security and Deportation.
- ✓ Will your detention or deportation affect whether your family members are entitled to government benefits? Go to the chapter on Maintaining your Credit and Social Security and Deportation.

Supplemental Checklist

The Supplemental Checklist points you to other issues that may come up when a loved one is facing detention or deportation. These issues are not covered in the Handbook, but may affect you just as much and are important to keep in mind.

❖ Housing

- ✓ In whose name is the mortgage or lease?
 - Does this need to be altered?
 - What steps need to be taken to alter this? Go to the chapters on Maintaining your Credit; Power of Attorney.
 - Who will continue making payments to avoid eviction or foreclosure?
- ✓ Can the family continue to afford the current housing?

- Assess a new monthly budget without the income of the loved one facing detention or deportation – does the family need to consider moving, finding an additional roommate, etc?

❖ Childcare

- ✓ Will the family need to alter their current childcare arrangements?
 - What are the financial concerns of finding alternative childcare arrangements?

❖ Transportation

- ✓ If the family owns a car, under whose name is the title, registration and insurance?
 - Do any changes need to be made to this?
 - What changes need to be made?

❖ Healthcare

- ✓ If the family has healthcare through the employment of the loved one facing detention or deportation, what steps does the family need to take to stay covered – temporarily and long term?
 - Is there short-term coverage available while seeking a long-term solution?
- ✓ Will you or any of your family members need counseling to help manage the stress of family separation due to detention or deportation? Are these services available for free somewhere (like at school for children or church for adults)? Are they covered by your insurance? How much would it cost to pay out-of-pocket?

- ✓ Do you need to take a supply of prescription medication with you? Plan for these additional costs. As an additional, non-financial consideration, make sure to know the chemical compound of your medication, so that you can fill prescriptions abroad. Many medications are available elsewhere, but have different names. Knowing the chemical compound may make it easier to identify your medication abroad.

❖ Union or Company Pension

- ✓ What benefits does the loved one facing detention or deportation have through union membership or a company pension?
 - Can s/he access these benefits once leaving the country?
 - Can family members access these benefits?
 - Is there paperwork that can be completed before his/her departure that will alleviate the burden of the process down the road?

❖ Continued Tax Liability

- ✓ Does the loved one facing detention or deportation have income or property on which s/he must pay taxes?
 - Make sure the necessary documents are available.

2. Managing Your Bank Account

Summary

You have various options for managing your finances during detention or deportation. Options discussed in this section include: 1) opening a bank account, 2) turning an existing account into joint account, 2) closing your account, 3) transferring all funds to another account, 4) keeping your U.S. account, and 5) online banking.

Each bank has specific rules and procedures. The Handbook provides general information, but you need to follow up with your bank to find out exactly what you need to do. Remember to keep all of your bank information together: your account numbers, customer service numbers, branch information, checks, etc.

Managing your bank account needs special attention when you are in detention or deportation because they make it so much more difficult. You may also need to provide proof that is difficult to get a hold of in detention or from abroad. Some banks may also try to require you to appear in person to make changes to your account and this is not possible when you are in detention or if you are deported. This section will help you to identify those issues, try to start addressing them, and choose what solutions are best for you.

Since each bank is different, you will need to call your bank to discuss what steps need to be taken to manage your account the way you want.

- Before you call, plan out what information you need from the bank and the questions you need to ask.
- During the call, do not be afraid to ask follow up questions, to take a minute to think through their answer, or to think aloud through your problem. Banks are used to answering routine questions and the help you need may require more elaboration than they are used to.
- Also, be wary of answers that seem too easy. Sometimes customer service people focus on one part of your question and ignore other important issues you are concerned about. One idea is to repeat your understanding of their answer and double check that your understanding is correct.

Sample conversation:

I want to know more about _____. You may need to know more about my situation. (Explain if where you are located, if you expect to be able to visit the bank personally, if you expect to be detained, if you expect you might be deported, the country you will be deported to, etc.). I need some information to help me prepare for these changes.

Sample questions:

Can you explain the process for (closing my account, transferring my funds, adding a name to my account, etc.) to me? What will I need to do? What will I need to submit? Do I need to do anything in-person? Is there anything that I need to do that can only be done in the U.S. (notarizing, U.S. ID only)? Are there any transactions that I will not be able to perform if I cannot appear in person? Are there any alternatives? Can you think of any other problems someone in my situation might have?

OPTION 1: Opening a Bank Account

Opening a bank account may be the first step for you in managing your finances to prepare for detention or deportation. You may be opening a bank account because in the past you have mostly transacted in cash, you use check-cashing services, or because you need a more secure way to manage your finances now that you are facing detention or deportation.

You will usually need to apply in person to open a bank account. Although many banks permit citizens to open an account by applying online, many do not let noncitizens or people without a social security numbers (SSN) to apply online. If you are in detention, because noncitizens must open bank accounts in person, you will not be able to open a bank account—it is too late.

When you go to the bank in person, you should be able to open a bank account even though you are a noncitizen and even if you do not have a social security number. The law requires that banks ask for your name, date of birth, address, and for an identification number, like a SSN. The bank will also probably want proof of address (like a phone or electrical bill).



Know Your Rights: What If I don't have an SSN?

The bank or other people may tell you that you must have an SSN to open a bank account because of the law. That is false. Under the law, you only need an identification number. That number could be:

- An Individual Taxpayer Identification Number from the IRS or

- The identification number from a Foreign or U.S. government-issued ID such as a passport, consular ID, or other identification card.

Some banks may require more, but that is bank policy and not the law. Other banks have different policies. Also, you may have to say that you are a noncitizen, but you can and should decline to reveal your immigration status beyond that.



The Patriot Act and Banking: Know Your Rights!

The Patriot Act requires banks to maintain records of accounts in the U.S. held by noncitizens. The bank has to verify your customer identity through the “Customer Identification Program” (CIP) and compare it to a list of know terrorist. Providing an ITIN or an identity number from a foreign or U.S. government-issued ID is good enough for the CIP. You do *not* have to provide a SSN. Fingerprints are not part of the requirements of the Patriot Act so if your bank tries to make you get fingerprinted, you should refuse.



What is an Individual Tax Identification Number?

An Individual Tax Identification Number is a number issued by the Internal Revenue Service (IRS) for people who do not have a social security number and are not eligible to get a social security number so they can comply with their legal obligation to file taxes. You need either an SSN or an ITIN to file taxes. ITINs are only issued to individuals filing tax returns or who provide proof that they are opening an interest-bearing bank accounts. An ITIN does not change your immigration status and may not be used for work purposes.



Concerns About ITINs

There is a law that IRS cannot share your ITIN information with other government agencies, except if it is ordered by a court. It is also IRS policy not to share information because they want people to pay taxes. There is no guarantee that the law or policy will stay the same for agencies (for example, the law could change to make IRS turn over ITIN information to Immigration). Even now, IRS does share information to the agency that investigates terrorism. Also, there have been allegations in the past that tax investigators improperly targeted people with ITINs for investigation.

In sum, getting an ITIN could cause you criminal or immigration problems. But, not filing taxes may also cause you immigration or criminal problems. For example, the government may try to use the fact that you don't file taxes to say you do not have good moral character in your immigration case and not filing taxes is a crime. Another concern is that a tax preparer or *notario* might improperly claim the Earned Income Tax Credit (EITC), which has been a common tax problem for noncitizens due to the fact that you *must have a Social Security Number to legally claim the EITC.*

This section does not explain the practical steps for applying for an ITIN because you need individualized help. The application process for an ITIN is a little tricky, the tax rules for the EITC are complicated, and you need to assess your individual risks, so help is a must!

The National Community Tax Coalition can refer you to free tax and ITIN help in your area. Their phone number is (312) 252-0280 and their website is <http://www.tax-coalition.org/programs.cfm> Also Volunteer Income Tax Assistance (VITA) sites may be located through the IRS at 1-800-TAX-1040 (1-800-829-1040).

Local organizations that may assist you with ITIN numbers include:

- ❖ Lower East Side People's Federal Credit Union: 2 Locations
 - Main Branch: 37 Avenue B, New York, NY 10009; Phone: (212) 529-8197
 - Harlem Branch: 2052 Adam Clayton Powell Jr. Blvd., New York, NY 10027; Phone: (212) 222-0328
- ❖ Food Change: 1 Main Location with 12 tax preparation sites located throughout all 5 boroughs
 - Food and Finance Center: 284 St. Nicholas Avenue (between 124th and 125th Streets), New York, NY 10027; Phone: (212) 665-8747

OPTION 2: Making your Account a Joint Account

Making your account a Joint Account is easiest before you go into detention. You will choose a close family member or friend to share the account with you. This could be a good option for you if someone will remain in the U.S. who you trust to help you manage your finances. This is also a good option if your financial ties to the U.S. will continue even when you leave the U.S. (some people may continue to receive pension payments or other types of payments or continue to make payments, like credit card bills or mortgage payments, even though they are in detention or are no longer in the U.S.).

Practical Steps

Both of you must then go to the bank and make the arrangements. Some banks will allow you to make a request by phone and then they will send you paperwork in the mail. This is a much more time intensive process and can take up to a month. However, this may be your only option if you are already in detention. Call your bank for specific details.



Concerns about Joint Bank Accounts

- A joint account means that the other person on the account will have *unrestricted* access to your money.
 - This concern is especially relevant for people facing detention or deportation. The sad fact is that many otherwise strong and loving relationships are strained by detention and deportation. This is just something to keep in the back of your mind when you make your

plans—it also underscores why it is so important to fight your detention and deportation!

- Money in the account could be taken by the other person's creditors or other persons with legal claims to his/her money.
- The other person on the account (rather than your heirs) will automatically get all of the money in the account if you die.

OPTION 3: Closing your Account

Closing your account means that you will no longer do business from the account. You will not be able to write checks from the account, use a debit card that is linked to the account, have money directly withdrawn from that account (this is how some people pay their bills) or have money directly deposited to that account (this is how some people get their government benefits or paycheck) anymore.

Closing your account might be a good option if you do not have someone who will remain in the U.S. that can help you manage your account. It is also a good option if there is really no point in keeping a U.S. account. An advantage of this option is that you will not have to deal with the difficulties of managing your bank account from afar—once you successfully close your account, that is.

What will happen to the money I have left in the account?

You should tell the bank how you want them to release the money you have left in your bank account. Again, bank policies are different, but the usual options are check or transfer.

Check: If you close your bank account, the remaining balance will usually be sent to you via check. The check can only be made out to the account holder, you. If you are already deported,

cashing the check may be difficult and time intensive. For example, you may have to open a bank account in your home country and then wait forty-five to sixty days for the check to clear. However, you will eventually be able to access that money.

Transfer: You could also arrange to close your account and transfer your money to a new account in your home country. The advantage of this is that you will not be stuck with a check that is difficult to cash. The disadvantage is that it may take awhile for you to get a bank account in your home country because of the other things you may be taking care of, like finding room and board or a job. Try to call your bank and find out what this process will entail before you are deported. Please note, some banks may have high transfer fees. You should inquire about these fees before deciding to make a bank-to-bank transfer.



You should call your bank for specific details, but below we provide an example of how the process works for particular banks. This does not mean that we endorse those banks or that those banks are the only banks that would allow you to choose this option. Your bank will have its own process for closing your account. The information below will just give you an idea of what the process is generally like. Also, this information is provided by the bank itself. As many people have often experienced, the way a company says a process works is often very different from the way the process actually works.

REAL WORLD EXAMPLE: Closing your Account with Bank of America (According to a Customer Service Representative)

- Send a notarized (go to the Power of Attorney chapter for an explanation of notaries) letter of intent to close your account with the account holder's name, address, contact phone number, brief description of reason for closing account, account holder's social security number, account number, debit card number, or other information to assist with locating the account.
- Include in the letter instructions for releasing the remaining funds, address for mailing the remaining funds by cashier's check.
- Mail letter via certified or express mail. Request delivery confirmation to:

RESOLUTION SERVICES AND SUPPORT DEPT.

BANK OF AMERICA

FL 1-300-02-07

4109 GANDY BOULEVARD

TAMPA, FL 33611

REAL WORLD EXAMPLE: Transferring All of Your Money, Suggestions Provided by Citibank (According to a Customer Service Representative)

You may be able to transfer all of your funds to another account either online or by writing a check to someone else to deposit in their account. You could also write a check to yourself and deposit it into a new account in your new place of residence. Again, it may take some time (anywhere from 30-60 days) for the funds to become available.

OPTION 4: Keeping your U.S. Account Open

You may decide that you want to keep your U.S. bank account. This option is similar in some ways to creating a joint bank account. You will want to consider this information if you decide to create a joint bank account, but this information is also helpful if you will be managing your bank account independently.

As with the joint bank account option, you may decide that keeping your U.S. bank account open is the best option for you because your financial ties to the U.S. will continue even when you leave the U.S. You may also have good prospects for returning to the U.S. soon because your case is on appeal and you have a very good chance of winning or you may be able to return on a new visa and are not barred from returning to the U.S. or that bar is very short (for some people who are deported, the bar is only 3 years, for example).

If you choose to keep your account open, you can access cash from ATMs anywhere in the world. You can check with your bank and see where they have ATMs or partner-bank ATMs. You may also ask your bank to waive extra ATM fees they may charge you! Your family may continue to deposit funds into your account and you can withdraw cash from the ATM. There are daily limits to the maximum amount of money you can withdraw each day from an ATM.



Concerns with Keeping your U.S. Account Open

- You should check with your own bank about its policies for inactive accounts. Some banks charge high monthly fees that may continue accruing in your absence. It is always best

- to contact your bank directly to find out the consequences of keeping your account open during an indefinite absence.
- Many banks charge expensive fees when you withdraw cash from an ATM in a foreign country. Your bank may charge you an expensive fee even if you are withdrawing money from your own bank's ATM or a partner-bank's ATM. The bank justifies this because your account is in the U.S. and you are withdrawing money in a foreign country. For this reason, it may be a good idea to make larger withdrawals less frequently, provided you have a safe place to keep cash. You will only get charged the fee per transaction, so fewer withdrawals mean fewer fees. You may be able to get your bank to waive these charges; you should ask your bank beforehand. You may also pay lower fees at partner-banks. Look at the logos on the back of your card and look out for those logos at banks abroad.
 - Some banks also play with the exchange rate or charge fees for changing money from one currency to another. This means you will lose money when they change your money in your account from U.S. dollars to the currency of your home country when you withdraw money there.
 - If you choose this as an option, you must make sure that you have your debit card in hand. You may request a new card be sent to you at your new address, but it may take several weeks to arrive.
 - U.S. banks may put a "red flag" on your account or freeze your account when transactions start coming in from your home country. The bank does this because they assume that someone is fraudulently using your card in another country. To prevent your account from being frozen when you want it to remain open, let your bank know ahead of time that you will be permanently relocating to a foreign country and that they should expect to see transactions from that country. This is also good to point out in a letter that you can include when you file change of address forms so that your change of

address to a foreign country does not raise red flags either; explain your changed situation and explain that it will be long-term.

- On another issue related to fraud, make sure your bank knows that you would like to receive your bank statements and other communications at your new address in your home country. Continuing to receive mail at your old address in the U.S. is an easy way for someone to steal your identity or your money. Eventually, it is a good idea to have all of your mail forwarded to your new address. See Chapter 6.

OPTION 5: Online Banking

Online banking might be a good way for you to manage your money if you will have consistent access to the internet despite your deportation. Online banking is probably not a possibility for people in detention without the assistance of “outside” family members. Of course, one of the biggest difficulties with managing your bank account when you are in detention or have been deported is that you cannot appear in person at the bank to perform transactions. Online banking can substitute for in-person appearances in many instances. You may also be able to set up direct deposits or withdrawals online, which could help you keep up on your bills while you are in detention or are abroad.



Concerns with Online Banking

- There may be some transactions you can only complete in person or in writing. This is something you will need to discuss in detail with your bank.
- Also, secure or consistent internet access may be a problem in your home country. Will you be using internet cafes or

other public computers? Make sure your security and privacy will be protected on those computers. You can ask about security and privacy at the places where you will use the internet. Another good idea is to log out always. Never allow the computer to save your log on ID or password or “remember” you. These options are often given in a pop up window when you use online banking features. You should make your selection carefully when you are using public computers. You can also ask how often browsing history, cookies, or other temporary files are deleted and if you can delete them yourself when you are done using the computer. You can ask the place where you use the internet for help. Do not be hesitant. This is important and you should take the time you need to protect yourself.

3. Power of Attorney

Summary

You may need to take actions when you are facing detention or deportation that you cannot take because of your current location or situation. For example, some financial actions or legal actions must be executed in-person, which may be difficult or impossible if you are in detention or have been deported. This is especially true for people with assets or property.

Designating a trusted friend or family member with Power of Attorney may allow you to take action despite your detention or deportation. Power of Attorney is a legal term that describes a relationship created between one person and another that s/he has chosen to have authority to make decisions on his or her behalf.

When creating a power of attorney, you can limit the scope of this decision-making authority; however, you are bound by and held accountable for decisions made by the person you appoint to have power of attorney on your behalf. For example, if you designate someone power of attorney to sell your car, that person sells your car on your behalf. The person you designate is required to follow your direction about the terms of the sale. For example, if you instruct the person to sell your car to your brother for \$1,000, but that person does not follow your direction and instead sells it for \$800 or sells it to his friend, you may be stuck with the sale anyway or have difficulty getting it fixed.



Practical Steps

New York State has made designating someone as Power of Attorney very easy by providing forms that you can fill out. The form must be notarized.

Notarize means that you sign the form in front of a notary. A notary is someone who checks to make sure you are who you say you are and stamps the document. Unlike in many foreign countries, in the U.S. notaries (or *notarios*) cannot give legal advice. In New York State, notarizing should be free at the clerk's office in each county.

While you do not need to hire an attorney to execute the power of attorney, you may want to consult with one.

The New York State Office of the Attorney General can provide you with all of the information you need to create the Power of Attorney.

Visit <http://www.oag.state.ny.us/seniors/pwratt.html> or call the Executive Offices (regional offices will just refer you to these offices):

Albany:

The Capitol
Albany, NY 12224-0341
(518) 474-7330

New York City:

120 Broadway
New York, NY 10271
(212) 416-8000

4. Maintaining your Credit: Making Sure Your Bills Get Paid

Summary

Detention and deportation can affect your credit in a number of ways. It is difficult to pay your bills when you are in detention or have been deported. This is true because you might not be working due to detention, your immigration case may interrupt your work, you may be looking for a job in your home country, or you may make significantly less money in your home country. It is also physically difficult to pay your bills because of the mail situation in detention or abroad.

You will need to continue paying your debts even though you are in detention or have been deported. You must still pay your bills such as mortgages, credit card bills, car payments, or legal payments like child support or restitution.

The consequences of not paying your bills are numerous. The fact that you have not paid your bills may harm your family members (for example, your children's ability to get student loans or your spouse's credit rating, if you and your spouse have joint accounts). If your immigration case is ongoing, non-payment of debts may look bad for you if you are able to get a hearing about the unfairness of your deportation. Non-payment of debts may also make things hard for you if you want to return to the U.S. someday (for example, when the 3 or 10 year bar on re-entering is over and someone is able to petition for a visa for you). You will still face those bills when you come back. Your credit will be hurt by not paying your bills. Also, the government could try to make your family pay a bond because you seem like a potential financial burden on the government.



Practical Steps

Review Chapter 2 about Managing your Bank Account.

Review Chapter 6 about Forwarding your Mail and having someone monitor your mail.

You may be able to get some of the companies to which you owe money to reduce or change your payments because of your situation. Explain to them honestly that your financial situation has changed and that continuing to try to pay at the rate you have been paying may make it so that you cannot pay at all. Some companies are willing to work with you so that you can keep meeting your payments so that they get their money. Also, your changed situation may make you eligible for reduced payment plans (for example, some hospitals will reduce your bill if you can show them you do not earn very much money). If you are paying bills on behalf of your loved ones, they can also try to call the companies that they owe money and explain how the loss of your income and your contribution will affect them, asking to change the way a bill is paid or reduce the amount.

You may not be able to afford things that you could afford before. This means that you will need to talk to your mortgage company, for example, or the car dealership and discuss what happens when people can no longer afford to make payments. This may mean that you will have to downsize in housing or downgrade cars and that you may still owe some money, but you will probably not be responsible for the full amount you owed before.

You should also work out a new budget based on your changed income and have your family, if they will remain in the U.S., do the same. Try to cut out any extras. Also try to plan for traveling expenses (passport renewals, plane tickets, lost wages if

your loved ones do not get vacation pay) and communication expenses (phone cards, internet time, a laptop).

Consider whether your family's changed financial situation will make them eligible for government benefits that they were not eligible for before. Think about what government benefits they will no longer be receiving due to your detention or deportation. For example, you cannot receive SSI anymore if you are deported.

What is credit?

Credit allows you to borrow money. Your credit rating grades whether you are a responsible borrower. The credit bureaus are companies that keep track of whether or not you have paid your bills. Based on this information, they rate your credit and share your credit rating with employers or lenders or banks. The three credit bureaus are Equifax, Experian, and Transunion.

More Help on Maintaining Your Credit:

Credit NYC Financial Justice Hotline: (212) 925-4929.

Mortgage/Foreclosure Foreclosure Prevention Hotline at South Brooklyn Legal Services, at (718) 246-3279.

Everything Else and More!

<http://www.nedap.org/resources/consumer.html>

5. Protecting your Credit

Summary

Another common credit problem that people experience due to detention and/or deportation is identity theft. Some people have been released from detention facilities and won their cases, only to find that they have had their identity stolen and credit history ruined. While there are many possible explanations for why this happens—officials have access to lots of usually private information while you are in detention or are being deported, you may have given private information to untrustworthy attorneys or *notarios*, or relationships with family members take a bad turn—a big contributing factor is the fact that you will not be able to monitor your credit and expenses like you did before. While it is possible to recover from identity theft, it is much easier to monitor and protect yourself before your credit is compromised. The following options largely reproduce the suggestions of the Federal Trade Commission. Option 1 through 5 deal more with preventing identity theft before it happens whereas Options 6 through 8 focus more on remedying identity theft when it has already happened.

Please note that federal laws explicitly provide consumers with numerous rights as victims of identity theft or fraud. Most importantly, once you report the identity theft, you cannot be held liability for subsequent unauthorized charges. Also, a victim's liability cannot exceed \$50.

Neighborhood Economic Development Advocacy Project (NEDAP) runs a NYC Financial Justice Hotline and may be able to information or referrals for your specific questions: (212) 925-4929.

OPTION 1: Monitoring your Bank Account

Review Chapter 2 about Managing your Bank Account. You should read your financial statements closely and regularly.

OPTION 2: Monitoring your Mail

Review Chapter 6 about Forwarding your Mail and having someone monitor your mail. Pay special attention to the part about how piles of unanswered mail make it easy for someone to steal your identity.

OPTION 3: Monitoring your Credit

This is a good option for everyone. Monitoring your credit will allow you to detect identity theft and begin to resolve it soon after it happens and, unlike option 6, it will not prevent you from using your credit yourself.

Practical Steps

Watch for signs of identity theft, including:

- New accounts OR new debt on old accounts *that you cannot explain*
- Failing to receive bills by mail
- Receiving credit cards or bills for credit cards for which *you did not apply*
- Contact by debt collectors or creditors for things *that you did not buy*

Request a free copy of your credit report once every 12 months from *each* of the major nationwide consumer credit reporting companies. Visit - www.annualcreditreport.com; call - 877-322-8228; or, contact - Annual Credit Report Request Service, P.O. Box 105281, Atlanta, GA 30348-5281. Once you have received your credit report, review it and look for the signs listed above

and if information on your credit report is wrong – including personal information.

OPTION 4: Putting a Fraud Alert on Your Credit File

Putting a fraud alert on your account is a good idea if you suspect you may be at risk for identity theft. You may think you are at risk because you are going into detention, are facing deportation, or have been deported, or because you have seen some of the warning signs outlined above. There are two types of fraud alerts, a 90 day alert and an extended alert. Putting out a 90 day fraud alert usually means that people will have to provide more information than usual to open new credit in your name. Putting out an extended alert means that new creditors must actually contact you or meet with you in person to open new credit in your name. Like freezing your account, below, putting out a fraud alert does not prevent you from fraud in your existing credit accounts and it does not prevent someone from opening a new account with services that do not require credit reports or receive fraud alerts (for example, bank accounts, cell phone services, and telephone services often do not check credit reports).

Practical Steps

To put out a fraud alert, contact one of the three major credit bureaus (they will forward your alert to the others) at:

- Equifax: 1-800-525-6285; www.equifax.com; P.O. Box 740241, Atlanta, GA 30374-0241
- Experian: 1-888-EXPERIAN (397-3742); www.experian.com; P.O. Box 9532, Allen, TX 75013
- TransUnion: 1-800-680-7289; www.transunion.com; Fraud Victim Assistance Division, P.O. Box 6790, Fullerton, CA 92834-6790

OPTION 5: Freezing your Credit

If you are deported or think you will be in detention a long time, you may choose to freeze your credit file. Freezing your file makes it inaccessible to potential creditors, even if someone has your name and Social Security number. Freezing your credit means that no new credit can be opened under your name because most creditors require a credit report to open new credit.

Just like an identity thief will not be able to open a new account in your name, however, you will not be able to open a new account either. Freezing your credit is not the best option for people who will still be opening new lines of credit. This may be true for people who are not in detention, who want to get credit for their family to use, or who may be fighting their immigration case for a long time.

Also, employers or other people will not be able to access your credit report while it is frozen or it may be hard to do so (requiring a court order for example). You can lift your freeze for a specific period of time to a specific third party that you name. You will do that by following the same steps outlined below plus explaining that you want the freeze lifted and for how long and to whom.

Even if you freeze your account, you will still be able to use existing accounts and pay your bills with them. Freezing your account will not help you if someone has stolen your identity in relation to an existing account. For example, if someone has stolen your credit card (or is using it in an unauthorized way), they will still be able to do so even if you have frozen your credit. To end or prevent a situation like that, you will have to cancel your card. You will have to dispute the unauthorized charges to get your money back or not be responsible for the bill. Both canceling and disputing is done with your creditor, not the credit

bureaus. In those circumstances, you need to contact your creditor.

Freezing your account is free the first time. There may be charges for additional freezes or for lifting freezes.



Practical Steps

To freeze your credit, send a letter to each credit bureau:

- Equifax Security Freeze: PO Box 105788, Atlanta, GA 30348
- Experian Security Freeze: PO Box 9554, Allen, TX 75013
- TransUnion Security Freeze: PO Box 6790, Fullerton, CA 92834

Include in the letter the addresses where you have lived for the previous 5 years, proof of current address, and a photocopy of a government-issued identification card. Explain that you want to freeze your credit.

Send the letter by certified or overnight mail.

Sample Freeze Letter (see <http://www.consumersunion.org>)

[Date]

[Credit Bureau]
[Address]

Dear Credit Bureau:

I would like to place a security freeze on my credit file. My name is _____. My former name was _____. My current address is _____. I have had multiple addresses over the past five years. My former addresses were _____. My social security number is (if applicable) _____. My date of birth is _____. Enclosed you will find photocopies of a government-issued identity card and proof of current address.

Sincerely,
Your Name

OPTION 6: Disputing Charges/Accounts

You should be monitoring your bank statements, accounts, and other financial statements and accounts. If you notice any of the warning signs listed above in your existing accounts, you will need to dispute the charges.

Practical Steps

When you notice charges on your account that you did not make, you need to call the company where you have your account and speak with a customer service representative in the fraud protection department. This may be difficult if you are in detention and a loved one cannot call about an account in your name alone. This might be a good reason for sharing accounts like this (but there are disadvantages, go to the chapter on Managing Your Bank Account, option 2, Joint Accounts).

Many banks and companies have standardized procedures for disputing charges and may have a formal fraud dispute form. Even if the company does not have a set form, you can still formally dispute fraudulent charges using the sample letter below. When sending either the dispute form or letter, mail it to the address given for the company's "billing inquiries" department. Or, mail it to a specific address provided by your bank. **DO NOT** send dispute letters to the address where you send your payments.

Remember, as a victim of identity theft or fraudulent charges, you have rights! Your liability, by law, is limited; however, you need to remain diligent and follow up with banks and credit agencies after you initially dispute charges or report fraudulent charges.



Concerns about Disputing Charges

Some banks only give you 10 days to formally dispute charges, once you have alerted them to the fraudulent charges. A detainee will be in a very tough situation. Make sure to keep track of the number of days that have passed and fax or mail the dispute form or letter no more than 10 days from the time you first report the fraudulent charges. Be prepared to send in a letter on your own if you have not received the company's fraud dispute form in time.

Sample Dispute Letter

(<http://www.ftc.gov/bcp/edu/microsites/idtheft/downloads/dispute-letter-for-existing-accounts.doc>)

[Date]

[Your Name and Address]

[The Company's Name and Address]

Dear [Company's Name]:

I am writing to dispute a fraudulent [charge/debit] on my account in the amount of \$ _____. I am a victim of identity theft, and I did not make this [charge/debit]. I am requesting that the [charge be removed/the debit reinstated], that any finance and other charges related to the fraudulent amount be credited, as well, and that I receive an accurate statement.

Sections 605B, 615(f) and 623(a)(6) of the Fair Credit Reporting Act (FCRA) detail your responsibilities when someone has notified you of identity theft.

Please investigate this matter and correct the fraudulent [charge/debit] as soon as possible.

**Sincerely,
Your Name**

After you have resolved your identity theft issue with the company holding your account, it is very important to have documentation of the resolution to prevent further problems. Ask the company for a letter that states that the resolution, for example, that the disputed account has been closed or that the company has discharged the fraudulent debt. Make copies of this letter and store it in a safe place. This letter is very important to prove errors on your credit report if this same fraudulent debt reappears or if you are contacted by collection agencies or companies to repay the fraudulent debt.

OPTION 7: Canceling a Tampered Account

If you have an account that shows charges or debits that you have not made, your account has probably been “tampered” with and you will likely want to close this account. Again, a detainee will be in a very tough situation. You need to call the company where you have the account and speak with a customer representative. You may want to speak directly with an identity theft specialist, if the company has one. In any case, you will want to find out how you may cancel the account. The customer service representative may give you some options. For example, the company may be able to cancel your credit or debit card or change your card number. If all of your account information, not just the card number, has been stolen by an identity thief you will need to cancel the entire account. The customer service representative should be able to tell you if the company can cancel the entire account and simultaneously open a new account, transferring existing funds or debts into the new account.

Similarly, if an entirely new account has been opened in your name by an identity thief, you can call the customer service representative of that company to file a dispute and close or freeze the account. You may also want to file a report with the police and receive an “Identity Theft Report” from the police. This report can be submitted to the company and it may make the process of disputing claims easier. If you bypass the police and file a dispute directly with the company, you may want to submit an identity theft affidavit to the company. The FTC provides an affidavit on its website, at <http://www.ftc.gov/bcp/online/pubs/credit/affidavit.pdf>. Ask the company if they accept the FTC’s affidavit. If it doesn’t, the company will probably have its own and you can ask the representative to send it to you. Please note the time concerns addressed above. You may need to return this form within 10 days of filing your complaint.

OPTION 8: File a Complaint with the FTC and/or the Police

Filing a report with the police and then providing companies with an Identity Theft Report will give you the greatest protection. For example, if a bank or credit card company has already reported unauthorized accounts or debts on your credit report, an Identity Theft Report will require them to stop reporting that fraudulent information.

By filing a complaint with the FTC, you help law enforcement track down identity thieves and stop them. You can be referred by the FTC to other government agencies and companies for further action. You will also be helping them investigate companies for violations of the law.

You can also provide a printed copy of your online Complaint form to the police to incorporate into their police report. The printed FTC ID Theft Complaint, in conjunction with the police report, can constitute an Identity Theft Report and entitle you to certain protections. This Identity Theft Report can be used to (1) permanently block fraudulent information from appearing on your credit report; (2) ensure that debts do not reappear on your credit report; (3) prevent a company from continuing to collect debts that result from identity theft; and (4) place an extended fraud alert on your credit report.

Practical Steps

You can file a complaint with the FTC using the online complaint form

([https://rn.ftc.gov/pls/dod/widtpubl\\$.startup?Z_ORG_CODE=P_U03](https://rn.ftc.gov/pls/dod/widtpubl$.startup?Z_ORG_CODE=P_U03)) This is a hard link to type in. Alternately, you can go to <http://www.ftc.gov/bcp/edu/microsites/idtheft/> and click on the “file a complaint with the FTC” link on the right-hand side; or call

the FTC's Identity Theft Hotline, toll-free: 1-877-ID-THEFT (438-4338); TTY: 1-866-653-4261; or write Identity Theft Clearinghouse, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580. Be sure to call the Hotline to update your complaint if you have any additional information or problems.

6. Forwarding Your Mail

Summary

Monitoring your mail is your best policy. If you are in detention or have already been deported, a loved one should monitor your mail for you. If your immigration case is still ongoing, you will usually have a very short amount of time to respond to any notices you receive. You should contact the immigration court and ask them to change your address, but with the amount of time it takes to receive mail in detention or internationally, the deadline may pass before you even get your mail. That is why monitoring your mail is your best policy when your case is ongoing. (Also, rather than relying on mail alone, following up directly by phone with the Executive Office for Immigration Review on matters concerning your case is a good idea. The number for Case Information is 1-800-898-7180, or, for persons with hearing impairments, dial 1-800-828-1120.)

Eventually, when your immigration case is over, you will want to forward your mail. Forwarding your mail is important for a number of reasons. First, it is hard to keep up on your finances and other valuable communications when you do not get your mail. Also, as outlined in the previous chapter on Identity Theft, many people in detention/deportation experience identity theft. As mentioned in the chapter on Managing your Bank Account, one cause of identity theft may be that people continue to receive mail at an old address and people can easily steal your identity or money with the information from your mail.

Forwarding your mail may not be the best option for you if you have a loved one who will remain in the U.S. who can monitor your mail for you. It may take much longer to get mail when you are in detention or when you are abroad. Also, if you are in detention your address may change because you are transferred to another facility. The same is true for deportation because it might take you awhile to establish permanent housing in your home country.

Obviously, there are many strategies for making sure you get your mail despite your detention/deportation. Why not cover all your bases?

- Send in a change of address (with the immigration court this is mandatory),
- Have someone monitor your mail, AND
- Eventually when quick mail is no longer so important (for example, your immigration case is over), have your mail forwarded.

Even once you send in a change of address form or have your mail forwarded, some mail may fall through the cracks, so it is still a good idea to have someone check on your mail at your old address for a period of time.

Practical Steps

One way or another, you will need to notify the people or companies that send you mail that your address has changed and that you would like to receive your mail at your new address. You will undoubtedly need to give them your old address and your new address. Many companies send change of address forms with

the mail they send you (for example, bills sometimes come with a slip attached for you to fill out). Other companies have a specific form that you must fill out that is not so readily available. These forms may be available online or you may need to call and ask that the form be mailed to you (at your new address). There is a possibility that your change of address to a foreign country will raise a red flag to the company concerning fraud. It is a good idea to call those companies or write a letter explaining that your relocation is long-term and they should expect to see transactions being made in your home country.

Another way to have your mail sent to your new address is to ask the United States Postal Service to forward you your mail.

REAL WORLD EXAMPLE: Some Suggestions from the United States Postal Service (from their FAQ)

If you are moving to an International location, you will need to fill out the Change of Address (COA) form (PS Form 3575) at your local Post Office. You cannot fill out the online form because it is not for international address changes!!

Obviously, going to your local post office is not an option if you are in detention or have already been deported.

If you are in detention, you will need outside help to get a change of address form. Your loved one can ask the mailperson to bring them a COA or a COA can be picked up at the post office. Then, they will need to get that form to you, you must complete it, and then your loved one should get it back to the post office or mailperson.

If you have already been deported, you can write a letter to the old and new Post Office facilities explaining the situation. Provide direction on how and where you need mail forwarded.

The letter should also include as many details as possible. Also, if you go by different names (for example, some people may switch between their father's last name and the combination of their two last names, or some people may use the English spelling of their name for some purposes but not others, or have married names, or sometimes abbreviate) explain that in the letter and list all the names in which you receive mail.

Can someone else fill out the form for me?

Someone can also fill out the form for you, but that person must be your executor, guardian, authorized officer, or agent. For example, your attorney or your spouse could fill out the form.



Concerns with COA Forms

- Submitting false or inaccurate information on the COA form could subject you to punishment by fine or imprisonment.

7. Receiving Packages in Detention

Summary

You may want to send packages to your loved one in detention in preparation for imminent deportation.

It is not uncommon for people to be summarily deported (that means without a hearing in front of a judge) or for deportation to happen sooner than expected. One FFF member was called in the middle of the night and told to bring her loved one a change of clothes and any money she could get together because her husband was being deported that night—when she was expecting him to be released to come home soon! Of course, getting things to their loved ones last minute is not even possible for those people who have had their loved ones sent away to places like upstate New York or Texas.

For those reasons, it is a good idea to know the rules of the detention center where your loved one is being held and to have an “emergency travel pack” sent and available to them beforehand.

Practical Steps

Detention Watch Network (DWN) has a map of immigration detention facilities that may help you locate your loved one and/or find out how to contact the facility to find out what the rules are regarding detainees getting packages or money. The map is available at <http://www.detentionwatchnetwork.org/>

The rules vary at each individual detention center, but in general:

- Prior permission is often absolutely necessary. Otherwise, your package could be confiscated or returned to you with the cost of return mailing being charged to your loved one's account. Permission is usually obtained from your loved one's supervisor.
- Many detention facilities only permit detainees to receive packages if they contain "necessities" for travel or release.
- Some facilities allow detainees to receive a packed suitcase weighing up to 40 pounds.
- Many detention facilities do not permit detainees to receive hygiene products or food from the outside.

Look up the rules for how detainees can receive packages for the detention center where your loved one is being held by calling the detention facility or looking at their website.

Plan out the questions you need to ask beforehand. Potential questions could include:

- Are detainees allowed to receive packages?
- What are they not allowed to receive?
- What are they allowed to receive?
- Are there special rules for sending detainees the things they will need before they are deported?
- Can I pack a suitcase for my loved one?
- What are the limits on the size or weight of the items I send?
- How quickly will my loved one get the package once it arrives at the detention facility?

8. Receiving Money in Detention

Summary

This chapter should be read in conjunction with the previous chapter, *Receiving Packages in Detention*. You may want to send your loved one money while they are in detention either to help supplement your loved one's basic needs while in detention or in order to prepare for imminent deportation.

Do not be caught off guard! Make sure your loved one has enough money in his or her account in detention so that s/he may make the transition to his or her home country with some means for obtaining transportation, food, and shelter. Your loved one may be dropped off on a bus or plane in his or her home country without any relatives in the home country having been notified. He or she may need to obtain transportation from the drop off point, food, and temporary shelter. In addition, it may take your loved one awhile to find footing in the home country. Saving money now and sending it to his or her account in detention could alleviate much suffering in the future.

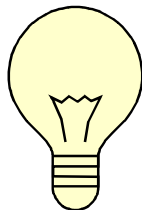
The reality for many families is that no amount of planning will help set aside money for the transition from the U.S. to the home country. Some countries may have resettlement or other social services with which your consulate may be able to help you.

Practical Steps

Look at the previous Chapter, Receiving Packages in Detention for help finding out the rules for how detainees can receive money for the detention center where your loved one is being held. You will then need to call the detention facility or look at their website.

The rules vary at each individual detention center, but in general:

- Detention facilities will only accept certified check or a money order; they will not accept personal check or cash.
- Certified checks or money orders should be made out to the detainee's name.
- Certified checks or money orders are accepted by mail or during authorized visits.
- The money is placed in the detainee's account.
- Your loved one should be issued cash when he or she is released or removed from the detention facility.



Member Tip!

The detention facility may try to issue your loved one a check when they take him or her to be deported. Your loved one probably will not be able to cash a check in his or her home country (you may have to open an account there and even then it will take a really long time), making the check worthless. Tell your loved one to insist that they be given their money in cash! FFF members have successfully resisted being deported until their detention facility could issue them their account in cash. Another option is insisting that they take you to get your check cashed before they take you to the plane or bus.

Other ideas for making sure there is money available for your loved one when he or she is deported:

- Have money wired to someone you trust in the home country (this does not take care of expenses during the travel).
- Have an account opened in a bank in the home country and transfer money to it (again, this will not provide you with money for expenses during travel and immediately upon your arrival).
- Have your ATM card for a bank account that remains open in the United States.
- Open a bank account at a bank that has an affiliate in both the United States and your home country. This may help keep transfer and ATM costs to a minimum.

9. Traveling with Money

If I travel with money, do I have to pay a duty? Is there anything else I should do?

No, you do not have to pay a duty. BUT
Yes, you may need to declare the money if it is \$10,000 or more.

Summary

Many people know the story of Pedro Zapeta, the Guatemalan man who managed to save \$62,000 washing dishes, only to have \$49,000 of the \$59,000 he was taking with him back to Guatemala confiscated by U.S. Customs. The problem was that he did not declare the money he was carrying.

People who are being deported may travel with large sums of money for the trip or to resettle in their home country.

While in some countries it would be a very bad idea to let government officials know that you are traveling with money, in the U.S., you have to report currency or check valued at \$10,000 or more if you are traveling internationally. In the U.S., if you do not declare it, **THEY CAN SEIZE IT!**

Practical Steps

When you leave (or enter) the U.S. you must report monetary instruments (checks or cash) totaling \$10,000 or more.

Reporting consists of filling out a form entitled, "Report of International Transportation of Currency or Monetary Instruments" form FinCEN 105.

- You can get this form online (or ask your supervisor, attorney, or loved one to do it for you) and fill it out beforehand. It is available at:
http://www.fincen.gov/fin105_cmir.pdf
- Or you can get it in person from a Customs and Border Protection Agent ("CBP"). They are usually conspicuously stationed at ports-of-exit, like the airport or bus station from which you will be leaving.



Concerns with Declaring Money

- Please note, the information you give on the FinCEN 105 is reported to the IRS, which could result in a tax penalty if you did not already pay taxes on this money.
- You might also have to declare the money to your home country's customs agents, which could result in more taxes OR theft.
- Declaring that much money may raise red flags to customs agents and get you harassed (either by agents on the U.S. side or the home country side) and subject you to scrutiny about who you are, how you earned the money, etc. Even in the best case scenario, you could get stuck in a longer customs line.

Possible Alternatives to Traveling with large Sums of Money

- Wire the money to a trusted loved one in your home country. Note: wiring fees are hefty; a percentage of what you send.
- Put the money in a bank account and have it transferred to a bank account in your home country. Go to the chapter on Managing your Bank Account for more information.

These concerns about traveling with large sums of money are not meant to discourage you from traveling with some money. It is a good idea to have cash readily accessible for your immediate needs while traveling and when arriving in your home country.

10. Getting Bond Money Back

How and when will the person who paid my bond get that money back?

Summary

Most people have to post a bond in order to get released from detention (“delivery bond”). People also have to post a bond if they receive voluntary departure (“voluntary departure bond”).

The person who posted your bond should get that money back when you are deported or the proceedings against you have ended. You will not get the bond money back, the person who paid it will. Also, if a bail bondsman paid your bond, that money goes back to him, not you.

Your bond money will never be returned, however, if you “breach” your bond. Do not breach your bond if you want the person who posted your bond to get that money back! Breach includes:

- Not showing up for an immigration hearing (even one).
- Not showing at other events where your presence is demanded.
- Not departing the U.S. on or before the date specified in the order granting voluntary departure.

On the other hand, the person who paid should get your bond money back when any of the following events occur (provided you have not already breached your bond):

- You win your immigration case (which means you are granted permanent residence or deportation/removal proceedings are terminated. Administrative closure or stay of proceedings does not count.
- ICE taking you back into its custody.
- You are deported, excluded, or removed.
- You are issued a new delivery or voluntary departure bond.
- You are detained for 30 or more days pursuant, or prior, to a local, state, or federal conviction and ICE is given notice.
- You pass away.
- You present valid proof of your voluntary departure.



Practical Steps

How will I know when and where I am supposed to be present so that I do not breach my bond?

- ICE is supposed to send a notice to the obligor (the person who paid your bond), the idea being that s/he is responsible for making sure you show up.
- You should also be given a notice of your hearing dates, either by immigration officials, by the immigration judge, or by mail. You can also call 1-800-898-7180 and enter your “A” number and listen to a recording that gives your next hearing date and time.

What should I do now to make getting bond money back later easier?

- Keep a copy of all of the paperwork you receive in conjunction with your bond, including
 - A copy of the completed I-325 Immigration Bond Form.
 - The completed original I-305 or I-300 Bond Receipt Form.
- These documents are your proof that the government has made a contract with you and owe you money.

Once my bond gets cancelled because the proceedings against me are terminated or I am deported, or some other event occurs that cancels my bond, how does getting my bond money back work?

- The person who paid your bond should get a “Notice-Immigration Bond Cancelled” letter from DHS Debt

Management Center/Burlington Finance Center. The address is:

Attn: Bond Unit
P.O. Box 5000
Williston, VT 05495

- If you do not receive a letter from them and believe your bond should be cancelled, you should either write to them at the address above or call toll free at (866) 233-1915. There may be additional proof you need to submit that your bond is cancelled. You should ask about that specifically when you write or call.
- You will definitely be asked to mail a copy of the I-325 Immigration Bond Form and the I-305 or I-300 Bond Receipt Form to the address above. It is also a good idea to include a copy of the Notice of Immigration-Bond Cancellation or any other letters you receive from them and your daytime phone number so that they can call you if they have any questions.
- Once you mail them those forms and they receive them, you should be mailed your check.

What happens if I lose those forms?

- Losing forms makes getting your bond money back more of a hassle. At minimum, you will have to complete a Form I-395 (Affidavit in Lieu of Lost Receipt), have it notarized (go to the chapter on Power of Attorney for information on notarizing), and send it, a copy of your photo ID, and three signature samples to the address above. You can also get that form from the Bond Unit.



Concerns with Bail Bondsmen

- If you or a family member cannot post bond because it is too high, you may consider using a bail bondsmen. Although this may be the only option to get a family member released from detention, there are many risks to consider if you choose to use a bail bondsman.
- Bail bondsmen charge a nonrefundable fee to post bail. Some bondsmen will charge an additional fee for every year the money is not returned. Bail bondsmen may ask for collateral and may report failure to pay to credit reporting agencies.
- Immigration bail bondsmen must have a special type of license called a “special-casualty” license. You may contact the New York State Insurance Department Licensing Authority, Licensing Services Bureau at (518) 474-6630 to inquire about a license about a particular bondsman.
- An immigration bond is a contract between the person posting bond and ICE. If you choose to use a bail bondsman, that contract exists between the bail bondsmen and ICE.
- As part of the contract, ICE may contact the bail bondsmen to have the bonded noncitizen appear for a hearing, interview or removal/ departure. ICE tells the bail bondsmen to do this by sending a “Notice to Obligor to Deliver Alien.” You should have an understanding with the bail bondsmen about how s/he will communicate with you if s/he receives such a form!!!! This should be a written agreement!!

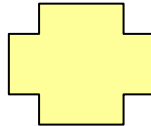
11. Social Security Benefits

Notice:

The Social Security Administration (SSA) runs several government benefits programs, including Social Security retirement benefits, disability benefits and supplement security income (SSI). Each of these programs has their own set of complicated rules that become even more complicated in the context of detention and deportation. For example, anyone, regardless of citizenship, will not be able to receive SSI during periods where that person is outside of the U.S. for more than a calendar month. The handbook focuses on Social Security retirement benefits only, but the information is still very general. You should contact the SSA directly to learn specific information about your individual situation: (800)772-1213.

This Chapter applies to you if you are a:

Noncitizen who has worked with authorization



You currently receive social security retirement benefits or should in the future



This Chapter does not apply if you are:

Undocumented*

*There may be a chance in the future, after receiving a SSN or work authorization, to be eligible for benefits

If you are undocumented, even if you have a tax ID number and have been paying into Social Security, neither you, nor your dependants, will be able to qualify for that money. 42 U.S.C.A. § 402(y). To receive Social Security, you must have a Social Security number. A tax ID number is not sufficient to apply and qualify for benefits.

Summary:

This chapter discusses eligibility for Social Security retirement benefits on your own work record and eligibility for benefits as a dependent on a loved one's record. After discussing eligibility, the chapter discusses limitations on the payment of benefits if a) you are in the United States and b) if you are outside the United States due to deportation or travel (i.e. visiting a deported loved one). Throughout the chapter, concerns about benefits are highlighted.


The intersection of immigration and social security may inform your planning in other ways. It may be even more important to naturalize if you are eligible or to take the steps you need to take to become eligible. If you were not the primary breadwinner in the past, you may begin working now to build up your social security credit for yourself and so your deported dependent can receive benefits based on you. You may also need to correct your social security work history if you worked under the table in the past; this may have tax consequences, however.

STEP 1: Determine Eligibility for Social Security Retirement Benefits

There are two ways to earn these benefits. One way is to become eligible on your own work record. The other way is, once a loved one becomes eligible on his/her own work record, you may become an eligible dependent.

Eligibility on Your Own Record

How do I know when and if I will become eligible on my own work record?

 People who are undocumented or do not have work authorization cannot become eligible for Social Security unless the law gets changed or they change their status. They will need to: 1) become “lawfully present” (see Appendix A), 2) receive work authorization, and 3) be assigned a SSN. Person’s assigned SSN after January 1, 2004 must meet additional requirements to be fully insured.

If you do have a SSN and have worked with authorization, you will become eligible when you meet certain requirements:

- You have to become “fully insured” to become eligible for retirement benefits. Typically, this means that you have worked 40 credits, which means that you have worked about 10 years; however, the Social Security Protection Act of 2004 places additional requirements on certain non-citizen workers whose SSN were assigned after 01/01/2004, including a requirement that the SSN be issued *for work purposes*.
- You have to reach retirement age. You can start to collect early retirement benefits at the age of 62, but the amount you receive starting at 62 will be reduced from what you should expect to receive once you hit full retirement age. The full retirement age spans from the age of 65 to 67, but your actual full age of retirement depends on your specific date of birth. You should consult with the SSA to find out what your age of retirement is/will be.



Concerns about Deportation & Benefits

If and when you become eligible for social security benefits—if you are deported under certain parts of immigration law—you cannot get paid. Your dependents may receive your benefits even though you were deported, however. Your dependent will still need to meet the requirements outlined later in the chapter. Also, you may be eligible for dependent benefits, which are not affected by deportation; however, dependent benefits may be affected by your location outside the United States. This is very confusing and will be discussed in more detail later in the chapter.

Eligibility on a Loved Ones' Work Record

How do I know when and if I will become eligible as a dependent?

- Your loved one becomes eligible for retirement benefits (look at requirements above for eligibility on own work record)
- To become eligible for dependent benefits, you must be a qualified “dependent,” which includes:
 - A spouse of a retired worker entitled to benefits. To be eligible, a spouse must:
 - Be age 62 or over *and* either be ineligible for benefits on his/her own record or be eligible on own record for benefits that are less than half of what his/her spouse receives. 42 U.S.C. § 402(b)-(c); OR
 - Have an eligible children in his/her care.

***NOTE:** The law does place some limits on the definition of spouse and divorced spouse, depending on the length of time of the marriage. For details on your specific case, consult the SSA, or see 42 U.S.C. § 416.

- A child of a retired worker entitled to benefits, if the child is:
 - Under the age of 18;
 - A full-time elementary or secondary school student under 19; or,
 - Has a disability that began before the child became 22. 42 U.S.C. § 402(d)(1).
- Adopted children, stepchildren, and even grandchildren/step-grandchildren (if there is no parent or the parent is disabled) of a retired worker entitled to benefits may also be eligible as dependent children, if they meet the requirements of an eligible child. 42 U.S.C. § 416(e).



Concerns about Deportation & Benefits

You may still be able to receive dependent benefits based on your loved one's work record even though he or she is deported *or* even if *you* are deported. BUT, the deported "dependent" will need to meet certain requirements for payment of benefits to non-citizens abroad. This will be discussed in detail later in the chapter.

STEP 2: Determine Eligibility for Payment of Social Security Benefits for Noncitizens in Special Situations

If you can establish eligibility, your interaction with the immigration system may still affect your ability to actually receive payments of your benefits. The following questions should help

you begin to assess whether or not you will receive social security benefits; however, you should consult the SSA about your specific case.

Are you in the US ?

If you are in the United States and become eligible for Social Security retirement benefits, you *must* be lawfully present to receive benefit payments.

A lawfully present noncitizen has been defined pretty expansively (for a non-exhaustive list, see Appendix A), but it DOES NOT include people¹:

- With pending adjustment of status applications (INA 245 and INA 249), unless the noncitizen is the spouse or child of a U.S. citizen and has an approved immediate relative petition and a pending adjustment of status application.
- With pending legalization applications (INA 245A), including class members in ongoing litigation.
- With pending suspension of deportation applications under INA 244.
- Granted a stay of deportation.
- Who have been ordered deported or removed, or excluded and deported, but who remain in the U.S., whether or not under an order of supervision, or noncitizens who have absconded.
- Who enter without inspection (EWIs), overstays, and nonimmigrant status violators.
- Paroled into the U.S. for deferred inspection or exclusion hearings under INA 236, and criminal noncitizens paroled into the U.S. for prosecution.
- With any form of voluntary departure.

¹ This list is taken directly from the SSA's Program Operations Manual System and is available at <https://secure.ssa.gov/apps10/poms.nsf/lnx/0300204025!opendocument> (last accessed April 2008).



What does this mean?

If you are a noncitizen in the United States and fit any of the descriptions in the above list, *you will not be able to collect your benefits as long as you remain in the United States in your current status.*

Are you not in the US ?

If you are **not** in the United States, a different set of rules apply. There are some rules that may limit your ability to collect benefits; however, there are also rules that provide exceptions to these limitations. This chapter will first look at how deportation may limit your access to benefits. Then, it will provide the possible exceptions around these limitations.

Limiting Rules

Limiting Rule #1: Social Security benefits on your own record will be suspended if you are deported.

The Meaning of “Deported” is very specific and technical: You will want to speak with your immigration attorney about the grounds of your deportation. Your attorney should consult 42 U.S.C. § 402 (n) and determine whether or not you fall within the category for suspension of benefits. For example, if you were deported under 8 U.S.C. § 1227(a)(1)(C)) or were given Voluntary Departure your benefits **will not be suspended**. You should also consult, or have your attorney consult, the SSA Program Operations Manual System, to understand how the SSA interprets “deportation.” See:

<https://secure.ssa.gov/apps10/poms.nsf/subchapterlist!openview&restricttcategory=03026> and refer to those sections listed under the subheading entitled “Deportation.”



What does this mean?

The U.S. government will not pay you your hard-earned Social Security benefits if you have been **deported** with the strict meaning of “deported” in immigration law. However, you should continue to receive your retirement benefits, if you meet additional requirements discussed below, if you have received voluntary departure or were removed under one of the exceptions in 42 U.S.C. 402 (n) (you should talk to your attorney to see if you fit under these exceptions).



Voluntary Departure

The rules about payments of benefits and voluntary departure may seem confusing. It is easiest to think about it in this way: If you receive voluntary departure, you cannot receive benefits while you are still in the U.S. Once you leave the U.S., you become eligible again, if you meet the exceptions.

Limiting Rule #2 (“Alien Non-payment Provision”): In general, no benefit may be paid to a non-U.S. citizen or national once s/he has been outside the United States for 6 consecutive months; however, this limiting rule is subject to exceptions, discussed below.

Exceptions to Limiting Rule #1

Even if your benefits are suspended under Limiting Rule #1, you and/or your dependents may still be able to receive benefits under two exceptions. Of course, even if you can get around Limiting Rule #1 with these exceptions, you may still need to overcome Limiting Rule #2 (exceptions to which are discussed later in the chapter):

Exception #1: Your loved ones, even if non-citizens, should be able to receive benefits based on your work history even if you are deported. Your dependents should not face any complications in receiving dependent benefits as long as they are U.S. citizens *or* they remain lawfully present in the U.S. However, if they are not U.S. citizens and they leave for the U.S., even for part of one day, their payments may be suspended, unless they meet certain requirements (discussed below) to overcome the “alien non-payment provision” **or** they return, lawfully, to the U.S. and remain there for 30 consecutive days.

Exception #2: You may also qualify to receive dependent benefits based on the work record of a loved one if you are eligible (go to dependent eligibility requirements above) and meet certain requirements to overcome Limiting Rule #2.

Exceptions to Limiting Rule #2

Noncitizens may still receive benefits outside of the U.S. if you fall within the following exceptions:

Exception #1: You reside in a country with which the U.S. has an international social security agreement and the withholding of benefits would be against the terms of that agreement. (As of March 2008, these countries are: Australia, Austria, Belgium, Canada, Chile, Germany, Finland, France, Greece, Ireland, Italy,

Japan, Luxembourg, the Netherlands, Norway, Portugal, South Korea, Spain, Sweden, Switzerland, and the United Kingdom.)

Exception #2: You are a citizen of a foreign country that has a social insurance system that is of general application in that country and under which:

- periodic benefits are payable because of old age, retirement, or death; and
- benefits are payable at the full rate to eligible citizens of the U.S. who are not citizens of that foreign country, even while outside the foreign country, and these benefits are payable regardless of how long they remain outside that country.
- As of March 2008, these countries are: Albania, Antigua and Barbuda, Argentina, Austria, Bahamas, Barbados, Belgium, Belize, Bolivia, Bosnia-Herzegovina, Brazil, Burkina Faso, Canada, Chile, Colombia, Costa Rica, Cote D'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Finland, France, Gabon, Grenada, Guatemala, Guyana, Hungary, Iceland, Jamaica, Jordan, Latvia, Liechtenstein, Lithuania, Luxembourg, Macedonia, Malta, Marshall Islands, Mexico, Micronesia (Fed. States of), Monaco, Nicaragua, Norway, Palau, Panama, Peru, Philippines, Poland, Portugal, St. Kitts and Nevis, St. Lucia, Samoa, San Marino, Serbia and Montenegro, Slovak Republic, Slovenia, South Korea, Spain, Sweden, Switzerland, Trinidad-Tobago, Turkey, United Kingdom, Uruguay, and Venezuela.

Exception #3: You are a citizen of a foreign country listed below and the worker on whose record your benefits are based: 1) lived in the U.S. for at least 10 years and 2) earned at least 40 credits under the U.S. Social Security System. These countries, as of May 2008, are: Afghanistan, Australia, Bangladesh, Bhutan, Botswana,

Burma, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, China, Republic of Congo, Ethiopia, Fiji, Gambia, Ghana, Haiti, Honduras, India, Indonesia, Kenya, Laos, Lebanon, Lesotho, Liberia, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mauritius, Morocco, Nepal, Nigeria, Pakistan, St. Vincent & Grenadines, Senegal, Sierra Leone, Singapore, Solomon Islands, Somalia, South Africa, Sri Lanka, Sudan, Swaziland, Taiwan, Tanzania, Thailand, Togo, Tonga, Tunisia, Uganda, and Yemen.

Additional Requirements for Exceptions 2 & 3: If you get to continue receiving your benefits because of Exclusion # 2 or 3 **and** the benefits you will continue to receive are dependent benefits you must meet the following U.S. residency requirements:

- You must have resided in the U.S. for a total period of at least five years; AND
- Had a relationship during the five-year period with the worker on whose record the benefits rely as a parent, a child or one or more of the following:
 - o Spouse;
 - o Widow(er)
 - o Divorced spouse; or
 - o Surviving divorced spouse.



Concerns about Blacklisted Countries & Benefits

The only other exception is if your home country is on the U.S. Treasury “blacklist.” Those countries are Cambodia, Vietnam or areas that were in the former Soviet Union (other than Armenia, Estonia, Latvia, Lithuania and Russia).

Your dependent should be able to contact the U.S. consulate and work out an arrangement even in those countries. No arrangements can be made in Cuba or North Korea, however.



Concerns with SSI

- This Chapter is about Social Security *retirement* benefits, not Supplemental Security Income (SSI). SSI is like a welfare benefit, has different requirements from retirement benefits, and *cannot be received* once you are deported or ever by your dependents. Also, regardless of immigration or citizenship status, SSI is not available to anyone living outside of the U.S. for more than one calendar month.



Concerns with Disability

- This Chapter does not apply to people who receive social security benefits due to disability. Like retirement/old age

social security benefits, disability social security benefits are terminated when a person is deported. As is also the case with retirement/old age social security benefits, the dependents of people receiving disability social security benefits *should be able* to receive those benefits provided they meet the eligibility conditions. *However*, there are several logistical issues that will make it very difficult for your dependents to continue receiving social security benefits based on your eligibility for disability benefits. For example, it may be difficult to be re-evaluated for disability abroad or get the SSA to accept that evaluation. Also, it is not clear how the SSA will treat you because the disability system revolves around the idea of the ability to engage in substantial gainful employment in the U.S.; the problem is that people who are deported cannot be employed in the U.S. for reasons that are unrelated to their disability.

12. Social Security Benefits and Detention

Summary:

If you are already receiving benefits and are placed in immigration detention, the Social Security Administration may take steps to suspend your benefits. There is a law that requires the government to suspend Social Security to individuals in jail (the law says “penal institutions”).

There are good arguments that this law should not apply to immigration detention, but you should be prepared to fight for your benefits. The detention facility has a financial incentive to report your information to the SSA, with the intention of suspending your benefits and may report both immigrant and criminal detainees indiscriminately. (For incentive structure for jails to report detainees to SSA, see 42 U.S.C.A. § 402(x)(3)(B)(i)(II)). Nevertheless, you may appeal a decision by the SSA to suspend your benefits while you are in immigration detention.



Practical Steps

My benefits have not been suspended since I have been in detention, what should I do?

- Have the person you designated make copies of all letters you receive from the SSA.
- Create a log of every communication with the SSA, the date of the communication, the content of it, and the follow up steps the SSA or you will make.

- Add copies of your checks from the SSA to the log. Also, watch your bank account (or have the person you designated do it) if you are receiving direct deposit.
- If the SSA sends a letter telling you that your benefits have been suspended because you are in detention, you should be prepared to appeal. You will then follow the steps outlined below.

My Social Security benefits have been suspended since I have been in detention, what should I do?

- If the SSA sends a letter telling you that your benefits have been suspended because you are in detention, you should be prepared to appeal.
- The first step in the appeal process is a request for reconsideration. The request should be made in writing within 60 days of receipt of the original letter from the SSA suspending benefits.
- Try to have someone outside (not in detention) send it in, since mail in detention facilities can be unreliable.
- The letter must include:
 - the name of the wage earner (you)
 - the Social Security Number of the wage earner (your SSN)
 - an address and a current day-time phone number where the SSA may reach you
 - State the type of decision on which you wish reconsideration (suspension of retirement benefits)
 - Briefly state why you disagree with the determination. For example:

I do not agree with the determination of the suspension of my Social Security retirement benefits under the plain meaning of the law. 42 U.S.C. § 402(x).

I am not “confined in a jail, prison, or other penal institution or correctional facility pursuant to . . . conviction of a criminal offense.” “Penal,” means “related to a penalty or punishment.” Penalty and punishment are aspects of criminal imprisonment. Immigration detention is civil, not criminal.

I am also not “confined by court order in an institution at public expense in connection” with insanity, mental incompetence, disease, or defect.

My application to appeal my suspension had been denied, what should I do? (Below is an outline of the appeals process. Consult the SSA website at <http://www.socialsecurity.gov/pubs/10041.html#Reconsideration> for very specific instructions on how to proceed through the process. Please note: it is very important that you follow the instructions of each step of the appeals process very carefully!)

- If your request for reconsideration has been denied, the next step is to request a hearing in front of an administrative judge.
- The next step after that would be to request a review of the decision by the Appeal Council
- The next step after that would be to request a hearing in the Federal District Court. At all of these stages, you will have to proceed pro se (on your own without a lawyer), unless you can afford a lawyer or can obtain the services of a free legal services agency. There is no filing fee at the administrative level. There is a filing fee at the District Court level, but you can file “in forma pauperis,” which means the court will waive the filing fee.

Appendix A: Noncitizens considered lawfully present in the U.S. by the DHS for purposes of payment of benefits

(Please note that this information is from the Social Security Administration’s Programs Operations Manual System (POMS), located at <https://secure.ssa.gov/apps10/poms.nsf/lnx/0300204025!opendocument>. The POMS are the primary source of information for SSA employees who process benefits claims. Thus, the following interpretations and/or limitations concerning “lawful presence” are those followed by SSA employees processing claims.)

Department of Homeland Security STATUS	Initial Verification Procedure/ Requirements	Subsequent Reverification Requirements
Lawfully admitted for permanent residence (LAPR) in the U.S.	Verify status with DHS before adjudication	In general, subsequent reverification of LAPR status is not needed unless the alien has a conditional I-551 (Permanent Resident Card, formerly the I-551 Alien Registration Receipt Card) that was issued for a two-year validity period.
An “Amerasian immigrant” as defined in Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988 (Public Law 100-202), as amended, is by definition LAPR and thus is a qualified alien. However, Amerasians who enter the U.S. as nonimmigrants, (e.g. foreign students pursuing studies in the U.S.) are not qualified aliens.	Verify status with DHS before adjudication	The I-551 cards issued 1989 and later expire 10 years after the issue date. If the card has expired, the person still retains LAPR status. If the card is valid for more than 2 years, SSA does not reverify status upon expiration.
Granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (INA) as in effect prior to 4/1/80	Verify with DHS before adjudication	Reverify continuing lawful presence 1 year after initial verification of status is received.
Paroled into the U.S. under section 212(d)(5) of the INA for a period of at least 1 year (SI 00502.100B.)	Verify with DHS before adjudication in all cases.	Reverify continuing lawful presence upon expiration of the document or 1 year after initial verification of parolee status is received, whichever is earlier. (Parolees whose documents show an “indefinite” expiration date are still subject to yearly verification of continuing lawful presence because lawful status is reevaluated yearly by DHS.
A refugee admitted to the U.S. under section 207 of the INA	Verify immigration status before adjudication in all cases.	None
Granted asylum under section	Verify immigration status before	Reverify continuing lawful

208 of the INA	adjudication in all cases	presence 1 year after initial verification of asylee status is received
An alien whose deportation is being withheld under section 243(h) of the INA as in effect prior to 4/1/97, or whose removal has been withheld under section 241(b)(3) of the INA	Verify with DHS before adjudication.	Reverify continuing lawful presence 1 year after initial verification of status is received.
An alien who is a “Cuban/Haitian entrant” under one of the four categories in section 501(e) of the Refugee Education Assistance Act (REAA) of 1980 NOTE: Certain individuals from Cuba or Haiti who are covered by Section 202(b) of Public 99-603 are considered lawfully present in the United States, but they may or may not be “qualified aliens.”	Verify with Department of Homeland Security before adjudication in all cases. Develop Cuban/Haitian entrant status based on the immigration documentation submitted. If the alien does not have documentation, s/he will be referred to the DHS to obtain documentation of his/her status.	Reverify continuing lawful presence at the end of the period of authorized stay, if known, or within 1 year of the date of adjudication.
Qualified Alien Based on Battery or Extreme Cruelty. Under certain circumstances, an alien who has been subjected to battery or extreme cruelty, whose child or parent has been subjected to battery or extreme cruelty, can be determined to be a qualified alien based on those circumstances under Section 501 of Public Law 104-208 or Section 5571 of Public Law 105-33.	Verify with DHS if the alien submits an Employment Authorization Document (EAD) Form I-688B/I766) prior to adjudication. In this case, the lawful presence is established based on the employment authorization, not necessarily on qualified alien status based on battery or extreme cruelty while in the U.S.	Reverify continuing lawful presence based on battery if an event Causing Loss of Status as a Battered Alien occurs.
An alien currently in temporary resident status pursuant to section 210 or 245A of the INA	Verify with Department of Homeland Security before adjudication in all cases Note: To qualify, you will need a temporary I-551 stamp on the alien’s foreign passport until issued a regular green card (I-551, Permanent Resident card).	Reverify the alien’s status with the Department of Homeland Security 1 year after initial verification.
An alien currently under Temporary Protected Status (TPS) pursuant to section 244 of the INA,	Verify with Department of Homeland Security before adjudication in all cases Note: To qualify, you will need a Form I-94 (Arrival/Departure Record) endorsed “Registered for Temporary Protected Status under section 302 or 303 of IMMACT 90” with a TPS stamp OR EAD (Employment Authorization Document) (Form I-688B/I-766), which shows the	Reverify continuing lawful presence 1 year after initial verification of status is received.

	provision of law “274a.12(A)(12)” on Form I-688B or shows category “A12” on Form I-766.	
A Family Unity beneficiary pursuant to section 301 of Public Law 101-649, as amended	Verify with Department of Homeland Security before adjudication in all cases Note: To qualify, you will need a DHS Form I-797 (Notice of Action) showing approval for voluntary departure under the Family Unity Program, an “A” number and “valid from (date) to (date).” OR a EAD (Employment Authorization Document) (Form I-688B/I-766), which shows the provision (Form I-688B) or the category (Form I-766) as 274a.12(a)(13).; OR a Form I-94 (Arrival/ Departure Record) showing status and a period of authorized stay.	Reverify continuing lawful presence at the end of the authorized stay, if known, or 1 year after initial verification of status is received.
An alien currently under Deferred Enforcement Departure (DED) pursuant to a decision made by the President	Verify with Department of Homeland Security before adjudication in all cases Note: To qualify, you will need a Form I-94 (Arrival/Departure Record) endorsed to reflect DED status; OR EAD (Employment Authorization Document) (Form I-688B/I-766), which shows the provision of law as “274a.12(C)(14)” on Form I-688B or category “A14” on Form I-766 for employment authorization based on current DED status, 274a.12(c)(14)	Reverify continuing lawful presence 1 year after initial verification of status is received. If the alien claims that he/she is covered under DED, but presents an expired I-94 or EAD, verify with Department of Homeland Security.
An alien currently in deferred action status pursuant to Department of Homeland Security operating instructions at OI 242.1 (a)(22)	Verify with Department of Homeland Security before adjudication in all cases Note: To qualify, you will need a Form I-94 (Arrival/Departure Record) showing deferred action status and period of authorized stay; OR a EAD (Employment Authorization Document) (Form I-688B/I-766), which shows the provision of law as “274a.12(C)(14)” on Form I-688B) or the category as “C14” on Form I-766	Reverify continuing lawful presence at the end of the authorized stay.
An alien who is the spouse or	Verify with Department of	Reverify continuing lawful

<p>child of a United States citizen whose visa petition has been approved and the alien has a pending application for adjustment of status</p>	<p>Homeland Security before adjudication in all cases</p> <p>Note: To qualify, you will need a Form I-797 (Notice of Action); OR an EAD (Employment Authorization Document) (Form I-688B/I-766), which shows the provision of law as “274a.12(C)(9)” on Form I-688B) or the category as “C9” on Form I-766. (See the Administrative Confidential memorandum for exhibits of Forms I-688B and I-766)</p> <p>NOTE: U.S. citizens may file I-130 petitions for their noncitizen spouses and children as well as I-485 applications for adjustment of status, if the spouses and children are in the U.S. Form I-130 and I-485 contain an A Number and a Receipt Number. If these documents are submitted, consider the alien lawfully present if immigration status is verified with DHS.</p>	<p>presence 1 year after initial verification of status is received.</p>
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In addition, certain applicants for asylum or withholding of removal may be considered “lawfully present” for the purposes of benefit payments, BUT, aliens must meet one requirement from each column of the following table in order to be considered lawfully present under this category:

<p>INA Provision</p>	<p><u>AND</u> Additional Requirement</p>
<ul style="list-style-type: none"> • Applicants for asylum under section 208(a) of the INA; or • Applicants for withholding of removal under section 241(b)(3) of the INA; or • Applicants for withholding of removal under the Convention Against Torture. 	<ul style="list-style-type: none"> • Have been granted employment authorization; or • Such applicants under the age of 14 who have had an application pending for at least 180 days.