

Justice & Diversity

CENTER

OF THE BAR ASSOCIATION OF SAN FRANCISCO

ATTORNEY OF THE DAY HANDBOOK FOR THE DETAINED DOCKETS

This handbook was written for experienced immigration attorneys volunteering for the Justice & Diversity Center's Attorney of the Day (AOD) Program at the San Francisco Immigration Court. It is meant as a resource for volunteer attorneys and must not be used as a substitute for legal research or advice from an experienced immigration lawyer.

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I. INTRODUCTION

Attorneys of the Day (AODs) are experienced immigration attorneys who volunteer at master calendar hearings to provide same-day assistance to individuals who are unrepresented in their removal proceedings. In addition to representing respondents before the Immigration Judge, AODs conduct individual consultations, provide legal advice, and recommend agencies to contact for full-scope removal defense.

The AOD Program first began 30 years ago when the San Francisco Immigration Court approached The Bar Association of San Francisco (BASF) with the request to provide volunteer attorneys to assist unrepresented respondent at their master calendar hearings. BASF managed the AOD Program until 2017, when the Justice & Diversity Center (JDC) assumed coordination of the program.

The mission of the AOD Program is to ensure due process and access to justice for all individuals in deportation proceedings in the San Francisco Immigration Court. Despite the complexity of immigration law and the high stakes of deportation, immigrants facing removal who cannot afford their own counsel are generally not entitled to a government-appointed attorney. Though the AOD Program cannot compensate for full-scope representation, it seeks to ensure greater due process for individuals in removal proceedings until this constitutional and statutory gap no longer exists.

II. EXPECTATIONS AND REQUIREMENTS

AODs serving on the detained dockets must fulfill the following requirements:

- **TIME COMMITMENT:** Commit a period of 6 hours of pro bono service for each detained docket and serve as an AOD at least 6 times per year (every other month). AODs who appear fewer than 4 times in a calendar year may be asked to reapply.
- **LANGUAGE:** If not fluent in Spanish, request interpretation assistance from JDC or discuss the possibility, subject to approval by JDC, of bringing a Spanish-speaking interpreter to Court.
- **AOD APPEARANCES:** At each master calendar hearing,
 - Competently and zealously assist pro se respondents before the Immigration Judge.
 - Interview pro se respondents and give required advisals and legal advice as appropriate.
 - Complete and submit to JDC a required intake form for each pro se individual or family.
 - Following the hearing, scan and send completed intake forms and docket sheets to JDC at detainedAOD@sfbar.org.
- **AILA MEMBERSHIP:** Maintain membership with the American Immigration Lawyers Association, Northern California Chapter (AILA NorCal). Exceptions may be made on a case-by-case basis if cost is a barrier to membership.
- **CONTINUING EDUCATION:** Keep abreast of immigration law and practice, complete 5 CLE units per year, and maintain an active removal practice.
- **ANNUAL UPDATES:** Submit the Annual AOD Update Form by February 1 of each year.
- **INSURANCE:** Maintain malpractice insurance for practicing immigration law and immediately inform JDC of any interruption in insurance coverage.
- **COMPLIANCE:** Follow the rules and procedures established in this Handbook and in all other communications from JDC. Failure to comply may lead to suspension from the AOD Program.

III. QUALIFICATIONS AND APPLICATION PROCESS

a. Qualifications

To qualify for the Detained AOD Program, applicants must have:

1. At least 2 years of current and active removal defense experience, and
2. The range of knowledge and skills required for the desired docket type, including:
 - a. Significant experience representing individuals at master calendar and merits hearings.
 - b. Significant experience conducting full-scope consultations on removability and relief.
 - c. Experience assessing immigration consequences of criminal history.
 - d. Flexibility, tenacity, and a commitment to protecting the due process rights of pro se respondents.

b. Application Process

The AOD application process holistically assesses the skills and qualities relevant to the docket type for which the attorney is applying (detained adult, non-detained adult, or non-detained juvenile) to ensure that AODs are prepared to address the special issues that arise when advising vulnerable respondents.

The process entails:

1. Written application, available at <http://www.sfbar.org/jdc/legal-services/immigration/aod.aspx>.
2. Phone interview with JDC staff (as needed)
3. In-person orientation
4. Additional training (as needed)*

* If an experienced applicant is well-qualified but lacks one or two specific areas of relevant knowledge, JDC will specify additional training for the applicant to complete in order to qualify.

c. Detained Training Program

Alternatively, attorneys with less experience can participate in a training program to become eligible for qualification as a detained AOD. These applicants will have:

1. At least 1 year of current and active removal defense experience, AND
2. A demonstrated commitment to complete the training program as directed by JDC.

d. Annual AOD Update Form: due February 1

AODs must submit the Annual AOD Update Form (available at <http://www.sfbar.org/jdc/legal-services/immigration/aod.aspx>) by February 1 documenting the following:

1. Completion of at least 5 units of Continuing Legal Education approved for credit by the State Bar of California relating to removal defense education (for a total of 15 units over three years).
2. Maintenance of an “active” removal practice, which means practicing removal defense at least half of your professional time. Exceptions may be made on a case-by-case basis by JDC.

IV. DOCKET SIGNUP AND SCHEDULING

a. Appearance Policies

AODs must be available for the entire six-hour docket period, which includes two hours for consultations and advisals and 3-4 hours for hearings. You are not expected to remain at Court or provide services outside of that commitment. You may leave earlier if your services are not needed for the full six hours.

JDC may set a monthly limit on assignments for a single AOD or law office and will indicate any such limits to AODs.

b. Docket Sign-up Procedures

Follow these procedures to sign up for AOD appearances each month:

1. Each month, JDC will email AODs with a link to a sign-up sheet, which will list all initial master calendar dockets for the month, including the judge, date, and time for each hearing.
2. Access the signup link to sign up for appearances (one AOD per docket) with your name, email address, and cellular telephone number on the desired docket(s).
3. You can return to the signup throughout the month to change or cancel your assignments **until two business days before the last day of the month**. If you need to cancel a docket during the last two business days of the month, following the cancellation policy outlined below.
4. For technical assistance with the AOD calendar, contact detainedAOD@sfbar.org.

c. Cancellation Policy

If you must cancel a docket **within** the last two days of the month (when the calendar will already have been sent to the Court), please timely inform JDC and the Court. Make all cancellations in accordance with the following cancellation policy:

<i>Cancellation timeframe</i>	<i>Contact</i>
More than 24 hours before the docket	<ul style="list-style-type: none"> • Email detainedAOD@sfbar.org. JDC staff will inform the court of the change.
Within 24 hours of the docket	<ul style="list-style-type: none"> • Email detainedAOD@sfbar.org, AND • Notify the court. Request to speak with a supervisor and ask that the supervisor inform the IJ and the IJ's clerk about the cancellation. <ul style="list-style-type: none"> ▫ 100 Montgomery: (415) 705-1105 ▫ 630 Sansome: (415) 705-1033

d. Interpretation Policy

1. Requesting volunteer interpretation from JDC
 - Attorneys not fluent in Spanish will need to consult with JDC about the possibility of serving as an AOD with a Spanish-speaking interpreter.
 - JDC may be able to schedule a volunteer if you do not have your own interpreter available. You must make all interpretation requests **at least two weeks in advance** of the docket.
 - JDC may cancel your appearance if unable to find an interpreter as of 1 week before the docket.

2. If you encounter respondents who are not fluent in English or Spanish:
 - Request basic information from the respondent to the best of your ability.
 - Exercise discretion in using family, friends, or informal interpreters, particularly when asking about sensitive information (e.g. criminal history, domestic violence, sexuality, etc.).
 - If language barriers prevent you from conducting an intake, inform the Judge and decline to speak on the respondent's behalf.

e. Non-AOD and Non-Attorney Supervision Policy

JDC welcomes the assistance of non-attorney staff or non-AOD attorneys to assist an AOD with efficient intakes and interpretation. AODs are responsible for supervising staff, reviewing all information collected by non-AOD staff members, and signing off on the intake form. Only AODs can give legal advice and represent respondents before the Immigration Judge.

- Non-AODs (both attorneys and non-attorney staff) **may:**
 - Distribute materials supplied by JDC.
 - Help the respondent complete demographic information on the intake form.
 - Ask the factual questions of the intake form.
 - Help the respondent prepare change of address forms.
 - Check for the existence of the Notice to Appear and other paperwork.

- Non-AODs (both attorneys and non-attorney staff) **may not:**
 - Provide legal advice regarding the respondent's eligibility for relief or other substantive or procedural aspects of the case.
 - Assist respondents before the Immigration Judge.

V. CONSULTATION PROCEDURES

a. Preparing for Your Appearance

1. Verify your docket assignment and courtroom location
 - Note that detained courtrooms are located at both 100 Montgomery Street (4th floor) and 630 Sansome Street (4th floor).
 - Visit <http://www.sfbar.org/jdc/legal-services/immigration/aod.aspx> for a list of the Immigration Judges and their respective floor and courtroom numbers.
 - JDC will email the final detained AOD calendar each month to all AODs through the Google Group aodpanel@googlegroups.com.
2. Review AOD materials
 - Familiarize yourself with this Handbook, the detained AOD intake form, and important secondary sources such as the Ninth Circuit Criminal Immigration Outline, ILRC Criminal Chart, and ILRC Relief Toolkit (refer to [Appendix A](#) for a complete list).
 - Hard copies will be available in the Video Teleconference (VTC) room at 630 Sansome Street, where AODs consult with unrepresented respondents before hearings commence, and in the pro bono room at 100 Montgomery Street.
 - Links to electronic versions of these documents are available at <http://www.sfbar.org/jdc/legal-services/immigration/aod.aspx>.
3. Review intakes of respondents previously served by NCCIJ
 - JDC tracks the intakes of respondents previously served through AOD and at detention facilities by NCCIJ partner organizations. We will try to make these intakes available to you the afternoon before or the morning of the day you are serving as AOD by email. For those who are already collaborating with JDC through Innovation LawLab, we will share the existing intakes and notes through that platform.
 - Please review the existing intakes and/or notes in advance of or during AOD to best serve the Respondents on the docket.
 - Please do not write anything on the previously completed intakes. Instead, please use the follow-up sheets provided by JDC (or a separate sheet of lined paper) to record additional case and procedural information. Always note the Respondent's name and A-number along with your name, the date, and the IJ's name at the top of the page.

b. Arriving at Court

1. When to arrive
 - Most detained initial master calendar dockets (which now include some reset masters and bond hearings) begin at 1 PM. Double-check the docket start time on the online calendar.
 - There are often long lines to enter the Court. Give yourself time to clear security, retrieve documents from the clerk's window, and reach the VTC area by **no later than 11 AM**.
 - **At 100 Montgomery Street:** Arrive to the VTC room *between 10 am and 11 am*. At the security checkpoint on the 4th floor at 100 Montgomery, politely inform the guards that you are the AOD (pro bono attorney) so they can move you to the front of the line.

- **At 630 Sansome Street:** Arrive *no later than 10:30 AM*. The guards will generally not permit anyone to pass to the front of the line.
2. Reporting to the Clerk's window
- Report to the Clerk's window at the Court (4th floor of either 100 Montgomery or 630 Sansome) to request the docket list and unrepresented respondents' packets.
 - *Note:* The window at 630 Sansome closes from 11:30 AM – 12:30 PM daily. If you arrive after 11:30 AM, you will likely be unable to prepare respondents for the 1 pm docket.
 - To save yourself time, be sure to ask the clerk to identify which of the cases on the docket sheet that list counsel have counsel for "all proceedings" as opposed to "custody/bond only." The docket sheets do not make this distinction.

c. VTC Room Logistics

Once you've received the docket list and packets, report to the VTC (Video Teleconference) room to begin speaking with respondents by 11 am.

1. 100 Montgomery, Fourth Floor VTC Area
- VTC Location
 - AODs can conduct VTC intakes on the 4th floor in Courtroom 26.
 - Materials can be found in plastic bins along the wall (Intake forms, paper for follow-up notes, E-28s, G-28s, and reference guides on immigration/criminal legal issues and referrals. Refer to [Appendix A](#) for a complete list of materials.
 - Accepting VTC calls
 - For 1 pm dockets, a Mesa Verde Detention Facility ICE officer will initiate the VTC call as early as 10:55 AM and no later than 11 AM sharp. Accept the call by pressing the green button on the remote control. If the call does not come in or there are connection problems, call the Mesa Verde VTC Direct line at (661) 859-1650. Note: the Mesa Verde number programmed into the Court's phone is not direct and is not useful.
 - If the call does not come in or if there are connection problems, call the detention facility from the phone on the desk, which is programmed with speed dial options for the detention facilities, except for Mesa Verde which does not have the direct line programmed. The best numbers to call for AOD VTC related issues are:
 - Mesa Verde VTC Direct: **(661) 859-1650** (or -1028)
 - Contra Costa West County (CoCo) VTC: **(510) 262-4243**
 - ICE Sacramento VTC (for Yuba and RCCC detainees): **(916) 329-4346** (or -4343)
2. 630 Sansome, Fourth Floor VTC Area
- VTC Location
 - The VTC room is located on the 4th floor across the hall from the Court lobby. Pro bono counsel, including AODs, has priority for using this space.
 - Materials can be found in black trays on top of the filing cabinets (refer to [Appendix A](#) for a complete list).
 - **Dockets at 630 Sansome typically include Resps appearing from 2-3 locations:**
 - Sacramento ICE Office (for both Yuba and RCCC detainees)
 - Contra Costa West County ("CoCo") detainees (located in Richmond)

- Mesa Verde Detention Facility (less likely)
- How to Request initiation of VTC calls from ICE Sacramento, CoCo, and MVDF
 - For 1 pm dockets, the AOD should begin calling ICE Sacramento on or before 11 am, for morning dockets the AOD should begin at 7:30 am sharp. Call ICE Sacramento with the speed-dial button on the Court phone in the VTC room (or by dialing the above-listed number). Let the officer who answers know which judge you are the pro bono attorney for today and how many unrepresented respondents you will want to speak to for today's docket at their location.
 - The officer will confirm that you should expect a call to come into the VTC unit (you do not need to do anything to accept the call, it will just connect)
 - Be sure to **leave enough time to talk to Respondents at other facilities** before the hearings start!
- Next, call CoCo to explain which judge you are the pro bono attorney for today and how many unrepresented respondents you will want to speak to for today's docket from CoCo.
 - If any facility is not ready, confirm when you will be able to call back and contact another facility in the meantime. Ask to start intakes by phone if possibly quicker.
- Note: You will never have enough time to consult with everyone– there is no time to spare. Be polite, but assertive about starting intakes ASAP. Offer to begin by phone.
- If you encounter issues with the VTC connection, you may use the Court phone in the VTC or phone rooms or your cell phone to call the facilities and speak with respondents (see the telephone numbers listed above).

3. Sharing the VTC area

- If other attorneys ask to use the VTC area while you are using it, aim to accommodate their requests if you can do so without delaying your AOD duties.
- Refer attorneys to the phone room and telephone contact information so they can contact clients by telephone while the VTC area is occupied.
- Explain to attorneys who may not be familiar with the AOD program that:
 - You are responsible to the Judge/Court for preparing unrepresented respondents for today's hearings.
 - This will be the only opportunity for many respondents to consult with counsel.

d. Intake Time Management

You will likely not have sufficient time to thoroughly complete all of the intakes by the time the master hearings are scheduled to commence; however, **hearings must begin promptly at the scheduled time.** Detention center staff will need to shift their focus to the hearings and may not be able to make detainees available for additional consultations once the hearings commence and the Court has signaled that the IJs expect hearings to start on time. Based on the number of unrepresented respondents on your docket, calculate how much time you'll have per respondent and try to stick to that timeframe.

Always report to the Courtroom at the time the hearings are scheduled to commence. Use your judgement about whether you might be able to ask the IJ if you may conduct any additional consultations after hearings have commenced (e.g. if attorneys are waiting to appear for some cases). Above all, be respectful of the IJ's time and instructions.

Time Management Tips:

1. If you are early to the VTC room, begin filling out intake forms with information from the packets. Take care to confirm all information with respondents as it may be inaccurate. See [section on intake forms](#).
2. First, prioritize providing full consultations to those respondents who want to give up their rights and request voluntary departure or removal that same day.
3. Next, prioritize respondents **NOT** likely to hire counsel and who are interested in **STAYING** in the U.S. Within this group, prioritize Respondents who have already appeared at prior master hearings, as those appearing for the first time should be able to request a continuance to attend the next KYR at their detention facility.
 - Refer to the [following section](#) for advisals to share with these respondents and with those who are likely to hire counsel or who do not wish to remain in the U.S.
4. Prioritize the most important points to cover with respondents:
 - Complete Sections A and B.1 on intake side 1;
 - Review the Notice to Appear;
 - note what Resp. wants to do at the hearing;N
 - Advise Resp. regarding the right to request a continuance to seek counsel or a *pro bono* consultation (or to speak for themselves if they want to waive that right).
5. Complete intake form info from packets during hearings (but try to note advice and rights explained during the intake so you will remember during the hearings).
6. If you are **unable** to meet with a respondent or complete the consultation:
 - Emphasize to anyone remotely interested in remaining in the U.S. the consequences of waiving rights to apply for relief and accepting a removal order.
 - If respondents are willing to request a sufficient continuance, refer them to an upcoming in-person KYR visit at their detention facility for legal assistance and consultations. Refer to the KYR Chart available in the VTC room.
 - Complete an intake form for respondents you didn't have time to meet so JDC can conduct follow-up as needed.
 - Clearly indicate **"Not Seen"** on the front of the form.
 - Include any available information from their packet and notes regarding the details of their hearings.
 - Inform the Immigration Judge of any respondents with whom you did not speak.

e. Scope of Assistance

Look to these guidelines to determine the scope of assistance and common advisals to offer:

1. Respondent is **NOT** likely to retain counsel; wants to **REMAIN** in the U.S.
 - Complete all sections/both sides of intake form and review the NTA.
 - Advise respondents of all possible eligibility for relief and bond (noting all advice in Section B.1 of the Intake Form).

- Recommend that any respondents who wish to fight their case request a continuance to seek legal assistance (there is a slim possibility that JDC could place the case). Otherwise, prepare to go forward.
 - Note: JDC will *try* to refer cases to pro bonos and nonprofits, but placement is difficult. Urge respondents to find counsel in case their case cannot be placed.
 - If respondents are approaching one-year asylum filing deadline:
 - You may need to assist in requesting a brief continuance to file the I-589 in time.
 - Explain that you will ask the IJ to have them provided with an I-589 and that JDC will mail pro se I-589 materials.
 - Inform them of upcoming KYR visits at their facility when they can get assistance completing the I-589.
 - **ONLY** when respondents are adamant about not hiring counsel and proceeding pro se should you consider assisting with pleadings, designate a country for removal, and state eligibility for relief that day.
2. Respondent is **NOT** likely to retain counsel; wants to **LEAVE** the U.S. ASAP
- Some respondents who do not anticipate hiring counsel will not want a consultation but will simply want to request VD or removal that same day.
 - Complete only Side 1 (Sections A through D) of the intake form.
 - Discuss and advise only limited issues with the respondent, as specified in Section B.1.b of the Intake Form.
 - If time permits, discuss and advise per [Section G](#) and offer to assist with pleadings: designate a country for removal, request (or waive) voluntary departure, and/or accept an order of removal.
 - **Note:** for respondents who want VD, you need not determine eligibility. Just note in Section B.1.b of the Intake Form whether the respondent is willing to wait for a continued VD hearing or wants a decision that same day only.
3. Respondent is **LIKELY** to retain counsel or already has counsel
- When respondents tell you they have or are about to hire an attorney, note the attorney's name on the intake form.
 - You do *not* need to consult with respondents who have an attorney of record listed **UNLESS** the attorney was only for bond proceedings or has withdrawn representation.
 - Explain that you can assist with helping request a continuance to return with counsel but that time constraints prevent you from advising on substantive issues.
 - Complete only Side 1 of the intake form (Sections A through D)
 - Section B.1: note what advice you provided, if any (e.g., the right to counsel);
 - Section B.2: note whether you requested a continuance or if the attorney or record ended up appearing.
4. Recent Arrival Asylum Seekers
- Some respondents were apprehended at a port of entry or near the border without inspection ("EWI") and processed for expedited removal. Individuals categorized as "Arriving Aliens" on their Notices to Appear will not be eligible to request bond before the IJ, but will be able to request parole from ICE.
 - Conduct full-intakes with these respondents when possible.
 - When respondents do not speak English/Spanish

- Write down as much information as you can from their NTA and I-213 packets (including pertinent biographical details, date of entry, and facts regarding their claim), interview them as best you can, and take notes during hearings.
- Take information of a contact in the U.S. or Canada so JDC can follow up with a telephonic interpreter after the hearing.
- Finding counsel
 - Ask respondents whether they are in the process of retaining counsel.
 - Inform them of the program that attempts to place cases with pro bono counsel and that Centro Legal de La Raza may be able to assist with preparing parole requests.

f. General Advisals for Respondents Served

Share the following information with all respondents about what to expect in removal proceedings during your individual consultations:

1. Resps.' Rights in Removal Proceedings (the IJ can provide full advisals if you don't have time)
 - a) To be represented by an attorney, but without cost to the government (and to obtain a continuance of an initial MCH for this purpose).
 - b) Emphasize the importance of finding an attorney but to *NEVER* rely on Notarios or Immigration Consultants!
 - c) Present evidence & challenge government evidence.
 - d) Designate, or decline to designate, the country of removal.
 - e) Apply for relief if eligible.
 - f) Appeal the IJ's decision to a higher court.
2. Initial Masters
 - Most respondents on the dockets should be appearing for the first time (this is apparent on the docket if no adjournment code is listed)
 - If a respondent needs more time to find an attorney (or to consult with a nonprofit organization), the IJ will verify his/her name, confirm a continuance is desired, and reset the MCH.
 - Where a respondent wants to proceed pro se, the IJ will want to confirm the waiver of the right to seek counsel, confirm proper NTA service, take pleadings to the NTA, designate a country for removal, and identify what relief will be sought, if any (and to serve any relevant applications on respondent). See [Section G](#) regarding pleadings.
3. Reset Masters
 - For respondents appearing for continued hearings (confirmed by code in "Adj Reason" column on docket sheet), focus on efforts to find attorney since last MCH.
 - Prepare reasons to articulate to the IJ to request an additional continuance (e.g., continuing to look for an attorney, potential AILA case that JDC is trying to place, inability to fill out application for relief, etc.)
 - IJ will ask why respondent doesn't have an attorney and what attempts respondent has made to find an attorney. After 1-2 or more continuances, the IJ will likely ask the respondent to enter pleadings and state any available relief (or file an application for relief if relief has already been established before the court).

- If the respondent is on their 2nd or 3rd reset hearing, warn them that the judge may want them to provide pleadings, designate a country of removal, and state what relief they intend to seek. See [Section G](#) on pleadings.
4. Bond Hearings: What to expect
 - The IJ will generally allow one continuance to gather evidence or look for counsel.
 - It is vital to present evidence because respondents only have the right to one bond hearing, unless they submit a written request for a subsequent hearing based on changed circumstances.
 5. Individual Hearings
 - This is when the IJ considers and adjudicates applications for relief. It is therefore vital to present all available evidence and witnesses, and to exercise all your rights.
 - Respondents who would like to seek asylum as a form of relief should file their asylum application (Form I-589) with the Immigration Court before their one-year deadline, if possible. AODs are encouraged to stress to respondents the importance of filing their asylum application with the court before their one-year deadline.

g. Pleadings

1. AODs are *discouraged from* entering pleadings if the respondent may fight his or her case or become represented (including by pro bono counsel). *Only* help respondents enter pleadings if they want help leaving the U.S. or if they insist on waiving their right to counsel and proceeding pro se that day, and only if you feel comfortable doing so. It is generally *not advisable* to help the Respondent concede any charges of removability (but can be helpful to help them contest).
2. The Judge may permit the AOD to enter pleadings on behalf of the respondent. You should *only* do so after fully advising respondents in a one-on-one consultation. Be sure to record the advice and information provided in Section B of the intake form. It is generally *not advisable* to help the Respondent concede any charges of removability (but can be helpful to help them contest)!
3. When respondents are adamant about proceeding *pro se* or if the hearing has already been continued, advise them of the following during your consultation:
 - Review the significance of the pleadings, the charges on the NTA, and the questions that the judge will ask them.
 - Remind the respondent that it is best to retain counsel to fully investigate the case and assist with pleadings.
 - Explain that the burden of proving deportability is on the government. If the government already has the respondent's passport, birth certificate or foreign identity documents, then the Office of Chief Counsel (OCC) may be able to establish alienage. If the respondent files an asylum application, it can also be used to prove the charges against them.
 - Respondents may deny all allegations and hold the government to its burden of proof.
 - This strategy may make sense if there is a basis for contesting removability or if the respondent wants to delay the case to obtain counsel or evidence. However, this will be very difficult to do *pro se*. It is preferable to advocate for a continuance in lieu of entering pleadings. If Resp. wants or needs to deny facts or contest charges

that day, the AOD may help Resp. to do so, if the AOD has enough time to discuss this with Resp. and feels comfortable doing so under the circumstances.

2. Do *not* enter pleadings if time or other circumstances have prohibited you from fully advising the respondent.
 - If you did not have time to discuss the NTA sufficiently with the respondent to enter pleadings on their behalf, inform the IJ, who will do a full reading with the respondent.
 - If you are concerned that a respondent has mental health issues that could inhibit the provision of advisals, or if, for any other reason, you are not 100% certain that you are able to speak on the respondent's behalf, inform the IJ and decline to enter pleadings.
3. Similarly, do not concede to the following if you have not had adequate time to discuss these matters with the respondent in advance:
 - Do *not* concede charges of removability or eligibility for relief where there is any doubt.
 - Inform the IJ that there was insufficient time to provide full legal advice.
 - The IJ can always sustain a charge or make a relief determination based on DHS evidence or on questioning the respondent.
 - Do *not* concede NTA service, and decline to designate where respondent fears return.
4. When the respondent wants to depart the U.S. immediately:
 - Inform the IJ and specify whether the respondent wants to seek voluntary departure and whether the respondent is willing to wait for a voluntary departure hearing.
 - The IJ will ask if the respondent fears removal and whether any relief was identified.
 - Be sure to ask about possible derivative or acquired citizenship claims.

h. Intake Forms: Overview

1. Complete one intake form per pro se respondent, even if you provide very limited assistance.
2. If information is not available for a certain respondent, provide contact information of a friend/relative and clearly indicate that JDC should follow up with that outside contact person for details necessary to refer/place the case.
3. Intake Form/Follow-up Sheets
 - JDC will try to provide respondents' intake forms from prior hearings when possible to avoid unnecessary work.
 - If you are unable to review a previous intake that JDC sends you, be sure to complete a new intake form and review the relief questions with the respondent.
 - If you are able to review the previous intake, complete the follow-up intake form. Complete one section per sheet, recording all advice and assistance provided, the events of the hearing, and any further follow-up needed.
4. Submitting intake forms
 - After the hearings, take all intake forms and the docket sheet back to your office.
 - Scan and email them to detainedAOD@sfbar.org as soon as possible, and **within no more than two business days** after your appearance so JDC can conduct follow-up.

- To facilitate data input, please keep the names and A#s in the docket sheet clear from any markings. This will make it possible to scan and input respondents' information more efficiently and speed up the follow-up assistance JDC offers.

i. Completing the Intake Form

Do your best to fill in all sections (A through D) on side one of the intake forms for all respondents without counsel present, even where the only assistance provided is to request a continuance so the respondent can return with counsel.

1. Section A. Initial Issues

- Review the following disclaimers with respondents and check them off as you go:
 - When respondents have counsel not present that day:
 - Note attorney's name when possible. Explain that if the attorney does not appear, you can help request a continuance.
 - Explain that the only assistance you can provide is to request a continuance.
 - Clearly explain that the AOD's role is limited to same-day assistance only
 - AODs don't work for the government:
 - Ask whether respondent wants to discuss ways to fight case.
 - Verbal consent (**REQUIRED**)
 - Obtain verbal consent to share intake form information with nonprofit agencies that assist detained immigrants in Northern California.
 - Assure respondents that we will not share information with the government without their consent, and clearly document on the intake form that their consent was obtained.
- Gather respondent's basic demographic information
 - AODs **MUST** complete the biographic questions in Section A for JDC's Interest on Lawyers Trust Accounts (IOLTA) funding.

2. Section B. How Did You Assist the respondent Today?

- B.1.a. ALL INTAKES: Advice to respondent
 - For respondents not likely to retain counsel who want to stay in the U.S.:
 - At the outset, let the respondent know there will only be 5-10 minutes to consult and advise regarding legal options.
 - Complete all intake form sections (A through F) and review the NTA.
 - Advise and make note of all possible eligibility for relief and bond.
 - *[Remember, you can complete some fields from the Court packets during MCHs, so you may skip them during consultations.]*
 - Mental Health Concerns (*Franco*)
 - If you believe the respondent may be a *Franco* class member who needs a Judicial Competency Inquiry, make note on the intake and inform the IJ.
 - This is an area where the respondent may benefit from advocacy by AODs to help the IJ and DHS to recognize competency issues/concerns.
 - Use discretion when informing the Court about sensitive details if other respondents are present.
 - If the IJ appears on the fence regarding indicia of incompetency, stress the importance of a JCI: IJs can only find a Resp. competent if they have "no reasonable cause to believe" Resp. is suffering from a mental disorder that

may impair Resp.'s ability to represent him/herself, otherwise IJ must order a *Franco* Competency Evaluation (FCE).

- Take careful notes regarding mental health issues discussed with Resp. and with the Court/OCC, so that JDC can do follow up if necessary.
 - **B.1.b. AOD, if resp. wants to leave U.S.**
 - For respondents not likely to retain counsel who want to leave the U.S. ASAP, the AOD only needs to advise on limited issues, as specified in intake form Section B.1.b.
 - If time permits, offer to assist the respondent to enter pleadings, designate a country for removal, and state whether the respondent wants to request voluntary departure or simply accept an order of removal. Note all assistance provided before the IJ.
 - Even if the respondent simply wants an order of removal that day, explain that in order to facilitate that process, reviewing these items will enable the Judge to more efficiently complete the case.
 - **B.2. AOD ONLY: Assistance before the Court:**
 - For respondents with attorneys who do not appear, note in Section B.1.a whether you assisted with requesting a continuance and what advice you provided.
 - If the attorney appears that day, simply check the box in B.1 indicating you did not assist before the Court because counsel appeared.
- 3. Section C. Removal Case (Procedural History)**
- Use this section to indicate whether the respondent has had prior appearances, to record the events and outcomes of today's hearing, and to note any future hearing dates scheduled.
- 4. Section D. Any Next Steps?**
- ***Request an outside contact's phone number*** if you want JDC to conduct follow-up.
 - Types of follow-up you might indicate:
 - Provide respondent or an outside contact with pro se materials (e.g., if respondent may qualify for bond or relief).
 - Refer respondent for placement with pro bono representation.
 - Contact respondent or relative/friend to complete intake.
 - Conduct further research re immigration or PCR private attorney referrals.
 - Leave sections blank where unsure what to recommend. For example, if removal was ordered or VD granted, simply check the box for "not needed because: ...Order of Removal or V/D."
- 5. Section E. Eligibility for Relief**
- Complete section E only for respondents unlikely to retain counsel who are interested in staying in the U.S.
 - Advise regarding eligibility for relief and indicate all "Relief Identified" in section E.
 - Note in Section B.2 what was advised.
 - Note when further research is needed to determine eligibility for relief.
- 6. Section F. Bond**
- Complete this section for respondents unlikely to retain counsel who want to stay in the U.S. Note in Section B.2 what was advised re bond.

j. Introducing Yourself as AOD

1. Take care to arrive in the courtroom promptly at 1 pm (or whatever the listed start time is for the morning or afternoon docket).
2. Introduce yourself to the Immigration Judge as the AOD.
3. If necessary, ask for “courtesy copies” of NTAs, or to view DHS’s copies (only if the Court has not provided a packet for certain respondents).
4. Ask the IJ when you should approach counsel’s table and commence appearing for unrepresented respondents.
 - The IJ may want to hear private attorneys before or after the AOD
 - Dockets at 630 Sansome generally contain respondents from at least two different facilities (Contra Costa West County, ICE Sacramento for Yuba and RCCC, and sometimes Mesa Verde). The IJ will determine the order of facilities at the beginning of the hearing.

k. Appearing as AOD for Respondents

1. Inform the IJ of how many respondents fall into the following categories:
 - Pro se respondents with applications for relief in hand, ready to file (these will need to be faxed in, which takes time, so the IJ appreciates knowing this up front).
 - Represented respondents (either expect attorney to appear, or want continuance if not).
 - Pro se respondents who want a continuance to look for counsel/legal assistance.
 - Include respondents not offered a full intake by the AOD due to time constraints, but who are interested in a continuance to obtain KYR or other legal assistance.
 - Pro se respondents who want to leave the US (either want to request VD or accept a removal order today only or are willing to wait for a VD hearing).
 - Pro se respondents who want to enter pleadings and state relief (this should be rare for initial masters).
 - Possible Franco class members.
 - Recent arrival asylum-seekers who do not speak Spanish/English. JDC will follow-up on these cases. Take notes on anything the IJ may discuss with the respondent.

2. Entering pleadings
 - AODs are discouraged from entering pleadings where respondents may fight their cases or find attorneys (including pro bono counsel).
 - Avoid helping the respondent enter pleadings pro se **unless** the respondent only wants help leaving the US or is adamant that s/he wants to waive their right to counsel and proceed pro se that day.
 - Only enter pleadings on behalf of the respondent if you have had sufficient time to prepare the respondent AND you were able to review the NTA with the respondent, HOWEVER:
 - Avoid conceding the charge(s) of removability unless the sole charge is entry without inspection and/or entry without valid permission/document.
 - Take care to move to amend any factual allegations that are not 100% correct and to avoid admitting any about which Respondent is not 100% certain.
 - Inform the IJ if you were unable to discuss the NTA sufficiently with the respondent to assist with pleadings, and the IJ will do a full reading with the respondent or determine another course of action.
 - In the detained context, NTA service is usually not in contention because most NTA's are served in person and bear the Respondent's signature. However, if respondent is not entering pleadings, if the IJ or OCC seeks to assert that service has been cured or made at the court, then ask the IJ to defer any legal findings on this issue until respondent has been able to retain an attorney.
 - Inform the IJ of any respondent you are concerned is a possible Franco class member and explain any medical issues you identified
 - Refer [Section G](#) for more information on pleadings.

3. Continuances and bond
 - Inform the IJ about any respondents you did not have an opportunity to speak with and take notes during their hearings.
 - If requesting a continuance, state how many weeks the respondent needs to find an attorney.

- Unless you have discussed and agreed to enter pleadings for the respondent, be careful not to concede proper service.
 - If the respondent would like to request bond, inform the IJ that a bond hearing is desired by the respondent.
4. VD Requests and Accepting Removal Orders
- If a respondent wishes to take a removal order on the day of the hearing, inform the IJ if you reviewed the NTA with them, informed them of the consequences of returning to the U.S. without legal status, and whether you discussed VD.
 - Inform the IJ of any respondents who wish to pursue VD. The IJ will determine whether to set a new hearing for this option. If possible, ask respondents in advance whether they are willing to wait for a VD hearing.

I. Conclude Docket and Submit Intake Forms

1. Return all AOD materials to the VTC Area where you found them.
2. Return respondents' packets to the Court clerk.
3. Scan and send all intake forms, docket lists, and related materials to detainedAOD@sfbar.org as soon as possible, and no later than **two business days** after the hearing, JDC will conduct follow-up as needed, so please submit these forms as quickly as possible!

VI. ADDITIONAL AOD POLICIES

a. Pro Bono Service Policy

It has been the longstanding policy that the purpose of the AOD Program is to provide legal assistance to individuals *as a public service and without expectation of payment or future business*. To ensure compliance with this policy:

- At the beginning of the intake, provide pro se respondents with a copy of your business card for identification purposes only.
- At the conclusion of the intake, provide unrepresented respondents with the Court's Pro Bono List and *JDC Resource Packet for Immigrants* so they may contact agencies that offer pro bono or low-cost representation.
- You may explain that these agencies have long waitlists and may not be able to represent the respondent; however, you must not present this information so that it discourages respondents from contacting agencies.
- If asked, you may also inform respondents that you accept cases for private representation and provide your information so they can contact you at another time to arrange a consultation or representation.

b. Creation of Limited Scope Attorney-Client Relationship

Pursuant to California law and JDC policy, pro se counseling creates a limited scope attorney-client relationship, and attaches the privileges and duties of such a relationship.

c. Non-Discrimination Policy

AODs shall not discriminate among respondents on the basis of race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or income, in any activities or services provided while participating as AOD at Court.

d. Confidentiality and Conflicts Policy

AODs should not disclose any information received from the respondent to the Court or DHS, without the respondent's permission. AODs must keep any information received in the course of assistance confidential from all others without the respondent's permission.

If at any time, an AOD becomes aware of a conflict of interest between a current or former client, and the unrepresented respondent that the AOD is advising, the AOD should stop the consultation. The AOD should advise the respondent that the AOD cannot assist him or her today, and inform the Court that he or she was not able to fully assist or advise the respondent.

e. JDC Oversight and Supervision Policy

To ensure the highest level of service to unrepresented respondents and compliance with these guidelines, JDC may observe the work of AODs at the Court without previous notice and may take remedial action if JDC believes that competent assistance is not being provided or if an AOD is not complying with the policies laid out in this Handbook. Remedial measures may include asking an AOD to modify their conduct, obtain additional training, or step down from the program. JDC will inform the Court when an AOD is no longer participating in the program.

If at any time an AOD is informed that he or she is being investigated for, or has been subject to, disciplinary procedures by any state or federal entity, the AOD must inform JDC within one week of being informed and cancel all pending AOD assignments. Once any investigation or prosecution is complete, the attorney should inform JDC and may be required to apply again for the program.

APPENDIX A: AOD MATERIALS

All documents necessary for your AOD appearance are available in the VTC rooms on the fourth floors of both 100 Montgomery Street and 630 Sansome Street.

Links to electronic versions of these materials are available on JDC's website at <http://www.sfbar.org/jdc/legal-services/immigration/aod.aspx>.

- **Detained Intake Forms**
You must complete one intake form per unrepresented respondent, even if the scope of assistance is very limited. [Refer to the guidance above](#) on completing the intake form.
- **Intake Form Follow-Up Sheets**
Use this form when JDC provides you with a respondent's original intake from a previous master calendar hearing. Complete one section of the follow-up sheet per appearance. Clearly note all advice and assistance you provide during the consultation, the events of the hearing, and any follow-up that JDC should conduct.
- **Intake Form Supplemental Notes Page**
If you do not have blank or lined paper for additional notes, you can use these pages for additional intake notes that do not fit on the Intake Form.
- **Resource Folder for AODs on the Detained Dockets**
This folder is stored in the VTC areas of the Court. This folder contains important information for AOD's, including:
 - ICE ERO Contact Information: <http://www.ailanorcal.com/>
 - SF Immigration Court Contact Information: <http://www.ailanorcal.com/>
 - VTC and Detention Facility Contact Information: <http://www.ailanorcal.com/>
 - Attorney Referral Lists Compiled by CLSEPA, Centro, and ALC
 - ILRC Criminal Chart: <https://www.ilrc.org/chart>
 - ILRC Relief Toolkit:
www.ilrc.org/sites/default/files/resources/n.17_questionnaire_jan_2016_final.pdf
 - ILRC Acquisition & Derivation Quick Reference Charts: <https://www.ilrc.org/acquisition-derivation-quick-reference-charts>
 - Ninth Circuit Criminal Issues in Immigration Law Outline:
http://cdn.ca9.uscourts.gov/datastore/uploads/immigration/immig_west/D.pdf

APPENDIX B: INSTITUTIONAL HEARING PROGRAM AT FCI-DUBLIN

1. AOD preclearance required

- JDC must request pre-clearance for AODs from the Bureau of Prisons several days in advance of the scheduled appearance.
- **At least 7 days in advance** of the scheduled appearance,
 - Complete and sign Form BP-A0660 available at https://www.bop.gov/policy/forms/BP_A0660.pdf
 - Send completed and signed form with a scan of valid government-issued identification to detainedAOD@sfbar.org.
 - JDC will submit the request to Monica Taylor at m3taylor@bop.gov.
- Confirm that your clearance has been approved by calling (925) 833-7500
- The Bureau of Prisons must notify JDC that the AOD has been cleared. JDC will forward the approval to the AOD to print and bring to the facility.
- Approved clearances remain valid for 90 days.

2. Advance preparation

- The Court faxes over the docket and NTA packets to JDC in advance. JDC will transmit these to the scheduled AOD as early as possible, along with any previous intakes that are available.
- The AOD is strongly urged to review the documents and to fill out the intake sheets in advance - there will be vastly insufficient time to review documents on site.

3. Location, parking, and entering facility

- The facility address is: *Federal Corrections Institution, Dublin*
5701 8th Street
Dublin, CA 94568
- Arrive by no later than 7:15 AM. It will take time to go through security and enter the facility.
- Park out front in visitor parking. There is a large main building overlooking the parking lot; but note this is not your destination. You will enter the smaller building to the left, which has trees and landscaping.
- Check in at desk, and be sure to clearly communicate to the officer at the desk that the Court expects you to meet with all of the respondents in advance of the 8:30 am hearings, and request to be escorted back to the conference room where the hearings will be held to commence meeting with the respondents.
- Prison staff may not be familiar with the Institutional Hearing Program. Be insistent that you are required to be there to assist the Immigration Judge.
- You will need to fill out a visitor form, which will ask you to certify that you are not bringing any contraband, medications, or food items into the facility, and then go through security screening.

4. What to bring

- ID and a bar card and a printed copy of the email correspondence regarding your clearance, if available, or

- The docket, respondents' packets, and any previously completed intake forms that were provided by JDC
- Blank intake forms, follow up sheets, supplemental notes sheets, and any necessary legal resources (JDC is unable to store copies at the prison)
- A pad of paper and at least 2 pens.
- Printed copies of any materials you'll want to reference during the day. JDC cannot store copies of printed materials at the prison.

5. Individual consultations

- The hearings start at 8:30 am, and AODs may start meeting with respondents as early as 7:30 AM. Respondents trickle in and may not arrive until just before the hearings begin.
- Depending on the prison staff that day, you may be able to meet with respondents in the:
 1. Dentist's office over to the side in a chair until patients come in
 2. Front offices, and/or
 3. Optometrist's office; this small, private space is ideal for consultations.
- Since the majority of respondents will have aggravated felonies (e.g., drug trafficking convictions), you will primarily screen for U Visa and CAT claims. Remember that 209(c) waivers do not waive drug trafficking. However, there are some interesting removability questions (e.g., whether structuring a financial transaction can be charged as reason to believe drug trafficker for an LPR who they deem to be seeking admission).
- Many women do not want to fight a CAT case; they just want a deport order so they do not get stuck in ICE custody. If their release date is approaching before the next time IJ will be onsite, respondents often want to make sure they have the removal order entered in time to avoid an unnecessary delay in being transferred into ICE detention.
- Many respondents were caught crossing the border and have never lived in the U.S. They generally want to return to Mexico as quickly as possible.
- *Note:* The women at this facility are truly alone. There is no Legal Orientation Program (LOP), no culture of attorneys visiting the facility (as it is a post-conviction facility), no culture of "jailhouse lawyers," and family visits are rare. AODs are often the only attorneys they can talk to about their cases.

6. Hearings

- Expect the IJ, the interpreter, and OCC attorney promptly at 8:30. They were very nice but it is tight quarters. Set up was in the main conference room. Group advisals were given in the conference room with over a dozen respondents at once.
- For those respondents who just want to take a deport who really want to avoid an unnecessary delay in being transferred into ICE detention before being deported, the AOD should flag this for the IJ if she might be considering setting the hearing over past the respondent's prison release date.

APPENDIX C: USEFUL RESOURCES FOR ATTORNEYS OF THE DAY

1. Directories

- SF Immigration Courtroom List: www.sfbar.org/forms/aod/courtroom-directory.pdf
- SF Immigration Court Directory: www.ailanorcal.com/agency-resources/
- ICE OCC Directory: www.ailanorcal.com/agency-resources/

2. Court Guidance

- EOIR Memo, “Case Priorities & Immigration Court Performance Measures” (Jan 2018)
<https://www.justice.gov/eoir/page/file/1026721/download>
- OPPM 18-01: Change of Venue (Jan 2018): www.justice.gov/eoir/page/file/1026726/download
- OPPM 17-01: Continuances (July 2017): www.justice.gov/eoir/file/oppm17-01/download
- OPPM 17-02: Definitions and use of adjournment codes (Oct 2017)
<https://www.justice.gov/eoir/file/oppm17-02/download>
- EOIR OPPM 16-01: Filing Applications for Asylum (Sept 2016)
https://www.justice.gov/sites/default/files/pages/attachments/2016/09/14/oppm_16-01.pdf
- Lodging asylum applications:
 - Immigration Court Practice Manual, Section 4.15, “Master Calendar Hearing”
www.justice.gov/sites/default/files/pages/attachments/2017/11/02/practicemanual.pdf
 - OPPM 13-03: Guidelines for Implementation of ABT Settlement Agreement (Dec 2013)
<https://www.justice.gov/sites/default/files/eoir/legacy/2013/12/03/13-03.pdf>
 - OPPM 08-01: Guidelines for Facilitating Pro Bono Legal Services (March 2008)
<https://www.justice.gov/sites/default/files/eoir/legacy/2008/04/24/08-01.pdf>

3. Practice Advisories and Other Materials

- AIC Practice Advisory, Motions for a Continuance (March 22, 2018)
https://www.americanimmigrationcouncil.org/practice_advisory/motions-continuance
- AIC Practice Advisory, Representing Clients with Mental Competency Issues (Nov 2011)
https://www.americanimmigrationcouncil.org/sites/default/files/practice_advisory/Mental-Competency-Issues.pdf
- CLINIC, Practice Advisory on Strategies to Combat Government Efforts to Terminate Unaccompanied Children Determinations (May 2017)
<https://cliniclegal.org/resources/practice-advisory-strategies-combat-government-efforts-terminate-unaccompanied-children>
- ILRC California Quick Reference Crimes Chart: <https://www.ilrc.org/chart>
- ILRC Relief Toolkit
www.ilrc.org/sites/default/files/resources/n.17_questionnaire_jan_2016_final.pdf
- ILRC Acquisition and Derivation Charts: ilrc.org/acquisition-derivation-quick-reference-charts
- Ninth Circuit Outline: Criminal Issues in Immigration Law (Jan 2018)
http://cdn.ca9.uscourts.gov/datastore/uploads/immigration/immig_west/D.pdf
- Helen Lawrence, et. al., Practice Advisory Produced for the Vera Institute: “Strategies for Suppressing Evidence and Terminating Removal Proceedings for Child Clients” (March 2015)
https://cliniclegal.org/sites/default/files/strategies_for_suppressing_evidence_and_terminating_removal_proceedings_for_child_clients_with_appendices.pdf