

Justice & Diversity

C E N T E R

OF THE BAR ASSOCIATION OF SAN FRANCISCO

ATTORNEY OF THE DAY HANDBOOK FOR THE ADULT AND JUVENILE NON-DETAINED DOCKETS

This handbook was written for experienced immigration attorneys volunteering for the Justice & Diversity Center's Attorney of the Day (AOD) Program in 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 removal 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. QUALIFICATIONS AND APPLICATION PROCESS

a. Qualifications

To qualify for the non-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 familiarity with court procedures and practices.
 - b. Significant experience assessing removability and eligibility for diverse forms of relief.
 - c. Flexibility, tenacity, and a commitment to protecting pro se respondents' due process rights.
 - d. *If applying for the juvenile docket:* familiarity with the special procedures, forms of relief, and particular challenges applicable to juveniles.

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. After completing an orientation, the volunteer will be conditionally approved. JDC staff will observe the AOD for initial appearances and may ask that the volunteer observe a more

experienced AOD as well. After this period of observation, the AOD Program Coordinator will notify the volunteer whether they have been finally approved.

* 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. 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.

III. EXPECTATIONS, REQUIREMENTS, AND OVERSIGHT

a. Requirements

- **TIME COMMITMENT**: Commit a period of 3½ hours for each non-detained docket, from 8:30 am – 12 pm or 1 – 4:30 pm, 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 will be asked to reapply to the program.
- **LANGUAGE**: If not fluent in Spanish, come to Court with a competent Spanish-language interpreter or request interpretation coordination from JDC.
- **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 the docket list given by the court and a required intake form for each pro se individual or family.
 - Distribute informational and referral materials to pro se respondents.
- **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.

b. JDC Oversight, Supervision, and Suspension Policy

To ensure the highest level of service to unrepresented respondents and compliance with the guidelines outlines in the handbook, PLEASE READ the guidelines below.

- 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.
- JDC may observe the work of AODs at the Court without previous notice in order to ensure that the AOD is providing complete and competent service to each of the respondents and giving the required advisals to the respondents.
- If JDC observes that the AOD is not providing complete and competent service, it may take remedial action.

- Remedial measures may include asking an AOD to modify his/her conduct or obtain additional training, or suspending the AOD from the program. JDC will inform the Court when an AOD is no longer participating in the program.
- If the attorney who is suspended wishes to request a re-examination of the suspension decision s/he may do so within 20 days of the suspension.
- Upon a request of re-examination of an initial suspension decision, the AOD program will schedule a call or an in-person meeting with the attorney to review his/her concerns and reconsider its decision based upon that call or meeting

IV. DOCKET SIGNUP AND SCHEDULING

a. Sign-up Procedures and Cancellation Policy

Each month, JDC staff will email AODs a link to Signup.com, the online calendar used to coordinate non-detained AOD scheduling. The calendar will list all dockets for the month, specifying each docket’s the date, time, and Immigration Judge.

To sign up for a docket, follow the link to Signup.com and add your name and phone number to the calendar. For technical assistance, contact AOD@sfbar.org.

JDC regularly updates the Court about upcoming AOD assignments. Likewise, each time an AOD cancels an assignment, JDC must notify the Court of the schedule change. To help us maintain as efficient a program as possible and avoid miscommunications with the Court, please **only sign up for dockets that you are reasonably certain you can attend**, and please **avoid cancelling your docket assignments** once you have signed up.

If circumstances beyond your control require you to cancel an assignment, you must make all cancellations in accordance with the following cancellation policy:

<i>If cancelation occurs...</i>	<i>Contact...</i>
More than 3 business days before docket	<ul style="list-style-type: none"> • Make changes directly on Signup.com
Fewer than 3 business days but more than 24 hours before the docket	<ul style="list-style-type: none"> • Email AOD@sfbar.org. JDC will inform the Court.
Within 24 hours of the docket	<ul style="list-style-type: none"> • Contact the Court at (415) 705-1105 and request to speak with a Court Supervisor, AND • Email AOD@sfbar.org.

b. Interpretation Policy

We encourage attorneys to become involved as AODs regardless of language skills. If you do not have a Spanish interpreter to assist you, JDC can arrange for a volunteer interpreter provided that you:

- Request a volunteer by contacting AOD@sfbar.org at least two weeks before your docket.
- Follow correct interpretation protocol. If you are unaware of what this protocol is, please read Appendix G
- JDC may cancel your appearance if unable to find an interpreter as of 1 week before the docket.

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 other informal interpreters, particularly when inquiring about sensitive information (e.g. criminal history, domestic violence, sexuality, etc.).
- When appearing before the judge, please inform the Court that you could not communicate clearly with the respondent and therefore were not able to do a full intake or advisal.
- If language barriers prevent you from conducting an intake, inform the Judge and decline to speak on the respondent's behalf.

c. 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 (refer to [Appendix A](#) for a list of available materials).
 - 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. CONSULTATIONS PROCEDURES

To maintain an efficient program and ensure the highest quality of representation for unrepresented respondents, AODs must comply with the following protocol during their appearances. ALL AOD's must give the Required Advisals for every intake. Please see below.

a. Preparation and Arrival

1. Review materials
 - Confirm the courtroom location by referring to the directory on JDC's AOD webpage: <http://www.sfbar.org/jdc/legal-services/immigration/aod.aspx>.
 - Familiarize yourself with this Handbook, the intake form, the JDC Resource Packet, and the other materials provided by JDC for respondents (refer to [Appendix A](#) for a complete list).
 - Familiarize yourself with the additional resource materials in the Probono room, which are there for your reference while conducting intakes.
2. Arrive to Court
 - AODs must be available for the entire 3½ hour period for each non-detained docket (8:30 am – 12 pm or 1 – 4:30 pm). The actual time spent as AOD may be less on any given day.
 - Aim to arrive no later than 15 minutes before the start time for your docket (8:30 am or 1 pm) so you have time to clear the security lines, which are often long.
 - If you arrive close to the docket time, politely inform the guards that you are an AOD so they can move you to the front of the line.
3. Identify yourself as the AOD to the Court Clerk and Immigration Judge
 - Report to the courtroom and introduce yourself to the Clerk and Immigration Judge.
 - Request a copy of the docket list to determine the number of unrepresented respondents.
 - Ask which cases on the docket are subject to the expedited/priority processing.
 - Once Court begins, the Judge will make an announcement to identify unrepresented respondents and will announce you as the volunteer AOD.

b. Consultations Procedures with Pro Se Respondents

1. Lead unrepresented respondents out of the courtroom for attendance and further instruction
 - Lead unrepresented respondents to the hallway, lobby, or a pro bono room.
 - Distribute your business card so respondents have a written record of your identity.
 - Take attendance and check hearing notices to ensure respondents are in the right place.
2. Distribute Intake Forms and Change of Address Forms (Form E-33)
 - Instruct respondents to begin completing the Intake Form's biographical data section on the front side while they wait to meet with you.
 - If needed, they should complete the Change of Address Form as well.
3. Deliver group orientations when useful and appropriate

- If there are many unrepresented respondents, it may be efficient to provide an overview of the day’s procedures in a group setting and general advisals such as change of address, nature of removal proceedings, and consequences of failing to appear.
 - To protect respondents’ confidentiality, do not discuss any respondent’s individual case in the group setting.
4. Conduct confidential, one-on-one intakes.
- Create a confidential space
 - If no pro bono rooms are available, use a private area in the lobby or the hallway. *Note:* AODs should not share pro bono rooms.
 - Meet with respondents *individually*—without accompanying friends and family members—whenever possible. In the presence of friends or family, respondents may be reluctant to disclose sensitive information critical for their case.
 - *For adults with children:* try to interview the adult alone. Ask about the adult’s relief options, but also explore separate relief for the children (e.g., SIJS). If time permits, interview older children separate from adults and advise them about possible relief options as well. Refer to [Section VI.b.](#) for information on advisals for juveniles.
 - *For unaccompanied minors ages 14+:* interview them separately from accompanying adults.
 - Do an efficient intake (for adival scripts Refer to [Section IV](#) and [Appendix D](#)) PLEASE USE THE CHECKLIST THAT FOLLOWS

FOR EVERY INTAKE:

- Verify that the respondent is unrepresented.** You do not need to conduct a full intake with respondents who are represented but whose counsel is not present. However, *you should still represent them and submit an intake form* with their basic information as a record of the consult.
- AOD Advisal: Explain the role of the AOD, confidentiality, and scope of AOD Assistance.**
 - If client is a minor:**
 - Ask if sponsor is present
 - If sponsor is not present, tell minor that judge may ask re: sponsor but sponsor is not required to be there, just to make sure minor is in court.
- Verify the information before “Permission to Share” on the intake form:** The respondent’s name, A number, gender, age/DOB, derivatives, country of origin, ethnicity, language, whether disabled or a veteran, phone number, address.
- Verify that the address on the respondent’s hearing notice matches the address she gave you**
 - If client is a minor: (due to court concerns re: trafficking)**
 - Ask the client who s/he is living with
 - Ask the client if s/he feels safe there
- If the client is a Santa Clara County Resident:** be sure to fill out the arrest information on the second side of the form and leave CLEAR NOTES on the intake.
- Give Change of Address Advisal:** and two copies of Form E-33/ Fill out form E-33 if necessary
- Give Permission to Share Advisal and secure permission to share client’s info. with non**
- Give NTA & Nature of Proceedings Advisal** and point out respondent’s NTA (if she has it)
 - If client is minor:**
 - Check for proper service of the NTA
 - Check for proper service of I-770
- Give In Absentia Advisal and if necessary and applicable:**
 - Change of Venue**
 - Consolidation**
- Ask about attorney search efforts.** Investigate plans to retain counsel as soon as possible
- Distribute Court’s Pro Bono list and JDC Resource Packet** and recommend retaining counsel as soon as possible. Also distribute attorney search log and explain that respondent should fill it out and show the judge at the next appearance.

- If client is a minor:
 - Emphasize this point especially for those 17+ as they may have more difficulty applying for certain forms of relief
 - Emphasize that, if do not apply for asylum before age 18, will have to file w/the court
- If the client is a Santa Clara County Resident and has a criminal record, explain that Santa Clara County will not use funding to provide full-scope representation for respondents with “serious or violent convictions” but that the respondent should still contact all of the agencies because some of them may be able to take their case anyway. Also point out the numbers of the State Bar of California and the Bar Association of San Francisco in the JDC Packet. See Appendix G for more information.
- Ask if the client has fear of returning and if so perform One-Year advisal
- Identify & Explain:** the most pertinent issues, what requests you can make to the court, and what the likely response will be (i.e. the judge and DHS’ possible responses)

FOR INTAKES WHERE TIME PERMITS:

- Fill out the back of the Intake Form:** to gather information regarding the history of the case and potential eligibility for relief
 - If client is a minor:
 - Be sure to ask the questions regarding trafficking
- Investigate & Identify:** the most pertinent forms of relief
- Advise** the client regarding those forms of relief open to that person (i.e. how to qualify and what they would need to prove) and any obstacles they may have (weak claim, asylum bar, criminal bar, etc.)
- Give **lodging advisal**. If time permits, help respondents lodge asylum applications at the clerk’s window on the 8th floor before they leave court that day. Lodged applications MUST contain applicant’s name, A-number, and signature. It is recommended to include names and A-numbers of any derivatives on the application and the phrase “*For Lodging Purposes Only*” written at the top of the application. Please refer to OPPM 13-03, OPPM 16-01, and the Immigration Court Practice Manual Ch. 4 for more detailed information about lodging asylum applications.
- If client is a minor:
 - Should inform him/her to apply ASAP, even though one-year doesn’t apply, especially those who are about to turn 18 as the law is in flux.
- Give any other necessary advisal
 - ISAP**
 - Leaving the Country**
 - Pleadings (Please read our pleadings policy in Section VI)**

VI. APPEARANCES BEFORE THE IMMIGRATION JUDGE

1. Commence your AOD appearance
 - Notify the court clerk when you complete the intakes. The Judge will allow you to “cut in line” and present your cases before continuing to hear represented cases.
 - Introduce yourself as appearing “Pro Bono on behalf of Respondent for today only.”
 - If time permits, ask for simultaneous interpretation for respondents who do not speak English so that these respondents may understand the proceedings and issues for the future.

2. Confirm respondent’s contact information and language, submit Form E-33 if needed
 - IJ will confirm respondent’s current address and best language, including specific dialects.
 - If the respondent’s address has changed, submit copies of Form E-33 to the IJ and DHS.
 - If the respondent only has one copy of the Form E-33, politely ask if the Court can make extra copies for DHS and the respondent.

2. Represent the respondent before the Judge, including requesting key documents and preserving legal challenges.
 - Per the intake, present any requests needed on behalf of the respondent. Seek to present the respondent’s case in the most favorable light possible.
 - Inform the Judge of any information the respondent previously failed to receive, any special challenges the respondent faces, and other mitigating circumstances in their case.
 - Inform the Judge of the limitations of your assistance if you were unable to assist or understand the respondent due to language, conflict, unfamiliarity with legal issues, etc.
 - Request relevant documents commencing the case and underlying charges of removal (e.g., “courtesy copy” of NTA, certified criminal conviction documents, Form I-770, etc.). State on the record if client does not have initiating case documents.
 - Be careful not to concede proper service of an NTA. If the Judge or OCC seeks to assert that service has been cured or legally made at the court, then ask the Judge to defer any legal findings on this issue until respondent has been able to retain an attorney.
 - Ensure that the respondent is given adequate time to review those documents and sufficient time to prepare and submit subsequent filings or applications for relief.
 - If you spot a legal issue or a procedural defect, please note the issue for the record and ask the Court to defer legal findings on the issue until the respondent has procured counsel.
 - If new issues arise that you did not discuss with the respondent, ask to consult with the respondent on the information and how they wish to proceed. If extended discussion with the respondent is necessary, ask to trail the case and re-appear after conferring in private.

3. **The AOD Program policy is to NOT assist on the record with pleadings.**
 - If the Court wants to take pleadings, inform the Court of the policy not to assist with pleadings. Ask the Court to provide the respondent with one final opportunity to appear with counsel before proceeding with pleadings.
 - If you have not already, ask the Court for an opportunity to advise the respondent about what it means to take pleadings, and ask to trail the case.

- If the Court still wishes to move forward, allow the respondent to answer the Court's questions directly.
4. Set next appearance
 - Ask the Judge to waive the presence of derivative minor respondents at future hearings (if not already waived).
 - Ask the Judge to accommodate any special challenges that the respondent may face in appearing next time (e.g. expected delivery date for a pregnant woman, extended travel distance from home).
 - Obtain two copies of next hearing notice; give one copy to DHS and the other to the respondent.
 - Be sure to note the next appearance date on the intake form.
 5. If needed and time permits, debrief with respondents after the hearing and provide further assistance.
 - Explain what happened in Court.
 - Ensure they have the hearing notice for their next appearance. Provide information on next steps and answer any questions or concerns.
 - Assist them with lodging asylum applications and/or provide further consultation to respondents about their legal options.
 6. Complete and deposit intake forms and docket lists.
 - Deposit all completed intake forms and the docket list in the metal locked drop boxes located in the pro bono rooms on the 4th, 8th, and 9th floors of 100 Montgomery.
 - If you forget to deposit these materials in the drop boxes, please email them to AOD@sfbar.org *within two business days*.

VII. Absent Respondents Procedures

As time permits, AODs should strive to advocate on behalf of absent respondents on your docket.

1. Make efforts to locate absent respondents
 - Ask the Judge to make additional announcements in the courtroom to identify any unrepresented respondents who may have entered late.
 - Check courtrooms, hallways, and waiting areas for anyone who may be on the docket.
2. Request contact information from the Court and advocate on absent respondents' behalf
 - If you still cannot locate absent respondents, request a contact phone number from the Court. Call to ask why respondents are not present.
3. Wait one hour for unrepresented respondents to arrive.
 - If you arrive for your AOD shift and there are unrepresented respondents listed on the docket who are not present in Court, please wait ***one hour*** for unrepresented respondents to appear.
 - If no one has appeared after one hour and you have not yet contacted the respondents, you should do so.

4. Advocate on behalf of the unrepresented respondents: ask for a continuance in order to avoid an order of removal or explain the circumstances that may have prevented their appearance. Present any other arguments that may apply to their case to avoid an absentia order of removal. e.g. errors in service of NTA/hearing notice
5. When unrepresented respondents are unaccompanied children:
 - Ask the Court for one more hearing to allow the child to appear and the opportunity to inform Northern California's LOPC Provider, the Immigration Center for Women and Children (ICWC) about the child's absence in court. ICWC can sometimes locate the minor or sponsor and encourage them to appear in Court.
 - If the Court agrees to continue the hearing on this basis:
 - Note the issue clearly on an intake form. Include information about what happened at the hearing, the child's A-number, and future hearing dates.
 - Email AOD@sfbar.org immediately after your hearing so JDC can conduct time-sensitive follow-up.
6. Submit an intake form for absent respondents you contact
 - Note the respondent's name, contact information, and any information you learned.

VIII. 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.
- Provide the same quality of expertise and care to the pro se respondents during the intake and appearance that you would provide to a paying client, with consideration for your limited information, time and role as an AOD.
- 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 or other counsel.
- 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.

Appendix A: ADVISALS FOR PRO SE RESPONDENTS

In the course of every intake, please provide the relevant information below.

a. Required Advisals:

1. AOD Advisal:

“I am a volunteer attorney and am here to help you in court for today only. Here is my business card. I do not work for the court or the government, but I volunteer on behalf of the Justice & Diversity Center. What you tell me in this room is confidential and I cannot share it with anyone without your consent.”

2. Change of Address Advisal:

“You must inform the court if you change your address, within 5 days of moving. The court sends any updated hearing notice to your mailing address, so if you don’t change it and miss a hearing, you could be ordered deported. You must complete this form (E-33). You fill out your address here, sign here, fold it, staple it, and send it to the court. Is your address still (read address listed on hearing notice)?”

3. Notice to Appear & Nature of the Proceedings Advisal:

“This is what is called your Notice To Appear. It outlines why the government believes that you should not be allowed to remain in the U.S. You should bring this to all of your consultations and court dates. Your job in these proceedings is to prove to the judge that you should remain in the U.S. either because you have status already that the government cannot take away from you or because you are granted an immigration benefit. The purpose of this hearing, which is called a “master calendar” hearing, is for the judge to make sure that you’re present in court and for her to understand in which direction the case will be going. For instance, she will want to know whether you will have an attorney and how you want to proceed in your case. Many other people have cases before the same judge at the same time as you, so you will have to wait until she calls your name. She will not make any final decision on your case today, unless you want her to. Eventually, she will schedule you for what’s called and “individual hearing” At that hearing, you or your attorney will present the evidence about why you should be allowed to stay here and after that hearing, the judge will make a final decision about whether you can stay here.”

4. Avoiding in absentia orders

“If you fail to come to a scheduled court date, the judge can order you removed and you may no longer be able to apply for some forms of immigration relief. For this reason, it’s very important that you come to every court date, whether or not you have found an attorney. If you have some sort of emergency, you can call the number of the court, listed here, (show JDC packet)

and try to explain to the clerk why you will be late. If you miss a court date, you should consult with an attorney as soon as possible to see what options you might have.”

b. Case-specific Advisals:

1. Consolidation:

“Because you entered with your (mother/father/spouse) who is also in proceedings, you could ask the court to “consolidate” your case so that you are all applying for a form of relief before the same judge. This has advantages and disadvantages. If you are all applying for the same form of relief, you would only have to submit one application, and you all would have the same date of court. However, it could not be advantageous depending on what judge you have, if you have a case unique from your family member, or if one of your cases is expedited.”

2. Change of venue:

“If you wanted your case to be transferred to a court in [location] you would have to ask the judge to change your venue to that court. If you have proof that you now live in [location], we can ask the judge to change your venue to that court today. However, if you’re still thinking about whether to move to [location] you should think about whether going there would be advantageous to your case.” (Can talk about possibility of getting a good judge, availability of legal services in the state.)

3. One-year Advisal

“From what you have told me, it looks like you’re eligible to apply for asylum, which is a form of relief where you would be requesting that the U.S. government protect you by allowing you to stay here because you’re afraid to return to your home country. You must apply for asylum within a year of entering the U.S. There are exceptions to this rule, but you would have to prove that you fall into one of the exceptions if you miss the one year deadline.”

4. Lodging (See Lodging Protocol Appendix E)

“In order to indicate that you are attempting to meet the one year deadline and so that you can get a work permit, I will help you to do something called “lodging” an asylum application today. I am going to fill out the most basic information on your form. Please sign the form here, so that we can submit it. After court today, you’re going to take the same elevator you took to get here and go to the 8th Floor. You will see some people at windows sitting behind glass. You’re going to take this form to one of them. He will simply stamp this form, enter some information into the system, and return it to you. You should keep this as proof that you made efforts to start your application. However, you still have to file the application before the judge as soon as you can and your derivatives must fill separate applications as well. 150 days after you lodge you can apply for a work permit, but if you do anything to delay your case (including asking for time to find an attorney after you lodge), the court will temporarily stop counting the time until you stop delaying the case.”

5. ISAP

“I see that you have an ankle monitor. Here is a packet of information you can read about how you might ask for ICE to remove the ankle monitor.”

6. Leaving the country:

“If you leave the country, it will affect your current immigration case and could affect your ability to apply for any form of relief in the future, especially if the judge orders you deported. You should not leave until you get a full consultation and decide how you want to proceed. Depending on the facts of your case, you may be able to ask the court to withdraw your application for admission or give you what’s called ‘voluntary departure’ both of which are much more advantageous than a deportation order.”

7. Pleadings:

“The Judge may want you to admit or deny the charges of the government listed here. This is significant because, if you admit to these things, you will have to tell the judge what form of relief you are going to file for. Sometimes, you can raise legal and factual arguments regarding these charges that would allow you to ask the judge to terminate your case. I cannot speak on your behalf as a matter of our policy because I have not had the chance to fully investigate your case, so my recommendation is to ask the Court to continue your case one more time to find counsel. If the court doesn’t allow you to do this, I want to review the charges with you here. The judge will ask you to admit or deny these charges. (Advise the respondent, if s/he is not an arriving alien, that the burden is on the government to prove the charges of removal on the NTA. In the cases of persons charged as arriving aliens, advise the burden of proof is on the respondent to demonstrate admissibility. Explain to the client what each charge says and that she has the option to hold government to its burden, if not an arriving alien, and deny some of them or to admit all of them. Give the respondent pros/cons of admitting and denying allegations depending on the facts of her case.)”

APPENDIX B: RESPONDENT PRO SE MATERIALS AVAILABLE AT COURT

All materials are available in the pro bono rooms on the 4th, 8th, and 9th floors. Electronic versions are available on JDC's website at <http://www.sfbar.org/jdc/legal-services/immigration/aod.aspx>.

- **Intake Form**
Complete one intake form per unrepresented respondent or family unit. Deposit intake forms, attached to the docket list provided by the court, in the locked drop boxes in pro bono rooms on the 4th, 8th, and 9th floors.
- **JDC Resource Packet for Immigrants (Spanish & English)**
Every respondent must receive this important information about court proceedings, types of immigration relief, and lists of legal services providers.
- **Attorney Search Log (Yellow Sheet)**
Respondents can use this form to record attempts to find an attorney and demonstrate their efforts to the Immigration Judge if they are unable to find an attorney by their next master calendar hearing.
- **ISAP Guide: How to Request Removal of Your Ankle Monitor (Spanish & English)**
This guide contains useful information for respondents who are part of the ISAP program and are currently wearing an ankle monitor. This guide informs pro se respondents about how to request removal of an ankle monitor. This resource was produced by the Stanford Law School Immigrants' Rights Clinic at on behalf of The Bar Association of San Francisco and the San Francisco Immigrant Legal Defense Collaborative.
- **Defensive Asylum Pro Se Guide (Spanish & English)**
This interactive guide provides a step-by-step description of how respondents can represent themselves in their asylum removal proceedings before the San Francisco Immigration Court. The guide explains how pro se asylum seekers can take helpful, affirmative steps to prepare for non-detained merits hearings. This resource was produced by the Stanford Law School Immigrants' Rights Clinic on behalf of Centro Legal de la Raza and Community Legal Services of East Palo Alto.
- **Informational Packet for Families (ICWC) (Spanish)**
This packet includes information specifically geared toward recently arrived unaccompanied children. It provides valuable resources to help minors, their parents, and their sponsors navigate removal proceedings. The packet addresses the forms of relief recently arrived minors should explore and lists legal and social services providers. This resource was created by the Immigration Center for Women and Children.

APPENDIX C: COMPLETING THE INTAKE FORM

Please fill out and complete an intake form for:

1. Every pro se respondent you assist
2. Every *represented* respondent you assist whose counsel was not present that day
3. Every absent respondent you contact

FRONT/FIRST PAGE: All AODS ***MUST*** complete the front page of the intake form.

- Hearing Information and Initial Screening
 - Note hearing type (adult vs JV), appearance history (initial vs reset), and if case is expedited.
 - “Informed”: explain your role as AOD and that you will share the intake form with JDC.
 - Indicate any unaccompanied minors or respondents under age 21.
 - Indicate if an Santa Clara County resident and, if so, go to the back of the form to fill out criminal history information
- Respondent Demographics
 - Note number and age of derivatives in the case, including both children and spouses.
 - Consider these ways of phrasing the demographic questions in this section:
 - Gender: *How do you identify, male or female?*
 - Disabled: *Do you have a physical or mental condition that limits movements, senses, activities?*
 - Veteran: *Have you ever served in the U.S. armed forces (incl. reserves, Coast Guard)?*
- Signed Consent for Referral Assistance
 - Any respondent who participates in an intake with an AOD is consenting to JDC receiving their intake information, regardless of whether the respondent provides a signature on the intake form (see “Informed” above).
 - Only if the respondent *signs* the intake form, under “*permission to share information*,” will JDC share that intake information with other attorneys who may be able to provide free or low-fee assistance.
- How did you assist the respondent today?
 - Indicate the assistance and advisals you provided.
 - Record the next hearing date and time.

BACK/SECOND PAGE: Though it is not required to complete this side of the intake form in every case, we encourage you to use it to assess case histories and arguments in respect to removability and eligibility for relief. Your notes also help JDC staff provide further assistance to respondents when possible.

- Section 1: Gather information about the respondent’s procedural history.
- Section 2: Assess immigration/criminal histories. *Remember: screen Santa Clara County residents & UCs!*
- Sections 3-4: Screen for eligibility for various forms of relief and other relevant issues.
- Section 5: Indicate relief identified.

AOS: Adjustment of Status

ASY: Asylum

CAT: Convention against Torture

LPR COR: Legal Permanent Resident Cancellation of Removal

Non-LPR COR: Non-Legal Permanent Resident Cancellation of Removal

SIJS: Special Immigrant Juvenile Status

TPS: Temporary Protected Status

VAWA COR: Violence against Women Act Cancellation of Removal

WOR: Withholding of Removal

APPENDIX D: LEGAL ISSUE-SPOTTING FOR INTAKE AND CHALLENGES IN COURT

- **Issue-spotting during intakes:**
 - Before intakes: ask Court which cases are expedited, advise Rs re urgency
 - Assess for challenges to removability, termination, suppression
 - Service of NTAs on minors: must be served on minor and “person minor resides with, and on near relative, guardian, or friend” 8 CFR § 103.8(c)(2)(ii)(minors<14); Flores-Chavez v Ashcroft, 362 F3d 1150 (9th Cir 2004) (minors< 18)
 - Form I-770 must be served on all JVs (minors under 18) at time of apprehension. 8 C.F.R. § 236.3(h) (accompanied or unaccompanied)
 - Service of NTA on incompetent R: NTA must be served upon the person with whom the R resides. 8 C.F.R. § 103.5a(c)(2)(ii)
 - Get R’s permission before seeking dispositive motion (termination, etc.)
- **During master calendar hearings:**
 - Ask DHS for proof of proper service of initiating docs (NTA, Form I-770)
 - Ask DHS to provide copy of any docs re alienage or on which charges of removability is based, especially conviction documents
 - Gov must produce original or properly certified copy of criminal conviction docs. INA §§ 240(c)(3)(B), (C); 8 CFR § 1003.41.
 - Object to granting OCC more time to cure service issues or submit more documentation.
 - See Ramon-Sepulveda v. INS, 743 F.2d 1307(9th Cir. 1984); Bravo-Pedroza v. Gonzales, 475 F.3d 1358 (9th Cir. 2007). Cf. Matter of Jasso Arangure, 27 I. & N. Dec. 178 (BIA 2017); Matter of WAFC, 26 I. & N. Dec. 880 (BIA 2016) (allowing continuance to re-serve NTA). Ask Court to give deadline to DHS for submission of documents
 - Ask Court to give R time to review new documents submitted in Court (e.g. Form I-213)
 - Ask IJ to apply adjournment code to DHS delay, if applicable
 - See OPPM 17-02: Def and Use of Adjournment, Call-up and Case ID Codes (Oct. 5, 2017).
 - Advise Court re R’s diligence, etc.
 - With R’s consent, request termination
 - See Ramon-Sepulveda v. INS, 743 F.2d 1307(9 Cir 1984); Bravo-Pedroza v. Gonzales, 475 F.3d 1358 (9 Cir 2007). Cf. Matter of Jasso Arangure, 27 I&N Dec. 178 (BIA 2017).

APPENDIX E: PROCEDURES FOR LODGING AND ONE-YEAR ISSUES

Following these steps when advising and assisting unrepresented respondents with lodging asylum applications:

1. Give Advisal (Appendix A)
2. Lodge for Adults, UAC's about to turn 18, and those who have been reunited w/parent or guardian.
3. Lodge after the MCH.
4. To lodge, complete the following information on the I-589:
 - Name
 - A number
 - Derivatives' names
 - Principal R signature
 - Write "for lodging only"

APPENDIX F: SCREENING FOR SANTA CLARA COUNTY RESIDENTS

ii. Screening Santa Clara County Residents for Criminal History

Though criminal history does not bar anyone from receiving AOD services, respondents from SCC with certain serious criminal convictions (listed below) are ***not eligible for full-scope representation funded by the County.***

Screen all respondents from SCC for criminal history and try to identify anyone convicted of a “violent felony” listed below. Note that you do ***NOT*** need to be sure that the respondent’s conviction falls into the category below; please screen all Santa Clara County residents with an actual or potential criminal conviction ***even if it appears minor.***

Leave clear notes regarding respondents’ criminal histories on the intake form so JDC can track how many people are impacted by this policy and assist those individuals who may face greater challenges in finding low-cost representation.

Explain to potentially affected respondents that they be ineligible for services from county-funded agencies and may have to seek private representation or assistance from agencies with alternate funding. Help respondents identify these agencies using the *JDC Resource Packet for Immigrants.*

iii. Cities in Santa Clara County

The following 15 cities are part of Santa Clara County:

- Campbell
- Cupertino
- Gilroy
- Los Altos
- Los Altos Hills
- Los Gatos
- Milpitas
- Monte Sereno
- Morgan Hill
- Mountain View
- Palo Alto
- San Jose
- Santa Clara
- Saratoga
- Sunnyvale

iv. Violent Felonies

Respondents will be excluded from full-scope services funded by SCC if:

1. The individual was convicted of a “violent felony” listed in California Penal Code § 667.5(c), and the conviction happened within the past ten (10) years, ***or***
2. The individual was convicted of a “violent felony” listed in California Penal Code § 667.5(c), and released from serving his or her sentence for that offense within the past five (5) years.

California Penal Code (CPC) § 667.5 (c) lists the following as “Violent Felonies”:

1. Murder - CPC 192 or voluntary manslaughter - CPC 187(a)
2. Mayhem - CPC 203
3. Rape - CPC 261(a)(2) or (6) and CPC 262(a)(1) or (4)
4. Sodomy - CPC 286(c) or (d)
5. Oral copulation - 288a(c) or (d)

6. Lewd or lascivious act - CPC 288 (a) or (b)
7. Felony punishable by death or imprisonment in the state prison for life
8. Felony in which the defendant inflicts great bodily injury on any person other than an accomplice
9. Robbery - CPC 221
10. Arson - CPC 451(a) or (b)
11. Sexual penetration - CPC 289(a) or (j)
12. Attempted murder
13. A violation of CPC 18745, 18750, OR 18755
 - a. CPC 18745 - Every person who explodes, ignites, or attempts to explode or ignite any destructive device or any explosive with intent to commit murder
 - b. CPC 18750 - Every person who willfully and maliciously explodes or ignites any destructive device or any explosive that causes bodily injury to any person
 - c. CPC 18755 - Every person who willfully and maliciously explodes or ignites any destructive device or any explosive that causes bodily injury to any person is guilty of felony w/ punishment of 5, 7, or 9 years in state prison
14. Kidnapping - CPC 207(3), 209, or 209.5
15. Assault with the intent to commit a specified felony - CPC 220
16. Continuous sexual abuse of a child - CPC 288.5
17. Carjacking - CPC 215(a)
18. Rape, spousal rape, or sexual penetration, in concert - CPC 264.1
19. Extortion - CPC 186.22
20. Threats to victims or witnesses - CPC 136.1 and 186.22
21. Burglary - CPC 460(a)
22. Any Violation of CPC 12022.53 (armed with a firearm in the commission or attempt of a felony).
 - 1) Murder
 - 2) Mayhem
 - 3) Kidnapping
 - 4) Robbery
 - 5) Carjacking
 - 6) Assault with intent to commit a specified felony
 - 7) Assault with a firearm on a peace officer or firefighter
 - 8) Rape
 - 9) Rape or sexual penetration in concert
 - 10) Sodomy
 - 11) Lewd act on a child
 - 12) Oral copulation
 - 13) Sexual penetration
 - 14) Assault by a life prisoner
 - 15) Assault by a prisoner
 - 16) Holding a hostage by a prisoner
 - 17) Felony punishable by death or imprisonment in the state prison for life.
 - 18) Attempt to commit a crime listed in this subdivision other than an assault.
23. Use of mass destruction weapons - CPC 11418(b) or (c)

APPENDIX G: USEFUL RESOURCES FOR ATTORNEYS OF THE DAY

1. Directories

- 100 Montgomery & 630 Sansome Courtroom List
www.sfbar.org/forms/aod/courtroom-directory.pdf
- SF Immigration Court Directory (available through AILA NorCal)
www.ailanorcal.com/agency-resources/
- ICE OCC Directory (available through AILA NorCal): 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 on *Mendez-Rojas v Johnson*
https://www.americanimmigrationcouncil.org/sites/default/files/mendez_rojas_v_johnson_faq.pdf
- AIC Practice Advisory, Motions for a Continuance (September 10, 2018)
https://www.americanimmigrationcouncil.org/practice_advisory/motions-continuanceAIC
- 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 http://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_supressing_evidence_and_terminating_removal_proceedings_for_child_clients_with_appendices.pdf