



JUSTICE & DIVERSITY CENTER
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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TABLE OF CONTENTS

I.	INTRODUCTION	3
II.	QUALIFICATIONS AND APPLICATION PROCESS	3
a.	Qualifications	3
b.	Application Process	3
c.	Annual AOD Update Form: due February 1	4
III.	EXPECTATIONS, REQUIREMENTS, AND OVERSIGHT	5
a.	Requirements	5
b.	JDC Oversight, Supervision, and Suspension Policy	5
IV.	DOCKET SIGNUP AND SCHEDULING	6
a.	Sign-up Procedures and Cancellation Policy	6
b.	Interpretation Policy	7
c.	Non-AOD and Non-Attorney Supervision Policy	7
V.	CONSULTATIONS PROCEDURES	9
a.	Attorney Demenaor	9
b.	Preparation and Arrival	8
c.	Consultations Procedures with Pro Se Respondents	9
VI.	APPEARANCES BEFORE THE IMMIGRATION JUDGE	19
VII.	Absent Respondents Procedures	20
VIII.	ADDITIONAL AOD POLICIES	22
a.	Pro Bono Service Policy	22
b.	Creation of Limited Scope Attorney-Client Relationship	22
c.	Non-Discrimination Policy	22
d.	Confidentiality and Conflicts Policy	22
	Appendix A: ADVISALS FOR PRO SE RESPONDENTS	23
a.	Required Advisals:	23
b.	Case Specific Advisals	24
	APPENDIX B: RESPONDENT PRO SE MATERIALS AVAILABLE AT COURT	27
	APPENDIX C: COMPLETING THE INTAKE FORM	28

APPENDIX D: LEGAL ISSUE-SPOTTING FOR INTAKE AND CHALLENGES IN COURT..... 29

APPENDIX E: SCREENING FOR SANTA CLARA COUNTY RESIDENTS..... 30

APPENDIX F: SCREENING FOR ELIGIBILITY FOR LEGAL SERVICES FUNDED BY CDSS.....

APPENDIX G: USEFUL RESOURCES FOR ATTORNEYS OF THE DAY..... 32

APPENDIX H: REMOTE CONSULTATIONS & LAW LAB INSTRUCTIONS.....33

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 speaking on behalf of unrepresented 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: <https://www.sfbar.org/jdc/immigrant-legal-defense/attorney-of-the-day-prospective-volunteers/>
2. Phone interview with JDC staff (as needed)
3. Virtual orientation

4. After completing an orientation, the volunteer will be conditionally approved. The new volunteer will shadow the JDC Attorney Coordinator on at least one occasion, and the attorney coordinator will then reverse- shadow the volunteer on at least one occasion. This shadowing could take place at one Master Calendar Hearing or over several.

* 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 <https://www.sfbar.org/jdc/immigrant-legal-defense/aod/>) 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 3.5 to 4 hours for each non-detained docket, from 8:00 am – 12 pm or 12:30 – 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, with sufficient advanced notice (see interpreter policy below).
- **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 but will not inform the court of why the AOD was removed from the panel.
- 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 may 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 (San Francisco) or (916) 447-9301 (Sacramento) 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 **and are volunteering at San Francisco Immigration Court (only)**, 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.
- **Please note that JDC Interpreters are not the same as non-attorney staff (such as legal assistants brought by an attorney volunteer). For this reason, JDC interpreters should not be expected to complete the intake forms without the attorney volunteer present. The interpreters are trained to interpret from English to Spanish but do not have specialized immigration knowledge. IF the attorney volunteer wants the interpreter to fill out the biographic information of the form, s/he must give the interpreter specific instructions.**

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. Please also request that the respondent be provided an interpreter in his/her native language for the MCH so that s/he can understand the advisals.

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. Attorney Volunteer Demeanor

1. Keep in mind that the principal mission of the AOD Program is to ensure due process and access to justice for all respondents in the SF Immigration Court.
2. Treat all respondents **with respect**. This means:
 - a. Listening to their questions and concerns during the consultation.
 - b. Responding in a non-judgmental manner regarding any information that they give you (including information regarding criminal convictions).
 - c. Make sure you understand how they want to proceed before going on the record.
3. Keep in mind that you're a representative of the AOD Program. As a representative of the program we expect that you will maintain respect for other attorneys, the judges and the court staff.

b. Preparation and Arrival

1. Review materials
 - Ensure you know the floor and courtroom number of the court (you will be given the directory at the orientation and it is accessible via the AILA website)
 - 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 **15-30 minutes before** the start time for your docket so you have time to clear the security lines, get the docket sheet, and gather materials. **For Sacramento court only, plan to arrive even earlier, as it can take up to 45 minutes to get through security.**
 - If you arrive early, you can ask the guard to open the courtroom so that you can announce your presence and start intake.
 - If you arrive close to the docket time, politely ask others in line if you could go first as you are serving as Probono that day.
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. If the court has not begun, you may proceed to b. Consultations Procedures with Pro Se Respondents.

- Once Court begins, the Judge will make an announcement to identify unrepresented respondents and will announce you as the volunteer AOD.

c. 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 right to an attorney, consequences of failing to appear, the one-year bar, and how to search for an attorney.
 - 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. Use discretion about how private the area is when asking sensitive questions re: harm/fear. If the area is not completely private, you can simply ask non-detailed Yes or No questions in these sections of the intake. 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.
 - Do an efficient intake (for advisal scripts Refer to [Section IV](#) and [Appendix D](#)) PLEASE USE THE CHECKLIST THAT FOLLOWS FOR ADULT RESPONDENTS AND THE SECOND CHECKLIST FOR JUVENILE RESPONDENTS.

FOR EVERY ADULT 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.**
- 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**
- Give Nature of Proceedings Advisal** and point out respondent’s NTA (if she has it) and explain the NTA (if not the pleadings)
- 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 In Absentia Advisal and if necessary and applicable:**
 - Change of Venue**
 - Consolidation**
- Give Permission to Share Advisal and secure permission to share client’s info. with other nonprofit organizations.**
- Give **Right to an attorney and Attorney Search Advisal**
- Ask about attorney search efforts.** Investigate plans to retain counsel as soon as possible
- Distribute Court’s Pro Bono list and JDC Resource** Also distribute attorney search log and explain that respondent should fill it out and show the judge at the next appearance.
- 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
- 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 any other necessary advisal
 - ISAP**
 - Leaving the Country**
 - Pleadings** (Please read our pleadings policy in Section VI

FOR JUVENILE RESPONDENTS:

*Please note that the advisals are different, as a Legal Orientation Program person from ICWC is present at all juvenile courts. The Legal Orientation Program Coordinator will already have done some of the advisals that you would give at the adult court, so these are modified so as not to repeat information and in order to save time.

*Please be sure to take attendance so that you know 1) which respondents are present and which are not and 2) which attorney is speaking with which respondent

*Please defer to the IJ. Especially for first-timers, it's fine for them to speak w/her and get a continuance before consulting with you.

General Advisals

Introduction of self, other AODs, any support staff

“Give **AOD Advisal** (below). Then: This is _____ (name of LOPC person). She also works for a non-profit and her job is to let everyone know what their role and responsibilities are in the proceedings. Raise your hand if you’re feeling a little nervous. That’s perfectly normal and absolutely understandable. Today, I’m going to be meeting with you all in small groups. All of you in my group will wait in the waiting area. I will make a few announcements and then meet with you individually. Then, altogether, we’ll go into the courtroom where I will accompany each of you before the immigration judge to request what you need. By proceeding in small groups we will see that none of us are alone in this, and you all may have the opportunity to learn from and teach each other.”

(In Small Groups with Sponsors)

Nature of Proceedings Advisal (see below)

Right to an Attorney & Attorney Search

Confidentiality:

Give **Confidentiality Advisal**. Then: “For this reason, I ask that sponsors don’t come into the meeting room if the child is 12 or older. If you have questions, I am happy to speak with you about any questions you have. If all of the kids could get out any papers or letters for the judge they brought with them and bring them to me in the consultation, I would appreciate it. Nellie will be going around to ask you a few initial questions about your name and address.”

To Sponsors: Waiting in Court vs. Waiting in waiting area

“If you are here with a child or family member and do not have immigration documentation and/or have a criminal history, you could be at risk of arrest because this is a federal government building. However, we have never experienced a sponsor being arrested at the court while attending with a child in proceedings. If you have any specific questions, please see me individually.”

Individual Consultations

- Ask the LOPC coordinator (if applicable) to fill out biographical portion, help with E-33's if available, and flag NTA's/I-770's while children are waiting

- Identify self and give business card

- Make clear it's optional for child to answer questions and can tell you if they don't feel comfortable

- Double-check: address current and correct language

“Today there will be an interpreter who speaks Spanish in the hearing, can you understand any Spanish? (If yes, at the hearing in the future where the judge asks for more details about your life and story, you have a right to have an interpreter in whichever language you feel most comfortable. What language do you speak at home with your family and friends?”

**You can cut the rest of the consultation short if the person has a letter stating they are represented by an agency in their case.*

- Flag the NTA & I-770 and note (on the intake) if the child doesn't have these forms

“These are important forms that you need to show whichever attorney you consult with because they explain your rights and why you're in this process.”

- Go through intake to screen for relief & (very briefly) explain relief identified & circle it in ICWC packet.

“You may be eligible for asylum, a way of getting permission to stay here for people who are afraid to return to their countries for certain reasons. You may be eligible for SIJS, a way of getting permission to stay here for children who aren't living with both parents. You may be eligible for the U-visa, a way of getting permission to stay here for people who have been victims of violent crimes in the U.S. and have called the police.”

- If going to turn 18: Advisals re: urgency of filing

“When you entered, because you were considered a child, you were given certain protections that make it easier for you to win your immigration case. Once you turn 18, you can still fight

your case, but you will lose some of these protections so it could be more difficult. For that reason, you should try to find an attorney as soon as possible and file (an SIJS/asylum) application before you turn 18 if you can.”

- Refer 18 year olds or children about to turn 18 to non-profit organizations assisting pro se respondents with filing asylum applications (see page 25).
- Circle specific referrals based on geographic area
- Ask if any questions

THERE FOR SECOND OR SUBSEQUENT TIME:

- Ask for detailed information re: attorney search efforts & note on intake
- Examine NTA, I-770 and I-862 and explain briefly any things you will note for the record (i.e. being forced to plead, etc.)

“I may make some statements in court regarding these papers because the government has made errors and I want to be sure that the judge understands the errors in case it could help you in your case. If the judge wants you to answer questions about this paper, called the Notice to Appear, I am going to ask that you not be forced to do so today because you don’t have an attorney who is representing you in your whole case.”

- Reiterate importance of trying to find counsel and give tips/info on how to go about doing it. Ask if receiving help from sponsor/family member (if not, be sure to speak with adult w/the child as well.)

During Hearing – Issues to flag before IJ (As a Friend of the Court) “I wanted to note for the record...”

ALL

- State: “AOD NAME, appearing on behalf of NAME for today only.”
- Notify IJ of address/best language
- If IJ asks re: advisals, state that LOPC advised of E-33, consequences of failure to appear
- State on record attempts to find attorney (if any) and/or give documents providing evidence of attorney search
- Ask for copy of NTA & I-770
- If DHS tries to ask questions re accompaniment:

Point of Advocacy

- Note for the record that the questioning is improper for an initial hearing and the child should not be required to answer anything until s/he retains counsel as s/he cannot understand the questioning and questioning would violate his/her due process rights.
 - TVPRA 8 USC §1232(d)(8) Applications for asylum and other forms of relief from removal in which an unaccompanied alien child is the principal applicant shall be governed by regulations which take into account the specialized needs of unaccompanied alien children and which address both procedural and substantive aspects of handling.
 - *Reno v. Flores*, 507 U.S. 292, 306 (1993): Children have a right to due process and fundamental fairness in removal proceedings.
- If DHS objects to AOD speaking on the record:
 - I am speaking as a Friend of the Court in accordance with the September 10, 2014 Brian O’Leary Memo

SECOND OR SUBSEQUENT HEARING & FOR ABSENT CHILDREN:

- Suppression/Termination Issues

Point of Advocacy

- Note for the record NTA issues:
 - Errors in child’s birthdate
 - DHS’ burden to prove alienage
 - Under 8 CFR §103.8(c)(2)(ii): person with whom child resides must be served if child under 14
 - In the 9th Circuit person with whom child resides must be served if under 18: Flores-Chavez v. Ashcroft, 362 F.3d 1150 (9th Cir. 2004)
- Note for the record issues with I-770
 - Under 8 C.F.R. § 236.3(h) the form I-770 must be served on all juveniles under 18 AT THE POINT OF APPREHENSION and if is under 14 or is unable to understand the notice, “the notice shall be read and explained to the juvenile in a language he or she understands.”
- If being forced to plead/file, or generally proceed w/o representation:

Points of Advocacy

 - TVPRA:
 - 8 USC § 1232 (c)(5): “The Secretary of Health and Human Services shall ensure, to the greatest extent practicable and consistent with section 292 of the INA, that all unaccompanied alien children who are or have been in custody of the Secretary or the Secretary of Homeland Security...have counsel to represent them in legal proceedings or matters and protection them from mistreatment, exploitation, and trafficking.”

- Reasonable to continue to delay proceedings where the child has been diligently searching for counsel but is indigent and service agencies are overloaded.
- 8 USC § 1232 (d)(8) Specialized needs of unaccompanied alien children: “Applications for asylum and other forms of relief from removal in which an unaccompanied alien child is the principal applicant shall be governed by regulations which take into account the specialized needs of unaccompanied alien children and which address both procedural and substantive aspects of handling unaccompanied alien children’s cases. These regulations have not been promulgated so incumbent to ensure that children are protected in proceedings and not forced to proceed w/o counsel (emphasis added)
- Under *Jie Lin v. Ashcroft*, 356 F.3d 1014 (9th Cir. 2004): waiving counsel must be knowing, intelligent, and voluntary so the judge must consider the minor’s age, intelligence, education, information, and understanding and ability to comprehend.
- Under *Matter of M-A-M*, 25 I&N Dec. 474, 479 (BIA 2011): the judge must consider competency & evaluate whether:
 - Rational/factual understanding of nature/object of proceedings
 - Able to consult w/an attorney
 - Has reasonable opportunity to examine and present evidence
- 8 C.F.R. §242.16(b): Immigration judge may not accept minor’s admission to a charge of deportability. (However, see *Matter of Amaya-Castro*, 25 I&N 583m 586 (BIA 1996): “However, 8 C.F.R. § 242.16(b) does not preclude an Immigration Judge from accepting such a minor’s admissions to factual allegations. Minors under the age of 16, even when unaccompanied and unrepresented, are not presumed incapable of understanding the content of those allegations and of determining whether they are true.”)
- Can argue that this is not the case and the judge should put appropriate safeguards under:
 - Not accept admission from unrepresented respondent
 - Docketing/managing case to facilitate respondent’s ability to obtain legal representation *Id.* at 481-82.

After Hearing (If two AOD’s, if only one, LOPC coordinator may be able to help w/this piece)*

**If you don’t have time to do this piece and the LOPC coordinator is unable to help you, you can always refer the client to LOPC so that they can follow-up to make sure the client understands when the next hearing is and where they should go to search for counsel.*

- Gather group from courtroom (I ask them to wait until everyone’s hearing has culminated) and proceed to a pro bono room or private corner. Have sponsors who have waited in waiting area join you. Explain that you received important documents they should keep with them. Do a round robin of hearing dates and times to make sure the youth and sponsors understand when they have to come back to court.
- Remind youth that they should not be afraid to come back to court even if they don’t have an attorney the next time. Ask them what their “homework” is and restate that they should come

back with that Yellow Form completely filled out to demonstrate their efforts re: finding an attorney. See if you can find an example among the youth of someone who has previously done a good job with this and show him or her his or her yellow form.

- Identify specific youth who you'd like to wait for you to speak to them a little more about red flags you've spotted earlier in their cases.

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’s name) 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 (DO NOT STATE: I object, etc. simply say “I would like to note 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.
 - 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.
 - *For Sacramento Court Only:* Scan and send all intakes to SacAOD@crlaf.org

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. 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 an agency whose mission is to help immigrants who are in proceedings.”

2. Confidentiality:

“I will meet with each of you individually. The judge knows that I am here; so don’t worry about her calling you. When I meet with you, anything you tell me is confidential. That means that I cannot tell anyone what you say to me without your permission.”

3. Change of Address:

“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)?”

4. Nature of Proceedings:

“You’re in what’s called removal proceedings. For some of you, this is because when you entered the U.S., the government saw that you didn’t have a specific visa or permission to come enter the country, so they let you in but put you into this process to decide whether you can stay in the U.S. or whether you have to return to your home country. For others, it is because either you did enter with permission and you came to ICE or DHS’ attention after your arrival or you had long-term permission to stay here, such as Legal Permanent Residence, but the government is now saying that your permission either expired or they want to revoke it. You do have rights in this process, so you can fight to stay here.

We will go into the courtroom soon where you will see two tables in the front. One of the tables is for the government attorney. The government attorney is saying you should not be allowed to stay here. At the other table, I will be with you for today only. There will be an interpreter speaking Spanish so that you can understand what the judge is saying. Your right, and (hopefully) your attorney will help you, when you have one, is to explain why you should be allowed to stay here. There are only certain reasons under immigration law that you can be allowed to stay, so usually you have to make arguments or submit applications only based on those reasons. The judge’s job is to decide whether you and your attorney or the government is

right. However, the judge won't make that decision today. You will have a few hearings before the judge will ask more details about your story. These few initial hearings are so that the judge can 1) Make sure you're here, your address is the same, and the court can communicate with you in your language and 2) Check in with you to see where you are in the process of finding an attorney, and 3) Determine what applications or arguments you'll be putting forward to say you can stay in the U.S."

5. 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."

6. Right to an Attorney and Attorney Search:

"You have a right to have an attorney come with you and speak for you before the judge. I am happy to do that today, but you need to find an attorney who knows your whole story and can help you for all of your hearings. As I said before, there are only certain reasons under the law that you can argue to stay here, so you can ask for those alone but you have a much better chance of winning your case and staying here with an attorney who understands the laws. Unfortunately, the government won't pay for you to have an attorney so you have to look for one on your own.

Here is a list of agencies that provide attorneys for free or low cost. Between now and your next court date, you need to call every one of the numbers in this packet. You need to write the name of the agency, the number, and what happened (i.e. did someone tell you you're on a waiting list? It's fine to call a private attorney but you should be sure to note the attorney's name here. The reason this is important is that the judge is going to ask you what you have done to find an attorney. If you just tell her you've been calling without any specific information, she will get upset. She wants to know who you've called. So your work between now and your next hearing is to call the agencies and put their information here. I know that you all get homework for school. This is your homework for court.

Many people have difficulty finding an attorney and hire a notary to help them. I do not recommend this because notaries are only trained to certify public documents and do not have any specific knowledge about the law. They also cannot accompany you to court."

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

“The immigration court stopped accepting asylum applications for lodging on October 14, 2020. There are non-profit organizations, however, that may assist you with preparing and filing an asylum application on your own:

- Community Legal Services for East Palo Alto (CLSEPA) offers monthly pro se I-589 filing clinics. You may call (650) 391-0358 or email ylopez@clsepa.org for more information. CLSEPA offers this service for San Mateo or Santa Clara county residents.
- PANGEA offers I-589 filing services for residents of San Francisco. You must call for a consultation first at (415) 254-0475.
- Finally, LATINAN is an agency that offers pro se I-589 filings at a low cost. They also offer installment plans for the service. To request assistance with filing your I-589, you must call (703) 839-5752 for a consultation first. LATINAN does not have any geographical limitations.

It is very important that you file for asylum application as soon as possible, and no later than one year from the date of your entry into the United States.

If you still have difficulty finding a non-profit organization to help you with preparing and filing your asylum application, please call the AOD line at (408) 461-8795 to speak with an immigration attorney and to receive an appropriate referral.”

5. ISAP

“I see that you have an ankle monitor. Currently, ICE is only removing ankle monitors if they have a doctor’s note saying that it is causing you harm. If you don’t have an attorney, you can try to get this note yourself. You can also call the AOD line at (408) 461-8795 to receive assistance with requesting the removal of your ankle monitor. Or, if you do hire an attorney, the attorney can help you to request the removal with the note.”

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. NTA and Pleadings:

“This is what’s called your Notice To Appear. It is a paper where the government is explaining why they believe you should be removed from the U.S. 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 (or end your case in court). 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: <https://www.sfbar.org/jdc/immigrant-legal-defense/attorney-of-the-day-resources-for-our-immigrant-community/>.

- **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.
- **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.
- **Information About Alternatives to Detention Cases**
This informational sheet lists the instructions that ICE has provided as an alternative to in person check ins at 630 Sansome St. The document notes that ICE has provided the option of checking in by telephone to report, and lists the contact information for Alternative to Detention (ATD) cases and Non-detained cases. Respondents may also use the lines to inquire about any specific concerns about their cases.
- **Informational Packet for Families (ICWC) (Spanish)(only in SF court)**
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 the case completion date.
 - “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, age, and gender 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)
 - Possible termination re: Karingithi: if there is no court location listed on the NTA
 - 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’t 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: 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 F: SCREENING FOR ELIGIBILITY FOR SERVICES FUNDED BY CDSS

The California Department of Social Services (“CDSS”) prohibits the provision of legal services to individuals who have been convicted of serious felonies under CPP § 1192.7(c). If a respondent has been convicted of any of the following felonies, the AOD should advise the respondent that it will likely be difficult to secure legal representation from a non-profit agency whose legal services are funded by CDSS. Accordingly, the respondent should be referred to attorneys within the private bar for legal representation.

<ul style="list-style-type: none"> • Murder or Voluntary Manslaughter
<ul style="list-style-type: none"> • Rape as defined in PC 261(a)(2) or (6)
<ul style="list-style-type: none"> • Sodomy as defined in PC 286(c) or (d)
<ul style="list-style-type: none"> • Oral Copulation as defined in PC 287 (a) or (b) or 288a
<ul style="list-style-type: none"> • Lewd/Lascivious conduct under PC 288 (a) or (b)
<ul style="list-style-type: none"> • Any felony punishable by death or life in prison
<ul style="list-style-type: none"> • Felony w/ GBI or with use of firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55.
<ul style="list-style-type: none"> • Robbery
<ul style="list-style-type: none"> • Arson
<ul style="list-style-type: none"> • Sexual penetration as defined in PC 289 (a) with use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.
<ul style="list-style-type: none"> • Attempted murder
<ul style="list-style-type: none"> • Assault with a deadly weapon or instrument on a peace officer.
<ul style="list-style-type: none"> • Assault by a life prisoner on a non-inmate.
<ul style="list-style-type: none"> • Assault w intent to commit rape or robbery
<ul style="list-style-type: none"> • Continuous sexual abuse of a child as def in PC 288.5
<ul style="list-style-type: none"> • Carjacking as defined in PC 215(a)
<ul style="list-style-type: none"> • Rape, spousal rape, sexual penetration, in concert, as def in PC 264.2
<ul style="list-style-type: none"> • Grand Theft with Firearm
<ul style="list-style-type: none"> • Threats to victims, witnesses under PC 136.1, which would be a felony under PC 186.23
<ul style="list-style-type: none"> • Burglary in 1st D under PC 460(a)
<ul style="list-style-type: none"> • Violation of PC 12022.53
<ul style="list-style-type: none"> • Exploding a destructive device or any explosive causing bodily injury, great bodily injury or mayhem.

<ul style="list-style-type: none"> • Selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give to a minor any heroin, cocaine, phencyclidine (PCP), or any methamphetamine-related drug, as described in paragraph (2) of subdivision (d) of Section 11055 of the Health and Safety Code, or any of the precursors of methamphetamines, as described in subparagraph (A) of paragraph (1) of subdivision (f) of Section 11055 or subdivision (a) of Section 11100 of the Health and Safety Code.
<ul style="list-style-type: none"> • Attempt to commit a felony punishable by death or imprisonment in the state prison for life.
<ul style="list-style-type: none"> • Felony violation of PC 266.2 relating to criminal street gang sentencing enhancement
<ul style="list-style-type: none"> • PC 244 Assault with Caustic chemicals
<ul style="list-style-type: none"> • PC 245 Assault with Deadly Weapon
<ul style="list-style-type: none"> • PC 246 Discharge of a firearm at an inhabited dwelling, vehicle, or aircraft,
<ul style="list-style-type: none"> • Any felony in which the defendant personally used a dangerous or deadly weapon.
<ul style="list-style-type: none"> • Assault with a deadly weapon by an inmate.
<ul style="list-style-type: none"> • Drive-by shooting as defined in PC 26100
<ul style="list-style-type: none"> • PC 422 Criminal threat
<ul style="list-style-type: none"> • Any attempt to commit a “serious felony” other than an assault.
<ul style="list-style-type: none"> • Exploding a destructive device or any explosive with the intent to injure.
<ul style="list-style-type: none"> • PC 11418 WMD
<ul style="list-style-type: none"> • Any conspiracy to commit a “serious felony.”
<ul style="list-style-type: none"> • Violation of PC191.5 (Vehicular manslaughter), 192(a) (voluntary) (c) (gross negligence), 192.5(a) (sea vessel) (b) or (c), or VC 2800 (failure to pull over), 23104(b)(reckless driving resulting in GBI), or 23153 (DUI resulting in GBI to passenger)

APPENDIX G: USEFUL RESOURCES FOR ATTORNEYS OF THE DAY

1. **Directories**

- 100 Montgomery & 630 Sansome Courtroom List
www.ailanorcal.com/agency-resources/
- 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**

- OPPM 21-06: “Asylum Processing” (December 2020)
<https://www.justice.gov/eoir/page/file/1343191/download>
- OPPM 21-07: “Annotating Adjourment, Call Up and Case Identification Codes” (December 2020) <https://www.justice.gov/eoir/page/file/1344251/download>
- 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
- 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

3. **Practice Advisories and Other Materials**

- DHS Memo, “Review of and Interim Revision to Civil Immigration Enforcement and Removal Policies and Priorities,” (January 2021),
https://www.dhs.gov/sites/default/files/publications/21_0120_enforcement-memo_signed.pdf
- AIC Practice Advisory on *Mendez-Rojas v Johnson*
https://www.americanimmigrationcouncil.org/sites/default/files/mendez_rojas_v_johnson_fa.pdf
- 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](http://www.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

APPENDIX H: REMOTE CONSULTATIONS AND LAW LAB INSTRUCTIONS

Introduction

As a result of the COVID-19 pandemic, non-detained master calendar hearings were postponed at EOIR from mid-March 2020 through August of 2021. Accordingly, the AOD Program launched the AOD line, through which pro se respondents could schedule consultations with certified Attorneys of the Day.

Individuals seeking an immigration consultation may call (408) 461-8795, Monday thru Friday, 9 am to 2 pm and 3 pm to 5 pm to schedule a consultation with an immigration attorney. All consultees in removal proceedings before the San Francisco Immigration Court or the Sacramento Immigration Court will be eligible for a pro bono consultation. Occasionally, there may be consultees who are not in removal proceedings who will have questions about affirmative applications, such as U-visas, T-visas, VAWA, DACA, naturalization, etc.

Signing Up for Shifts

AODs will be able to sign up for one hour shifts at: <https://signup.com/go/dsNYecD>

The Supervising Attorney of the AOD Program, Monica Oca Howell, will be emailing the SignUp sheet to the AOD Panel on a weekly basis.

Scheduling

The AOD Program will schedule a 1 hour phone consultation with volunteer AODs during their scheduled shifts. In the calendar invite, the AOD Program Legal Services Coordinator will note the phone number, primary language, Law Lab case number, and the full name of the individual receiving the consultation. If an interpreter will be needed for the call, the name and phone number of the interpreter will also be included in the invite.

The Consultation

Introduce yourself to the consultee, and note the following:

I am a volunteer attorney. I do not work for the government. I will not share any information with the DHS or Court without your consent. I will share this intake with the organization that runs this volunteer program, the Justice & Diversity Center, who will keep your information confidential.

It is also best to advise the consultees that the only reason that JDC would share their information would be with other attorneys if they needed assistance in securing legal representation.

Be sure to provide the four mandatory advisals to all consultees:

- Change of address obligations & information on Form EOIR-33
- Consequences of failure to appear

- Court Pro Bono List & JDC Packet
- Nature of Removal Proceedings and Right to an Attorney

Proceed to provide a consultation to consultee to determine forms of relief for which he/she may be eligible, as well as eligibility of relief for the consultee's derivatives, if applicable. Note the amount of time that has passed since the consultees filed their I-589s (if applicable) to determine if they are EAD eligible. Once you are finished completing the Detailed Intake, save all changes made to the intake, and upload it onto Law Lab.

If you have legal questions relating to the consultee's case, SFILDC attorneys and attorneys at other non-profits within the Bay Area can email aod@ilrc.org. Private practitioners may email aod@sfbar.org.

Follow Up

Email the Court Pro Bono List and JDC Packet to the consultee to the email address listed on the detailed intake. If the consultees do not have email addresses, ask if they know someone that they trust (such as a child or spouse) that has an email address that you can use to email the Court Pro Bono List & JDC Packet. Based on your conversation with the consultee, feel free to specifically recommend two to three agencies that you think might be a good fit for the consultee's case.

Flag any urgent issues by e-mailing the AOD Program at aod@sfbar.org (SIJS eligible consultee turning 18 or 21, consultee reaching OYFD, etc.). Please also contact the program if the consultee (1) specifically requests a private attorney referral list or (2) the consultee has already tried following up with numerous non-profit organizations, and has been unable to secure legal representation. From that point, we will distribute our internal private attorney referral list to the consultee.

FAQs

(1) Who is responsible for making the call?

AODs should call the consultee receiving the consultation at the scheduled time, from a quiet, confidential space. If an interpreter is being used, AODs should call the interpreter first, and then conference call the consultee.

While AODs should try their best to start their scheduled consultations on time, consultees will be informed that they should wait up to fifteen minutes after their scheduled consultation time for the attorney to call them.

(2) What happens if the consultee does not answer my phone call?

If consultees do not answer, leave a message noting that, in order to reschedule their consultation, they should call (408) 461-8795. Afterwards, e-mail the AOD Program at aod@sfbar.org to let us know that you were unable to reach the individual. Please stand by for up to 15 minutes of the scheduled phone consultation. If the consultee calls the AOD

hotline back, the Legal Services Coordinator will call you to let you know that the consultee is ready to proceed with the consultation. If consultees do not call the AOD hotline within 15 minutes of their scheduled consultation, they will be asked to reschedule their consultation.

(3) What happens if the phone call gets cut off?

If the phone call gets cut off, call the individual back using the phone number in your calendar invite. Leave a message for the consultee, asking him or her to call the AOD line back at (408) 461-8795. If the Legal Services Coordinator receives a call back from the consultee, she will call you back to let you know if (1) the consultee can resume the consultation or (2) the consultee needs to reschedule the consultation.

Email the AOD Program at aod@sfbar.org to let us know that the phone call was cut off and to confirm that you tried calling the consultee back.

(4) If consultees need legal representation, and cannot afford private counsel, to where should I refer them?

In the back of the JDC Resource Packet, there is a referral list which is organized by county. The list has been updated to note which agencies are currently accepting cases, as well as changes in operation due to COVID-19.

(5) While speaking with a consultee over the phone, a friend and/or family member requested a consultation. Should I have a consultation with that person as well?

It would be best to have the friend or family member call (408) 461-8795 to schedule a separate consultation. The friend or family member may already have a case recorded in Innovation Law Lab, or for San Francisco residents, in the SFILDC database.

Innovation Law Lab

Innovation Law Lab (“Law Lab”) is the online platform through which the AOD Program records data pertaining to all AOD Consultees. Aside from the biographical information of each pro se respondent, Law Lab keeps track of pro se respondents’ upcoming hearings. When a remote consultation is initially scheduled, the AOD Program Legal Services Coordinator will email the AOD a link to the Law Lab case profile of the Consultee. Once the AOD logs into Law Lab, the AOD will have access to the pro se respondent’s intake form. The form will have the respondent’s biographical information listed, as well as a brief note pertaining to the purpose of the consultation.

To request detailed instructions on how to operate Law Lab, as well as the log-in information, please email aod@sfbar.org.