

I'm in Detention but Afraid to Return Home: Understanding Your Rights & Fighting Your Deportation

A Guide for People with Reinstatement Orders



Stanford Law School
Immigrants' Rights Clinic

Table of contents

Is This Guide for Me?	3
What is a Reinstatement Order?.....	4
How Do I Know if I Have a Reinstatement Order?	4
How Do I Fight My Reinstatement Order?.....	7
STEP 1: Ask for Reasonable Fear Interview	8
STEP 2: Get Ready for Reasonable Fear Interview	12
STEP 3: Go to Your Reasonable Fear Interview	17
STEP 4: Apply for Withholding of Removal/CAT	18
Questions You May Have About Reinstatement	21
Important Words to Know	23
Appendix 1: Sample Letter Asking for Information About Whether the Immigration Authorities Believe You Have Been Deported Before	24
Appendix 2: Sample Letter Requesting Reasonable Fear Interview.....	25
Appendix 3: Country Conditions Packet Request Form	26
Appendix 4 (Blank Paper)	27

Important Information: The information in this guide was written for people in immigration detention in the West County Detention Center in Richmond, California, who are representing themselves in reinstatement proceedings. This guide is a resource for people without lawyers. It is not a substitute for legal advice from an experienced lawyer. Immigration law is complex and always changing. You should try to talk to a lawyer or advocate familiar with reinstatement if possible.

About this Guide: This guide was created by the Immigrants’ Rights Clinic at Stanford Law School on behalf of Centro Legal de la Raza in Oakland, California. We do not work for and are not funded by any divisions of the Department of Homeland Security, including ICE, USCIS, or CBP.

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Is This Guide for Me?

Is this guide for me? This guide may help you if you answer YES to all of these questions:

- Are you in immigration detention?
- Is the government trying to deport you or send you back home?
- Have you ever been in the U.S. before, or have you ever tried to come to the U.S. before, but not made it past the border?
- Have you ever had contact with immigration officials at the border or after entering the U.S.?
- Have you ever left the U.S. or were you told to leave the U.S. by immigration officials at the border?
- After you left, did you return to the U.S. without papers or did you try to return to the U.S. without papers?
- Are you afraid to return to your home country? *Even if you answer no to this question, keep reading. This guide can help explain what is happening and what your options are under immigration law.*

If you answered YES to all the questions, you might have a REINSTATEMENT ORDER. This means the government is using your old deportation order against you. The government uses reinstatement orders to deport some people who have been in the U.S. before. If you left the U.S. or were deported before AND you later returned to the U.S. without papers, you might have a reinstatement order.

EVEN IF YOU HAVE A REINSTATEMENT ORDER, YOU CAN STILL FIGHT YOUR DEPORTATION. This guide will help you understand what is happening. The guide explains how you can fight your deportation if you are afraid to return to your home country.



What is a Reinstatement Order?

A reinstatement order is a piece of paper that the government uses to try and deport some people. The government gives reinstatement orders to people who:

- Entered or tried to enter the U.S. before (tried to enter means you were caught at the border and sent back), **AND**
- Left or were deported from the U.S. before, **AND**
- After leaving, came back to the U.S. without papers.

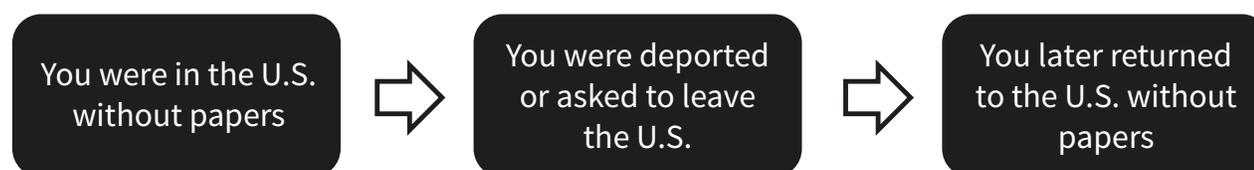
Even if you never received a piece of paper telling you about your reinstatement order, the government might still try to deport you using a reinstatement order if it thinks you were deported before.

What can happen if I have a reinstatement order?

- You can be deported right away.
- You can be deported without ever going to court or seeing a judge.
- You can fight your deportation if you are afraid to go back to your home country and, in some cases, for a few other reasons (*See pages 7 (bottom) and 18 (top) for brief descriptions of other ways you may be able to fight your deportation*).

How Do I Know if I Have a Reinstatement Order?

You might have a reinstatement order if:



Example: Mario is from Guatemala. He came to the U.S. for the first time by crossing the border without papers. A few hours after crossing, he was arrested by immigration officers and deported (returned) to Guatemala without going to court. Two months later, Mario tried to come back to the U.S. without papers. He was arrested by an immigration officer at the border and was sent to a detention center. Because he had already been deported before, he now has a reinstatement order.

The government gives reinstatement orders to people who were deported before. You may not think you have been deported before. But if you were stopped at the border, you may have a deportation order even if you were never given a paper telling you that you were deported. *Immigration and border officials often do not explain that they are deporting you.*

How do I know if I was deported before? You *might* have been deported if *any* of these things happened to you:

- An immigration official stopped you near the border and forced you to leave the U.S. **OR**
- An immigration official stopped you near the border and asked you to leave the U.S. **OR**
- An immigration official stopped you near the border and made you sign some papers **OR**
- An immigration judge said you should be deported **OR**
- An immigration judge told you to leave by a certain time, but you stayed in the U.S. after that time **OR**
- You were supposed to go to immigration court but you did not show up.

Example #1: immigration officers stopped Clara near the border as she was trying to enter the U.S. without papers. Immigration officers asked her to return to Mexico. Clara said ok, signed some papers, and walked back across the border to Mexico. This probably means that Clara was deported from the U.S.

Example #2: Ana crossed the U.S. border without papers but immigration officers did not stop her at the border. Ana moved to Texas and lived there for five years. The police stopped Ana for running a red light while driving. Ana was then sent to immigration jail or to an immigration building and immigration officers sent her back to Mexico. This means that Ana was deported from the U.S.

Example # 3: Juan crossed the U.S. border without papers in Arizona. Immigration officers near the border stopped him, but did not make him leave right away. Instead, they told him he would get a letter in the future explaining what he had to do. Juan moved to California and never got a letter telling him if he had to go to Court. It turns out that a letter had been mailed to an old address and Juan never received it and missed his immigration court hearing date. This means that Juan has probably been ordered deported from the U.S.

Does it matter how long ago I was deported?

No. If you were *ever* deported, you can have a reinstatement order – It doesn't matter when it happened, even if it was 5, 10, 15 or more years ago.

Does it matter how many times I have been deported?

No. Even if you were deported only one time, you can have a reinstatement order.

Does it matter where I was deported?

No. If you were *ever* deported from anywhere in the U.S., you can have a reinstatement order. It does not matter if you were deported right at the border. It does not matter if your deportation was in a different part of the country from where you are now.

How can I try to find out if I have been deported before?

Sometimes you can find out if you have been deported before by calling the Executive Office for Immigration Review's (EOIR) free hotline at 1-800-898-7180. To get information on your case, you will need to enter your **A Number** using the telephone keypad.

If you call the free hotline phone number and the message says that your "A number" is not in the system, but you are still not sure if you have been deported before, you can write to an ICE officer and ask. If you were ordered deported by an immigration official at or near the border, or if you agreed to sign a document at or near the border, you will not be able to find out about your deportation by calling the phone number. Please see *Appendix 1* at the end of this packet for a sample letter to ask if you have a prior deportation order.

What is my A NUMBER?

Immigrants in the U.S. who have had any contact with immigration usually have an A number. This is a number that immigration officials give you. Your A Number starts with the letter "A" and has 8 or 9 numbers. The A number is written on the documents that immigration officers have given you. It is NOT the jail number on your wristband.

Look at the picture on the right. The A number is located on the top of most papers that immigration officials give you. If you do not know your A number, you can ask an immigration official to tell you.

U.S. Department of Homeland Security
Notice of Intent/Decision to Reinstate Prior Order

File No. A000-000-000
Rwmt No:
Date:

Form #1

Name: _____

In accordance with section 241(a)(5) of the Immigration and Nationality Act (Act) and 8 CFR 24.1.8, you are hereby notified that the Secretary of Homeland Security intends to reinstate the order of REMOVAL entered against you. This intent is based on the following determinations:

- You are an alien subject to a prior order of deportation/exclusion / removal entered on _____ at _____ (Date) _____ (Location)
- You have been identified as an alien who:
 was removed on _____ pursuant to an order of deportation / exclusion / removal.
 departed voluntarily on _____ pursuant to an order of deportation / exclusion / removal on or after the date on which such order took effect (i.e., who self-deported).
- You illegally reentered the United States on or about _____ at or near _____ (Date) _____ (Location)

In accordance with Section 241(a)(5) of the Act, you are removable as an alien who has illegally reentered the United States after having been previously removed or departed voluntarily while under an order of exclusion, deportation or removal and are therefore subject to removal by reinstatement of the prior order. You may contest this determination by making a written or oral statement to an immigration officer. You do not have a right to a hearing before an immigration judge.

The facts that formed the basis of this determination, and the existence of a right to make a written or oral statement contesting this determination, were communicated to the alien in the _____ language.

(Print or type name of official)

BORDER PATROL AGENT
(Title of official)

Acknowledgment and Response

I do do not wish to make a statement contesting this determination

(Date)

(Signature of Alien)

Decision, Order, and Officer's Certification

Having reviewed all available evidence, the administrative file and any statements made or submitted in rebuttal, I have determined that the above-named alien is subject to removal through reinstatement of the prior order, in accordance with section 241(a)(5) of the Act.

(Date)

(Location)

(Signature of Authorized Borderly official)

(Print or type name of official)

ACTING PATROL AGENT IN CHARGE
(Title)

Form I-871 (Rev. 08/07)

How Do I Fight My Reinstatement Order?

If you are afraid to go back to your home country, you can fight your reinstatement and may be able to stay in the U.S. by applying for:

Withholding of
Removal

AND

Convention Against
Torture (“CAT”)

Withholding of Removal/CAT are similar to asylum. In fact, you will often hear all of these described as forms of asylum. Both are ways for you to get permission to stay in the U.S. because you are afraid to go back to your home country. To apply for Withholding of Removal/CAT, you will need to follow a few steps:

- STEP 1:** Ask for a Reasonable Fear Interview.
- STEP 2:** Prepare for Your Reasonable Fear Interview.
- STEP 3:** Attend Your Reasonable Fear Interview and tell your story to a special immigration official who works with the Asylum Office.
- STEP 4:** Apply for Withholding of Removal/CAT and tell your story to an Immigration Judge.

This guide will help you with each of these steps.

This guide is for people who are afraid to return to their home country. If you have a reinstatement order, but you are not afraid to return to your home country, you might still be able to fight your deportation.

- Have you been the victim of a crime while in the U.S.?** If YES, you might be able to apply for a U Visa. *Read the guide called “Getting a U-Visa: Immigration Help for Victims of Crime” for an explanation of what that is and help filling out your application.*
- Have you been forced to work without pay?** Or have you been **forced into prostitution?** If YES, you might be able to apply for a T Visa. *Talk to a lawyer for information on what this is and how to file for this.*
- Is this your first time in the U.S.?** If YES, you might be in reinstatement because the government made a mistake, and thinks you were deported before. You should talk to a lawyer and tell him that you want to challenge your reinstatement order.

STEP 1: Ask for a Reasonable Fear Interview

If you are afraid to go back to your home country, you should ask an immigration official for a *Reasonable Fear Interview* right away.

What is a REASONABLE FEAR INTERVIEW?

A Reasonable Fear Interview is a chance for you to tell a special immigration officer, called an Asylum Officer, why you are afraid to go back to your home country. An Asylum Officer is a government official who is trained to talk to people who are afraid to return to their home country.

The interview will be given in private, without other people around and listening. If you are being detained in the San Francisco Bay Area, you will usually be taken by bus to San Francisco to meet with the Asylum Officer. The Asylum Officer will ask you questions about why you are afraid, and will decide whether you will be allowed to apply for Withholding of Removal and CAT.

Who should I ask to get a Reasonable Fear Interview?

Ask an immigration officer the next time they visit the detention center. Immigration officers, or “ICE,” are different from the guards at the detention center. You should also write the immigration authorities right away. Please see *Appendix 2* at the end of this document for a sample letter telling the immigration authorities about your fear. Give your letter to the guard at the jail and tell him or her that it is for your ICE officer.

⇒ **Who is an immigration officer?**

Immigration officers come to visit the detention center once each week to answer questions and to get travel information from some detainees. When immigration officers come to the detention center, they usually wear regular clothes and not their uniforms. They may look different from how you saw them when you were taken to the detention center or if you saw them at the border or when you see them at the immigration building in San Francisco. You may have spoken with an immigration officer before who came to the detention center to ask you questions about your immigration or criminal history. *If you see someone who you think might be an immigration officer at the detention center, but you are not sure, you can ask them or the guards to tell you if they are with immigration.*

⇒ **How do I talk to an immigration officer?**

If you want to talk with an immigration officer, you can ask a deputy or guard for a “**Detainee Request Form.**” The deputies and guards are the uniformed officers that sit in the desk in the middle of the detention area and are always there. On the form you can say you would like to speak to an ICE officer.

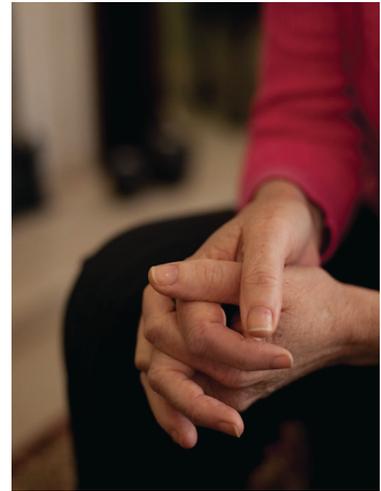
If the immigration officers are at the facility and you have not filled out a Detainee Request Form, you can still ask immigration officers to speak with them that day.

⇒ **What should I say? Tell the immigration officer:**

“I am afraid to return to my country. I request my legal right to a reasonable fear interview with an asylum officer.”

If you do not speak English, or if you would prefer to have your interview in a different language, tell the immigration officer:

“I am afraid to return to my country. I request my legal right to a reasonable fear interview with an asylum officer. I would like to request an interpreter.”



⇒ **What if I already told an immigration officer at the border that I am afraid to go back to my country?** If you were stopped at or near the border, another immigration officer might have already asked if you are afraid to go back to your country. If you said yes, you should have received a Form M-488. If you do not have a Form M-488 now, you should ask again at the detention center for a Reasonable Fear Interview. *See page 10 for more information about Form M-488.*

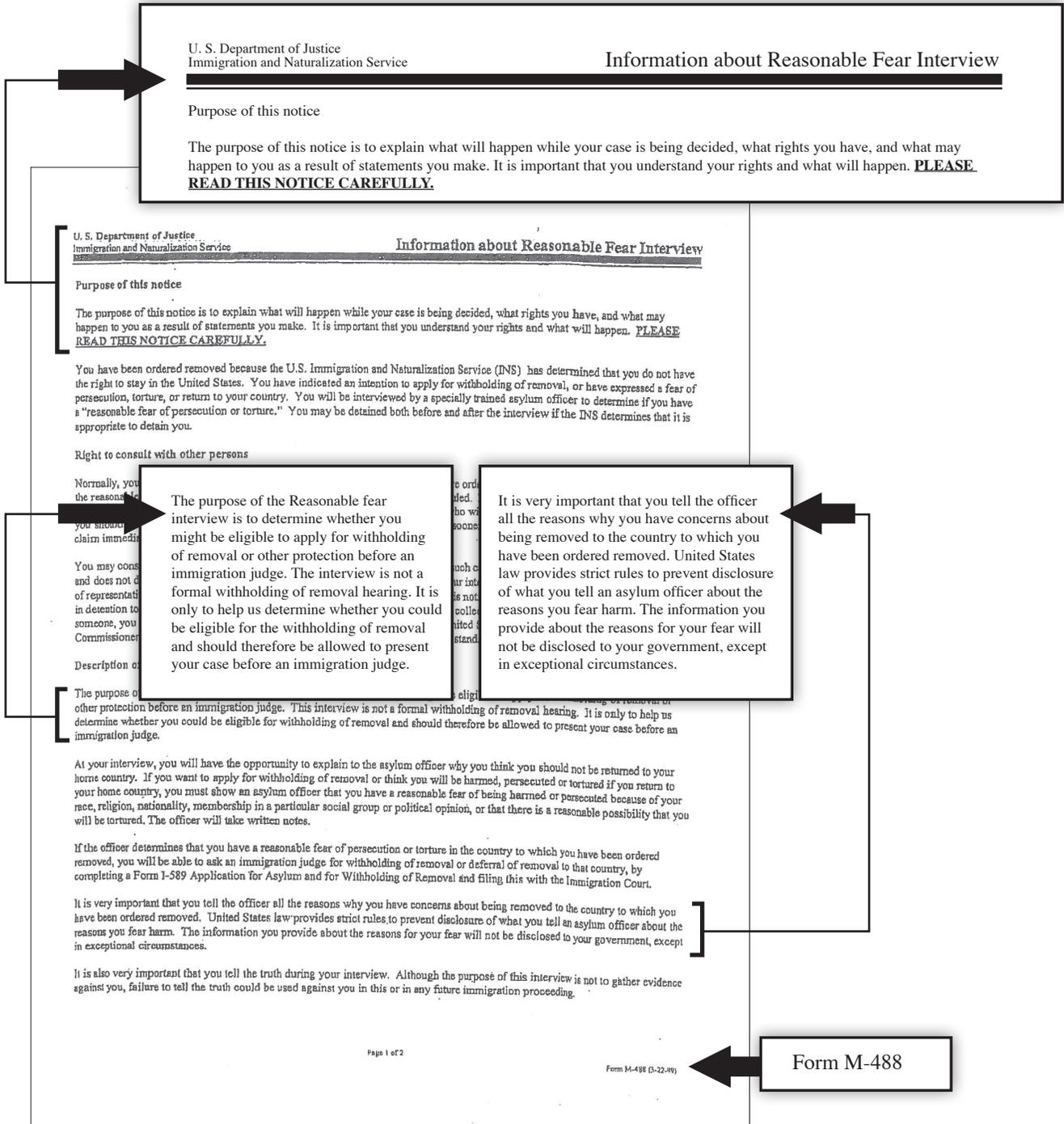
⇒ **What if I have not been back to my home country in a long time?** If you have not been back to your home country for a long time but are scared to go there, you should still ask for a Reasonable Fear Interview.

⇒ **Will the immigration officer ask me any questions?** After you ask for a Reasonable Fear Interview, the immigration officer at the detention center may ask you a few questions about why you are afraid. If the immigration officer asks you why you are afraid, you should tell the officer why you are afraid.

Sometimes the immigration officer will say you do not have a good case and that you will not win. It is not the immigration officer's job to tell you if you have a strong case, so you should not feel like you have to give up. You should continue to request your right to speak to an Asylum Officer about why you are afraid. The Asylum Officer, not the immigration officer will make the decision about your case.

It does not matter if the immigration officer believes that you are afraid. It does not matter what the immigration officer thinks about the reasons that you are afraid or if that officer says that you will not win your case. *The law requires that the government give you a Reasonable Fear Interview and the Asylum Office will make the decision.*

Once you have asked an immigration officer for a Reasonable Fear Interview, they will help you schedule an interview with an Asylum Officer. You should be given a paper called “**Form M-488, Information about Reasonable Fear Interview**” that looks like this:



If you have asked for a Reasonable Fear Interview, but the immigration officer does not give you a Form M-488 after a few days, ask again. Keep asking until you receive a copy of Form M-488.

⇒ **When will I have my Reasonable Fear Interview?**

Sometimes the interview may happen quickly, but often there is a delay between the time that you ask for the interview and when you actually have the interview. You will first have a reasonable fear orientation that explains the process to you and will then have your full interview after that.

You might not find out when your Reasonable Fear Interview will be until the day it is going to happen, so start getting ready for it right away. The **Form G-56** is what you should be given when your Reasonable Fear Interview is scheduled.

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**U.S. Citizenship
and Immigration
Services**

U.S. Department of Homeland Security
San Francisco Asylum Office
P.O. Box 77530
San Francisco, CA 94107-0530

NOTICE OF REASONABLE FEAR INTERVIEW

This will have your name and your A number

Alien's Name: _____
 File Number: **A-000-000-000**
 Date: **May 14, 2014**

PLEASE COME TO THE OFFICE SHOWN BELOW AT THE TIME AND PLACE INDICATED IN CONNECTION WITH AN OFFICIAL MATTER.

LOCATION	630 SANSOME STREET, SIXTH FLOOR, SAN FRANCISCO, CA 94108
DATE & HOUR	Friday – May 16, 2014 @ 10:30 a.m.
ASK FOR	APSO OFFICER
REASON FOR APPOINTMENT	REASONABLE FEAR INTERVIEW - READ BACK
BRING WITH YOU	CONSULTANT AND ANY WITNESSES AND EVIDENCE IMPORTANT TO YOUR CASE

This will be a description of where you will be taken for interview and when you will have your interview.

IT IS IMPORTANT THAT YOU KEEP THIS APPOINTMENT AND BRING THIS LETTER WITH YOU.
 If you are unable to keep your appointment, state your reason, sign below and return this letter to this office at once. Please call the APSO Supervisor, Laurie Robinson, at 415-293-1210, or notify the Detention Officer to request any change in interview schedule.

Alien Received: G-56: Notice of Reasonable Fear Interview.
 List of Legal Service Providers with alien's signature of receipt.
 M-488: Information about Reasonable Fear Interview.

NOTE FOR ATTORNEY:
 PLEASE FAX FORM G-28 TO APSO SUPERVISOR AS SOON AS AVAILABLE
 FAX: (415) 293-1269
 ATTN: Laurie Robinson

I am unable to keep this appointment because:

SIGNATURE	DATE
-----------	------

ALIEN'S SIGNATURE

APSO'S SIGNATURE

Form G-56 (Rev. 1/01/07) Form G-56

STEP 2: Get Ready for Your Reasonable Fear Interview

During your Reasonable Fear Interview, the Asylum Officer will ask you questions about why you are afraid to go back to your home country. The Asylum Officer will decide whether you can apply for Withholding of Removal/CAT based on:



⇒ **What does the Asylum Officer consider in deciding if you should be able to apply for protection?**

You will need to show that:

- You are afraid because you have been hurt or threatened in the past or you fear you will be hurt or killed if you go back to your home country, **AND**
- You are afraid of the government or people that the government can't control, **AND**
- You are afraid you will be hurt or killed because of something about you that you cannot change or should not have to change.
- You do not have to have papers other than your own words to be allowed to apply for protection. It is very important to be honest because if the officer does not believe you, you will not be found to have a reasonable fear.

Example #1: Roberto is from Honduras. When people in his town found out he was gay, they attacked him and threatened him. He was afraid to ask the police for help, because he feared they would not help him or would hurt him even more. Roberto came to the U.S. because he was afraid to stay in Honduras. An Asylum Officer will probably decide that Roberto has a reasonable fear of returning to Honduras because his fear is real, and because Roberto will be targeted for being gay. Being gay is a part of who Roberto is and he cannot and should not have to change his sexual orientation.

Example #2: Eduardo moved to the U.S. from Mexico five years ago. He has not gone back since he left. He is afraid of returning to Mexico because he was a member of a political opposition group called the Zapatistas. He has heard about other members being hurt by the military. An Asylum Officer will probably decide that Eduardo has a reasonable fear of returning because his fear is real, and because Eduardo will be targeted for disagreeing with the government. Eduardo's political beliefs are a part of who Eduardo is and he should not have to change his beliefs.

Example #3: Carlos is from El Salvador. In his neighborhood, there are two rival gangs that males must join. When Carlos was twelve, he joined one of the gangs because he felt he had to. Carlos did not want to be in the gang, and after a few years he quit the gang and ran away to the U.S. with his family. Carlos is afraid that the gang will get revenge on him and his family for quitting. An Asylum Officer will probably decide that Carlos has a reasonable fear of returning because his fear is real, and because he will be targeted for being in the group of young men who have quit gangs.

Example #4: Magdalena is from a small town in Honduras. She has a partner and they have two kids. After they started living together, Magdalena's partner or husband started hitting her when he was angry. Magdalena tried to ask him to stop, but it just made him angrier. She was too afraid to ask the police for help because she believed that they would say it was a private matter that should stay in the home. She finally came to the U.S. to escape her husband. An Asylum Officer will probably decide that Magdalena has a reasonable fear because her fear is real, and because she will be targeted for domestic violence.

Example #5: Luis is from Nicaragua. He came to the U.S. looking for a better job and life for his family. Luis is afraid of returning to Nicaragua because he won't have a good job and because there is a lot of violence in Nicaragua. An Asylum Officer will probably decide that Luis does NOT have a reasonable fear of returning because Luis is not being targeted himself, even though his fear is real.

⇒ **What should I say at my Reasonable Fear Interview?**

It is important to know that the Asylum Officer will not tell people from your home country what you say. It can be very hard and very sad to tell your story, but it is important that you give as much information as possible to help the Asylum Officer make a decision.

- Tell the Truth:** You must tell the truth to the Asylum Officer during your interview. If you lie to the Asylum Officer, you can get in serious trouble.
- Explain Why You Are Afraid:** Give the Asylum Officer as much information as you can about why you are afraid. Explain why your fear is real, and why you will be hurt if you return to your home country. Give specific examples of how you have been hurt before, how family members have been hurt, or how you think you will be hurt in the future.

Questions to Help You Think About What to Say to the Asylum Officer

Here are examples of some of the questions that the Asylum Officer might ask you at your Reasonable Fear Interview. You do not need documents other than your own explanation, but if you can get other documents to show why you are scared, that is usually very helpful. The Asylum Officer considers all of the facts of your case so you do not have to answer yes to all of these or have information about all of these.

1. Have you been hurt in your home country?

- How were you hurt?
- Did you have any injuries?
- Did you have to go to the doctor or hospital?
- Did you feel afraid or upset after you were hurt?
- Who hurt you?
- What did the people who hurt you say before or when they were hurting you?
- Where did it happen?
- When did it happen? How many times did it happen?
- Did anyone see it happen?
- Did anyone try to help you?

2. Have you been threatened in your home country?

- How were you threatened?
- Who threatened you?
- What did they say to you?
- What did they want from you?
- Where did it happen?
- Was the threat made on the phone? In a letter? In person?
- When did it happen? How many times did it happen?
- Have your family or friends been threatened? How have they been threatened?
- What have you done to avoid the threats?

3. Why were you hurt or threatened in your home country?

Will you be hurt or killed because of something about you that is an important part of who you are, and that you cannot or should not have to change? Are other people like you hurt or killed in your home country?

- Are you or your family from a different racial or ethnic group than most people in your home country?
Example: *You are a member of an indigenous group, like the K'iche' or Mam people in Guatemala or the Miskito people in Nicaragua.*
- Are you or your family from a different country than most people in your home country?
Example: *Your family moved to Peru from China. You were born in Peru and lived there during your childhood.*
- Are you or your family a different religion than most people in your home country?
Example: *You are Protestant but your town in Mexico is almost all Catholic.*
- Have you voiced opinions that disagree with the government of your home country?
Example: *You are a member of an opposition political group or party, like the Zapatistas in Mexico.*
- Are you lesbian, gay, bisexual or transgender (LGBT)?
- Are there a lot of gangs in your home country?
 - Did the gangs try to recruit you or a family member?
 - Did you join a gang? Did you leave a gang?
 - Did the gangs threaten you in ways that were different from other people in your area?

- Were you hurt or threatened by your husband, boyfriend, or someone wanting to have a relationship with you, or another family member?
 - Did he try to control you? Did he treat you like he owned you?
 - Did he hurt you or your family?
 - Was he angry because he thought you were acting in ways that women shouldn't?

4. Will the police or the government of your home country fail to do anything to help you?

- Did you tell police or government officials that you were hurt or threatened?
- If you did not tell the police or government officials, why not?
- Were you afraid to tell them?
- Do you think the police or government will hurt you?
- Do you think the police or government are working with the people who hurt or threatened you?
- Did the police or government officials fail to help you?
- Do you think the police or government officials will fail to help you? Do you think the police or government officials will fail to punish the person or people who hurt or threatened you?

5. Will you be hurt or threatened if you go back to your home country?

- Do you know who hurt or threatened you?
- Have they hurt or threatened your family or friends?
- Can they hurt or threaten you again?
- If you moved to another part of your country, could these people find you? Would they hurt or threaten you there?

⇒ **What should I bring to my Reasonable Fear Interview?**

The things you tell an Asylum Officer can be enough to convince him or her that you have a reasonable fear. You do not have to bring anything else if you do not have it. But if you have any papers or documents with you, it can be very helpful if you bring them to help show why you are afraid to go back to your home country. If you had documents or papers that help show why you are afraid and ICE took them from you, it is important that you tell the Asylum Officer this and that you ask the Asylum Officer to review those papers, which should be in a folder that immigration has.

These papers may include:

Papers Showing Who You Are:

- Passport
- ID Cards
- Birth Certificate

If ICE took these documents from you, it is important to tell the Asylum Officer that ICE took them. The Asylum Officer should be able to get these documents from ICE.

Papers Showing How You Were Hurt:

- Reports from Police Officers or Government Officials
- Letters from Doctors or Hospitals
- Pictures of Your Injuries
- Letters from Family and Friends

Letters from people who know that you were hurt or how you might be hurt if you are forced to go back to your home country can be helpful.

Papers Showing Your Home Country Is Dangerous:

- Newspaper articles
- Magazine articles
- Reports from the U.S. State Department, Amnesty International, and other organizations
Each year, the U.S. State Department and Amnesty International write reports about some of the ways that people are hurt in many countries. These reports should be distributed with this guide. If you did not get these reports, ask someone from Centro Legal de la Raza when they visit the detention center .

You can bring all types of papers with you to show the Asylum Officer at the interview, so if you have anything at all you should bring it with you.

If you can, ask family or friends to mail you some of these papers. If you are detained at the Richmond facility, you can tell them to mail them to you at:

YOUR NAME
YOUR JAIL ID NUMBER
c/o West County Detention Center
5555 Giant Highway
Richmond, CA

Give all the papers you bring to the asylum officer, even if she does not ask for them.

STEP 3: Go To Your Reasonable Fear Interview

The Reasonable Fear Interview is a chance for you to tell an Asylum Officer why you are afraid to go back to your home country. The Asylum Officer will ask you questions, but she should talk to you with respect and kindness.

The Asylum Officer's job is to learn your story. The more prepared you are to talk to the Asylum Officer, the better. Each person is different so your experience with the Asylum Officer may be very different from other people's experiences. That's OK – just be sure to tell the details of your story clearly and honestly.

- ⇒ **Where will my Reasonable Fear Interview happen?** On the day of your interview, immigration officers will take you by bus to the immigration building in San Francisco, California. Once you get there, you will be taken to a private room for the interview. The only people in the room should be you and the Asylum Officer, and an interpreter if one is being used. Sometimes interpreters help by phone.
- ⇒ **How long will my Reasonable Fear Interview last?** Your interview will usually last between 2 to 4 hours.
- ⇒ **What if I don't speak English?** You can ask for an interpreter who speaks your language and can translate your words into English. *When you ask the immigration officer at the detention center for a Reasonable Fear Interview, tell him that you do not speak English. Even if you do not do this ahead of time and you get to the interview, you can ask the Asylum Officer there to get you an interpreter.*
- ⇒ **What happens afterwards?** After the interview, immigration officers will bring you back to the detention center. The Asylum Officer does not make a decision right away. It usually takes at least two weeks to find out his or her decision, but it is very common for it to take longer.

Once a decision has been made, you will be taken back to the immigration building in San Francisco, California where you had your Reasonable Fear Interview. Once you are at the immigration building, you will be given a response in person.
- ⇒ **What happens if the Asylum Officer decides I have a reasonable fear?** You will be able to apply for Withholding of Removal/CAT. Your case is not yet over. Next, you will have a chance to see an Immigration Judge to ask for protection.
- ⇒ **What happens if the Asylum Officer decides I don't have a reasonable fear?** You will not be able to apply for Withholding of Removal/CAT unless you ask for the Immigration Judge to review your case. The Asylum Officer will ask you if you want the Immigration Judge to review the decision. If you want to keep fighting your deportation, you need to tell the Asylum Officer right then that you want a judge to review your case. You will then have a chance to see the judge and explain your fear again to see if the judge will allow you to apply for protection. If the judge denies you as well, please speak with Centro Legal about any possible next options. In most cases, there is nothing further that a lawyer can assist you with but, it is always a good idea to speak to a lawyer to make sure that there is nothing else you can do.

You might also be able to fight your deportation in other ways if you answer YES to any of these questions:

Have you been the victim of a crime while in the U.S.?

If YES, you might be able to apply for a U Visa. Read the guide called “*Getting a U-Visa: Immigration Help for Victims of Crime*” for help filling out your application.

Have you been forced to work without pay? Or have you been forced into prostitution?

If YES, you might be able to apply for a T Visa. Talk to a lawyer for information on how to file a Form I-914.

Is this your first time in the U.S.?

If YES, you might be in reinstatement because the government made a mistake, and thinks you were deported before. If this is not true, you can challenge your reinstatement order. You should talk to a lawyer and tell them that you want to challenge your reinstatement order.

STEP 4: Apply for Withholding of Removal/CAT

If the Asylum Officer decides you have a reasonable fear, you will be scheduled to go to court to see an Immigration Judge. The judge will explain how to apply for Withholding of Removal/CAT. *To learn more about applying for Withholding of Removal/CAT, please look at the guide prepared by the Florence Immigrant & Refugee Rights Project called “I’m Afraid to Go Back: Asylum, Withholding of Removal, and the Convention Against Torture.”* This packet is available at the detention center in English and Spanish. Please ask Centro Legal for a copy of the packet or see the copy in the library. It is very important that you review this packet because it has a lot of very helpful information that you can use in getting ready to talk to the judge about why you are afraid to go home.

⇒ **When will I see an Immigration Judge?** In order to apply for Withholding of Removal/CAT, you will usually have to go to court to see an Immigration Judge at least three times. The first time you go will usually be within two weeks after you find out the Asylum Officer’s decision.

⇒ **What will happen the first time I see an Immigration Judge?** The first time you go to court to see an Immigration Judge, the judge will give you a 12-page form to fill out. This document is called a **Form I-589**, and is your application for Withholding of Removal/CAT.

You Have the Right to an Interpreter if You Do Not Speak English.

If you do not speak English, the Immigration Judge will make sure that there is an interpreter there who speaks your language. If you believe that the interpreter does not understand you or you do not understand him or her, you should tell the Immigration Judge right away.

What Happens at My First Hearing?

- ⇒ The judge will give you time to fill out your application, and will tell you to come back for another hearing. *Usually, you will have about two weeks to fill out the application, but the amount of time can be more or less than that.*

The Immigration Judge might also call Form I-589 form an “asylum application” – but it is the paper you use to request Withholding of Removal and CAT.

- ⇒ **What do I do once the judge gives me a Form I-589?**

Look at the packet prepared by the Florence Immigrant & Refugee Rights Project called “**I’m Afraid to Go Back: Asylum, Withholding of Removal, and the Convention Against Torture.**” The packet will tell you how to fill out the form and how to collect other evidence that can help your case. This packet should be in the library or should have been distributed by Centro Legal. You can ask Centro Legal for a copy of the packet if you don’t have a copy and can’t find it in the library.

- ⇒ **What will happen the next time I see an Immigration Judge?**

The next time you go to court, the Immigration Judge will usually expect to see your filled out Form I-589. The Immigration Judge may ask you to raise your hand and promise that everything you have written on the form is the truth. The Immigration Judge will tell you to come back for another hearing, usually a few weeks later. At some point before the third hearing, immigration officers should take you to get your fingerprints taken because this is required for anyone who is asking for protection to stay in the United States.

At what is usually your last hearing, you will have a chance to tell the Immigration Judge your whole story about why you are afraid to go back to your country. The only people in the courtroom will be you, the judge, the government lawyer, and judge’s assistant and an interpreter if you need one. You may bring witnesses to help support your story. The government may bring witnesses to help their side. The Immigration Judge will read your Form I-589, listen to what you say, look at any documents that you have brought to court and decide whether you will be allowed to stay in the U.S. The judge and government lawyer might have questions for you. Please see the Florence Project packet for more details and information on this court process.

Sample Form I-589

You must complete all forms in English.

Use Black Ink. DO NOT use a pencil, unless that is your only option.

TIP: If your handwriting is not easy to read USE CAPITAL LETTERS.

These are just instructions for the first page of the form. You must complete all pages of the form. For detailed instructions on how to complete the rest of the form, please look at pages 16-19 of the Florence Project packet. You should not sign page 10 of the form until you are in Court and the Immigration Judge asks you to.

Under A#, write your Alien Number. If you do not know your alien number, write "Unknown." Your alien number is a number which the government uses to identify you. See page 6 of this manual.

Fill out your name. If you have two family names—like "Fernandez Gonzalez"—write both under Complete Last Name (last name). For your First Name give your full first name. Do not use "nicknames." If you have used any other names—for example, a maiden name or a nickname—write them in Other Names Used.

The image shows Form I-589 with several arrows pointing from instruction boxes to specific fields on the form. The form is titled "I-589, Application for Asylum and for Withholding of Removal" and includes sections for personal information, address, marital status, and language skills. A barcode is visible at the bottom of the form.

Check this box.

If you are still in detention: Under Home Address, write "ICE Custody" and then write the name in jail brackets.

If you have someone helping you with your application and you want your mail to go to that person, then under Safe Mailing Address, write their address, city, state and ZIP code. Under % (in care of), write the name of the person helping you. If you are in detention you should do everything possible to find a "safe" address, otherwise mail sent to you will likely get lost.

The government only recognizes legal marriage and legal divorce. If you are legally married, but separated from your spouse, you should still check MARRIED unless you are legally divorced.

Leave this blank.

If you do not have a passport or travel document or I-94 card, you may write "NONE". If you do not know the numbers you may write "DO NOT KNOW".

If you have been given this application by an Immigration Judge or an Immigration Judge asked you to complete the form you should mark "b."

You **MUST** tell the truth on your Form I-589, and any time you are talking to the Immigration Judge. If you lie on the application or to the Immigration Judge, you will likely be denied and could also face criminal charges and could have bigger immigration problems in the future.

What else should I say after I give the Immigration Judge a Form I-589?

When you are talking with the Immigration Judge, in addition to telling the Immigration Judge that you want to apply for withholding and CAT tell him or her:

“I would like to preserve the right to apply for asylum pending ongoing litigation in the Ninth Circuit.”

In the future, if the laws change, you may be able to apply for asylum. By telling the judge this, you will be able to apply for asylum if the laws change. If you do not say this to the judge, and the laws change, you may not be able to apply for asylum.

Questions You Might Have About Reinstatement

- ⇒ **What will happen if I get Withholding of Removal/CAT?**
 - You will get to stay in the U.S. and will not be forced to go back to your home country,
 - You will likely be released from detention, and
 - You will likely be allowed to work in the U.S.

- ⇒ **How long will I get to stay in the U.S. if I get Withholding of Removal/CAT?** You will get to stay in the U.S. until it is safe for you to go back to your home country.

- ⇒ **Can I get Withholding of Removal/CAT if I have committed a crime?** Yes. You can apply for Withholding of Removal/CAT even if you have criminal convictions. But you may not be able to get Withholding of Removal if you ever:
 - Seriously hurt or killed another person, **OR**
 - Certain drug related offenses relating to selling or trafficking drugs, **OR**
 - Committed what the government considers a serious crime and were sentenced to 5 years or more in jail.

IMPORTANT: There is no crime that bars you from CAT. But if you have been convicted of certain crimes, you should expect to be asked about those crimes when you are speaking to the Immigration Judge.

- ⇒ **Can I apply for asylum?** If you have a reinstatement order, applying for asylum under current law is difficult and is not always possible. To learn more about asylum or to see if you can apply, you should talk to a lawyer.
- ⇒ **Will I have to stay in detention while I fight my reinstatement order? How long will it take?** Fighting your reinstatement order can take months and you may have to stay in detention the whole time. If you have been in detention for more than 6 months, talk to a lawyer and read the guide about the law in *Rodriguez v. Robbins*, 715 F.3d 1127 (9th Cir. 2013). This guide should be available in the detention center in English and Spanish. If you can not locate the guide, please ask Centro Legal for a copy during their next visit.
- ⇒ I already had my Reasonable Fear Interview, and the Asylum Officer did not think I had a reason to be afraid to go back to my home country. **What can I do now?** If the Asylum Officer thinks you do not have a reasonable fear, a judge may review your case to decide if the Asylum Officer was right. You need to tell the Asylum Officer when you receive your decision that you want the judge to review your case. You should talk to a lawyer as soon as possible for help and questions on this process.

Important Words to Know

Below is an explanation of some of the words you will see in this guide and in immigration forms:

Alien: A person who is not a citizen of the U.S. Also called a “noncitizen” or “immigrant.”

Alien Number: This is a number that immigration officials give you. Your A Number starts with the letter “A” and has 8 or 9 numbers. The A number is written on the documents that immigration officers have given you. It is NOT the jail number on your wristband.

Asylum: A way to stay in the U.S. if you are afraid to go back to your home country. Withholding of Removal/CAT are similar to asylum, but are available for people with reinstatement orders.

Asylum Officer: The immigration official who you will talk to at your Reasonable Fear Interview. It is the Asylum Officer’s job to decide if you will be allowed to apply for Withholding of Removal/CAT.

Detention Center: The place where you are being held or locked up because the government is trying to remove you from the U.S.. Also called “jail” or “detention facility.”

Deportation: If you are deported from the U.S., this means that you will be sent back to your home country. Deportation is also called “removal.”

Immigration and Customs Enforcement (ICE): The part of the U.S. government that is trying to deport you and put you in detention. ICE is part of the Department of Homeland Security, or “DHS.”

Immigration Court: The place where you go to see an Immigration Judge to hear your case.

Immigration Judge: The judge who will decide if you should get Withholding of Removal/CAT.

Interview: A conversation in which you are asked questions. You must answer by telling the truth and giving as much detailed information as you can.

Form I-871 Reinstatement Order: A reinstatement order is a piece of paper that the government uses to deport some people. The government gives reinstatement orders to people who: (1) entered or tried to enter the U.S. before, (2) left or were deported from the U.S. before, and (3) after leaving, came back to the U.S. without papers.

Form I-589: The form that you will use to apply for Withholding of Removal/CAT. You will receive this form from an Immigration Judge if the Asylum Officer decides that you have a reasonable fear of going back to your home country.

Form M-488: The form that immigration officers will give you if you have a reinstatement order.

Form G-56: Notice of Reasonable Fear Interview, the form you receive at your reasonable fear orientation that advises you that an interview will take place in the future.

Appendix 1: Sample letter asking for information about whether the immigration authorities believe you have been deported before

Date: _____

To: Immigration and Customs Enforcement (ICE):

RE: REQUEST FOR INFORMATION RELATING TO ALLEGED PRIOR REMOVAL ORDER(S).

Dear Officer in Charge:

I am writing to request information about whether ICE is alleging that I am subject to reinstatement because I have a prior removal order. I have called the EOIR Toll Free hotline and there is no information in the system about me. I am requesting that ICE provide me with information regarding whether it believes that I have been ordered removed in the past.

If ICE has documentation to show that I have been ordered removed in the past, I respectfully request that ICE provide me with that documentation, or that ICE inform me of that information (verbally) during the next visit to the detention facility.

Thank you for your attention to this matter.

Sincerely,

Signature

Printed Name

Aliases (if you have any)

A Number (if you have it)

Appendix 2: Sample Letter Requesting Reasonable Fear Interview

Date: _____

To: Immigration and Customs Enforcement (ICE):

RE: REQUEST FOR REASONABLE FEAR INTERVIEW

Dear Officer in Charge:

I am not accepting deportation. I am afraid to go back to my country: _____.
If I return home, I am afraid I will be harmed or killed. I am therefore requesting a reasonable fear interview with an Asylum Officer pursuant to my rights under 8 C.F.R. § 208.31.

- I am comfortable speaking English and can conduct the interview in English
- I am not comfortable speaking English and I am requesting that an interpreter for the _____ language be present at the interview, as is required under 8 C.F.R. § 208.31(c).

Thank you for your attention to this matter.

Sincerely,

Signature

Printed Name

A Number (if you have it)

Appendix 3: Country Conditions Packet Request Form

If you would like assistance in gathering evidence about general country conditions to use in support of your claim, please fill out this form and mail it to the following address:

The Advocates for Human Rights
C/O Refugee & Immigrant Program
330 Second Ave. S, Suite 800
Minneapolis, MN 55401

Name of Country: _____

Date of Next Interview or Court Hearing: _____

I fear persecution in my home country on account of my (check all that apply):

- Race
- Religion
- Nationality
- Political Opinion
- Membership in a Particular Social Group (Please specify _____)

Explain in Detail Why You Are Afraid to Return Home?

Return Address:

Name: _____

JAIL ID NUMBER: _____

c/o West County Detention Center
5555 Giant Highway
Richmond, CA

Appendix 4: Blank Paper For Your Own Use