



RESOURCES RELATING TO:

# CREDIBLE

# FEAR

This guide was compiled by the staff of Rocky Mountain Immigrant Advocacy Network and was written for detained immigrants in Colorado who are representing themselves pro se in their removal proceedings. This guide is not intended to provide legal advice or serve as a substitute for legal counsel. RMIAN is a nonprofit legal services organization and does not charge for its services to detained immigrants in Colorado. This guide can be shared and distributed widely to assist indigent immigrants around the country.



# CREDIBLE FEAR

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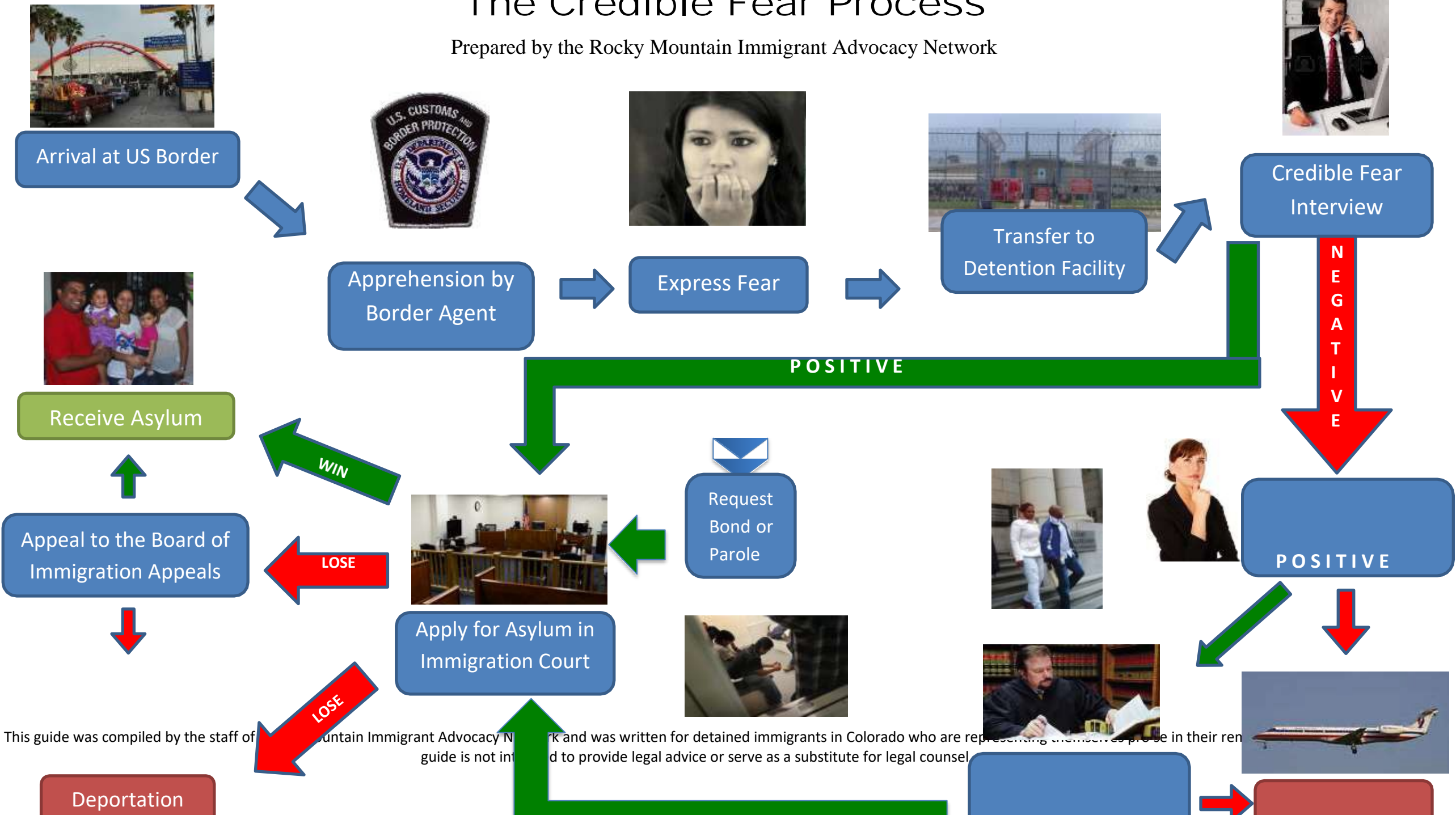
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*Contact information for an organization that offer help when an individual is released from immigration detention.*

# The Credible Fear Process

Prepared by the Rocky Mountain Immigrant Advocacy Network



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Deportation

# DO YOU FEAR RETURNING TO YOUR HOME COUNTRY?



The United States has created laws to help people who are afraid to return to their home countries because their government may harm them. These laws are called: **Asylum**, **Withholding of Removal**, and **The Convention Against Torture** (or “CAT” for short).

*The table below has a brief explanation of each form of relief. You can find detailed information about each in the rest of this packet.*

## ASYLUM

Asylum is a protection granted to foreign nationals already in the United States or at the border who meet the international law definition of a “refugee”: A refugee is a person who is unable or unwilling to return to his or her home country, and cannot obtain protection in that country, due to past persecution or a well-founded fear of being persecuted in the future “on account of race, religion, nationality, membership in a particular social group, or political opinion.”

## WITHHOLDING OF REMOVAL

Withholding of removal is a special type of order issued by an Immigration Judge to a person who demonstrates more than a 50% chance that they will be persecuted in their home country on account of their race, religion, nationality, membership in a particular social group, or political opinion. Like asylum, withholding of removal protects a person from being deported to a country where they fear persecution. However, withholding of removal provides more limited benefits than a grant of asylum.

## CONVENTION AGAINST TORTURE (CAT)

Convention Against Torture relief, commonly called CAT, is an extremely rare grant of protection from deportation that an Immigration Judge grants for individuals who fear torture in their home country. To qualify for CAT, an applicant must demonstrate a clear probability (more than a 50% chance) that they will be tortured either directly by or with the acquiescence of the government of their country of origin.

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# ASYLUM

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**ASYLUM** – “Asylum” is a way to stop your deportation and seek recognition of your refugee status. The following is a *brief overview* of the Asylum eligibility, requirements, and benefits. For more detailed information, please express interest and we (RMIAN) will provide a detailed packet.

## Who is eligible to apply for asylum?

- You must be physically present in the US or present yourself at a US port of entry.
- You must typically apply for “Asylum” within one year of entering the United States.
  - You can also try to show that it was impossible for you to apply within one year of entering the United States. For example, maybe you were sick or the circumstances in your home country have changed recently.
- You must have NO prior removal orders (voluntary departure is different).
- You must have NO prior aggravated felony convictions.

## What must you prove (with evidence) in order to possibly receive asylum?

- HARM** - You must show that the harm you would face or have faced in your home country is very serious.
  - Serious “persecution” includes being beaten, kidnapped, threatened, or killed, or having family members who were harmed in that way. You’ll need to get proof of that harm.
- UNPROTECTED** - You need to show that the government itself OR people the government cannot control will harm you.
- MOTIVATION OF PERSECUTOR** - You must show that these people are harming you **because of** your race, religion, nationality, political opinion, or membership in a “particular social group”.
  - A particular social group** is a legal term to describe a group that’s recognized in your home community. The members must have things in common that they can’t change. For example: being a part of the LGBTQ+ community.
- NO FAMILIAR PLACE TO SEEK REFUGE** - You need to show that you would not be able to move to another part of your home country where you would be safe.
- CHANCE OF HARM** - You must show that there is at least a ten percent (10%) chance the government will harm you in your home country OR another entity will harm you and the government will be unable or unwilling to protect you.

## What are the benefits of receiving asylum?

- Those who are granted asylum are protected from being deported.
- Eventually, those who receive asylum will have the opportunity to become permanent residents in the United States.
- If the applicant includes their spouse and/or children on the application, they [family] may also have the opportunity to become asylees and, later, permanent residents through the applicant.

# WITHHOLDING OF REMOVAL

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**WITHHOLDING OF REMOVAL** – “Withholding of Removal” is a way to stop your deportation. It is similar to asylum, HOWEVER you must show that it is “**more likely than not**” that you will be harmed in your home country. The following is a **brief overview** of the Withholding of Removal eligibility, requirements, and benefits. For more detailed information, please express interest and we (RMIAN) will provide a detailed packet.

## Who is eligible to apply for Withholding of Removal?

- You must be physically present in the US or present yourself at a US port of entry.
- You can apply for “Withholding of Removal” even if it has been more than one year since you entered the United States. (Unlike “asylum”).
- You can apply for “Withholding of Removal” even if you have a prior deportation.
- Some individuals can still apply for “Withholding of Removal” even if they have a criminal history.

## What must you prove (with evidence) in order to possibly receive Withholding of Removal?

- HARM** - You must show that the harm you would face or have faced in your home country is very serious.
  - Serious “persecution” includes being beaten, kidnapped, threatened, or killed, or having family members who were harmed in that way. You’ll need to get proof of that harm.
- UNPROTECTED** - You need to show that the government itself OR people the government cannot control will harm you.
- MOTIVATION OF PERSECUTOR** - You must show that these people are harming you **because of** your race, religion, nationality, political opinion, or membership in a “particular social group.”
  - A particular social group** is a legal term to describe a group that’s recognized in your home community. The members must have things in common that they can’t change. For example: being a part of the LGBTQ+ community.
- NO FAMILIAR PLACE TO SEEK REFUGE** - You need to show that you would not be able to move to another part of your home country where you would be safe.
- CHANCE OF HARM** - You must show that there more than a fifty percent (50%) chance the government will harm you in your home country OR another entity will harm you and the government will be unable or unwilling to protect you.

## The result of being granted Withholding of Removal?

- Those who are granted Withholding of Removal are protected from being deported to their home country.
- However, if there is another country that is willing to accept the applicant, an immigration judge may order them removed to that country.
- Those who are granted Withholding of Removal will NOT be able to get permanent residency (green card) through “Withholding of Removal”.
- Those who are granted Withholding of Removal can apply to receive a work permit and social security number to work legally in the United States.
- Those who are granted Withholding of Removal will be the only ones to received it. This means that the applicant CANNOT apply for their family members to receive “Withholding of Removal” through their individual application.

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# CONVENTION AGAINST TORTURE (CAT)

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**CONVENTION AGAINST TORTURE (CAT)** – The “Convention against Torture” is a way to stop your deportation. You must show that it is more likely than not that the government **will torture or kill you** in your home country. The following is a *brief overview* of the CAT eligibility, requirements, and benefits. For more detailed information, please express interest and we (RMIAN) will provide a detailed packet.

## Who is eligible to apply for CAT?

- You must be physically present in the US or present yourself at a US port of entry.
- You can apply for “CAT” even if it has been more than one year since you entered the United States (unlike asylum)
- Criminal convictions can affect whether you can apply for “CAT.”
  - o People with very serious criminal histories may only be eligible for one part of CAT called deferral under CAT.

## What must you prove (with evidence) in order to possibly receive CAT?

- TORTURE** - You must show that you will be tortured, not just harmed.
  - o Torture means that someone uses intentional unlawful infliction of severe (physical or mental) suffering or pain to force you to do something or to punish you.
- UNPROTECTED** - You need to show that the government itself OR people the government cannot control will torture you.
- MOTIVATION OF PERSECUTOR** - You DO NOT have to show that these people are torturing you because of your race, religion, nationality, political opinion, or membership in a “particular social group”.
  - o You just need to prove that a government official or someone the government cannot control will torture you.
- NO FAMILIAR PLACE TO SEEK REFUGE** – You need to show that you would not be able to get away from your torturer, even if you move to another area in your home country.

## What is Withholding of Removal under CAT?

- Withholding of Removal under CAT is available to those who are NOT barred from the traditional Withholding of Removal and who can demonstrate a substantial likelihood that they would be tortured if returned to their home countries.

## What is “Deferral of Removal” under CAT?

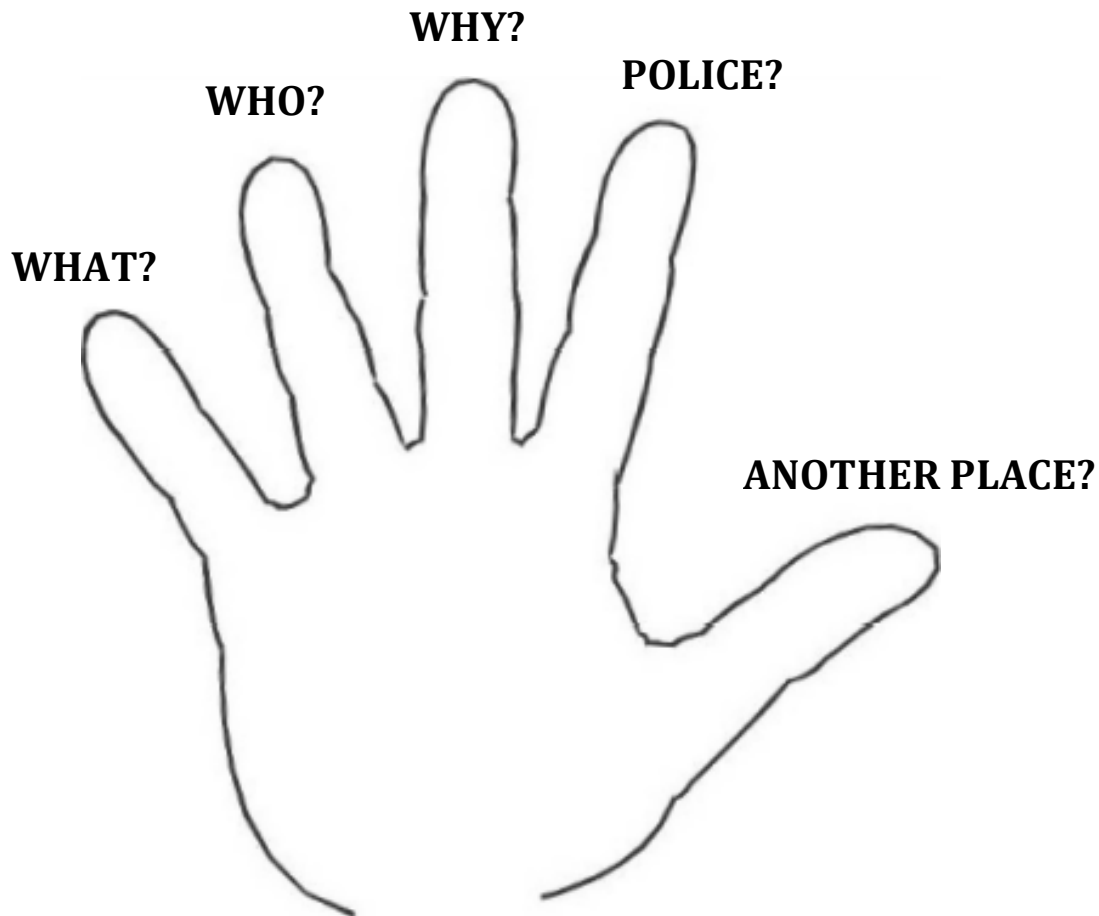
- Deferral of Removal under CAT is available to those who are barred from the traditional Withholding of Removal (for example, due to criminal convictions) but who can demonstrate a substantial likelihood that they would be tortured if returned to their home countries.

## The result of being granted CAT?

- Those who are granted CAT are protected from being deported to their home country.
  - o However, if there is another country that is willing to accept the applicant, an immigration judge may order them removed to that country.
  - o However, if the applicant is given “Deferral of Removal” under CAT and conditions in their country change, ICE may try and deport them later.
- Those who are granted CAT will NOT be able to get permanent residency (green card) through “CAT”

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# YOUR ASYLUM CASE IS IN YOUR HANDS



## **WHAT?**

What happened to you? If you had to return to your country, what do you think would happen to you?

## **WHO?**

Who hurt you? Does he/she belong to a group? How do you know them?

## **WHY?**

Why did they threaten or hurt you specifically? Why you and not another person?

## **POLICE?**

Was it the police? If no, could the police protect you? If it was the police, what did they do?

## **ANOTHER PLACE?**

Is it possible to be safe in another part in your country? Why?



## I RECEIVED A POSITIVE CREDIBLE FEAR DECISION WHAT ARE MY RELEASE OPTIONS?

Usually, while you are waiting for your credible fear interview with an asylum officer, you will have to remain in detention. But if you get a positive credible fear determination from the Asylum Office, or once the Immigration Judge reverses the Asylum Office's negative decision, Immigration and Customs Enforcement (ICE) should consider you for release from detention.

The way you can request release will depend on how you came into the United States and how and when you were caught by immigration agents. The first step in figuring out your options for getting out of detention is figuring out whether immigration considers you an **"arriving alien"** or someone who **"entered without inspection."**

### "ARRIVING ALIEN"

- *What is an "arriving alien"?* An arriving alien is someone who tries to come into the United States through a "port of entry" at the border or at an airport. This includes people who turn themselves in at the border and ask for asylum, and people who try to go through an immigration checkpoint with fake documents or someone else's documents. It does not include people who enter without permission and are then caught inside the United States.
- *How do I know if I am considered an "arriving alien"?* Your Notice to Appear, which is the document that starts the court process after a positive credible fear determination, should tell you whether you are an arriving alien.

If you are an arriving alien and if you get a positive credible fear decision from the Asylum Office, ICE will decide whether to let you out of detention on something called **"parole."**

### *As an "Arriving Alien" with a positive credible fear decision, what do I have to show in order to get parole?*

1. That you are who you claim to be.
2. That you are not a **"flight risk."** A flight risk is someone who won't come to their future court dates or immigration check-ins.
3. That you are not a **danger to the community.**

Once the Asylum Office or Immigration Judge decides that you have a credible fear of returning to your home country, ICE will look through your immigration file to see if the papers in your file prove those three requirements. If ICE needs more information, your ICE deportation officer will ask you for that information.

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**Here is the information ICE usually wants:**

**1. Proof of Identity**

- a. Documents that prove your identity (who you are and where you are from).
- b. You may provide identification if you have any (like a passport, or other photo ID card from your country). ICE may already have your identification if it was taken away from you when you were detained.
- c. If you don't have an official identification document, then friends or family can write affidavits confirming your identity.

**AFFIDAVIT**

**An affidavit is a sworn statement – a letter that is signed under oath and stamped by a notary public.**

- The letter should say "Affidavit" at the top.
- The letter should:
  - Start with the sentence: "I, NAME, swear or affirm."
  - End with the sentence: "I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge."
  - Be signed and dated by the person who wrote it and signed and stamped by a notary public.
- The person writing the affidavit should talk about how they know you and how it is they know who you are and what country you are from.
- The person writing this letter should also send a copy of his or her government- issued photo identification (like a passport or driver's license) and proof of address (like copies of utility bills showing his or her name and address).
- The affidavit should be in English. If somebody is going to write a letter in a language other than English, then it needs to be translated into English, and the person who translated it needs to fill out a Certificate of Translation.

**2. Proof of Support**

- a. A letter of support from a "sponsor." A "sponsor" is a person in the United States who has lawful status and is willing to provide you with a place to live and financial support, and to make sure that you go to all of your immigration hearings after you get out of detention.
- b. A copy of your sponsor's official identity document (example: driver's license or ID card) and proof of lawful immigration status (example: green card, U.S. passport, work permit).
- c. Copies of utility bills (example: gas, electricity, phone) showing your sponsor's name and the address where your sponsor lives.
- d. Proof that your sponsor has a job (example: a signed letter from your sponsor's employer, copies of pay stubs, tax returns, W-2 forms).

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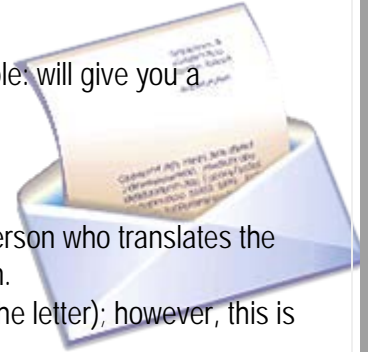
## SPONSOR LETTER

The letter should say:

- The sponsor's full name
- How the sponsor knows you or is related to you (example: brother-in-law, cousin, friend)
- The address and phone number of the place where you will be living
- What kind of support this person will give you and for how long (example: will give you a place to live and food to eat for as long as you need help)

The letter should be:

- Signed and dated.
- In English - If it is not you should have it translated into English. The person who translates the letter should fill out a Certificate of Translation to go with the translation.
- Notarized (stamped by a notary public who watches the sponsor sign the letter); however, this is not a requirement.



### What happens once I have submitted my document to ICE?

- Sometimes, once ICE has all of this information, ICE will release you from detention without asking you to pay any money for your release.
- Other times, ICE will ask you to pay a "parole bond." This is money that someone outside of detention has to pay to ICE in order for you to be released.
- If ICE has asked you to pay a "parole bond," you should know that the Immigration Judge **cannot** lower the amount of the bond. This is because Immigration Judges do not have the power to change bond amounts for people who are "arriving aliens".

## "ENTRY WITHOUT INSPECTION" (EWI)

- *What is Entry Without Inspection (EWI)?* Entry without inspection is crossing into the United States illegally, without going through an immigration checkpoint. People who cross the border without permission by walking through the desert or crossing through the river are entering without inspection. (People who enter without inspection and are caught by immigration agents close to the border or less than two weeks after they have entered the U.S. usually have to go through the expedited removal/credible fear process before they are allowed to see an Immigration Judge.)
- *How do I know if I am considered "EWI"?* Your Notice to Appear, which is the document that starts the court process after a positive credible fear determination, should tell you whether you entered without inspection.

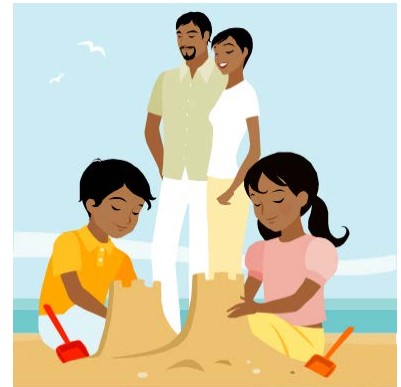
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**I entered without inspection and received a positive credible fear decision. How do I get bond?**

- If you receive a positive credible fear decision from the Asylum Office or Immigration Judge, ICE will decide whether to set a bond in your case.
  - If ICE gives you a bond, your friends or family outside the detention center can pay it right away. You do not have to wait for your first immigration court hearing to pay the bond.
  - But if ICE **does not** give you a bond, or gives you a bond that is too expensive, when you go to court, you can ask the Immigration Judge to give you a bond or to lower your bond.

**To get a bond or lower your bond, you have to show the Immigration Judge two things:**

1. **That you are not a “flight risk.”** A flight risk is someone who won't come to their future court dates or immigration check-ins. You can show that you are not a “flight risk” by:
  - Showing that you have strong ties to the community such as:
    - i. Whether you own a house or car,
    - ii. Whether you have family and children with legal status, and
    - iii. Whether you have a job.
2. **That you are not a danger to the community.**
  - The judge will look at your past arrests and convictions to see whether it's likely that you'll continue to commit similar offenses if you're released. If you do not have any criminal history, this will probably not be an issue in your case.



**Is this your first time coming to the US?**

- If this is your very first time coming to the U.S., you probably do not have many of the types of proof we will talk about in this section. If that is the case, you should look at the section up above called **“Here is what ICE usually wants.”** Even if you don't have much other evidence, you should try to get a letter from a “sponsor,” and give that letter to the Immigration Judge during your bond hearing.

**Have you been in the United States before?**

- If so, you likely have ties to the U.S.
- **You should gather as much evidence as you can** to show that you have strong ties to the community, and you are not a danger to the community. Bring 3 copies of each piece of evidence – you should give one to the judge, one to the government attorney, and keep one for yourself.
- You can ask for a bond hearing when you go to court the first time, and the judge will give you the hearing right then, on the spot. **BUT you should know that you will only get ONE chance for a bond hearing.** If you do not have all of the evidence you would like to give to the judge when you go to court the first time, you may want to ask for a “continuance” (an extension of time) of one or two weeks so that you have more time to gather evidence for your bond hearing. You can then ask for a bond hearing the next time you go back to court.

**Examples of other evidence you can include for your bond hearing:**

- a. **Letters from friends and family:**
  - i. The letters should explain how the person knows you and why you deserve to be released from detention and stay in the United States.
  - ii. Each person writing a letter should include a copy of their identification.
  - iii. The letters must be in English. If somebody is going to write a letter in a language other than English, it needs to be translated into English. The person who translated it needs to fill out a Certificate of Translation.
- b. **Proof that you have family members who are U.S. citizens or permanent residents, for example:**
  - i. If your kids are U.S. citizens, copies of their birth certificates.
  - ii. If your partner is a U.S. citizen or Lawful Permanent Resident, a copy of your marriage certificate and proof that your spouse has legal status in the U.S. (A copy of their U.S. birth certificate, U.S. passport, Certificate of Naturalization, or Permanent Resident Card).
  - iii. Pictures of your family
- c. **A letter from you:**
  - i. If you've gotten into trouble with the police in the past, you will need to explain to the Judge how you've changed and how you know that you won't get into trouble in the future.
    - i. Think carefully about what you've learned from your past and why you want to leave detention. Do you want to be able to work and support your family? Do you want to be able to spend time with your family? Tell the Judge about those hopes.
- d. **If you have been here for several years, include evidence of the time you have been in the U.S.:**
  - i. Tax returns, rent receipts, utility bills, birth certificates for your children with your name on them.
- e. **Evidence of the difficulties your family is going through while you are detained.**
  - i. Include letters from debt collectors or overdue bills.
  - ii. In the letter, have your family include whether you were the primary provider or caretaker.
  - iii. If one of your family members has a medical condition, include a doctor's letter describing his or her symptoms, treatment, and why the person needs your help. If you can't get a letter from a doctor, you can include medical records.
- f. **Evidence that you own property in the U.S.:**
  - i. Make copies of the deed to your home, car, or trailer.
- g. **Your ties to the community:**
  - i. If you participate in a church or volunteer at a school or other organization, you can ask the leaders of those groups to write a letter.
- h. **Evidence of rehabilitation:**
  - i. If you attended classes or meetings after you got in trouble (for example, AA meetings or anger management classes) include proof that you completed your classes or meetings.
- i. **Witness Testimony in Court**
  - i. Friends and family can testify on your behalf in court. Make sure that they have U.S.

immigration status.

***I have an immigration court hearing, but I am still waiting for a decision about parole OR I am still trying to pay my bond. What happens now?***

1. When you go to court for the first time, the Immigration Judge will probably give you an **I-589 form**. This is the application for asylum. You will need to fill out this form and give it to the judge in order to continue with the asylum process.
2. But **if you are not ready** to turn in the I-589 form when you go to court (maybe you are planning to hire a lawyer when you get out of detention and you want to wait for the lawyer to fill out the I-589 for you, or you are working on filling out the form but are not done yet) **you always have the choice of asking the judge for a continuance** (an extension of time). At your first hearing, it is usually very easy to get a continuance. At your second or third hearing, it can be harder to get a continuance, and the judge may want you to turn in the completed I-589 form and move forward with your case.
3. You should know that turning in the I-589 to the court **does not** mean that you will have to stay in detention for the rest of your case. You can be released from detention at any time before there is a final decision in your case.
  - Once you turn in the I-589 form, the Immigration Judge will schedule you for an Individual Hearing (a long, final hearing), usually one to three months in the future. If you are released from detention before your Individual Hearing, that hearing will be cancelled, and you will be scheduled for a hearing at the immigration court in downtown Denver at a later date.

## I Received a Negative Credible Fear Decision... Now What?

*Receiving a negative decision from the asylum office is difficult, and we are sorry this is happening to you.*

When the Asylum Office called to tell you about your negative decision, the officer should have asked if you wanted to accept the negative decision or whether you want to see the Immigration Judge.

### Option 1: Decide you *do not* want to see the Judge

- If you said you didn't want to see the judge, your credible fear process is over, and you are now waiting to be removed (deported). The deportation process can take anywhere from a few days to several weeks, depending on where you are from.

### Option 2: Decide you *do* want to see the Judge

- If you asked to see the judge, you will have one more chance to show that you have a credible fear of returning to your country. You will have a hearing before the immigration judge and during the interview the judge will decide whether he agrees with the asylum officer, or if he thinks you have a credible fear and should be able to fight your asylum case. **The judge's decision is final**, so it is very important to be prepared for your hearing. The judges are supposed to give you this hearing **within 7 days** of the Asylum Office's final decision.

#### ***Here are some steps you can take to get ready for your hearing with the Immigration Judge:***

- |   |       |
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| 1. Understanding Why You are Received a Negative Decision | Pg. 1 |
| 2. How to Prepare for the Hearing                         | Pg. 3 |
| 3. What to Expect during the Hearing                      | Pg. 4 |
| 4. What Happens at the End of the Hearing                 | Pg. 5 |

## Understanding Why You Received a Negative Decision

1. Try to understand **why the asylum officer gave you a negative decision** – Did the officer think you were lying? Did the officer believe that you do not qualify for asylum or protection under the Convention Against Torture?
  - a. **Read the Asylum Officer's decision very carefully.** The officer's reason for making the negative decision should be included.
    - i. Because the decision is written in English and it is usually long, we know this can be hard. Sometimes a representative from our office

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can meet with people to help them understand what the asylum officer's decision says; you can call us and leave a message explaining that you need help with this. Another option is asking a trusted friend who speaks English to read the decision to you.

- b. Remember also that **a negative decision does not necessarily mean that the asylum officer thought that you were lying**. Asylum officers *can and do* make negative determinations if they do not believe a person's story is true, and if this is the case, the decision should explain this. But asylum officers can also make a negative decision even if they find someone "credible" – in other words, it is possible for the asylum officer to believe that everything a person said is 100% true, but to decide that the person still does not qualify for asylum because he doesn't meet the legal requirements.
2. As you read the decision, **look for mistakes and things you do not agree with**.
    - a. You can make a list of the mistakes you find. For each one, explain what is wrong and why you think the mistake happened.
      - i. For example, if you notice that a date is wrong, maybe it is wrong because the asylum officer misunderstood what you said, or maybe the interpreter made a mistake, or maybe you gave the wrong date because you were nervous.
      - ii. If you left something important out of your story when you talked to the asylum officer, write this down as well. You can use this information as you prepare for your hearing with the judge.
  3. If the officer gave you a negative decision because you did not qualify for asylum it will be important to **understand the basics of asylum law** so you can show the judge that you do qualify for asylum. The law is complicated, but in order to show the judge that you have a credible fear, it is important that you understand what the judge is looking for.



**Asylum:** In order to qualify for Asylum, you typically have to file within your first year of entering the United States and you must show:

You are afraid that you will be harmed in your home country **because of:**

- f. Your Race
- g. Your Religion
- h. Your Nationality
- i. Your Political Opinions, **OR**
- j. Because you are member of a particular Social Group
  - i. For example, “gay men” or “women who are victims of domestic violence and cannot leave their abusers”

You have to show that the person you are afraid of is part of the government of your country or is someone who the government is unwilling or unable to control.

- b. It is possible that the asylum officer believes that you really are afraid of harm, but that the officer does not think that someone would try to hurt you **because of** your race, your religion, your nationality, your political opinions, or because you are a member of a particular social group.
- c. It is possible that the officer believes that someone might want to harm you for one of those five reasons, **but** the officer decides that the person or group is not part of the government of your country, and that your government could protect you from harm.

**Withholding of Removal:** In order to qualify for Withholding of Removal, you must show that it is “**more likely than not**” that you will be harmed in your home country **because of:**

- a. Your Race
- b. Your Religion
- c. Your Nationality
- d. Your Political Opinions, **OR**
- e. Because you are member of a particular Social Group
  - i. For example, “gay men” or “women who are victims of domestic violence and cannot leave their abusers”

You have to show that the person you are afraid of is part of the government of your country or is someone who the government is unwilling or unable to control.

- a. It is possible that the asylum officer believes that you really are afraid of harm, but that the officer does not think that someone would try to hurt you **because of** your race, your religion, your nationality, your political opinions, or because you are a member of a particular social group.
- b. It is possible that the officer believes that someone might want to harm you for one of those five reasons, **but** the officer decides that the person or group is not part of the government of your country, and that your government could protect you from harm.

**Convention Against Torture:** In order to qualify for protection under the Convention Against Torture, you have to show:

- a. You more likely than not would be tortured if returned to your home country. You have to show that the torture you fear would be committed by your government or with the permission of the government and that there is nowhere in your country where you could go and be safe.
  - i. If the officer believes that you fear being tortured by your government or with the permission of your government, he must find your fear credible, regardless of the reason you believe you will be tortured.
  - ii. It is possible that the officer believes that you may be tortured, but does not think you have shown that it will be by the government or with the government's permission or he thinks that there are parts of your country where you could live and be safe.

## How to Prepare for the Hearing

1. **Prepare for Discrepancies** – Read the notes from your interview with the asylum officer. Any time that you think you would answer differently in court than you did in the interview, make sure to think about and prepare an explanation for why your answer is different.
2. **Share Missing Information** – If you forgot to tell the asylum officer something important about your story, or you left something out because you did not feel comfortable telling the asylum officer about it, it is important to tell the judge about the information you left out. But you should also be prepared to explain **why** you left out that information – the judge or the trial attorney (the attorney for the government) may think that the fact you didn't tell the asylum officer some important things means that you are not telling the truth about your story.
3. **Link the Mistakes to the Incorrect Decision** – Also remember that even though it is important to point out mistakes in the asylum officer's notes and decision, pointing out these mistakes may not be enough to convince the Immigration Judge that the whole decision is wrong. You will have to show that the mistakes were the reason the asylum officer made a bad decision.
4. **Explain Why You Qualify for Asylum** – Make sure you understand why the asylum officer denied your credible fear interview and why you think that decision was wrong. In other words, you should be able to tell the judge why you do qualify for asylum. Remember, even if the judge thinks you are telling the truth, he will deny your credible fear hearing if he does not think you qualify for asylum, withholding of

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removal or the Convention Against Torture. You must show the judge that you are afraid of returning to your home country because you fear persecution based on one of the reasons mentioned above or you are afraid that you will be tortured by the government.

5. **Gather Evidence** – Gather as much documentation and proof as you can. You will not be able to leave detention before your interview with the judge, but you may call your friends or family members or use the detention center’s library to try and gather proof that you will be harmed if you are forced to return home.
  - a. Gather things like death certificates, police reports, medical records, newspaper articles, country conditions reports, and letters from family and friends can all be helpful during your hearing.
  - b. If you are able to make copies you should take three copies of all of your documents to your hearing. You will keep one copy for yourself, give one to the judge, and one to the trial attorney.
- a. **Practice What You Will Say to The Judge**
  - a. It can be helpful to write down the important points you want to make sure to tell the judge. These may include mistakes in the interview transcript, evidence that you want to show the judge, and the specific reason that makes you qualify for asylum. Even if you think you will remember everything, it is a good idea to write it down because you never know how you will react when you are in court talking to the judge.

### What to Expect during the Hearing

***Remember that you have the right to hire a lawyer to be present at the hearing with you.***

1. The judge will put you under oath (ask you to swear that you are going to tell the truth) and you must answer all questions truthfully.
2. If you do not speak English, the court will provide an interpreter to help you talk to the judge.
3. The trial attorney (the attorney who represents the government and is like the “prosecutor” in Immigration Court) will be in court with you. The trial attorney will likely point out any differences between what you say to the judge and what you said during your interview with the asylum officer. For that reason, it is important to know ahead of time what you said in your interview and be prepared to tell the judge why you are answering differently at the hearing.
4. **The judge’s decision is final**, so it is very important to gather any documents before your hearing that can show the judge why you are afraid to return home.

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However, the law says that the judge *can, but does not have to*, take and look at your evidence.

### What Happens at the End of the Hearing?

- **Result 1: Judge decides the “Negative Credible Fear” determination was INCORRECT**
  - a. If the judge finds that the asylum officer was wrong and that you do have a credible fear, you will be placed in removal proceedings and you will be able to file an asylum application with the court. **This does NOT mean you have won asylum** but does allow you to apply. Sometimes you may request a bond or parole and may be released from detention while your case is pending.
- **Result 2: Judge decides the “Negative Credible Fear” determination was CORRECT**
  - a. If the judge agrees with the asylum office that you do not have a credible fear, the immigration officers will begin the process of deporting you to your home country.

*Casa de Paz* 



# CASA DE PAZ OFFERS HELP AFTER YOU ARE RELEASED FROM IMMIGRANT DETENTION

OUR **FREE** SERVICES INCLUDE:

- Housing
- Meals
- Telephone, computer and WIFI
- Clothing
- Transportation to airport or bus station

You are welcome to stay at Casa de Paz (House of Peace)  
as you make travel arrangements to get home.

If you would like to stay at Casa de Paz please wait in the lobby.

Everyday we send volunteers to pick up people around 6pm  
and bring you to our home. We offer everything at no cost to you.