

Apply for legal status, get arrested: a catch-22 for undocumented immigrants - AvvoStories

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IMMIGRATION, CRIME, RIGHTS

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Undocumented immigrants seeking a [green card](#) – the document that signifies lawful resident status – are not guaranteed protection from deportation during that process. And a rash of recent arrests at U.S. Citizenship and Immigration Services (USCIS) offices, where immigrants go for their green card hearing, could be a sign that getting legal https://www.evernote.com/Home.action?_sourcePage=qIXUTtATa6riMUD9T65RG_YvRLZ-1eYO3fqfqrRu0fynRL_1nukNa4gH1t86pc1SP&__fp=iq9cjAEGAA83yWPvui

immigration services (USCIS) offices, where immigrants go for their green card hearing, could be a sign that getting legal resident status has gotten more dangerous.

The path to legal status

For undocumented immigrants already in the United States, obtaining a green card through marriage to a U.S. citizen ranks as the most reliable route to legal status. Although immigration officials recommend that such applicants return to their home country for consular processing, few can afford a lengthy stay abroad that also presents the risk of a three- or ten-year bar against reentry. Therefore, most undocumented immigrants married to a U.S. citizen have felt safer applying for an adjustment of status while remaining within the United States.

Arresting interviews

During previous administrations, U.S. Immigration and Customs Enforcement (ICE) prioritized the arrest and deportation of criminals. Undocumented immigrants without criminal records who also had U.S. ties were generally overlooked. That changed after President Donald Trump signed an executive order that eliminated ICE enforcement priorities. Now immigration officers are obliged to arrest anyone they come across who has entered the country unlawfully.

Recently, that has begun to include married immigrants who are attending immigration interviews at USCIS offices. After filing the I-130 petition to start the lengthy legalization process, the first step is an immigration interview to verify the legitimacy of the marriage. The penalty for missing an immigration interview is a deportation order. This presents a catch-22 for green card-eligible immigrants, who continue to live at risk of deportation if they don't pursue legalization: they could be deported if they show up for the interview or if they miss it.

Many of those who have been arrested after their interviews, like Jonatan Palacios, were already under deportation orders, or like Jose "Ivan" Nuñez Martinez, had previously been deported. Many others, like Lilian Calderon, were brought to the United States as children and began the legal immigration process after growing up and starting a family in the United States. Most of those arrested have no criminal record or only a history of traffic infractions.

What now?

The number of arrests made during immigration interviews is still a tiny percentage of the interviews conducted. But the trend appears to be growing, and even a small possibility of arrest could deter many green card-eligible immigrants from even trying to legalize their status. While the odds remain statistically in their favor, couples should seek legal assistance before submitting a petition I-130.

Tagged ACLU, deportation, green card, I-130, ICE, immigration, Immigration and Customs Enforcement, undocumented immigrants, USCIS

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