

Court Observer Program



What Is the Court Observer Program?

Goal: To help bring transparency and accountability to the court system while giving an opportunity to students to observe immigration court hearings. To identify the needs and trends emerging in this rapidly evolving world.

Why Participate?

- Gain valuable, first-hand exposure to and experience with immigration law.
- Opportunity to see if interested in immigration law.
- An opportunity to help legal community and advocates in data collection.
- A great opportunity for law students to earn law school approved pro bono hours toward Community Service Graduation Requirement (if applicable).

History of the Program:

- First initiated as a partnership between:
 - RAICES
 - St. Mary University School of Law
 - Alex Briseno Leadership Development Program of San Antonio Hispanic Chamber of Commerce
- We are expanding:
 - University of Texas
 - Also, in the process of collaboration with other organizations such as Innovation Law Lab and Texas RioGrande Legal Aid, Inc.

Immigration Court Proceedings

- Administrative court run by U.S. Department of Justice
 - Abide by federal immigration laws
- Key Players:
 - Noncitizen/Alien – referred as “Respondent”
 - The opposing party – generally referred as “DHS Trial Attorney” (“TA”)
 - Office of Chief Counsel of Department of Homeland Security
 - The immigration judge (“IJ”) – Employee of the U.S. Department of Justice
 - Executive Office for Immigration Review (EOIR), under the power of the Attorney General.
- 58 courts throughout the U.S. and Board of Immigration Appeals (BIA), an appellate body.
 - No immigration court in every single state

San Antonio Immigration Court

2 Locations:

- 800 Dolorosa Street, Suite 300, San Antonio, TX 78207
- *Annex:* 106 S. St. Mary Street, Suite 600, San Antonio 78205



How Do People End Up In Immigration Court?

- Every removal proceeding commences with the issuance of Notice to Appear (“NTA”), which is issued by DHS.
 - This is the first step in starting removal proceedings against them.
 - It is issued by DHS but proceedings start when it is actually filed with the Court.
 - Issued in English only.
 - Additionally, DHS serves the NTA on the individual (if in person service is “not practicable” it may be served by regular mail at the alien’s last known address”)
 - NTA instructs an individual to appear before an immigration judge.
 - Under Immigration Naturalization Act, NTA must meet certain minimum requirements in order to be valid.
 - Venue lies in the jurisdiction where the charging document is served on the court.
 - Venue can be changed upon a motion by either party for good cause.

Who Is Issued an NTA?

- Different scenarios where individuals are served with NTA:
 - An individual who enters the US without a valid visa or authorization but claims a fear to return to his or her country of nationality and is seeking asylum or related forms of relief;
 - Individuals who have been living in the US without a valid immigration status and get arrested by ICE (ICE raid, traffic checkpoint, traffic offenses or more serious offenses);
 - Local law enforcements arrest them and then hand over to ICE.
 - Individuals who have some kind of immigration status in the US such as a valid work visa or Legal Permanent Resident Status (“Green Card”) but are now deportable because of certain offenses and charges.

Rights

- Right to due process
 - Certain standards to ensure a full and fair hearing for the immigrant.
- Right to Counsel at no expense to the government: No court appointed attorney!
 - Individuals who are in immigration proceedings do not have same constitutional protections like criminal trials.
 - They can hire private attorneys or get lucky find a pro bono attorney
- Interpretation of Hearing:
 - Absolute right to competent interpretation
 - Immigration Courts provide translation services at no charge to Respondents.
 - “In house” translators

Additional Rights

- Right to present evidence on his/her own behalf;
- Reasonable opportunity to examine evidence against him/her;
- Right to cross-examine opposing witnesses;
- A complete record of all testimony and evidence produced at the hearings; and
- Right to appeal decision of the Immigration Judge (except in absentia orders)

Types of Immigration Hearing

Master Calendar Hearing (“MCH”) v. Individual Hearing (“IH”):

- **MCH:**

- Preliminary and quick – Generally 20-30 (or even more) cases scheduled for each docket.
 - Similar to criminal arraignment.
- IJ deals with administrative issues such as pleadings to immigration charges, challenging the validity of NTA, filling applications, scheduling, status update, and other issues may arise.
- Typical IJs’ Pattern: First hear cases where respondents have attorneys, then move forward with handling pro se cases.

- **IH:**

- Merit hearing on contested matters – Evidentiary hearing where respondents, witnesses, expert witnesses testify.
- Usually 2-4 hours long
- This is mostly closed hearings where the parties’ permission is required for attending.

Types of Immigration Hearing

Detained v. Non-Detained Docket:

- **Detained Docket:**

- Bond Hearings as well as MCH and IH.
- Detained cases move faster and even open during government shutdown.
- Respondents appear via tele-video from where they are detained.
- Detention is not a punitive action but some with certain criminal convictions are not eligible for bond or certain relief.

- **Non-Detained Docket:**

- Non-detained cases usually take much longer; sometimes up to 4 years from the start to the conclusion.

Most Common Forms of Relief

- Asylum, Withholding of Removal, and Protection Under Convention Against Torture.
- Cancellation of Removal
 - LPRs, Non-LPRs, NACARA, VAWA Cancellation
- Adjustment of Status
- Voluntary Departure
- Termination

Rules to Follow

- Wear clothing that would be appropriate for business.
- Take a valid government-issued photo ID (just in case).
- Rise when the judge enters and leaves the courtroom.
- When courtroom space is limited, respondents, their respective attorneys, and media representatives have priority over the general public.
- Using cameras and recording devices in courtrooms or other EOIR space is prohibited.
- No use of cellphones.
- No talking out loud, eating or drinking inside the courtrooms.

Data Collection

- Reminder of the program goal and objective: “bring transparency and accountability to the court system”
- Data Collection for policy, advocacy, litigation purpose, and practice guide for practitioners
 - Forms:
 - [MPP](#) and [regular MCH](#)
 - Work in progress as getting updated

Remain in Mexico - MPP

- Began in January 2019
- Asylum seekers wait in Mexico for hearings in “port court”
- Tents in Brownsville and Laredo
- Cross the day of the hearing
- No observers allowed in the tent structures for “security” reasons



MPP Hearings

Things to watch for:

- Referrals for non-refoulement interviews; cannot send person to Mexico if:
 - More likely to be persecuted on account of race, religion, nationality, political opinion, membership in a particular social group
 - More likely than not will be tortured
- Interpretation Issues
- Rescheduling due to technology issues
- Vulnerable populations: pregnant women, sick children, etc.
- Non-Spanish speakers or Spanish is not primary language
- Requests for bond hearing/requests to be detained in U.S.

MPP Hearings

Things to watch for:

- Family separation
 - Family members allowed to enter and detained or related in U.S.?
 - Family members subject to MPP in another jurisdiction?
- People discussing travel/transportation issues getting to/from Court
- Complaints about inability to access counsel in Mexico
- Address issues
 - Court/ICE using address of shelter where person doesn't reside
 - Notice issues

How to sign-up

1. Make sure we have your email and number before you leave today.
2. You will be followed up with.
3. Check out our [Volunteer Sign-up page](#) to read more about volunteer opportunities we have and apply to be our volunteer!



RAICES Volunteer Opportunities

Accompaniment: Volunteers can accompany individuals and families to ICE Check-ins. The purpose of this is to provide support, be a witness, and be an advocate for the individual and for change in the immigration system. M-F, 8am-5pm, appointment based.

Bus Station: The Bus Station Project gives recently released families from detention centers the opportunity to learn about their rights, more information on what the asylum process will be like, and a list of resources they can contact when they get to their sponsor. M-S, 10am-1:30pm or 1pm-4:30pm.

Bonds: Thanks to many generous donations, RAICES is able to pay bonds for individuals to be released from detention centers. These are paid every week by volunteers. W-TR, 10am-2pm, weekly shifts

Karnes Pro Bono Project: The RAICES KPBP provides free legal services to families detained at Karnes County Residential Center in hopes to have them released to seek asylum in the United States. Volunteers must be available to volunteer a minimum of 4 days. M-TR, 8am-8pm, weekly shifts

RAICES Volunteer Opportunities

Office Assistance: Because we are an organization that offers legal aid and social services, we find that there are always documents to be scanned, files to be organized and data to be entered. Office assistance allows for volunteers to interact with attorneys and assist us in organizing our cases.

Translation: The RAICES Translation Team is a network of translators across the world that offer our staff in-person and remote translation assistance. M-S, as needed assistance

Remote Activities:

- Cartas de Corazón
- Fundraisers
- Advocacy Actions