



LESSON 8

Mock Immigration Court

*Let us realize that the arc of the moral universe is long,
but it bends toward justice.*

~ Martin Luther King, Jr., "Where Do We Go From Here?" (1967)

LESSON 8

Mock Immigration Court



Goal

- » Understand the workings of immigration courts and their impact on justice and the rights of immigrants.

Objectives

- » Students will learn the various roles people play within the immigration court system.
- » Students will experience a wide variety of immigration cases that highlight the challenges immigrants face in securing justice.
- » Students will analyze how well the immigration courts serve the interests of justice and protect the rights of immigrants.

Essential Questions

- » How do the immigration courts work in practice?
- » How do the courts affect justice and the rights of immigrants?

Key Skill

- » Public speaking (Activity 1).

Materials

- Handout 1: Rights and Responsibilities*
- Handout 2: Immigration Court Roles*
- Handout 3: Immigration Court Script*
- Handout 4: Case #1-Maria (Cancellation of Removal)*
- Handout 5: Case #2-Sera (Asylum)*
- Handout 6: Case #3-Xiong (Waiver)*
- Handout 7: Case #4-Tomas (Bond)*

Time Frame

2-5 class periods

Vocabulary

-  attorney
-  bond
-  cancellation of removal
-  immigration court
-  impartiality
-  interpreter
-  judge
-  justice
-  removal
-  respondent
-  waiver
-  witness

Mock Immigration Court

Procedure:

1. Review. Immigrants who are charged with being in the country without authorization or in violation of the terms of their visa often end up before an immigration judge. The following exercise will give students an opportunity to see what a courtroom might look and sound like when different kinds of immigration cases are being heard. Students will need two important sets of background information. The first is a grasp of the basic vocabulary and structure of the U.S. immigration system, which can be found in *Activity 5.2: Understanding the Immigration System* on page 75.

Second, as a class briefly discuss the role of the judicial system in a functioning democracy. A great introduction to the concept is the five-minute video “An Impartial Judiciary” by the U.S. Courts found at http://wn.com/court_shorts_an_impartial_federal_judiciary. After watching the video, discuss what students think about the importance of an impartial judiciary and the rule of law. How might those concepts apply in an immigration context?

2. Prepare. Give each student a copy of *Handout 1: Rights and Responsibilities* and *Handout 2: Immigration Court Roles*. Have students read through both handouts, which will help them understand the rules that govern the operations of the immigration court, as well as the different actors in the courtroom. Address any questions the students may have about the basics of how the immigration courts work.

3. Assign roles. The activity contains four unique cases that represent different situations in which immigrants might find themselves ordered in front of a judge. Each case has a set of roles for students to play. Depending on the size of the classroom, students can be assigned to a single role, the same role in multiple cases, or different roles in different cases. In large classrooms, students may want to double-up on the attorney roles, with two lawyers representing the immigrant or the government. “Interpreters” can be used, even if English is the only language spoken (see *Handout 2: Immigration Court Roles*). Students who do not have an assigned role or who do not feel comfortable speaking can be assigned to be court monitors, representing non-governmental watchdog organizations who attend court sessions to make sure they are fair. Court monitors should take notes on the proceedings, which they will report back to the class at the end of the trials.

Cancellation of Removal	Asylum	Waiver	Bond
Maria	Sera	Xiong	Tomas
Maria’s attorney	Sera’s attorney	Xiong’s attorney	Tomas’ attorney
Government attorney	Government attorney	Government attorney	Government attorney
Judge	Judge	Judge	Judge
Miguel (witness)	Psychologist (witness)	Moua (witness)	Interpreter (optional)
Interpreter (optional)	Interpreter (optional)	Interpreter (optional)	Court monitor (optional)
Court monitor (optional)	Court monitor (optional)	Court monitor (optional)	

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Mock Immigration Court

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4. Prepare cases. Have students form small groups with the other people participating in their case. Pass out *Handout 3: Immigration Court Script* and the relevant case material (*Handouts 4-7*) to each student. Give them a chance to read the background material for their case and the immigration script. They should make notes as they go, indicating what they plan to say in court. The judge should also decide what factors are going to help them make their decision. The immigrants, their attorneys, and the witnesses can work together to design their questions and answers.

5. Hold court. Once students feel comfortable with their roles and what they will say in court, start the court session. For each case, set up the classroom as a mock courtroom. Have students take turns acting out their immigration court cases. If you do not have any students acting as court monitors, have the students who are not currently participating take notes on the proceedings and the outcomes.

6. Discuss. After concluding the trial or trials, have the court monitors or other students report back a summary of the court cases and their outcomes. Ask the monitors for any observations they had about the fairness or impartiality of the court. As a large group, reflect on the classroom's experience with the mock court.

Questions for Discussion

- ? Did you enjoy your role? Why or why not?
- ? What did you learn from this trial?
- ? Were there any courtroom rules that you felt were critical to ensuring fairness and justice? Were there any that you felt were unfair?
- ? Discuss the role of the judge in this trial. How important would impartiality be for an individual hearing case with such significant ramifications?
- ? Do you think that justice was carried out? Why or why not?

RIGHTS AND RESPONSIBILITIES

Rights:

In immigration court, the immigrant has certain rights. He has the right to have an attorney in court with him, but this lawyer is not provided free of charge by the government. The immigrant may need to hire and pay an attorney or find a pro bono (free) lawyer. The immigrant also can speak for himself; he is not required to have an attorney.

The immigrant has the right to appeal any decision to a higher court if he is not satisfied with the judge's decision or feels the judge made a mistake in his case. The immigrant must indicate whether or not he wishes to "reserve his right" to appeal at the time the decision is given by the judge. Reserving the right to appeal does not require the immigrant to appeal, it simply gives him the chance to appeal. Waiving the right to appeal means that he is giving up the chance to appeal and will not be able to appeal in the future, even if he changes his mind. Any appeal must be filed within 30 days of the decision, so if the immigrant reserves the right to appeal he has 30 days to decide whether to appeal or not.



The immigrant has the right to see anything that the government offers as evidence in his case. This means that if the government provides a record of a statement the immigrant made to a border patrol officer, the immigrant has the right to review that statement. The immigrant also has the right to object and oppose that piece of evidence being considered in his case. If the immigrant does object to a piece of the evidence, the judge must decide whether that evidence will be considered or not.

The immigrant has a right to a fair hearing. This means he has the right to an interpreter who interprets completely and accurately. It also means that he has the right to complete an application to stay in the country, within a reasonable time provided by the judge. A fair hearing allows the immigrant an opportunity to present witnesses and information about his case and why he should be allowed to stay. Part of a fair hearing means that the government has a chance to question the immigrant and any witnesses. The immigrant also has the opportunity to question any witnesses the government brings to court.

Responsibilities:

The immigrant must swear to tell the truth in any statements made in court. If she fails to tell the truth, she can lose the right to stay in the United States even if she otherwise would qualify for that benefit.

The immigrant must show up at all hearings. If the immigrant does not show up for a hearing, she can be ordered deported and her case will be finished.

IMMIGRATION COURT ROLES

Immigrant:

You are trying to show why you should be allowed to stay in the United States. You must be honest and truthful in your answers, or you could lose the chance to stay in the United States. You will be answering questions from your lawyer and the government lawyer, as well as the judge. You should only respond to questions asked directly to you, unless the judge gives you the opportunity to speak freely. If there is an interpreter, talk to him or her about how you will communicate with each other.

Attorney for Immigrant:

You work for the immigrant. You are responsible for representing her interests and rights and making sure that she has a chance to have her case heard in a fair hearing. Your job is help the immigrant present her story in a way that demonstrates how her situation fits with the law and makes her eligible to stay in the United States. You will do this by asking questions of the immigrant to help tell her story; this is called "direct examination." You have to carefully review the law so that you know the important parts of her story to highlight as you ask her questions. You are also responsible for explaining to the judge why your client deserves to stay in the United States and how she qualifies within the law.

You may also need to challenge and disagree with the government lawyer if he tries to classify your client in an unfair way. If the government lawyer asks a question you feel is unfair, you can say "objection" and then the judge will decide whether the question is fair or unfair. The judge may ask you to explain why you think the question is fair or unfair.

If you feel that something has happened that makes the hearing unfair, such as the interpreter not properly translating, then you should say that to the judge. Your job is to make sure your client's rights are protected.

Government Attorney:

You work for the immigration service as a lawyer. Your job is to make sure that immigrants who are allowed to come into the United States follow the laws, and if they do not follow the laws, to prosecute those people for removal from the country.

You will be cross-examining the immigrant who is applying to stay in the United States. Your job is to ask difficult questions to make sure that the person is telling the truth. You should be skeptical of answers to questions that do not match the facts the person wrote down or told someone else. You are limited to asking questions about the information that is included in the immigrant's application or the things the immigrant's lawyer asked about previously.

You may also challenge and disagree with the immigrant's lawyer if she tries to classify the immigrant in an unfair way. If the immigrant's lawyer asks a question you feel is unfair, you can say "objection," and then the judge will decide whether the question is fair or unfair. The judge may ask you to explain why you think the question is fair or unfair.

IMMIGRATION COURT ROLES

Interpreter:

You are an interpreter. It is your job to translate exactly – word for word – everything the immigrant says in his or her language into English, and everything the judge and lawyers say into the immigrant’s language. You cannot add any words. If the immigrant asks you to repeat something or explain it further, you must state that to the Judge before you can repeat or explain the question. For example, if the immigrant asks “What did he say?” you must translate “What did he say?” and then the Judge will repeat what he said and you will translate that.

As the only person in the courtroom who understands both languages, your role is very important. If one word is not correctly interpreted, it may change the meaning of a sentence and cause a discrepancy which the government attorney might use to accuse the client of not being truthful. You may need to ask the immigrant, the judge, or the lawyers to speak in short sentences so that you are able to translate everything. You are hired independently, so are not supposed to take any particular side.

For the purpose of this mock court, one way to represent interpretation is to have the student playing the immigrant speak to you very softly, in a whisper, so that the other people in the court can’t understand. Then you can repeat what the student said in a normal speaking voice.

Judge:

You are an immigration judge. Your job is to listen to all of the testimony given by the immigrant, the arguments made by the lawyers for each side, and to review all of the documents and statements made in writing by the immigrant. Then you must make a decision about whether he or she qualifies under the law to stay in the United States or whether he or she will be deported/removed.

You must consider not only the law, but also decide how much value to place on each piece of evidence given by the immigrant and, most importantly, whether or not you believe the immigrant is telling the truth about his or her situation.

You are allowed to ask questions of the immigrant at any time during the hearing, although most of the questions should be asked by the attorneys. If an attorney objects to a question, you must decide whether that question is okay or whether the attorney has to ask it a different way. You also control how much time the attorneys can spend asking questions.

Witness:

Your role is to talk about a specific topic, in order to provide information that is helpful to the immigrant’s case. You are giving information that the immigrant himself cannot necessarily give either because he does not know it or because you have special expertise. You are only allowed to talk about the topic you specifically know about — not about the whole case. You will be answering questions from both attorneys and from the judge. It is important that you listen carefully to the questions and only answer what is asked.

IMMIGRATION COURT SCRIPT

Judge: This is Immigration Judge [Insert Last Name] sitting in the Immigration Court in [City, State]. These are removal proceedings in the matter of [immigrant]. The Respondent is present in court with an attorney. Counsel, please identify yourself:

Attorney for Immigrant: [Name] on behalf of [immigrant].

Judge: And for the government?

Attorney for Government: [Name] on behalf of the immigration service.

Judge: Also present is the interpreter [Name]. Interpreter, I need to swear you in. Please stand up. Do you swear that you will interpret faithfully and accurately everything that is said in court today?

Interpreter: I do.

Judge: Please be seated. Now, to the Respondent, do you speak and understand the [language name] language?

[Interpreter translates] — continue translating for all questions posed to the immigrant for the rest of the court session

Client: Yes

[Interpreter translates]

Judge: And do you want the hearings conducted in the [language name] language?

Client: Yes.

Judge: I am going to put you under oath. Please stand and raise your right hand. Do you swear that you will tell the truth, the whole truth, and nothing but the truth?

Client: I do.

Judge: Be seated. I understand we are here today for a hearing regarding Respondent's application for [type of immigration case], is that correct counsel?

Attorney for Immigrant: Yes it is, your honor.

Judge: I have the application and supporting documents you submitted in front of me. Will there be any witnesses other than the Respondent?

Attorney for Immigrant: Yes, your honor; the client's [relationship to immigrant] is present and will be a witness.

Judge: We will take the testimony of the Respondent first. Please come up and sit beside me here in the witness chair.

[Immigrant sits next to Judge]

IMMIGRATION COURT SCRIPT

Judge: Counsel, I'd like you to focus on [main reasons to grant immigrant's application]. Please keep your questions focused on that topic. Go ahead with your questions.

Attorney for Immigrant: Okay your honor. Thank you.

[Question and answer between attorney and immigrant]

Attorney for Immigrant: No further questions at this time, your honor.

Judge: Government, cross examination.

Government Attorney: Thank you, your honor.

[Question and answer between attorney and immigrant]

Government Attorney: Nothing further, your honor.

Judge: Respondent, you may step down. Witness, please come to the stand. I need to place you under oath. Please stand and raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?

Witness: Yes, I will your honor.

Judge: You may be seated. Counsel, proceed with your questions.

Attorney for Immigrant: Thank you, your honor.

[Question and answer between attorney and witness]

Attorney for Immigrant: No further questions at this time, your honor.

Judge: Government, cross examination.

Government Attorney: Thank you, your honor.

[Question and answer between attorney and witness]

Government Attorney: Nothing further, your honor.

Judge: Thank you. Witness you may step down. I will now take a short break and then make my decision.

Judge: This will be my decision. I will [grant/deny] [type of immigration case] for this reason [explain why granting or denying]. Does either side wish to reserve appeal?

Attorney for Immigrant: [either accept or reserve appeal.]

Attorney for Government: [either accept or reserve appeal.]

Judge: That being all, this hearing is closed.

CASE #1 - MARIA (CANCELLATION OF REMOVAL)

The Law

Cancellation of removal (“removal” is another term for deportation) requires that the immigrant:

- Has lived in the United States for 10 years continuously.
- Has shown good moral character.
- Has a U.S. citizen or permanent resident husband/wife, parent, or child (“qualifying relative”).
- Can demonstrate that if the immigrant was removed, the immigrant’s qualifying relative(s) would suffer exceptional and extremely unusual hardship.

In considering “exceptional and extremely unusual hardship” the judge cannot consider any hardship to the immigrant – only to his or her citizen or permanent resident relative. The hardship must be beyond that caused by ordinary family separation. Some of things to consider in deciding whether there is “exceptional and extremely unusual hardship” are: age, health, and circumstances of the qualifying relative; the dependence of the qualifying relative on the immigrant; and adverse country conditions in home country (only relevant if the qualifying relative would have no choice but to leave with the immigrant).

If cancellation of removal is granted, the immigrant will become a permanent resident and be allowed to stay in the United States and eventually become a citizen. As a permanent resident, she can apply for her husband and children to join her in the United States (if they are not already here with status).

Background

Maria is 33 years old and was born in Mexico. Her parents brought Maria and her five siblings to the United States when she was 8 years old. After graduating from high school in the United States, she began working for a local hotel where she has remained employed as a housekeeper. Maria has always paid income taxes and has never been arrested. Fourteen years ago, Maria met José who was also an immigrant. José and Maria fell in love and married. They have two children Miguel, 12, and Angelita, 5. Two years ago there was an immigration raid at the hotel where Maria and José worked. José was arrested and deported.

Maria remained in the United States with Miguel and Angelita. One year ago, immigration officers came to Maria’s house looking for José. When she said he wasn’t there, the officers asked her for her immigration documentation. When she was unable to produce documents, the officers arrested Maria.

Maria does not want to leave the United States. She has lived the majority of her life here, her parents and siblings live in the United States, and she has had steady employment which enables her to support her two children. Maria says that the deportation of José put a strain on their relationship and that she has not heard from him in six months.

Miguel has an A average and is an outstanding soccer player. Last year his school team won the championship. Angelita was born prematurely and requires ongoing medical treatment. She has severe hearing loss, attention problems, and a weakened immune system. Angelita regularly receives medical treatment at a top hospital, counseling at a pediatric clinic, and attends a special needs pre-school program. Maria relates that Angelita is very afraid of moving to Mexico and that it has made her aggressive in school and at home. Maria worries that the separation from her extended family, the lack of medical and counseling services, and the inability of the school system to provide the special services Angelita needs will severely limit her development. Maria has applied for cancellation of removal to enable her to remain in the United States.

CASE #1 - MARIA (CANCELLATION OF REMOVAL)

Roles

Maria - You will be testifying to the facts in your story. Use the background information to help guide you.

Maria's lawyer - You will be asking Maria and Miguel questions and arguing that Angelita in particular would suffer exceptional and extremely unusual hardship if Maria were deported.

Questions to Ask Maria

When did you come to the United States?
 How many children do you have?
 Do your children have any problems?
 What would happen to your children if you had to return to Mexico?

Questions to Ask Miguel

Who do you live with?
 What's your responsibility in the family?
 How have you observed your sister behaving?
 What would happen to you or your sister if your mom went to Mexico?

Government Lawyer – You will be asking questions and arguing that the harm to Miguel and Angelita would not be enough to allow Maria to stay.

Questions to Ask Maria

Is there anyone else who could take care of your children?
 Isn't there medical care available in Mexico?

Questions to Ask Miguel

Does anybody else take care of your sister?
 Do you think you could live with your grandparents in the United States?

Judge – You will be determining whether Maria's case fits into the law of cancellation of removal. Specifically, you will have to decide if the harm to Miguel and Angelita if Maria were deported would be "exceptional and extremely unusual hardship."

Interpreter – You will be translating questions posed to Maria and the answers she gives. Use *Handout 2: Immigration Court Roles* to help guide you.

Miguel (Witness) - You will be testifying to what happened; to how you felt after your dad was deported; and to what would happen to you and your sister if your mom were deported.

You are twelve years old and live with your mom and your sister. You are a good student and enjoy school. You also play on a soccer team and have a lot of friends from the team. You have struggled a little bit since your dad was deported, as you feel like you have a lot of responsibility to be the man of the house and look after your sister and mom.

Your younger sister, Angelita, has had more problems. You try to look after her but it's sometimes very difficult and she gets upset and aggressive with you, even hitting you on occasion when she is really frustrated. You were afraid when the immigration officers came to your house, as you remember when your dad was deported and are afraid of the same thing happening to your mom.

If your mom were deported, she has said that you and Angelita would probably go to Mexico with her. This worries you because you do not speak Spanish very well and you do not want to leave your school and friends here. You are also worried about Angelita, because you have heard that schools and hospitals in Mexico are not as good and you think she might be even more aggressive in Mexico.

CASE #2 - SERA (ASYLUM)**The Law**

In order to gain asylum in the United States, an immigrant must prove a number of things. First, the immigrant must demonstrate that she either suffered persecution (very serious harm) in the past in her home country or that she is likely to be persecuted in the future if she returns. There is no specific definition of persecution, but it is more than discrimination or harassment.

The immigrant must show that she was persecuted because of one of the following reasons: race, religion, nationality, political opinion, or membership in a particular social group. The immigrant also must show that either it is the government of her country that is persecuting her or that the government of her country is not able to protect her. This means that the police or other government officials cannot or will not assist in helping keep her safe from harm.

The immigrant must show that she has a well-founded fear of persecution. This means that her fear of persecution is both something that an average person would be afraid of and also that newspaper articles and other sources can document that it is something that is actually happening in her country.

Finally, the immigrant must be telling the truth. Part of what the judge will assess is whether the immigrant is “credible” – is her story consistent, or does it change a little bit every time it is told? The immigrant is required to submit a written application for asylum and also tell her story in person to an immigration officer or judge. The officer or judge will be comparing the written story to the in-person story to make sure they are the same. Differences between the two can result in asylum being denied.

If the immigrant is granted asylum, she gets the right to stay in the United States indefinitely, become a permanent resident and eventually a citizen. She can apply to bring her husband and children to join her in the United States.

Background

Sera is a 24-year-old married woman from Ethiopia. She came to the United States on a visitor’s visa three months ago. She recently graduated from college in Ethiopia. While she was in college, Sera became very involved with a number of student groups. One of these groups was the student chapter of the Coalition for Unity and Democracy (CUD), a political party. The CUD is involved in advocating for a more democratic government in Ethiopia and calls for new leadership as well as reform of existing governmental structures.

As part of Sera’s participation in the CUD, she led the student chapter at her school, the University of Addis Ababa. She regularly called meetings of approximately 250 other student members, communicated with the broader CUD group, and spoke to other students on campus about CUD activities. She also participated in nearly thirty protests against the Ethiopian government on behalf of CUD advocating for governmental change. A number of these protests were broken up violently.

About one year ago, while at a protest holding a sign that said “Stop the Corruption! Democracy!,” Sera was arrested by Ethiopian police. About three officers started beating her and when she fell down, she was kicked repeatedly. The officers then took her and about ten other protestors in a small van to a prison. At the prison, she was interrogated about her involvement with the CUD. The person interrogating her was a military commander, and he repeatedly asked about other more senior leaders of the CUD. He also threatened that if she did not cooperate and provide information about the plans and operation of the CUD, she would be tortured and her family could be hurt, as well. Sera told him what she knew, withholding some information to protect her friends. However, he was not satisfied. She was put into a cell by herself and subjected to regular beatings. She was held in this prison for three months.

CASE #2 - SERA (ASYLUM)

When Sera was released, the officer made her sign a statement saying she would not be involved with the CUD anymore and that she would check in with the local police office every week. She was terrified of what would happen in the future and relieved to be released. She checked in at the police station for the first three weeks, and each time she was detained at the station for more than three hours in a small room. The stress of these encounters was causing her not to be able to sleep at night and to lose weight. After talking with her family, Sera decided to try to leave Ethiopia.

With the help of a good family friend, Sera was able to get a visitor visa to the United States. While she waited for the visa, she hid in a small village about two hours from Addis Ababa with a distant cousin. Her family told her that police came to her home in Addis on three occasions looking for her because she didn't check in as required. Sera finally left Ethiopia, with help from another friend to get safely through the security at the airport. She thinks he paid a bribe to an officer. Sera is now seeking asylum in the United States.

Roles

Sera - You will be testifying to the facts in your story. Use the background information to help guide you.

Sera's Lawyer – You will be asking Sera and her psychologist questions to demonstrate to the judge that she qualifies for asylum under the law and also that she is telling the truth.

Questions to Ask Sera

Why did you leave Ethiopia?
 Why did you join the CUD?
 What happened the first time you were arrested?
 Have you experienced any subsequent harm?
 Did anyone ever threaten you or your family?
 Why did they want to harm you?
 What do you think would happen to you if you went back to Ethiopia?

Questions to Ask Her Psychologist

How long have you been working with Sera?
 What services have you provided to her?
 What have you observed of her behavior?
 What is your diagnosis of Sera?
 How is this connected to her experiences in Ethiopia?

Government Lawyer – You will be questioning Sera and her psychologist to uncover any inconsistencies in her story that would show she is not telling the truth. However, if you believe her, you can indicate that by agreeing to (granting) her request for asylum.

Questions to Ask Sera

Have you been talking to your family since you have been in the United States?
 How were you able to leave the country if the government was targeting you?
 Is the CUD party violent?
 So you were only taken by the government one time and they released you?
 Your testimony is that after the first arrest, you were never physically harmed at the police station?

Questions to Ask Her Psychologist

Have you testified for a lot of asylum seekers?
 Do you always believe the stories you here from the torture survivors you treat?
 Is it possible that her post-traumatic stress disorder is due to something else?

CASE #2 - SERA (ASYLUM)

Judge – You will be listening to Sera’s testimony to assess whether she meets the legal definition of asylum and whether she is telling the truth. You will also be deciding whether to consider the testimony of the psychologist and if so, how important that information is to Sera’s case.

Interpreter – You will be translating questions posed to Sera and the answers she gives. Use *Handout 2: Immigration Court Roles* to help guide you.

Sera’s Psychologist (Witness) – You will be testifying about Sera’s ongoing nightmares and post-traumatic stress disorder which you believe is consistent with her lengthy detention and torture.

You first met Sera when she came to the torture treatment center where you work. You have been working as a psychologist for fifteen years, eight of which have been with torture survivors. You meet with Sera individually once a month and every week in a group therapy session. You have been meeting with Sera for two months and are continuing to meet with her.

You assessed Sera after four meetings, based on what she reported to you about the torture she experienced in Ethiopia and the feelings she continues to experience in the United States. She told you about ongoing nightmares, problems sleeping, anxiety, as well as her nervousness in small rooms. Sera also reported to you that she scares easily, and finds herself jumping at any small noise. You observed this jumpiness during your meetings with her; once or twice someone knocked at the door during your meeting and Sera visibly jumped and looked sweaty and nervous. Based on what you observed and she reported, you have written a psychological assessment that Sera’s behavior and symptoms are indicative of post-traumatic stress disorder and are consistent with someone who experienced the torture she reported.

CASE #3 - XIONG (WAIVER)**The Law**

Refugees who have been convicted of certain crimes (including drug crimes) can be deported and lose their status. A refugee who has not applied to become a permanent resident can ask for a waiver of these criminal convictions when he applies for permanent resident status. This application is called a 209(c) waiver. To get this waiver, the refugee has to show that he should be allowed to stay for humanitarian reasons, such as ongoing threats of violence in his native country; for family unity; or for public interest reasons. If this waiver is granted, the refugee can become a permanent resident and eventually a citizen. If the waiver is not granted, the refugee will lose his status and be deported to his country of origin.

Background

Xiong came to the United States with his family as a refugee from Laos when he was 12 years old. When he first arrived, he went to a school with other refugees where he could learn English and become familiar with the U.S. education system. In 9th grade, Xiong enrolled in a large public high school.

The transition was difficult. Xiong still struggled with English, and some of the other students snickered or laughed in class when he misspoke or made other mistakes. He often sat alone in the lunchroom, and was sometimes teased in the hallway. At home, his parents did not speak English and were always busy working multiple jobs. Xiong became frustrated and depressed. One day, a student made a cruel joke about his backpack. Angry, Xiong dropped his backpack and hit the other student. A teacher witnessed the incident and sent Xiong to the principal's office. The principal called his parents and told them that if anything else happened, Xiong would be suspended from school. His parents were ashamed of his actions.

To try to fit in, Xiong found a few friends to hang out with. One night, while he was riding around in a friend's car, one of the boys pulled out a bottle of alcohol. He started passing it around to everyone, including the driver. A short while later, they drove to a party hosted by a fellow student. At the party, Xiong saw kids streaming in and out of a back room. When he went to see what everyone was interested in, he found a group of young people doing drugs. One of his friends was there, and he gave Xiong a small bag "for later." Xiong put the bag in his pocket. On the way home, his friend got pulled over by the police. The officers asked everyone for their IDs and made them all get out of the car. The officer patted down Xiong's pockets and found the bag of drugs his friend had given him earlier. Xiong and his friends were all arrested. After going to court, he was convicted of underage drinking and possession of cocaine. The judge sentenced him to sixty days in jail and probation for two years.

The day before Xiong thought he was going home, he found out that he had to stay in jail for immigration offenses. He is now being detained by immigration officials in preparation for being deported back to Laos. Xiong has applied for a waiver to remain in the United States with his family.

Roles

Xiong – You will be testifying to the facts in your story, as well as expressing why you want to stay in the United States.

CASE #3 - XIONG (WAIVER)

Xiong's Lawyer – You will be arguing that Xiong should be given a waiver for humanitarian reasons.

Questions to Ask Xiong

How long have you lived in the United States?
 Do you live with your family?
 How many times have you been arrested?
 Have you ever been convicted of a crime?
 Can you describe the circumstances of the crime?
 Are you afraid to go back to Laos?

Questions to Ask His Father

Has Xiong ever lived in Laos?
 What do you think would happen if your son had to return to Laos?
 Tell us why you left Laos.
 Would you ensure that your son followed the law if he were allowed to stay in the United States?

Government Lawyer – You will be arguing that Xiong should not receive a waiver because his conviction is too serious.

Questions to Ask Xiong

So you were in possession of cocaine?
 Why did you accept the drugs from your friend?
 Have you had problems at school?
 Have you had any other fights?

Questions to Ask His Father

If you couldn't control your son before, why would you be able to now?
 Do you know anyone in Laos your son could live with?
 It has been a long time since the Vietnam War, so how could your son still be at risk?

Judge – You will be deciding whether to grant the waiver to Xiong based on the arguments made by the government lawyer and Xiong's lawyer.

Interpreter – You will be translating questions posed to Xiong and the answers he gives. Use *Handout 2: Immigration Court Roles* to help guide you.

Xiong's Father, Moua (Witness) - You will be testifying to what your family experienced in Laos to help show that Xiong should not have to return to Laos because there are humanitarian reasons that he should stay.

You are Xiong's father. You have six other children and a wife who all came to the United States with you. During the Vietnam War, you fought with other soldiers on behalf of the United States against the North Vietnamese. Immediately after the United States pulled out of Vietnam, you and your family fled to a refugee camp because you were targeted for retaliation for fighting for the United States. Your family lived in the refugee camp for many years before coming to the United States. You still know many people in Laos and you know that the situation is not good for individuals like you who supported the United States during the war. Also, since your family is Hmong, you would face discrimination because the Hmong are a minority group and are associated with supporting the United States.

You struggled to adjust to life in the United States and have had a hard time learning English. However you are very proud of the opportunities your children have had to grow up here in a safe environment. You are disappointed in Xiong because he has gotten into trouble and brought shame on your family. However, you are very concerned that he will be deported to a bad situation in Laos and you do not think he fully understands what would happen to him since he never lived there – he only lived in the refugee camp.

CASE #4 - TOMAS (BOND)**The Law**

Bond is an amount of money which a person can pay to be released from jail while his or her case is pending. Paying bond does not affect the outcome of the case, but allows the person to pursue their case outside of jail. Bond is determined first by the immigration officers who detain someone, but can be revised during a hearing before an immigration judge. Factors that are considered in setting the amount of the bond include:

- Whether the person is likely to show up at a future hearing,
- Whether the person has lied about his/her identity,
- Whether the person was cooperative with immigration,
- Type and number of criminal convictions,
- Family connections in the United States and the immigration status of those family members,
- The person's connections to the community, such as attending a church, a community group, volunteer work etc., and
- The possibility of a legal way for the person to be able to stay in the United States.

Someone who has a lot of connections to the United States and a possible way to stay legally is more likely to receive a lower bond than someone without those connections. The law says that the lowest bond amount allowed is \$1,500.

Background

Tomás is a 20-year-old, single man from Ecuador. He came to the United States two years ago looking for work so he could help support his parents back in Ecuador. His father has cancer and needs money for the treatments. Tomás spent a year and a half working on a construction project in Utah but when that project ended, he struggled to find work. A friend knew about some jobs in North Dakota so he travelled there and was able to get work at a farm. In order to get the job, he had to show a social security card and a driver's license in someone else's name. He has been depositing his money at the local bank until he can send it back to his parents, and he has managed to save over \$5,000.

One night, Tomás was driving from the farm where he worked into Bismarck with two other people. The highway patrol pulled his car over. When he asked the officer "Habla español?" the officer called the Border Patrol. Tomás and his two friends admitted that they were in the United States without papers and were detained by Border Patrol. Tomás would like to be released from immigration detention. He is depressed all the time and thinks he could fight his case better from the outside. He is requesting a lower bond that he can afford.

Roles

Tomás - You will be testifying to the facts in your story. Use the background information to help guide you.

CASE #4 - TOMAS (BOND)

Tomás' lawyer - You will be asking Tomás questions and arguing for his bond to be lowered to an amount he could reasonably pay.

Questions to Ask Tomás

How much money are you able to pay for bond?
 What assets do you have with which to pay this amount?
 Where will you live when you are released on bond?
 Did you cooperate with immigration authorities after you were stopped by the highway patrol?
 Will you continue to cooperate by appearing at your deportation hearing?

Government Lawyer – You will be arguing that Tomás' bond should not be lowered because his use of false documents makes him a flight risk.

Questions to Ask Tomás

What documents did you use to obtain your employment at the farm?
 How easy was it for you obtain false identification?
 Do you have a legal driver's license in your own name, or were you driving without a license?
 Do you have any family in the United States that could help you get legal status?
 Why would you return for your hearing when you have access to false identity documents and no ties to the local community?

Judge – You will be deciding on the proper amount of Tomás' bond based on the arguments made by his lawyer and the government lawyer.

Interpreter – You will be translating questions posed to Tomás and the answers he gives. Use *Handout 2: Immigration Court Roles* to help guide you.