

# SENTENCED HOME: THE ISSUES AND HOW TO TALK ABOUT THEM

The documents in this packet review the 1996 laws that have negatively impacted the people featured in *Sentenced Home* who have been deported or face deportation. This packet also includes materials that focus on how people should frame and discuss the issues raised by these laws and highlighted in the film, given their challenging and complex nature.

This packet includes the following documents:

## **What Are the Issues with the 1996 Laws?**

1. Expansion of Aggravated Felony Definition
2. Lack of a Fair Day in Court

## **How to Talk about the Issues**

1. Message Points: What Are They? How Do you Use Them?
2. Message Points on Restoring Due Process, Bringing Proportionality Back to Our Laws, and Restoring a Fair Day in Court



## **END EXTREME PUNISHMENT FOR MINOR OFFENSES**

Urge Congress to change current reactionary immigration laws that go too far, undermine our system of justice, and do nothing to solve the problem of a broken immigration system and undocumented immigration. Under these laws, the most minor crime can now trigger the most terrible immigration consequences, including deporting longtime legal immigrants, regardless of individual circumstances. We must stop imposing punishments that don't fit the crime, denying people their day in court and tying judges' hands.

### **BACKGROUND: THE AGGRAVATED FELONY DEFINITION**

The government classifies certain criminal convictions under immigration law as "aggravated felonies." This classification is one of the most powerful legal tools that the government uses against a noncitizen because it triggers the harshest immigration penalties. Common sense should mean that an aggravated felony must be a very bad crime. But because of overly-aggressive use of this classification by the government, an immigrant's crime doesn't have to be either aggravated or a felony to be designated an "aggravated felony." If the government decides that someone's crime is an "aggravated felony":

- The person will face almost certain deportation, regardless of individual circumstances;
- The government will permanently bar the person from ever returning lawfully to the U.S.;
- Unless the person has a green card, the government will deny an "aggravated felon" a hearing in any court and deport her/him under special "expedited removal" procedures;
- Even if a person has a green card and gets a hearing before an immigration judge, the judge's power is severely limited to simply ordering an "aggravated felon" deported. The judge cannot consider individual circumstances, regardless of how long the person has been in this country, how long ago or how minor her/his offense was, and the consequences to deportation to the person or her/his family;
- The person will be detained, sometimes for years until she/he is deported;
- The power of the federal courts to oversee and correct the actions of the government is severely limited when the person has been classified as an aggravated felon.

### **THE PROBLEM: MINOR MISDEMEANORS = AGGRAVATED FELONIES**

Before 1996, only the most serious crimes could be defined as "aggravated felonies" under immigration law. However, in 1996, the government significantly expanded what crimes could fall under this definition to include even minor misdemeanor offenses (sometimes 20 years old) that are neither "aggravated" nor "felonies. It also changed the rules so that these changes reached back in time to apply to all crimes, no matter when they were committed. Changing the rules in the middle of the game is un-American and violates basic notions of justice. Given this change, untold numbers of immigrants have been made deportable for convictions that were not a basis for deportation when they were committed. The government uses this expanded version of the law very aggressively to classify as many immigrants as possible as "aggravated felons." Consequently, the government has deported thousands of immigrants without the due process that they deserve and that is the cornerstone of the American justice system.

<p><b>THE SOLUTION:</b> Congress must narrow the "aggravated felony" definition under immigration law so that it reflects common sense, proportionality, and the American system of justice.</p>
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### **DID YOU KNOW?**

- In 2006, the majority of all individuals classified as aggravated felons were deported without a hearing, with low-level government clerks, not judges, making the determination.
- In the last 15 years, about 300,000 non-citizens were ordered deported from the U.S. after they had been categorized as "aggravated felons."

## **RESTORE A FAIR DAY IN COURT**

**Urge Congress to change harsh, reactionary laws that tie judges' hands and force them to deport longtime legal immigrants without ever being able to consider the circumstances of the person's case. These restrictions on due process are un-American and dangerous. They prevent our justice system from stopping government actions that go too far and threatens our own freedoms.**

### **BACKGROUND: THE POWER TO HEAR A CASE AND "WAIVE" DEPORTATION**

For decades, the government has had the power to deport longtime legal residents who commit certain crimes. However, the law also gave these longtime legal residents the opportunity to present their case before an immigration judge to ask for forgiveness. The judge had the power then to decide whether the person deserved to remain in the U.S. and keep their green card. In other words, the judge could "waive" someone's deportation. Judges were permitted to grant these waivers only in cases where the person was a legal resident for at least seven years. The person also had to prove that they had strong family ties, no new criminal problems, and that s/he is a contributing member of society. Before 1996, these waivers were called "212c waivers." After 1996, they are called "cancellation of removal."

### **PROBLEM: RADICAL AND UNFAIR CHANGES IN THE LAW UNDERMINE OUR SYSTEM OF JUSTICE BY PREVENTING PEOPLE FROM HAVING A FAIR DAY IN COURT**

In 1996, Congress changed these laws to eliminate the judge's power to grant any waivers of deportation where the legal resident's crime was classified as an "aggravated felony" under immigration law. The government also expanded the list of crimes classified as "aggravated felonies" to include even minor misdemeanor offenses (sometimes 20 years old) that are neither "aggravated" nor "felonies". These changes reached back in time to apply to crimes, no matter when they were committed.

Changing the rules in the middle of the game is un-American and violates basic notions of justice. Because of these changes, untold numbers of legal immigrants are now ineligible to ask the judge to waive deportation. The government thus is now labeling as "aggravated felons" thousands of longtime legal immigrants who have already served their sentence and placing them in deportation proceedings. Immigration judges hands are tied: they can do nothing but order the person deported, regardless of his/her circumstances. The judge cannot consider how long a person has been in the U.S., how long ago or how minor their crime was, what their family ties are here (including spouses, children, parents), or any other good things they have done since their trouble with the law.

**SOLUTION: CONGRESS MUST RESTORE IMMIGRATION JUDGES' POWER TO CONSIDER EACH CASE AND DECIDE WHETHER LONGTIME LEGAL IMMIGRANTS DESERVE TO REMAIN IN THE U.S. DESPITE PAST MISTAKES. THAT IS AMERICAN JUSTICE.**

### **DID YOU KNOW?**

- In the past ten years, more than 40% of green card holders who faced deportation as "aggravated felons" lived here legally for more than 15 years.
- More than 80% of noncitizens are deported without assistance from a lawyer.

# MESSAGE POINTS:

## What Are they? How Do You Use Them?

We live in a complicated world and daily face complicated issues. How can you best talk about an issue that conveys what you want to say in a strong, clear and convincing way? Talking points help you to do just that: they frame an issue in the simplest and strongest way and help you effectively make your point.

**The Importance of Message Points:** Develop and use talking points when you discuss important issues. Talking points are an important tool to help you speak effectively at community meetings, meet with your local school boards and local, state and federal elected officials, discuss issues with a reporter, send letters or articles to the newspaper, and in other situations. You will be better prepared if you have thought through what you want to say and how you want to say it and don't repeat yourself.

**Thinking Ahead:** As an advocate working in support of your communities, you understand that many issues are both important and complicated, that people can hold views that differ from your own and that many are distracted by the demands of daily life. Given these and other factors, your challenge then becomes how you most effectively and succinctly express your view. It is important to think about how you want to talk about an issue before bringing it up with others. The answers to the following questions will help you to determine how best to talk about an issue.

- What is your goal?
- Who are your key audience/audiences? (such as local community members, Members of Congress, or a reporter)
- Does your audience already have an opinion or perspective? If so, what is it?

**Developing your Message:** After answering the questions above, it is important to think through what you want to say and how you want to say it. To do that, first determine what is your major theme and then the three to five main points that express this theme. The next step is to think about the sub-points that help you make your points in different ways so you are not repeating yourself. For instance, the attached model talking points focus on due process and deportation. The main theme is that “denying due process to immigrants is un-American and wrong,” and the major points we want to raise to support such reform are:

- Americans value family, justice, fairness, responsibility and a day in court.
- Current reactionary laws against immigrants are not working and hurt America. Right now the government is eroding due process, a cornerstone of the American system of justice. Denying due process to people in America is unconstitutional, unnecessary, and demeans all of us who are proud to live in America. The government is blindfolding the Statue of Liberty.
- Current unfair laws neither solve the problems of illegal immigration nor fix our broken system. In fact, they go against our values and our Constitution. Americans need to know their government is doing these things – so we can put an end to them. Because when we let the government violate the Constitution and deny due process for some, all of our freedoms are at risk. The solution is for government to uphold our laws and traditions by restoring due process.

Under each of these points are bulleted sub-points that help you talk about the major points without repeating yourself.

**Message Points Can Change:** Please remember that you may need to change your talking points or the order in which you use them because things and/or your audience change. So be prepared to customize your talking points to meet these changed circumstances. The important point is that you keep thinking strategically and plan out what you want to say by using the methodology of talking points.

# Message Development Principles

## **Clear**

We live in a day and age of information overload. Consider the amount of information that comes across your desk via -- E-mail, voice mail, the 'in-box,' fax machine, and regular mail. To break through this clutter of information, the message agenda should be brief. Condense what you must say into no more than three or four key points.

## **Connect**

The message must have some relevance in the life of the media consumer. Connect the message to the person watching television or reading the newspaper. If the message does not have immediate personal utility to the person receiving it, it will be rejected as irrelevant. Don't talk to the reporter and don't talk to members of your organization, rather talk to the audience.

## **Compelling**

Make what you have to say interesting. If your message is interesting it is much more likely to be memorable. Craft quotable quotes by utilizing: (1) specific examples to create real, immediate message points; (2) homespun analogies to simplify complex ideas; (3) personal experience to position the spokesperson as an expert; and (4) one startling number to capture the audience's attention.

## **Concise**

Less is always more. Print and broadcast media want sound bite answers. The average sound bite on network TV is 7.2 seconds. Local reporters will give a little extra time -- 10 to 20 seconds. Additionally, shorter responses reduce the possibility of being edited out of context.

## **Continual**

Repetition is critical to connecting with your target audience. By repeating your key message points several times during the course of an interview you have more control over the reporter's editing of the story. Repetition also helps the audience retain what is important.

## **RESTORE DUE PROCESS: Denying Due Process to Immigrants is Un-American and Wrong**

**Americans value family, justice, fairness, responsibility and a day in court.**

- Our system of justice is one of the best in the world: Our government must get back to that and keep it that way;
- Americans strongly believe that everyone should be treated fairly before the law and that the punishment should fit the crime;
- Americans believe in justice for all and a fair day in court and understand that circumstances differ in different cases;
- Americans understand that justice denied to one is justice denied to all;
- Equality before the law is a bedrock of our country;
- Americans understand that if we allow the government to deny due process for some, our own freedoms will be threatened;
- America is a pro-family nation and government policies that separate families are not the American way; and
- Due process safeguards us against abuse and protects our freedoms.

**Current reactionary laws against immigrants are not working and hurt America. Right now the government is eroding due process, a cornerstone of the American system of justice. Denying due process to people in America is unconstitutional, unnecessary, and demeans all of us who are proud to live in America. The government is blindfolding the Statue of Liberty, by:**

- Denying people their fair day in court;
- Tying the hands of judges so that they cannot function as a check on government power;
- Arbitrarily applying the law;
- Changing the rules in the middle of the game;
- Blindly applying the law without allowing judges to look at individual circumstances;
- Punishing people twice for the same crimes;
- Judging people by profiling them based on outward appearance;
- Advancing policies that defy common sense, are unfair, and lack proportionality;
- Deporting residents of this country without sufficient oversight; and
- Jeopardizing and weakening the American system of justice

**Current unfair laws neither solve the problems of illegal immigration nor fix our broken system. In fact, they go against our values and our Constitution. Americans need to know their government is doing these things – so we can put an end to them. Because when we let the government violate the Constitution and deny due process for some, all of our freedoms are at risk. The solution is for government to uphold our laws and traditions by restoring due process. Our government must:**

- Restore a sense of fairness and balance to the U.S. system of justice;
- Allow people a fair day in court;
- Restore power to judges so that they can hear cases and make individual determinations and return to their functions of providing checks and balances
- Not change the rules in the middle of the game; and
- Advance laws that restore common sense and are based on the American principle of the punishment fitting the crime.

## **BRING PROPORTIONALITY BACK TO OUR LAWS: Denying Due Process to Immigrants is Un-American and Wrong**

**Americans value family, justice, fairness, responsibility and a fair day in court.**

- Our system of justice is one of the best in the world: Our government must get back to that and keep it that way;
- Americans strongly believe that everyone should be treated fairly before the law and that the punishment should fit the crime;
- Americans believe in justice for all and a fair day in court;
- Americans understand that justice denied to one is justice denied to all;
- Equality before the law is a bedrock of our country;
- Americans understand that if we allow the government to deny due process for some, our own freedoms will be threatened;
- America is a pro-family nation and government policies that separate families is not the American way; and
- Due process safeguards us against abuse and protects our freedoms.

**Current reactionary laws against immigrants are not working and hurt America while they eviscerate due process and blindfold the Statue of Liberty. Right now the government is undermining our system of justice by triggering the most terrible immigration consequences for even minor violations. Under these laws, the government:**

- Has created a category in immigration law, called “aggravated felons,” even though the aggravated felony does not have to be either “aggravated” or a “felony,” and includes misdemeanors where a person does not serve a day in jail.
- Denies people a fair day in court;
- Violates common sense by permitting the punishment to be out of proportion to the crime; Ties judges’ hands so that they no longer function as a check on government power;
- Blindly applies the laws so that judges cannot look at individual circumstances;
- Changes the rules in the middle of the game;
- Holds people in prison for long periods of time before they are deported;
- Throws out the window fairness and proportionality;
- Deports residents of this country without sufficient oversight; and
- Weakens the American system of justice.

**Current unfair laws neither solve the problems of illegal immigration nor fix our broken system. In fact, they go against our values and our Constitution. Americans need to know what is going on so we can put an end to:**

- Punishments that don’t fit the crime;
- People denied their fair day in court; and
- Judges’ hands being tied.

**The solution is for government to uphold our laws and traditions by restoring due process. Our government must:**

- Narrow the definition of “aggravated felony” under immigration law to reflect common sense, proportionality, and the American system of justice and not mandate life exile for an overly broad range of offenses nor target minor violations of the law.
- Restore a sense of fairness and balance to the U.S. system of justice so that people have a fair day in court and judges are given back their power to hear cases and make individual determinations.
- Ensure that rules are not changed in the middle of the game, the punishment fits the crime, common sense and our system of checks and balances are restored.

## **RESTORE A FAIR DAY IN COURT**

### **Denying Due Process to Immigrants is Un-American and Wrong**

**Americans value justice, fairness, and responsibility.**

- Our system of justice is one of the best in the world: Our government must get back to that and keep it that way;
- Americans strongly believe that everyone should be treated fairly before the law;
- Americans believe in justice for all;
- Americans understand that justice denied to one is justice denied to all;
- Equality before the law is a bedrock of our country;
- Americans understand that if we allow the government to deny due process for some, our own freedoms will be threatened;
- America is a pro-family nation and government policies that separate families is not the American way; and
- Due process safeguards us against abuse and protects our freedoms.

**Current reactionary laws against immigrants are not working and hurt America while they eviscerate due process. Right now, the government is undermining our system of justice and blindfolding the Statue of Liberty by not allowing immigrants their fair day in court. Under these laws, the government:**

- Ties judges hands so that they cannot function as a check on government power.
- Prohibits judges from being able to consider the individual circumstances of each case to determine whether someone can remain in the U.S.
- Changes the rules in the middle of the game by reaching back in time and making a crime deportable that had not been;
- Mandates that judges blindly apply the law without allowing them to review individual circumstances;
- Punishes people multiple times for the same crimes, for which they already served their time. Double jeopardy is un-American.
- Advances practices that defy common sense, are unfair and lack proportionality;
- Deports residents of this country without sufficient oversight; and
- Jeopardizes and weakens the American system of justice.

**Current unfair laws neither solve the problems of illegal immigration nor fix our broken system. In fact, they go against our values and our Constitution. Americans need to know what is going on so we can put an end to:**

- Punishments that don't fit the crime;
- People denied their fair day in court; and
- Judges' hands being tied so that they are not allowed to consider the circumstances of each case.

**Current unfair laws neither solve the problems of illegal immigration nor fix our broken system. In fact, they go against our values and our Constitution. The solution is for government to uphold our laws and traditions by restoring due process. Our government must:**

- Restore a sense of fairness and balance to the U.S. system of justice;
- Allow people a fair day in court and not change the rules in the middle of the game;
- Return power to judges so that they can hear cases and make individual determinations and return to their function of providing checks and balances; and



- Advance measures that restore proportionality to our laws and commonsense.