

# PARDON

The Immigrant Clemency Project Toolkit



IMMIGRANT  
DEFENSE  
PROJECT



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INTRODUCTION

# Why Pardons, Why Now?

# Why Pardons, Why Now?

**A governor's pardon is a mostly untapped power that can protect immigrants from deportation and open up a pathway to citizenship.**

Historically, the pardon power has been used to show mercy to individuals who have turned their lives around, to address specific injustices, and to correct disproportionate punishments. Thousands of immigrants today fit this exact pattern—they have moved on with their lives after a criminal offense, only to find out years later that their punishment has not ended but is only beginning: they face incarceration in an immigration jail and then deportation, and maybe even a permanent ban on ever coming to the United States again. For immigrants who face deportation because of a past crime, a pardon may be their only protection from exile.

Under our harsh immigration laws, punishment for immigrants with convictions never ends. A green card holder can be deported for a single past offense, even if it is decades old. In many cases, the fact of a criminal conviction means that deportation is automatic and non-negotiable. Convictions that can get someone deported range from felonies to misdemeanors like shoplifting and simple drug possession. Because deportation is automatic for a broad range of offenses, many immigrants never have the opportunity to show rehabilitation, remorse, progress, or change. The deportation machine sees an individual as nothing more than their single criminal conviction.

Under the current administration, thousands of people who have lived in and contributed to our communities for years—parents, spouses, employers, and employees—live at risk of deportation due to past criminal convictions. Governors have the power to correct the disproportionate punishments inflicted upon immigrants, and to introduce some humanity into an overly punitive system. Given the current pattern of aggressive, expansive immigration enforcement, it is crucial that governors exercise their power to protect immigrants and keep families together.

This toolkit is for immigrants, community-based organizations, and legal service providers who want to help immigrants with criminal convictions fight back against deportation. While we are focused on the power of pardons in fighting deportation, pardons can also drastically improve housing, employment, and other opportunities for immigrants. The toolkit provides an overview of the pardon application process and sample materials. It focuses on pardons in New York, and includes information on the pardon procedures in other states (p 19), with an eye toward expanding pardon efforts nationwide. The toolkit also explains, at a very general level, who can benefit from a pardon. Because the law around the immigration consequences of criminal convictions is constantly changing, it will be useful to speak with an attorney experienced in criminal immigration law about your situation.

This advisory was prepared by the Immigrant Defense Project and was revised in September 2018. The information contained herein does not constitute legal advice and attorneys should conduct their own research as they deem necessary. Further questions about immigration-related pardons should be directed to:

Immigrant Defense Project Legal Hotline  
(413) 749-4802  
[info@immigrantdefenseproject.org](mailto:info@immigrantdefenseproject.org).

# Who Should Apply for a Pardon?

# Any immigrant can seek a pardon.

**Pardons will help legal permanent residents, asylees, and immigrants with other legal status the most, and it is an open question whether pardons could have some limited benefit for undocumented individuals.**

The impact of a pardon depends on the particular criminal convictions and immigration history of each applicant. This toolkit includes a high-level overview of deportation grounds and pathways to legal status. It also provides some general guidance on how a pardon benefits applicants with certain criminal convictions. This is a starting point for the individualized analysis necessary to identify exactly how the pardon will help a specific applicant.

## Background on Deportability and Legal Status

A single criminal offense can have devastating immigration consequences, regardless of how old or how serious the offense is. Immigrants may be able to apply for different kinds of legal status or immigration relief. These include adjustment of status (applying for a green card), citizenship, asylum, and special visas. People who meet specific eligibility criteria can apply for waivers of deportability, waivers of inadmissibility, and cancellation of removal (cancelling deportation proceedings).

However, people with certain criminal convictions cannot apply because there are strict criminal bars attached to each form of relief. For immigrants who have legal status, such as green card holders, certain criminal convictions put them at high risk for automatic deportation, even if they meet all other eligibility requirements to apply for a waiver or cancellation. For immigrants who currently do not have legal status but are eligible for one of the forms of legal status listed above, such as certain undocumented individuals, criminal convictions may make them “inadmissible” and thus barred from applying for status.

By effectively erasing criminal convictions from someone’s record, pardons can remove these criminal bars to legal status. The pardon will have the most impact for green card holders and others with legal status who 1) receive a pardon for a “crime of moral turpitude” or “aggravated felony” and 2) are eligible for one of the forms of legal status or immigration relief listed below. The effect of a pardon for any other immigrants will be case-by-case. While the law does not rule out the possibility that pardons can help undocumented individuals, there is some indication that it would not have immigration benefits for people without status, and there are no known cases where a pardon opened up immigration relief for a person without status.

## The Effect of a Pardon

A Governor’s full and unconditional pardon can waive certain disqualifying criminal convictions and allow immigrants to pursue or keep their legal status. Under the Immigration and Nationality Act (the one-stop shop for federal immigration law), a full governor’s pardon waives deportability for the following four categories of crimes:

- *“Crime Involving Moral Turpitude” convictions,<sup>1</sup> including many theft and fraud offenses*
- *Multiple moral turpitude criminal convictions<sup>2</sup>*
- *“Aggravated felony” convictions,<sup>3</sup> such as certain drug and firearm offenses, burglary, fraud, and more; and*
- *Conviction for high speed flight from an immigration checkpoint<sup>4</sup>.*

<sup>1</sup>8 U.S.C. § 1227(a)(2)(A)(i); see also 8 U.S.C. § 1255(j).

<sup>2</sup>8 U.S.C. § 1227(a)(2)(A)(ii).

<sup>3</sup>8 U.S.C. § 1227(a)(2)(A)(iii).

<sup>4</sup>8 U.S.C. § 1227(a)(2)(A)(iv) (2008).



These categories are immigration law terms that cover a broad variety of offenses. The federal government routinely charges many common New York offenses as CIMTs, such as petty theft, theft of services (i.e. turnstile jumping), possession of stolen property, and trademark counterfeiting (i.e. selling unlicensed handbags). “Aggravated felony” convictions need be neither “aggravated” nor “felonies” and lead to mandatory detention and deportation. For example, the federal government routinely charges misdemeanor sale of marijuana and misdemeanor theft offenses as “aggravated felonies.”

However, the Board of Immigration Appeals (BIA) and other courts have interpreted this statute narrowly, finding that a pardon will not waive deportability for any other category of crimes.<sup>5</sup> This means a pardon will NOT waive deportability for the following crimes:

- *Crimes of domestic violence of child abuse*<sup>6</sup>
- *Firearm offenses,*<sup>7</sup> and
- *Controlled substance offenses.*<sup>8</sup>

In cases where a pardon has full effect because the offense falls into a waivable category (the first list), the applicant will no longer be deportable due to that criminal conviction. This becomes more complicated when a conviction falls into a waivable category and a non-waivable category. In that case, a pardon will not completely protect a person from deportation because the non-waivable category is a separate, independent ground for deportation. For example, even if someone receives a pardon for an aggravated felony, immigration authorities can still deport them if that aggravated felony also falls into one of the non-waivable categories.

### Examples:

- Many drug offenses—for example, many drug sale convictions—are both aggravated felonies and controlled substance offenses. Say a person receives a pardon for a drug sale that fell into both categories. A pardon wipes out an aggravated felony, so the government could no longer deport the person for committing an aggravated felony. However, the government could still try to deport them for committing a controlled substance offense because the pardon doesn’t erase that kind of crime. This may seem illogical because an aggravated felony sounds more serious than a controlled substance offense. But because of how the law is written, the pardon only waives one category and not the other.
- In the Board of Immigration Appeals case mentioned above, *Matter of Suh*, where the respondent received a full pardon from the State of Georgia for his conviction of sexual battery of a minor, the BIA found that the pardon made him no longer removable as an aggravated felon, but held that he was deportable because of his for a crime of domestic violence or child abuse.

<sup>5</sup>In re Suh, 23 I. & N. Dec. 626 (BIA 2003).

<sup>6</sup>8 U.S.C. § 1227(a)(2)(E).

<sup>7</sup>8 U.S.C. § 1227(a)(2)(C).

<sup>8</sup>8 U.S.C. § 1227(a)(2)(B)(i).

## Who Should Apply for a Pardon?

Even if a pardon does not completely remove the threat of deportation, a pardon may potentially open up pathways to legal status that someone would not otherwise be eligible for due to their convictions. For example, in the drug sale example above, the pardon for an aggravated felony could allow a green card holder to apply for cancellation of removal because a controlled substance offense, unlike an aggravated felony, does not make you ineligible for cancellation.

One more benefit of a pardon for green card holders is the opportunity to become a citizen. Because the pardon forgives an aggravated felony or crime of moral turpitude, it removes those criminal bars to naturalization.

These are just a couple examples of how a pardon might help someone keep their legal status, or open up pathways to status. Each of these types of immigration relief have specific requirements, so be sure to consult with someone who is knowledgeable about immigration law to confirm that the applicant meets the qualifications.

Note that for individuals without legal status, it is not clear whether or how a pardon would impact their immigration cases. There is some indication that a pardon may not cure criminal bars to applying for legal status. However, the State Department regulations recognize pardons for immigration purposes when processing visa applications from individuals living abroad.<sup>9</sup>

We are not aware of any real-life examples where individuals applying for visas from outside the country benefitted from a pardon. The regulation does support a bare-bones legal argument that the pardon should also be accepted for individuals seeking legal status in the U.S. Individuals without legal status should weigh the risks and benefits of pursuing a pardon, given the lack of clarity in the law.

Pardons can also help someone's case in certain discretionary situations, such as for the "good moral character" requirement for naturalization and cancellation of removal. Applicants are required to demonstrate "good moral character," which means that the applicant must demonstrate that, on balance, their good conduct outweighs any bad conduct.

However, just like the other forms of immigration relief discussed above, there is a criminal bar to the "good moral character" requirement too. The government cannot find that you have "good moral character" if you have committed certain crimes, including a crime of moral turpitude or an aggravated felony. A pardon would alleviate those grounds and allow the individual to present their positive equities to an immigration officer or judge.

The initial interview screening form and pardon questionnaire forms included in this toolkit (Appendices B & C) will help you figure out whether and how a pardon may benefit your immigration case.

<sup>9</sup>See 22 C.F.R. §§ 40.21(a)(5), 40.22(c) (2012). See also Jason Cade, *Deporting the Pardoned*, 46 U. CAL. DAVIS L. REV. 355, 355 (2012).

# The Application

- 1 The Standard Pardon Form
- 2 Cover Letter or Memo
- 3 Letter from Applicant
- 4 Criminal History Documents
- 5 Letters of support from community members, family, friends
- 6 Supporting Documentation showing rehabilitation

## 1. The Standard Pardon Form

The standard pardon application form asks for information on the applicant's:

- *Name, Address, Phone Number, Date of Birth, SS#*
- *Aliases*
- *DIN #, NYSID # and FBI #*
- *Alien Registration #*
- *Details of any ICE proceedings that are pending*
- *Prior NYS convictions, including offense, court of conviction, date of sentence, and sentence*

## 2. Cover Letter or Memo

The letter should explain why the Governor should grant a pardon. This means that it should explain how the applicant has made personal progress and contributed to their communities since the conviction or convictions. The letter should also lay out the legal basis for how a pardon would help the applicant's immigration case. In many instances, explaining why someone needs a pardon will highlight the unjust impact and excessive punishments of the criminal justice and immigration systems. The letter should not be more than 5-10 pages.

In sum, the cover letter should explain:

- A** *Who the applicant is;*
- B** *The applicant's criminal justice experience; and*
- C** *The applicant's immigration experience*

### A. Who the applicant is

The letter should answer the following questions:

- *How long have they lived in the US?*
- *What was their age at the time of initial entry?*
- *How much time did they spend in their country of origin?*
- *What family ties do they have in their country of origin?*
- *What family ties do they have in the US?*
- *How much time between the initial entry to the commission of the crime?*

- *How much time between the crime and the commencement of removal proceedings?*
- *What are their stakes in the community?*
- *Do they have US citizen family members?*
- *What is the hardship to their family? Do they support their family?*
- *What effect would deportation have on their education, physical or mental health?*
- *Are they, or a family member, a veteran?*
- *Have they been admitted as a refugee?*
- *What are the current conditions in their country of origin?*
- *What is employment and educational history?*
- *What are their community ties?*
- *Do they own their home or business?*

## **B. The Applicant's Criminal Justice Experience**

Be sure to address any and all previous criminal convictions, but focus on the conviction(s) for which the pardon is sought.

The letter should answer the following questions:

- *What were the circumstances of the arrest?*
- *Where were they in their life when the arrest occurred?*
- *Were there any mitigating circumstances?*
- *What was the client's experience in court?*
- *Were they told to plead guilty or go to trial?*
- *If they claim innocence now, why did they plead guilty?*
- *Did they complete probation? (Get a letter)*
- *Were they disciplined in prison, and were there mitigating circumstances? (Get their disciplinary records)*
- *What rehabilitation efforts did they make in prison?*
- *Is it a "non-violent" crime? Were there injuries?*
- *How long has it been since its commission?*
- *How long ago was their sentence completed?*

Consider reaching out to the defense attorney in each case to get more information about the circumstances of the conviction. You might also consider reaching out to the ADA on the case to find out their position on the pardon because the Governor's office will contact them and ask after they receive the application. Note that the pardon committee will also notify any

victims from these cases. If the applicant's criminal history involves any victim issues, be thoughtful about how to frame these issues in the letter.

The Board wants to see that the applicant takes responsibility for their crimes. In some cases, applicants are innocent but pled guilty due to any number of other circumstances. Because the pardon panel will be focused rehabilitation, consider framing the letter around the period of the applicant's life since the criminal offenses instead of the fact of innocence.

### **C. The Applicant's Immigration Experience**

This part of the letter will involve the most legal research and analysis. It should clearly lay out the immigration consequences that are triggered by each criminal conviction. It should include citations to the particular statutes for each of the deportation or inadmissibility grounds, bars to applying for legal status, and/or other forms of immigration benefits. Then, it should explain how the pardon would alleviate or remove those immigration consequences, and what options or status would be made available to the applicant.

The letter should answer the following questions:

- *How long has the client been in the country?*
- *What is their current immigration status? (Cite to the INA)*
- *What is the history of their immigration status?*
- *What would the pardon mean for their current or future immigration status?*

### **3. Letter from Applicant**

While not strictly required, an affidavit from the applicant can be a powerful advocacy tool. In contrast to the cover letter, the affidavit is an opportunity for the applicant to explain, in their own words, the emotional, social, and/or personal impact of their immigration situation. It is also an opportunity to communicate the emotional toll of living with uncertain immigration status, and the potential impact of deportation on the applicant, their family, and their community.

### **4. Criminal History Documents**

The application must include a complete criminal history and official Certificates of Disposition for every single conviction. You can get dispositions from the clerk's office in the criminal court where the person was convicted. Dispositions cost about \$10 and require the person's name and date of birth. Anyone can go and get the disposition—it doesn't have to be the person who was arrested.

### What to do if you are not sure of all your convictions?

If the applicant is not sure of all their convictions, and they are certain that they have only been convicted in NY State, they can obtain a NYS rap sheet (also called a “Personal Record Review” or an “Albany Packet”), which will list all of their convictions. They will need to be fingerprinted in order to request the rap sheet. In New York, you can get fingerprinted at:

#### Legal Action Center

225 Varick St #401  
New York, NY 10014

#### Identogo

<https://www.identogo.com/>  
Locations in all 5 boroughs  
and Long Island

#### PrintScan

<http://www.newyorkfingerprints.com/Fingerprint/Ink-Fingerprinting>  
247 W 35th St  
New York, NY 10001

#### Immigration Advocacy Services Inc.

36-16 Astoria Blvd.  
Astoria, New York 11103  
718-956-8218  
1 card-\$30.00; 2 cards \$45.00

If you are not sure of all your convictions, and may have been arrested in multiple states, you need to obtain an FBI search according to the following instructions:

<http://www.fbi.gov/hq/cjisd/fprequest.htm>

The application form, fingerprint card, payment instructions, and checklist are provided at the above website. After getting the FBI search or NYS rap sheet, you must still get ALL dispositions from all criminal courts where you were convicted.

## 5. Letters of support from community members, family, friends

The supporting letters provide the strongest support for why the applicant deserve a pardon. It’s always good to think outside the box when gathering letters. Family members and friends can write letters, but the pardon panel may assume that these are more “biased,” so you should have three main letters from people other than friends and family. Letters of support might come from employers or coworkers, long-time neighbors, prison officials, a prior judge, religious leaders, union leaders, veterans organizations, children’s teachers, community service groups, little leagues, and elected officials.

## 6. Supporting Documentation

Each set of supporting documents will be unique to you. Below is a sample list of documents that can support an application. Organize the supporting letters and documents with an index and lettered exhibit tabs.

Documents should be included if they speak to rehabilitation, family ties to the US, community contributions, membership in community groups, etc. It is also helpful to include documentation of how deportation would harm you and your family, such as records of serious medical conditions, pregnancy, and/or psycho-social evaluations of immediate family members showing the serious impact of deportation.

If you think of a document or letter that is not listed here, it is probably worth including if it addresses any positive aspects of your life since you were convicted, or hardships to you and your family if you were deported. A list of suggested supporting letters is included in the checklist (Appendix A).

If you have them, videos and photos of your family or community activities should be included too. Not every applicant will have these documents, and some applicants may have more supporting documents than others. No matter how many documents you have, the important part is to communicate yourself as a human being to the board and make a case for how the pardon would transform your life.

## Multiple Applications

An applicant can apply for a pardon multiple times, but the application should note that the person previously submitted an application, what the outcome was, and why the current application is worth a second look.

The application should be sent to:

### **Director, Executive Clemency Bureau**

New York State Department of Corrections and Community Supervision  
Harriman State Campus  
Building 2  
1220 Washington Avenue  
Albany, NY 12226



# Pardon FAQ

## **Could a commutation of sentence help someone as well?**

In certain cases, yes. Where immigration consequences are triggered by an actual sentence, reducing that sentence can leave someone eligible for relief from deportation or another immigration benefit. For example, certain “aggravated felony” convictions like theft or burglary, counterfeiting, crimes of violence, and others are triggered by a one year sentence. Commuting that sentence to 364 days could then leave someone eligible for immigration relief. Note that in New York, the Governor only commutes sentences for people who are currently incarcerated.

## **Can an immigration judge just decide to ignore a gubernatorial pardon?**

No. A full and unconditional gubernatorial pardon waives the categories of offenses discussed above as a matter of law, and the person should not be deported based on the offense. However, if the offense falls into one of the non-covered deportation grounds, deportation may rest on a discretionary decision of the immigration judge if the person is eligible for immigration relief.

## **How could the Governor pardon people quickly enough to help their immigration cases while ensuring public safety?**

The Governor’s office is aware of the time pressure involved when someone who is detained or otherwise facing immediate deportation seeks a pardon. The office is willing to write letters that a pardon application is under review to assist in getting more time from DHS or an IJ where deportation is otherwise imminent. This has been successful in several cases where someone was checking in with ICE under a supervised order of release and would have likely otherwise been detained. While those in removal proceedings will have the most time-sensitive applications, one benefit of the pardon is that individuals can apply before they are ever put in proceedings and may be able to avoid becoming a target of detention and deportation in the first place.

## **When does the Governor’s office decide to grant a pardon and what else can I do?**

After a thorough review process, the Governor’s office may decide to grant a pardon. While this is done on a rolling basis, historically, the Governor has granted more pardons at the end of the year. Immigrant Defense Project is coordinating a letter highlighting pardon applications currently pending or that will be submitted before the end of the year. We have reason to believe that highlighting these cases together, along with gathered support from elected officials, will help in their review. If you have a pending or soon to be submitted pardon, please submit 1-2 paragraphs about the applicant, including their equities, conviction, current posture of their immigration case, and how a pardon will help to [pardon@immdefense.org](mailto:pardon@immdefense.org) or (413) 749-4802.

# **Pardon Procedures in Other States**

# Pardon Procedures in Other States

The pardon application details in this toolkit were created based on past experiences and guidance from New York. This section outlines some state-specific considerations for individuals and organizations advocating in other states.

## Legal Effect of the Pardon

A pardon must be full and unconditional in order to impact a person's immigration status,<sup>11</sup> but not all states offer full pardons. In some states, a full and unconditional pardon is *not* the default. For example, in California, a pardon does not restore someone's firearm rights unless they request it.<sup>12</sup> If they are pardoned, the governor must explicitly approve the request and include language about firearms in the pardon for it to be honored by immigration authorities.<sup>13</sup> Washington State has a similar restriction regarding firearm rights that could impact its effect for immigrants.<sup>14</sup> Applicants should check the guidelines in their states and ensure that their applications meet all requirements for requesting a full and unconditional pardon.

It is also important for immigration purposes that the Governor holds the pardon power, not the state pardon board or commission. In most states, the Governor holds the pardon power, but the process is supported by a parole board that reviews and makes recommendations on the applications. One exception is Connecticut, where the Board of Pardons and Paroles itself has the authority to grant or deny a pardon application.<sup>15</sup> Because the Board, not the Governor, grants pardons, there is some question as to whether a Connecticut state pardon would be honored for immigration purposes.<sup>16</sup>

<sup>11</sup>8 U.S.C. § 1227(a)(2)(A)(vi).

<sup>12</sup>A restoration of firearm rights can be requested, unless the applicant was convicted of a felony involving the use of a dangerous weapon. See *Castillo v. United States*, 756 F.3d 1268 (11th Cir. 2014) (holding that the BIA correctly interpreted “full and unconditional” in the INA as excluding a pardon granted without the restoration of firearm rights).

<sup>13</sup>*Id.* For an example of a pardon that explicitly grants firearm rights, see Exec. Dep't of the State of Cal., *Pardons and Commutations*, 1 (2017), [https://www.gov.ca.gov/docs/4.15.17\\_A\\_tested\\_Pardons\\_and\\_Commutations.pdf](https://www.gov.ca.gov/docs/4.15.17_A_tested_Pardons_and_Commutations.pdf).

<sup>14</sup>Wash. Rev. Code § 9.41.040(3).

<sup>15</sup>Conn. Gen. Stat. § 54-130a(b).

<sup>16</sup>See Stacy Caplow, *Governors! Seize the Law: A Call to Expand The Use of Pardons to Provide Relief from Deportation*, 22 B.U. PUB. INT. L. J. 293, 315 (2013); Kate Carolan, *Laura Roberts & Jenna Deangelis, East Hartford Man Scheduled to be Deported Gets Last Minute Extension*, FOX61 (Jan. 5, 2017), <http://fox61.com/2017/01/05/east-hartford-man-scheduled-to-be-deported-gets-last-minute-extension/>. See also Conn. Gen. Stat. 54-124a(a)(1) (“There shall be a Board of Pardons and Paroles within the Department of Correction, for administrative purposes only” (emphasis added)).

## Procedural Considerations

Applicants should review and prepare for state-specific procedural requirements. Often, a parole board has authority to convene a hearing or investigation, and the applicant should be prepared for either process. In Washington State, such a hearing is mandatory before the Board can make a recommendation.<sup>17</sup> Other states may have mandatory victim notification, so it may benefit the applicant to consider relationships with any victims in applying for a pardon.

## Timing

Many states require applicants to wait a certain number of years after a conviction before applying for a pardon. Sometimes, the time requirement depends on the nature of the crime. For example, in California, applicants generally should apply after at least ten crime-free years have passed since their release from probation or parole.<sup>18</sup> In Maryland, the Governor will only pardon a crime of violence or controlled dangerous substance conviction after twenty years.<sup>19</sup> In Colorado, people cannot apply for a pardon until seven years have passed since the completion of a sentence for a felony conviction, or three years for a misdemeanor.<sup>20</sup>

## Governor's Record on Pardons

Examine your Governor's record on clemency. Some states do not grant any pardons at all, like in Wisconsin, where the clemency process has been indefinitely suspended.<sup>21</sup> Other states grant very few pardons. Oregon's Democratic Governor, Kate Brown, stated that the power to grant clemency shall be used sparingly,<sup>22</sup> and has since granted just two pardons.<sup>23</sup> Some governors, however, have very positive records on commutations and pardons, and some even have great records on immigration-specific pardons. Governor Brown in California has pardoned a number of immigrants in the past couple of years.<sup>24</sup> Other governors may have run on platforms supporting clemency and can be held to those campaign promises.

<sup>17</sup>Wash. Rev. Code § 9.94a.885(3).

<sup>18</sup>Office of Governor Edmund G. Brown Jr., How to Apply for a Pardon, 1 (2013), [https://www.gov.ca.gov/docs/How\\_To\\_Apply\\_for\\_a\\_Pardon.pdf](https://www.gov.ca.gov/docs/How_To_Apply_for_a_Pardon.pdf).

<sup>19</sup>*Id.*

<sup>20</sup>State of Col., Executive Clemency Application, 1, [https://drive.google.com/file/d/oB\\_tbUw2-58lyYl9ZMnJneHhrNEk/view](https://drive.google.com/file/d/oB_tbUw2-58lyYl9ZMnJneHhrNEk/view).

<sup>21</sup>Wisconsin State Law Library, Pardons (Sep. 11, 2018), <http://wilawlibrary.gov/topics/justice/crimlaw/pardons.php>.

<sup>22</sup>*Id.*

<sup>23</sup>Shane Dixon Kavanaugh, Gov. Kate Brown Pardons Former Portland Gang Member Turned Mentor, OREGONIAN (Feb. 20, 2018), [https://www.oregonlive.com/pacific-northwest-news/index.ssf/2018/02/kate\\_brown\\_pardons\\_former\\_port.html](https://www.oregonlive.com/pacific-northwest-news/index.ssf/2018/02/kate_brown_pardons_former_port.html).

<sup>24</sup>In 2017, Governor Brown pardoned three noncitizens who had been deported to Mexico, see Exec. Dep't, supra n. 13, at 1, 5, 14, and two Cambodian refugees, see Angela Hart, Murderer-Turned-Pastor Pardoned by Jerry Brown to Avoid Deportation, SAC. BEE (Aug. 17, 2018), <https://www.sacbee.com/news/politics-government/capitol-alert/article21691115.html>. In March 2018, he pardoned 5 non-citizens, see Christina Caron, Jerry Brown Pardons 5 Ex-Convicts Facing Deportation, Provoking Trump, N.Y. TIMES (Mar. 31, 2018), <https://www.nytimes.com/2018/03/31/us/california-pardon-immigrants.html>.

# Success Stories

## **Lorena Borjas**

Lorena Borjas is a transgender woman from Mexico, has since become a strong advocate for transgender and immigrant communities across the country, running HIV testing programs for transgender sex workers, and syringe exchange programs for transwomen taking hormone injections. In 1994, she was convicted of Criminal Facilitation in the Fourth Degree as a result of being entrapped as a victim of human trafficking. She currently works as an educator at community health centers across New York City, and has received commendations from elected officials, advocates, and community members, including New York City Public Advocate Letitia James.

## **Alexander Shilov**

Alexander Shilov is a distinguished nurse at a Brooklyn long-term managed care provider who worked his way back from addiction to get his GED. The son of a hard-working single mother, he immigrated from Estonia and developed a drug addiction as a teenager that led him to commit a string of misdemeanor thefts that jeopardized his ability to stay in this country. For the past 13 years, Mr. Shilov has remained sober and today frequently gives talks on overcoming addiction at hospital detox units, volunteers as a nurse in New York's Medical Reserve Corps, and provides bilingual services in his Russian-speaking community.

## **Tamar Samuda**

Tamar Samuda left the U.S. to travel to Jamaica for a family funeral, and upon return was detained by ICE as a result of convictions from 17 years ago. She was released on immigration parole in February 2018, and continues to fight her deportation. Since her convictions for low-level assault and petit larceny, she obtained a GED, and completed medical assistant training, and works in home health care and doctors' offices. She is a single mother of three school-aged children. Samuda was cleared to work as an aide in New York City public school special education, but immigration detention prevented her from doing so.

## **Frank Barker**

Frank Barker is from Barbados and has been crime-free for nine years. He was convicted of criminal possession of stolen property and controlled substances and identity theft from a short-term period of criminal activity resulting from drug addiction. He has been sober for eight years and works as a coordinator at an HIV/AIDS supportive housing provider in New York City, is a certified substance abuse counselor and a community advocate in the Bronx. He is the financial provider for his family including his daughter with special needs.

## **Khalil Cumberbatch**

Khalil Cumberbatch is the father of two young children and works with prison re-entry organizations including the Fortune Society, sits on the board of directors for the Alternatives to Violence Project, and owns his own social media consulting business. He is a legal permanent resident who immigrated to this country from Guyana when he was four years old. In 2003, he was convicted of robbery in the first degree. After serving his prison sentence, he was released in 2010 and discharged from post-release supervision in 2012. Since his release, he earned his bachelor's and master's degrees. He is a spokesperson for the criminal justice reform and re-entry movements.

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