

ASYLUM TOOLKIT

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PREPARED BY THE IMMIGRATION CLINIC FOR THE UNIVERSITY OF HOUSTON
LAW CENTER

Sources: UHLC Immigration Clinic used several sources in compiling the information for this Toolkit, including Michigan Legal Help.com, USCIS website, www.uscis.gov, EOIR website, www.justice.gov/eoir/list-pro-bono-legal-service-providers-map, National Immigrant Justice Center, <http://immigrantjustice.org/>

INTRODUCTION

- ▶ **DISCLAIMER:** Nothing in this toolkit should be considered legal advice. It is solely for informational purposes. Nor does it substitute for consultation with a competent immigration attorney. Nothing in this presentation can create or imply any attorney-client relationship.
- ▶ This toolkit is designed to inform you about the USCIS Asylum Program.
- ▶ For general information about Asylum, read the **Guides**. Read the **Common Questions** if you have a specific question.
- ▶ If you want to file Asylum, consult the **Forms section** and follow the instruction links for help preparing the forms you will need. Use the **Checklists** to follow all the steps in the process.
- ▶ The links under **Court Information** will tell you about the court that will handle your case, and if there is a nearby **Self-Help Center**, can get more help there.
- ▶ *You are strongly recommended to always consult with competent counsel for any immigration matter. See the **Find a Lawyer Section** for assistance.*

ANSWERS TO COMMON QUESTIONS

▶ What is Asylum?

- ▶ The legal protection afforded by the United States government to a person who can demonstrate a “well-founded fear of persecution” based on race, religion, nationality, political opinion, or membership in a particular social group.

▶ What paths are there for Gaining Asylum?

- ▶ 1. Affirmative: You are present in the United States and are not in Removal Proceedings. You will file directly with USCIS.
- ▶ 2. Defensive: In Removal Proceedings. File in Court at Master Calendar hearing. **May need to file a motion to advance the hearing date in order to avoid the one-year bar.

▶ Am I eligible for asylum?

- ▶ Two Requirements: (1) meet the definition of refugee under INA § 101(a)(42). (2) merit a favorable exercise of discretion.
- ▶ A refugee is someone who is unable or unwilling to return to and avail himself or herself of the protection of his or her country of nationality or, if stateless, country of last habitual residence because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

▶ Am I a refugee?

- ▶ To be a refugee you have to have physically left your home country and now be physically present in the U.S. or a U.S. territory. You must also be unable or unwilling to return to your home country because of persecution.

▶ What does persecution mean?

- ▶ Persecution is a serious harm. Some examples are: beatings, rape, torture, psychological harm, economic harm, or harm over a long period of time.
- ▶ In addition, the persecutor must be motivated by one or more of the following grounds: Race, religion, nationality, membership in a particular social group, or political opinion.

- ▶ How do I know if I meet the definition of a refugee?
 - ▶ 1. Past Persecution: persecution has already happened in your past
 - ▶ 2. Well-founded fear: if persecution is likely to happen in the future
 - ▶ Nexus: My past persecution or fear is on account of one of the five statutory grounds: political opinion, particular social group, religion, nationality and race.

- ▶ What could bar someone from Asylum?
 - ▶ If the immigrant is a persecutor, has been convicted of a serious crime, has committed a serious crime outside the U.S., is a danger to U.S. security, or has been firmly resettled in another country.
 - ▶ INA § 208(b)(2)(a)
 - ▶ There is also the one year bar: you must file your application for Asylum within one year of last entry into the U.S. (there are some exceptions but must still file within a reasonable time).
 - ▶ 8 CFR § 208.4(a)(2)
 - ▶ Additionally, even if you meet all the other requirements, you can still be denied asylum if you don't merit a favorable exercise of discretion.

▶ I am afraid I might not meet all of the qualifications but don't want to leave the U.S. Should I lie on my application?

▶ NO. You will be permanently barred from receiving ANY immigration benefit.

▶ 8 CFR § 208.20

▶ What happens if I am granted Asylum?

▶ You become an asylee, will be authorized to work, eligible for many public benefits for 7 years, can travel with a refugee travel document, can sponsor spouse and children under 21 within next two years, and can apply for a green card after one year.

▶ If I am granted Asylum, can I lose it?

▶ Yes. If you travel back to your home country, commit a crime that would bar asylum, or if you lied to get asylum you may be subject to having your asylum status revoked.

▶ 8 CFR § 208.24

▶ What about my spouse and children?

- ▶ You must list your spouse and all of your children in your application for Asylum, regardless of their age, marital status, whether they are in the United States, or whether they are included in your application or filing a separate asylum application.
- ▶ You may ask to have your spouse and/or any children who are under the age of 21 and unmarried included in your asylum decision IF they are in the United States.
- ▶ If they are NOT in the United States and you are granted Asylum, you may petition using the I-730 to bring to the US your spouse and/or children who are unmarried and under the age of 21.
- ▶ Children who are married or 21 years of age or older must file for asylum independently by submitting their own application (I-589).

- ▶ What happens if my child turns 21 after I have filed my Asylum application?
 - ▶ Under the Child Status Protection Act, your child will continue to be eligible as a derivative on your application if he or she turned 21 AFTER your asylum application was filed but while it was pending. The “filing date” is the date that USCIS received your application.
- ▶ How can I find out the status of my Asylum application?
 - ▶ You may find out the status of a pending asylum application by sending a written request or by visiting the Asylum Office with jurisdiction over your case.
- ▶ Can I apply for Asylum if I am in the US illegally?
 - ▶ Yes.

▶ If I am a minor can I still apply for Asylum?

▶ Yes.

▶ See link for more information: <https://www.uscis.gov/humanitarian/refugees-asylum/asylum/minor-children-applying-asylum-themselves>

▶ Can I apply for Asylum even if I was convicted of a crime?

▶ Yes. However, you may be barred from being granted asylum depending on the crime.

▶ INA § 208(b)

▶ How do I apply for Asylum?

- ▶ You will need to complete Form I-589.

- ▶ Can be found at: <https://www.uscis.gov/sites/default/files/files/form/i-589.pdf>

▶ Where can I find law on Asylum?

- ▶ The legal provisions governing the Asylum program are codified in the Immigration and Nationality Act (INA).

- ▶ INA § 208 (Note, consult with qualified counsel before applying).

- ▶ Rules concerning eligibility requirements and procedures to be followed by applicants and the government are incorporated into the Code of Federal Regulations (CFR).

- ▶ 8 CFR § 208.

▶ Is there a fee for applying for Asylum?

- ▶ No, there is no fee.

Checklist - Affirmative Asylum

- ▶ Step One: Arrive in the U.S.
 - ▶ To apply for Asylum in the U.S., you must be physically present in the U.S. or seeking entry into the U.S. at a port of entry.
- ▶ Step Two: Apply for Asylum
 - ▶ To apply for asylum, you should file Form I-589, *Application for Asylum and for Withholding of Removal*, with USCIS within one year of your last arrival in the United States (unless an exception applies).
 - ▶ Do not submit a fingerprint card or fingerprint fee with your application.
 - ▶ Once USCIS has received the completed application, you will receive two notices:
 - ▶ 1. Acknowledgment of receipt of your application, and
 - ▶ 2. Notice to visit your nearest application support center (ASC) for fingerprinting

▶ Step Three: Fingerprinting and Background/Security Checks

- ▶ You will receive an Application Support Centers (ASC) Appointment Notice which should be read and brought with you to your fingerprinting appointment at the ASC. You do not need to pay a fingerprinting fee as an asylum applicant.
- ▶ If you are also requesting asylum status for your spouse and children and they are with you in the U.S., they will need to go with you to your ASC appointment.

▶ Step Four: Receive and Interview Notice

- ▶ You will be scheduled for an interview with an asylum officer either at one of the eight asylum offices or at a USCIS field office. Your interview notice will tell you the date, location, and time of your asylum interview.
- ▶ The length of the process is unpredictable at this time due to the number of asylum applications.

▶ Step Five: Interview

- ▶ You may bring an attorney or accredited representative to the interview. You must also bring your spouse and any children seeking derivative asylum benefits to the interview.
- ▶ If you need an interpreter, you must bring one. You may also bring witnesses to testify on your behalf.
- ▶ Interview will generally last about an hour, but time may vary depending on the case.
- ▶ For more information: <https://www.uscis.gov/humanitarian/refugees-asylum/asylum/preparing-your-asylum-interview>

▶ Step Six: Asylum Officer Makes Determination on Eligibility and Supervisory Asylum Officer Reviews the Decision

- ▶ An Asylum officer will determine whether you: (1) are eligible to apply for asylum, (2) meet the definition of a refugee in section 101(a)(42)(A) of the INA, and (3) are barred from being granted asylum under section 208(b)(2) of the INA.
- ▶ A supervisory asylum officer review the asylum officer's decision to ensure it is consistent with the law.

▶ Step Seven: Receive Decision

- ▶ In most cases, you will return to the asylum office to pick up the decision two weeks after the asylum officer interviewed you
- ▶ Longer processing times may be required if you: are currently in valid immigration status, were interviewed at a USCIS field office, have pending security checks, or have a case that is being reviewed by asylum division staff at USCIS headquarters.
 - ▶ It is normal for the decision to be mailed in these situations.

Checklist - Defensive Asylum

- ▶ **Step One: Must be in removal proceedings**
 - ▶ A defensive application for asylum occurs when you request asylum as a defense against removal from the U.S. In order to be defensive you must be in removal proceedings in immigration court.
- ▶ **Step Two: File the asylum application**
 - ▶ If the individual was referred by USCIS, the asylum application already filed will carry over to the immigration judge. If the individual did not yet submit an asylum application he or she will submit it to the Immigration Judge.
 - ▶ Link to form:
<https://www.uscis.gov/sites/default/files/files/form/i-589.pdf>

- ▶ **Step Three: Immigration Judge hears case**
 - ▶ The Immigration Judge will hear the case in an adversarial (court-like) proceeding.
 - ▶ The Judge will hear arguments from both of the following parties:
 - ▶ 1. The individual (and his or her attorney if represented)
 - ▶ 2. The U.S. Government, which is represented by an attorney from Immigration and Customs Enforcement (ICE)
 - ▶ The Immigration court will also provide a qualified interpreter for the asylum hearing and all other court proceedings.

▶ Step Four: Immigration Judge give decision

- ▶ The Immigration Judge will decide if the individual is eligible for asylum. If found eligible, the Immigration Judge will order asylum to be granted. If found ineligible for asylum, the Immigration Judge will determine whether the individual is eligible for any other forms of relief from removal. If found ineligible for other forms of relief, the Immigration Judge will order the individual to be removed from the United States.
- ▶ The Immigration Judge's decision can be appealed by either party.

Common Mistakes

- ▶ 1. Failing to provide sufficient evidence or inconsistent evidence
 - ▶ There should be supporting evidence that accompanies the asylum application. You will need evidence to corroborate your story or to show why the evidence is unavailable.
 - ▶ Simply filing the application does not mean it will be granted, you increase your chances by presenting evidence if it can be obtained.

▶ 2. Not being on time

- ▶ Be on time when showing up to court or to an interview.
- ▶ Make sure to file the supporting evidence the required amount of days before your appointment.
- ▶ Specify witnesses and experts within the applicable time
- ▶ File your asylum application and any motions in time with the Immigration Court
- ▶ Submitting your application within the one year deadline

▶ 3. Being Unprepared

- ▶ It is important to be fully prepared before any immigration interviews. The questions can be about past applications filed with immigration or about previous arrest and admission to crimes. You will need to be prepared and handle and questions that may be asked concerning your past as well as your current situation. A lack in preparation could result in the application being denied or even being placed in deportation proceedings.

▶ 4. Not having an attorney

- ▶ If you can afford or find an attorney it is highly recommended to do so. As these mistakes have shown it is very rule oriented with many deadlines to follow. An attorney will help make sure these deadlines are followed, that you acquire evidence, are prepared for your interview, and that your interests will be protected.

Court Information

- ▶ Immigration Courts in Texas: The following is a list of Immigration courts you could be in:
 1. Dallas: 1100 Commerce Street, Suite 1060, Dallas, TX 75242 - Phone Number: 214-767-1814
 2. El Paso: 700 E. San Antonio Avenue, Suite 750, El Paso, TX 79901 - Phone Number: 915-534-6020
 3. El Paso PSC: Service Processing Center, 8915 Montana Avenue, Suite 100, El Paso, TX 79925 - Phone Number: 915-771-1600

4. Harlingen: 2009 West Jefferson Avenue, Suite 300, Harlingen, TX 78550 - Phone Number: 956-427-8580
5. Houston: Continental Center II, 600 Jefferson, Suite 900, Houston, TX 77002 - Phone Number: 713-718-3870
6. Houston SPC: Houston Service Processing Center, 5520 Greens Road, Houston, TX 77032 - Phone Number: 281-594-5600
7. Pearsall: 566 Veterans Drive, Pearsall, TX 78061 - Phone Number: 210-368-5700
8. Port Isabel: Port Isabel Processing Center, 27991 Buena Vista Blvd. Los Fresnos, TX 78566 - Phone Number: 956-547-1789
9. San Antonio: 800 Dolorosa Street, Suite 300, San Antonio, TX 78207 - Phone Number: 210-472-6637

For Information on your U.S. Citizenship and Immigration Services (USCIS) court date or proceedings, you may call the Immigration Court Information System at 1-800-898-7180

FORM

- United States Citizenship and Immigration Services (USCIS) Form **I-589** Application for Asylum is available here:
- <https://www.uscis.gov/sites/default/files/files/form/i-589.pdf>

USCIS Form I-589 is used to apply for *Asylum* in the U.S.

The same form can be used in court (not before USCIS) to apply for *withholding of Removal*. It may also be used to apply for protection under the *Convention Against Torture* (CAT) in court.

How do I get a USCIS Form I-589?

- ▶ **Online:** you may obtain a Form I-589 online at:
<https://www.uscis.gov/sites/default/files/files/form/i-589.pdf>
- ▶ **Phone:** Asylum seekers *in detention* centers and jails may call the Office of the United Nations High Commissioner for Refugees (UNHCR) collect at **1-202-296-5191** or toll-free at **1-888-272-1913** on Monday, Wednesday, and Friday, 2-5 p.m. (Eastern Standard Time) to request an application.
- ▶ **In Person:** If you are scheduled to appear in immigration court, the immigration judge presiding over your case will provide you with an asylum application.
- ▶ You can also obtain a form, in person, from a USCIS Field Office. Call USCIS Customer Service for information regarding the nearest office for the immigration service at **1-800-375-5283**.

Filling out the USCIS Form I-589

- ▶ **In General:**
- ▶ Answer all questions on the form I-589 as instructed. Your answers must be complete, accurate, and consistent. An incomplete, inaccurate, or inconsistent application may be denied.
- ▶ If a question does not apply to you, write in “N/A” to indicate that the question is not applicable. Never leave any question blank unless instructed to do so.
- ▶ It is important that you carefully read the “**Instructions for I-589**” before you begin to fill out your application, and as often as you need while you are filling out the form.
 - ▶ Instructions can be found online at:
<https://www.uscis.gov/sites/default/files/files/form/i-589instr.pdf>

Filling out the USCIS Form I-589

- ▶ **PART A**
- ▶ Here you will be asked to fill out personal Information regarding:
 - ▶ Your basic information. (Name, A-Number, physical address, etc.)
 - ▶ Spouse and any children
 - ▶ Your background information
- ▶ If there is not enough space to list all of the necessary information, you may fill out as many supplemental forms as needed at the end of the application.
- ▶ **NOTE:** You must submit an additional copy of your I-589 Application for EACH family member you include in part A. In addition for your Spouse you must submit **THREE (3)** copies of your marriage certificate; and for each child you must submit **THREE (3)** copies of their Birth Certificates.

Filling out the USCIS Form I-589

- ▶ Part B
- ▶ Here you will fill out information about your application and WHY you are seeking asylum.
- ▶ If you answer “Yes” to any question in this section, you must explain using an **I-589 Supplement B** or any additional sheets of paper as needed.
- ▶ Although, some of the reasons why you are seeking asylum may be difficult to speak about, it is **very important** for your application, that you explain them on your completed Form I-589.
- ▶ You may also submit a personal declaration as a part of this section. If you do, you should indicate “see personal declaration” in this section.

Filling out the USCIS Form I-589

- ▶ Part C.
- ▶ Here you will fill out additional information about your application.
- ▶ Again, you must explain any “Yes” answers by providing an I-589 Supplement B or any additional sheets of paper with your complete **I-589** application.
 - ▶ **NOTE:** If you are not submitting this application within the ONE YEAR time frame. You will indicate here and submit an I-589 supplement. The Government may accept as an explanation certain changes in the conditions in your country, certain changes in your own circumstances, and certain other events that may have prevented you from applying earlier.
- ▶ Failure to submit an I-589 within ONE YEAR of your arrival in the U.S. is grounds for denial of your application.

Filling out the USCIS Form I-589

- ▶ Part D
- ▶ Here you must sign the application. Your signature is required and represents your confirmation of the truthfulness of your I 589 application.
- ▶ Part E
- ▶ If anyone assisted you in preparation of your I 589. They must sign the application and fill out the information as instructed.

GUIDES

- ▶ The following guides contain more information designed to help you navigate the complicated web of Immigration Law with respect to Asylum. You are encouraged to consult them as needed:
 - ▶ <https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Refugees%20%26%20Asylum/Asylum/Information%20Guides%20For%20Prospective%20Applicants/info-guide-for-prospective-asylum-applicants-english.pdf> USCIS Asylum Program.
 - ▶ This guide is also available in Amharic, Arabic, Armenian, Chinese, Creole, French, Indonesian, Nepali, Russian, and Spanish at:
<https://www.uscis.gov/humanitarian/refugees-asylum/asylum/information-guide-prospective-asylum-applicants>
 - ▶ https://www.justice.gov/sites/default/files/pages/attachments/2016/01/14/im_afraid_to_go_home-asylum.pdf
 - ▶ <http://www.immigrantjustice.org/sites/immigrantjustice.org/files/Asylum%20Flow%20Chart.pdf>.

RESEARCH TIPS!

- ▶ Immigration Law is very complicated and you are encouraged to consult an Immigration Attorney if you have any questions or concerns.
- ▶ To start any research you should begin with the law itself, followed by the Board of Immigration Appeals and Federal Courts' interpretation of the law. It is also important to know how the USCIS interprets the law and its own regulations. However, you may be better off starting with “secondary sources” such as ALA's Asylum Primer, 7th Ed. By Dree Collopy.
- ▶ Good secondary sources can also be found online at:
 - ▶ <https://www.uscis.gov/humanitarian/refugees-asylum/asylum/obtaining-asylum-united-states>. Affirmative & Defensive Asylum
 - ▶ https://www.americanimmigrationcouncil.org/sites/default/files/research/asylum_in_the_united_states.pdf.

RESEARCH TIPS (Cont.)

- ▶ Additional Sources to help with your research:
 - ▶ <https://www.uscis.gov/policymanual/Print/PolicyManual-Volume7.html>. USCIS Policy Manual PART M (Asylee Adjustment).
 - ▶ Immigration and Nationality Act: INA: ACT 208 - Asylum
 - ▶ Title 8, Code of Federal Regulations, Sections 208 & 209.

Find a Lawyer

▶ Dallas

▶ Catholic Charities of Dallas, Inc.

▶ 9461 LBJ Freeway, Suite 100, Dallas, TX 75243

▶ Phone: 214-634-7182

▶ Human Rights Initiative of North Texas, Inc.

▶ 2801 Swiss Avenue, Dallas, TX 75204

▶ Phone: 214-855-0520

▶ Baptist Immigration Center

▶ Alex Camacho, Accredited

▶ 507 Titus Street, Mckinney, TX 75069

▶ Phone: 972-562-4561

▶ Justice for Our Neighbors DFW

▶ 422 Church Street, Grapevine, TX 76051

▶ Phone: 817-310-3820

▶ El Paso

▶ Diocesan Migrant and Refugee Services

- ▶ 2400 E. Yandell, Ste. A, El Paso, TX 79903-3617
- ▶ Phone: 915-532-3975
- ▶ May charge a nominal fee

▶ Las Americas Immigrant Advocacy Center

- ▶ 1500 E. Yandell Dr., El Paso, TX 79902
- ▶ Phone: 915-544-5126
- ▶ May charge a nominal fee

▶ Harlingen & Port Isabel

▶ Probar- South Texas Pro Bono Asylum Representation

▶ 222 East Van Buren Ave., Suite 300, Harlingen, TX 78550

▶ Phone: 956-425-9231

▶ Casa De Proyecto Libertad

▶ 113 N. 1st St., Harlingen, TX 78550

▶ Phone: 956-425-9552

▶ South Texas Immigration Council

▶ Casa Mexico Bldg.

▶ 4793 West Expressway 83, Harlingen, TX 78552

▶ Phone: 956-425-6987

▶ South Texas Immigration Council

▶ 4 E. Levee St., Brownsville, TX 78520

▶ Phone: 956-542-1991

▶ South Texas Immigration Council, Inc.

▶ 1201 Galveston St., McAllen, TX 78501

▶ Phone: 956-682-5397

▶ May charge a nominal fee

▶ Houston

▶ Houston Immigration Legal Services

Collaborative (www.houstonimmigration.org)

▶ The Cabrini Center for Immigrant Legal Assistance

▶ 2900 Louisiana Avenue, Houston, TX 77006

▶ Phone: 713-874-6570

▶ May charge nominal fee

▶ Human Rights First

▶ 1303 San Jacinto Street, 9th Floor, Houston, TX 77002

▶ Phone: 713-955-1360

- ▶ Kids In Need of Defense (KIND)
 - ▶ c/o South Texas College Law
 - ▶ 1303 San Jacinto Street, 9th Floor, Houston, TX 77002
 - ▶ Phone: 832-779-4030
 - ▶ KIND serves children under age 18 only
- ▶ International Services of the YMCA Greater Houston Area
 - ▶ Pro Bono Asylum Program
 - ▶ 6300 West Park, Ste. 600, Houston, TX 77057
 - ▶ Phone: 713-339-9015
 - ▶ May charge a nominal fee
- ▶ University of Houston Law Center Immigration Clinic
 - ▶ Limited availability due to law students who work on cases under direct supervision of faculty
 - ▶ Call our intake main line: (713) 743-2094

▶ Pearsall

▶ American Gateways

- ▶ One Highland Center

- ▶ 314 Highland Mall Blvd., Ste. 501, Austin, TX 78752

- ▶ Phone: 512-478-0546

▶ San Antonio

▶ American Gateways

- ▶ One Highland Center

- ▶ 314 Highland Mall Blvd., Ste. 501, Austin, TX 78752

- ▶ Phone: 512-478-0546

▶ Catholic Charities Archdiocese of San Antonio, Inc.

- ▶ 202 W French Place, San Antonio, TX 78212

- ▶ Phone: 210-433-3256

▶ Immigration Clinic of the University of Texas School of Law

- ▶ 727 East Dean Keeton Street, Austin, TX 78705-3299

- ▶ Phone: 512-232-1292

- ▶ Clinic is closed from May 1 until September 1

▶ The Bernardo Kohler Center

▶ P.O. Box 42185, Austin, TX 78704

▶ Phone: 512-831-4272

▶ Immigration & Human Rights Clinic

▶ Center for Legal & Social Justice

▶ 2507 NW 36th Street, San Antonio, TX 78228

▶ Phone: 210-431-2596

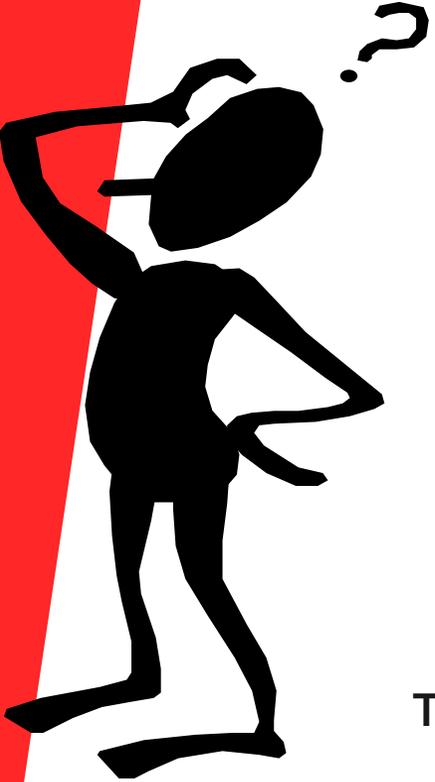
▶ Refugee & Immigrant Center for Education and Legal Services

▶ 1305 N. Flores, San Antonio, TX 78212

▶ Phone: 210-226-7722

▶ ASI: Asociacion de Servicios para el Inmigrante

- ▶ Linda Brandmiller, Esq.
- ▶ P.O. Box 831183, San Antonio, TX 78283
- ▶ Phone: 210-900-0991
- ▶ May charge nominal fee



Questions & Answers

Contact The University of Houston Law Center Immigration Clinic
To schedule an intake, contact the intake desk at our Immigration Clinic:
(713) 743 2094