

OBTAINING CRIMINAL RECORDS FOR YOUR DETAINED CLIENT

Why is getting a criminal record important?

- ▶ It will allow you to verify *all* of your clients arrests by law enforcement agencies.
- ▶ The Immigration Judge on the detained docket in Los Angeles is now *requiring* all attorneys to provide a full criminal history for their clients. This means that you will have to submit the criminal record as an exhibit with your client's application for relief.

What is a "criminal record"?

- ▶ A criminal record consists of two reports – one from the FBI and the other from the California Department of Justice ("CalDOJ") – that list your clients arrests and convictions. It is important to submit requests to both the FBI and the CalDOJ because there are sometimes arrests that show up on one report and not the other (for example, arrests by immigration authorities may show up on the FBI report, but not the CalDOJ report).
- ▶ A criminal record is *not* the same as a conviction record. Conviction records are the *court's* records. They generally consist of a complaint, a plea agreement or transcript, a minute order, and (when the client is sent to prison) an abstract of judgment. Conviction records can be obtained by going to the courthouse where your client was convicted and requesting a copy of these documents. They can also be obtained through the use of a legal investigative service. Public Counsel uses First Legal Support Services (213-250-1111) to handle these requests. (Note: You may want to request certified copies of conviction records if you are planning to submit them to the court.)

How to get a criminal record?

- ▶ Step One: Get fingerprints. In order to submit a criminal record request to the FBI and CalDOJ, you will have to obtain two sets of fingerprints on a ten-print card for your client. Because your client is detained, Immigrations and Customs Enforcement ("ICE") will have to take the fingerprints. You can ask ICE to take your client's prints in two ways:
 1. **At the master calendar hearing.** If you are in court for a master calendar hearing with your client, ask the ICE agent who is overseeing the detainees if he or she can take your client's fingerprints once your client is brought back down to B18 (the name for the ICE Processing Center located in the basement of 300 N. Los Angeles, the same building that the court is in). You can then arrange to pick up the completed fingerprint cards at B18 later that day.
 2. **While your client is in the Santa Ana City Jail.** If you do not have a court hearing scheduled before your merits date, or if you do not want to wait for a master hearing to obtain the criminal reports, you can obtain the fingerprints by contacting your

client's deportation officer in ICE's Enforcement and Removal Operations ("ERO") Office in Santa Ana. The main line for ICE's ERO Office in Santa Ana is: 714-834-4885. If you call the main line and provide your client's alien number, they can tell you the name and phone number of your client's deportation officer.

You should direct your request to the appropriate deportation officer *both* in writing and by phone to ensure follow up. The address for ICE in Santa Ana is: 34 Civic Center Plaza, Room 3090, Santa Ana, California 92701. The fax number is: 714-834-4897.

► Step 2: Send record requests to the FBI and CalDOJ. Once you have the fingerprints, you can send off your requests. For the FBI request you will need: 1) a cover letter, signed by your client, requesting a copy of their record, 2) a money order or cashier's check in the amount of \$18 made out to the Treasury of the United States, and 3) a completed, ten-print fingerprint card. For the CalDOJ request you will need: 1) a cover letter, signed by your client, requesting a copy of their record, 2) a check or money order in the amount of \$32 made out to the California Department of Justice, and 3) a completed, ten-print fingerprint card. Public Counsel can provide samples of cover letters for each.

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DETAINED

SAMPLE

7 **PRO BONO ATTORNEYS FOR RESPONDENT**
8 **SALLY MEZA**
9

10 **UNITED STATES DEPARTMENT OF JUSTICE**
11 **EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**
12 **IMMIGRATION COURT**
13 **LOS ANGELES, CALIFORNIA**

14 _____)
15 In the Matter of:)
16)
17 Sally Meza)
18)
19 Respondent)
20)
21 In Bond Proceedings)
22 _____)

A# 200-972-999

23 Immigration Judge Anderson

Next Master Hearing: January 20, 2011 at 8:00 AM

24 **MOTION FOR BOND REDETERMINATION**
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1 **I. INTRODUCTION**

2 Sally Meza is a 21-year-old orphan and high school graduate who was detained by United
3 Sates Immigration and Customs Enforcement (“ICE”) and placed in removal proceedings. Sally
4 initially received a bond of \$8,000, an amount that is both exceptionally high and far beyond her
5 ability to pay. After enduring nearly two and a half months in detention, she appeared before this
6 Court with less than 24 hours notice on January 5, 2011 for a bond redetermination hearing. The
7 Court reduced her bond to \$7,000, a sum that still tremendously exceeds her financial means.
8 Since Sally’s initial bond determination hearing, her circumstances have changed materially, and
9 in a way that concretely demonstrates that she is neither a threat to the community nor a flight
10 risk. Sally therefore requests a second bond redetermination, in which the amount set is no
11 greater than \$2,000, or alternatively, an order that she be released on her own recognizance.
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13 Sally is entitled to a bond redetermination as a matter of law because her circumstances
14 have changed materially in three ways since her initial bond redetermination hearing. *See* 8
15 C.F.R. § 1003.19(e) (“After an initial bond redetermination, an alien’s request for a subsequent
16 bond redetermination . . . *shall be considered* only upon a showing that the alien’s circumstances
17 have changed materially since the prior bond redetermination.”) (emphasis added); *see also id.* §
18 236.1(d).
19

20 First, at the time of the initial bond redetermination hearing, Sally was unaware that she
21 was potentially eligible for immigration relief under the Victims of Trafficking and Violence
22 Protection Act (VTVPA)¹, a law that permits non-United States citizen crime victims who have
23 suffered substantial physical or mental abuse and who cooperate in the investigation or
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25 ¹ Victims of Trafficking and Violence Protection Act of 2000, div. B, Violence Against Women Act of
26 2000, tit. V, Pub. L. 106-386, 114 Stat. 1464, (2000), *amended by* Violence Against Women and
27 Department of Justice Reauthorization Act of 2005, tit. VIII, Pub. L. 109-162, 119 Stat. 2960 (2006),
28 *amended by* Violence Against Women and Department of Justice Reauthorization Act—Technical
Corrections, Pub. L. 109-271, 120 Stat. 750 (2006).

1 prosecution of the crime to obtain U-Visa status. *See* 8 U.S.C. § 1101(a)(15)(U). When Sally
2 was a minor, she was the victim of repeated sexual abuse by one of her relatives. In light of these
3 assaults, she may be able to satisfy the requirements delineated in the VTVPA for obtaining a U-
4 Visa. The Court should consider that Sally's ability to pursue this avenue of relief depends upon
5 her release so that she can cooperate with local law enforcement in the investigation of the crime.²
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7 Second, Sally is now in a position to present new evidence that was not previously
8 available because she was unaware of her court date. This evidence bears upon her
9 demonstration that she poses neither a flight risk nor a danger to her community.

10 Third, Sally did not have the benefit of her counsel's representation on January 5, 2011. It
11 was Sally's understanding that this would be the only opportunity to discuss her bond. Thus, she
12 acquiesced in her previous hearing to proceed without her lawyer. Sally needs counsel to
13 adequately explain her potential relief under the VTVPA and any other relief for which she may
14 qualify.
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16 It would be appropriate for this Court to lower Sally's bond to no more than \$2,000, or to
17 order that she be released on her own recognizance, because Sally does not pose a danger to the
18 community or a threat to national security, and because a bond in that amount would suffice to
19 ensure Sally's presence at future proceedings. *See* 8 C.F.R. §§ 236.1(c)(3), 1003.19(h)(3). Sally
20 has a single conviction on her record for a non-violent offense. Indeed, she has no documented
21 history of violent behavior. Rather, her history is one marked by strong and demonstrable ties to
22 her family, school, work, and church.
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24 Moreover, a bond of \$2000 or less would guarantee Sally's presence at any future
25 proceedings. As demonstrated at her initial bond redetermination hearing, Sally wants to comply
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27 ² Sally may also be eligible for asylum based in part on the recent kidnapping of her family member in
28 Mexico. *See* Decl. of Sally Meza ¶ 12 (attached at Tab A).

1 with the law to fix her status. She must remain in Los Angeles in order to cooperate with local
2 law enforcement in the investigation and prosecution of the sexual assaults she suffered, and also
3 realizes that failure to abide by this Court's orders could impede her efforts.

4
5 In light of Sally's materially changed circumstances, minimal and non-violent conviction
6 record, strong ties to the community, and the hardship that a higher bond would impose her and
7 her family, Sally respectfully requests that the Court grant her motion for bond redetermination
8 and lower her bond to no more than \$2,000, or alternatively, order that she be released on her own
9 recognizance.

10 11 **II. FACTUAL AND PROCEDURAL HISTORY**

12 **A. Personal Background**

13 Sally is a twenty-one year old high school graduate with aspirations of pursuing a career
14 in criminal justice. *See* Decl. of Sally Meza ¶¶ 5, 15 (attached at Tab A). She is an "empathetic,
15 true leader" of her community. *See* Letter of Support from Head Counselor (attached at Tab B, p.
16 10). She has lived in Los Angeles, California since she was about two or three years old. *See*
17 Tab A ¶ 2. Prior to being detained, Sally was residing with her brother Martin and his family and
18 contributing financially to their household. *See* Tab A ¶¶ 9, 15. Before then, she lived with her
19 sister Ana and her family in Irvine, CA for approximately thirteen years. *See* Tab A ¶¶ 2, 5; *see*
20 *also* Letter of Support from Ana Meza (attached at Tab B, p. 5). Sally attended elementary,
21 middle, and high school in California. *See* Tab B, p. 5; *see also* Letter of Support from xx
22 (attached at Tab B, p. 8) She graduated from Irvine High School in 2007. *See* Tab A ¶ 5.

24 Now an orphan, Sally had a very difficult childhood. Her father passed away when she
25 was five years old and her mother languished with severe illness for a prolonged period of time.
26 *See* Tab B, p. 5. Although she was never officially diagnosed, doctors suspected that Sally's
27 mother suffered from Parkinson's disease. *See* Tab A ¶ 2. Many of her symptoms, such as
28

1 memory loss, started manifesting when Sally was just a small child. *See* Tab A ¶ 2; *see also* Tab
2 B, p. 5.

3 Because of her mother’s illness, Sally incurred many family responsibilities at a very
4 young age. Indeed, Sally spent most of her childhood taking care of her sick mother. *See* Tab A
5 ¶ 3. She helped feed, bathe, and dress her mother as well as change her diaper. *See* Tab A ¶ 3.
6 After her family could no longer care for her mother at home, they were forced to either
7 hospitalize her or place her in convalescent homes for the last six years of her life. *See* Tab B, p.
8 5. By that point, she was on a ventilator and had a feeding tube. *See* Tab A ¶ 3. She passed
9 away in April of 2006. *See* Death Certificate of Sally Jones (attached at Tab C, p. 17). In
10 addition to caring for her ailing mother, Sally also helped raise her young nieces and nephews.
11 *See* Tab A ¶ 4.

12 **B. Sexual Abuse**

13 Sally’s difficult home life was further exacerbated by the sexual abuse she suffered at the
14 hands of her brother-in-law, Y. *See* Tab A ¶ 5. Starting in elementary school, he frequently
15 kissed her and touched her private parts. *See* Tab A ¶ 5. His assaults escalated to the point where
16 he tried to rape her. *See* Tab A ¶ 5. He coerced Sally into remaining a silent victim with threats
17 and warnings that no one would believe her if she reported what was happening. *See* Tab A ¶ 5.
18 As a young child, Sally felt scared and trapped because she had nowhere to go. *See* Tab A ¶ 5.
19 Now that she is older, she is prepared to speak out.

20 **C. Education and Employment**

21 Despite her victimization, Sally persevered and worked diligently to pursue her education
22 and dream of attending college. *See* Tab A ¶¶ 6, 7. At Irvine High School, Sally was one of her
23 school’s “best and brightest role models and leaders.” *See* Tab B, p. 10. She graduated in the top
24 half of her class. *See* Tab B, p. 10. From freshman through senior year, Sally participated in
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1 AVID (Advancement Via Individual Determination), a program designed to help underserved
2 students achieve their goal of attending college. *See* Tab B, p. 10; *see also* Tab A ¶ 7. In addition
3 to being on the Honor Roll, Sally was nominated student of the month. *See* Tab B, p. 10. An
4 active member of her school’s community, Sally also tutored her peers and ensured that her
5 younger classmates “had plans after high school.” *See* Tab B, p. 10. Outside of her familial and
6 educational obligations, Sally regularly attended religious services at the Church of Christ in
7 Tustin, CA. *See* Letter of Support from Pastor K (attached at Tab B, p. 13); *see also* Photographs
8 (attached at Tab C, p. 18).

10 Although Sally’s hard work and determination culminated in her acceptance at Cal State –
11 Long Beach, she could not afford the tuition. *See* Tab A ¶ 7. After she graduated, Sally decided
12 to work so that she could save money with the hope of attending college in the future. *See* Tab A
13 ¶ 8; *see also* Tab B, p. 5. In November 2007, she started working at Target in their stockroom.
14 *See* Tab A ¶ 8; *see also* Tab B, p. 5. Throughout the following three years, Sally worked as many
15 hours as she could to support herself, her family, and her dream of attending college. *See* Tab A
16 ¶¶ 8, 9.

18 While in detention, Sally has continued to show that she values pursuing her education by
19 taking advantage of the opportunity to enroll in several classes at the Santa Ana Jail. *See* Tab A ¶
20 11; *see also* Letter of Support from Instructor (attached at Tab B, p. 11). One of her instructors
21 described her as “an excellent student” whose “work is reflective of someone desiring to gain as
22 much knowledge as possible.” *See* Tab B, p. 11.

24 **D. Criminal Record**

25 Prior to her arrest on October 23, 2010 in Orange County, Sally had never come into
26 contact with the criminal justice system. *See* Tab A ¶ 10. She pled guilty to a misdemeanor,
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1 possession of a false identification,³ on November 19, 2010. *See* Tab A ¶ 10; *see also* Orange
2 Superior Court Criminal Case Report (attached at Tab E, p. 25). The judge sentenced Sally to 36
3 months of probation under the following terms and conditions: that she obey all laws, ordinances,
4 and court orders. *See* Tab E, p. 25. The judge also imposed fines totaling \$120. *See* Tab E, p.
5 30.
6

7 Even if this nonviolent offense was deemed a “crime of moral turpitude” under section
8 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act, it would fall within the “petty offense”
9 exception delineated in section 212(a)(2)(A)(ii)(II)⁴ because the maximum penalty possible for
10 Sally’s conviction is a \$2500 fine and Sally received no jail time at all. *See* Cal. Pen. Code §
11 529.5(c). Thus, Sally would not be classified as inadmissible because of her sole conviction.
12

13 **E. Immigration Proceedings**

14 While in the custody of the Orange Co. Sherriff, Sally came to the attention of ICE, and a
15 detainer was issued in her name. Following the disposition of her single criminal matter in
16 Orange County, Sally was transferred to ICE custody in Santa Ana and subsequently placed in
17 removal proceedings. *See* Tab A ¶ 10. ICE set her initial bond at \$8000. *See* Tab A ¶ 14. Sally
18 received official notification that she would be attending a bond redetermination hearing with less
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20 ³ Specifically, the charge to which Sally pled guilty was Cal. Penal Code § 529.5(C): Possession,
21 manufacture, or sale of documents falsely purporting to be government identification. Subsection (c)
22 provides that “any person who possesses a document . . . and who knows that the document is not a
23 government-issued document is guilty of a misdemeanor punishable by a fine of not less than one
24 thousand dollars (\$1,000) and not more than two thousand five hundred dollars (\$2,500). The
25 misdemeanor fine shall be imposed except in unusual cases where the interests of justice would be served.
26 The court may allow an offender to work off the fine by doing community service. If community service
27 is not available, the misdemeanor shall be punishable by a fine of up to one thousand dollars (\$1,000),
28 based on the person’s ability to pay.

⁴ Section 212(a)(2)(A)(ii) of the INA states that “Clause (i)(I) shall not apply to an alien who committed only one crime if the maximum penalty possible for the crime of which the alien was convicted . . . did not exceed imprisonment for one year and, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment in excess of 6 months (regardless of the extent to which the sentence was ultimately executed).”

1 than 24-hours notice. *See* Tab A ¶ 13. Before she received this documentation, Sally believed
2 that she was not due in court until January 20, 2011. *See* Tab A ¶ 13. This belief was based on
3 several phone calls she placed to the automated immigration court information system. *See* Tab
4 A ¶ 13.

5
6 On January 5, 2011, Sally appeared before this Court, unrepresented by counsel, for a
7 bond redetermination hearing. *See* Tab A ¶ 14. Though she stated to the Court that she wanted a
8 lawyer for her bond hearing, and had one, it was her understanding that this would be the only
9 opportunity to discuss her bond. *See* Tab A ¶ 14. Thus, she agreed to proceed without her
10 attorney. *See* Tab A ¶ 14. The Court ultimately reduced Sally’s bond to \$7,000, an amount that
11 still far exceeds Sally’s financial means. *See* Tab A ¶ 14.

12 **III. ARGUMENT**

13
14 Sally is entitled to a second bond redetermination hearing because her circumstances have
15 changed materially since her initial bond redetermination hearing. If the Court agrees to consider
16 Sally’s bond redetermination request, it should consider further reducing her bond from \$7,000 to
17 no more than \$2,000, or alternatively, ordering release on her own recognizance, because the
18 record shows that Sally does not pose a threat to national security, is not a danger to the
19 community, and is not a flight risk.

20 **A. Sally’s Circumstances Have Changed Materially Since Her** 21 **Initial Bond Redetermination Hearing.**

22 An alien detained in custody by ICE is entitled to request an initial bond redetermination
23 by an IJ. 8 C.F.R. § 1003.19(b), (c)(1). If the IJ denies the alien’s request for bond
24 redetermination, or sets bond at an amount beyond the alien’s means, the alien is entitled to a
25 second bond redetermination hearing “upon a showing that the alien’s circumstances have
26 changed materially since the prior bond redetermination.” *Id.* § 1003.19(e).

1 when she was a minor. *See* Tab A ¶ 5. She possesses information about the crime, such as its
2 timing and circumstances. If accorded the opportunity, Sally will be helpful to State or local law
3 enforcement agencies to investigate and prosecute the crime. Furthermore, the sexual abuse she
4 suffered violated the laws of the United States and occurred in the state of California.

5
6 Sally's unawareness of her potential U-Visa eligibility affected her ability to obtain a
7 reasonable bond at the initial bond redetermination hearing. Because Sally did not possess the
8 legal knowledge to proffer the applicable law and present pertinent facts, she was unable to
9 articulate that her release from custody would be critical in helping her to pursue relief under the
10 VTVPA. Specifically, continued detention resulting from her dearth of financial resources to pay
11 a \$7000 bond could substantially inhibit Sally's capacity to cooperate in the investigation or
12 prosecution of the sexual abuse she suffered. Given that Sally is now cognizant of her potential
13 U-Visa eligibility, a second bond redetermination hearing would afford Sally the opportunity to
14 more fully and adequately exercise her right to request a bond redetermination.⁵

15
16 ii. New Evidence

17 Furthermore, Sally's circumstances have changed materially for the reason that she is now
18 in a position to present new evidence that was previously unavailable because of the confusion
19 about when she was scheduled to appear in court. Sally diligently checked her court appearance
20 dates by calling the automated immigration court information system. *See* Tab A ¶ 13. Because
21 Sally received official notice of her initial bond redetermination less than 24-hours before she was
22 brought to court, she was unable to produce documentation dispositive of the discretionary factors
23 an IJ considers when making a bond determination. Specifically, the record now contains
24 evidence in the form of letters of support from her family residing in the United States, her
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28 ⁵ Sally may also be eligible for asylum based in part on the recent kidnapping of one of her relatives in Mexico. *See* Tab A, ¶ 12.

1 Sally is entitled to a second bond redetermination hearing as a matter of law because her
2 circumstances have changed in three material ways since her initial bond redetermination hearing.
3 *See id.* § 1003.19(e). First, subsequent to her bond redetermination hearing, Sally learned that she
4 is potentially eligible for relief under the VTVPA based on sexual assaults that took place when
5 she was a minor. This is significant because it would be very difficult for her to pursue this claim
6 if she were to remain in detention. Second, Sally is now in a position to present new evidence
7 that was not previously available because she was unaware of her court date. Third, Sally did not
8 have the benefit of her counsel's representation on January 5, 2011.

10 i. VTVPA Eligibility

11 Sally's circumstances have changed materially because she has since ascertained that she
12 could be eligible for relief under the VTVPA based on multiple sexual assaults that occurred
13 when she was a minor. *See* 8 U.S.C. § 1101(a)(15)(U). Because she was unaware of her
14 potential to qualify for this relief at her initial bond redetermination hearing, Sally was unable to
15 present critical evidence that should have been brought to the Court's attention.
16

17 The VTVPA provides immigration relief to non-United States citizen crime victims in the
18 form of a U-Visa. *See id.* To qualify for this status, the victim must demonstrate that (i) she has
19 "suffered substantial physical or mental abuse as a result of having been a victim" of a qualifying
20 crime; (ii) she possesses information concerning the crime; (iii) she "has been helpful, is being
21 helpful, or is likely to be helpful" to a Federal, State, or local law enforcement official or
22 authority in investigating or prosecuting the crime; and (iv) the crime violated the laws of the
23 United States or occurred in the United States or its territories. *See id.* One such qualifying
24 criminal crime is "abusive sexual contact." *Id.*

26 Sally could be eligible for a U-Visa based on the substantial physical and mental abuse
27 she suffered as a result of the repeated sexual assaults that her brother-in-law perpetrated on her
28

1 teacher, her guidance counselor, and her pastor as well as family and school records. Sally should
2 be granted a second bond redetermination hearing so that she can use this evidence to support her
3 contention that she poses neither a flight risk nor a danger to her community.

4
5 iii. Counsel

6 Lastly, Sally's circumstances have changed materially because she did not have the
7 benefit of counsel at her initial bond redetermination hearing. It was Sally's belief that she would
8 not have another opportunity to discuss her bond. Thus, she agreed to proceed without her
9 attorney. However, in light of the fact that Sally is now making a legal argument about her
10 eligibility for immigration relief under the VTVPA, Sally needs counsel to adequately advocate
11 on her behalf.

12 **B. Sally's Bond Should Be Reduced to No More Than \$2,000, or Alternatively,
13 the Court Should Order Sally to be Released on her Own Recognizance.**

14 When determining whether to grant bond, and in what amount bond should be set, the IJ
15 "must consider whether an alien . . . is a threat to national security, a danger to the community at
16 large, likely to abscond, or otherwise a poor bail risk." *In re Guerra*, 24 I. & N. Dec. 37, 40
17 (2006); *see* 8 C.F.R. §§ 236.1(c)(3), 1003.19(h)(3). In undertaking this analysis, the IJ may
18 consider several specific factors, including but not limited to:
19

- 20 (1) whether the alien has a fixed address in the United States; (2)
21 the alien's length of residence in the United States; (3) the alien's
22 family ties in the United States, and whether they may entitle the
23 alien to reside permanently in the United States in the future; (4) the
24 alien's employment history; (5) the alien's record of appearance in
25 court; (6) the alien's criminal record, including the extensiveness of
26 criminal activity, the recency of such activity, and the seriousness
27 of the offenses; (7) the alien's history of immigration violations; (8)
28 any attempts by the alien to flee prosecution or otherwise escape
from authorities; and (9) the alien's manner of entry to the United
States.

1 *In re Guerra*, 24 I. & N. Dec. at 40. In making a bond redetermination, the IJ “has broad
2 discretion in deciding the factors that he or she may consider.” The IJ may choose to give greater
3 weight to one factor over others, as long as the decision is reasonable.” *Id.*..

4 i. Sally Does Not Pose A Danger to the Community Or A
5 Threat To National Security.

6 Sally does not pose a threat to national security. She is not accused of any involvement
7 with a terrorist organization, or of mounting any attempts to overthrow or subvert the United
8 States government, and there is no evidence in the record to suggest that she would pose a threat
9 to the nation.

10 Sally is likewise not a danger to the community. Her sole conviction is for a non-violent
11 offense, possession of a false identification, which is the only blemish on her otherwise spotless
12 record. *See* Tab A ¶ 10. This type of offense is not one that courts regard as an indicator that an
13 individual poses a danger to the community. *Cf. In re Guerra*, 24 I. & N. Dec. at 41 (holding that
14 criminal drug trafficking charges are sufficient to establish that an individual poses a danger to
15 the community); *In re Adeniji*, 22 I. & N. Dec. 1102 (1999) (holding that a conviction for
16 conspiracy to commit bank fraud demonstrated that the petitioner posed a danger to property);
17 *Matter of Sugay*, 17 I. & N. Dec. 637, 639-40 (1981) (holding that a prior murder conviction and
18 subsequent arrest for brandishing a knife during a confrontation, among other factors, warranted
19 setting bond at \$30,000); *Matter of Shaw*, 17 I&N Dec. 177, 178 & n.1 (1979) (holding that
20 criminal charges of possessing stolen fire arms, among other factors, justified setting a \$5,000
21 bond).
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24 Moreover, the record demonstrates that this isolated incident is an aberration, and that
25 Sally is an “empathetic, socially strong, academically dedicated true leader” that has “strived to
26 work for the greater good within her community.” *See* Tab B, p. 100. Sally’s lack of a violent
27 criminal record, combined with her history of devotion to education, work, and family
28

1 demonstrates beyond a doubt that releasing her on a reasonable bond would be a benefit to her
2 community.

3 ii. Sally Does Not Pose A Flight Risk.

4 A \$2,000 bond would be more than adequate to ensure Sally's presence at future
5 immigration proceedings. Sally's potential eligibility for a U-Visa incentivizes her to remain in
6 Moreno Valley so that she can cooperate with local law enforcement officials in the investigation
7 or prosecution of the sexual abuse she suffered as a minor. If she were to abscond, she would be
8 unable to obtain the requisite certification from a law enforcement official verifying her
9 helpfulness in the case.
10

11 In addition, Sally's strong ties to her family and community also demonstrate that she
12 does not pose a flight risk. She is a parishioner at her local church along with the rest of her
13 family. She has been working at the same job since graduating from high school in 2007, living
14 with her brother, and trying to save money to continue furthering her education. Furthermore, her
15 immediate relatives reside in and around Irvine, CA. In short, Sally has numerous ties that bind
16 her to the Irvine community that ensure she will remain within the Court's jurisdiction if released
17 on a reasonable bond.
18

19 iii. The Guerra Discretionary Factors Weigh In Favor Of Granting
20 Sally A Reduced Bond.

21 Finally, the bulk of the *Guerra* discretionary factors weigh in favor of granting Sally a
22 reduced bond.

- 23 • *Whether the alien has a fixed address in the United States:* Sally has resided at 1234
24 Apple Ave. Irvine, CA 92555 with her older brother and his family for the past three
25 years. Prior to that time, she resided for thirteen years with her older sister in Irvine.
26 Thus, Sally clearly has a fixed address and strong ties to Irvine.
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- 1 • *The alien's length of residence in the United States:* Sally has resided in the United States
2 since she was about two or three years old, essentially her entire life.
- 3 • *The alien's family ties in the United States, and whether they may entitle the alien to*
4 *reside permanently in the United States in the future:* Sally's immediate family resides in
5 the United States, and lives in the Irvine area.
- 6 • *The alien's employment history:* Prior to her detention, Sally was working for Ross. She
7 started working in the store's stockroom shortly after she graduated from Irvine High
8 School in 2007 and has been attempting to save money for college.
- 9 • *The alien's criminal record, including the extensiveness of criminal activity, the recency*
10 *of such activity, and the seriousness of the offenses:* As discussed above, Sally has only
11 one conviction, which was for a non-violent offense. She thus lacks the type of extensive
12 and serious criminal history that would warrant setting a significant bond. *Cf. Matter of*
13 *Andrade*, 19 I. & N. Dec. 488, (1987) (holding that a petitioner's multiple convictions for
14 robbery, burglary, and receipt of stolen goods justified setting a significant bond).
- 15 • *The alien's history of immigration violations:* Sally has no prior history of immigration
16 violations.
- 17 • *Any attempts by the alien to flee prosecution or otherwise escape from authorities:* Sally
18 has never attempted to flee prosecution or otherwise escape from the authorities. This fact
19 also mitigates setting a significant bond. *Cf. Matter of Sugay*, 17 I. & N. Dec. at 639-40
20 (holding that a \$30,000 bond was required to ensure the petitioner's presence at a
21 deportation hearing because, *inter alia*, the petitioner had previously fled his home
22 country while his murder conviction was on appeal).
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1 **IV. CONCLUSION**

2 For the foregoing reasons, Sally requests that the Court grant her motion for a
3 bond redetermination hearing, and reduce her bond to no more than \$2,000, or her released on her
4 own recognizance.

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6 DATED: January 6, 2011

PUBLIC COUNSEL
SANDRA GOLDBERG

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9 By: S. Goldberg
10 SANDRA GOLDBERG
11 ATTORNEY FOR RESPONDENT

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VISITOR INFORMATION FOR THE MUSICK FACILITY

Address: 13502 Musick Road, Irvine, California 92618

Phone Number: 949-855-2600

Driving Directions from Los Angeles:

- Take the 5 Freeway South.
- Exit at Alton Parkway
- Right on Enterprise Drive
- 1st Right on to Alton Parkway
- Right at Fairbanks
- Continue on to front gate at Musick Honor Farm Rd.

Jail Website: <http://ocgov.com/ocgov/Sheriff-Coroner%20-%20Sandra%20Hutchens/Commands%20and%20Divisions/Custody%20&%20Court%20Operations%20Command/James%20A.%20Musick%20Facility>

Step-by-Step

When you arrive at the jail gate, you will be asked to show your identification and Bar card. The guard will check your trunk and wave you in. Proceed to the first stop sign. Make a right at the stop sign and you will enter a parking lot. There is no fee for parking. You should enter the building on the east

What about Interpreters?

If you will be using a non-attorney interpreter with a client at Musick Facility, she must undergo a background check before she can assist you. The contact for security clearances at Musick is Deputy Mike Winger. His phone number is 714-647-4586. In order to complete the security check, you must contact Deputy Winger and send him:

1. A cover letter (on firm letterhead) stating that you are requesting a security clearance for the interpreter to help you in your representation of your client.

2. A completed security request form. (Public Counsel can provide you with a copy of this form.)
3. A copy of the interpreter's driver's license.

It is best to send the request at least five business days prior to your visit. In case of emergency, you can work with Deputy Winger to work out a shorter timeline.

VISITOR INFORMATION FOR OTAY MESA DETENTION CENTER

Address: 446 Alta Road San Diego, CA 92158-0001

Phone Number: 619-661-9119

Legal Visits

- Daily between 8:00 AM and 9:45 PM
- You can just show up; you don't need to fax ahead of time
- Expect delays if there is a lock down for count
 - For segregated client, expect to wait for hours because of staffing issues

What to Bring?

- Need BAR card and photo ID

What about Interpreters?

- If you are bringing an interpreter, law clerk, or paralegal, you will need to fax 24 hours in advance
 - Warden's secretary fax number: 619-661-9120
 - May want to call to ensure got confirmation

Family Visits

- Only on weekends and federal holidays
- Detainee has to put you on the list that has to get approved
 - If detainee can't put you on their list, talk to deport officer first

VISITOR INFORMATION FOR THE SANTA ANA CITY JAIL

Address: 62 Civic Center Plaza, Santa Ana, California, 92701

Phone Number: 714-245-8100

Driving Directions from Los Angeles:

- Take the 5 Freeway South.
- Exit at Broadway/Main St. South.
- Merge onto Main St.
- Turn Right onto Civic Center Drive.
- Turn Left onto Boyd Way.
- Park in the parking structure on your left.
- Walk across Boyd Way to the Jail.

Jail Website: <http://www.ci.santa-ana.ca.us/pd/jailgeneralinfo.asp>

Step-by-Step

Drive to the Santa Ana City Jail and park in the parking structure directly across from the jail. Exit the parking lot towards the west and the jail will be directly in front of you. (Note that both the police station and the jail are in the same building. The jail entrance is the one further away from Civic Center Drive.) When you arrive at the jail lobby, go to the front desk and tell the guard that you would like to request an attorney visit. You will need to provide the inmate's name and booking number, as well as your government-issued ID and Bar card. Only admitted members of the Bar can obtain legal visits. [See below for steps you will need to take if you will be using a non-attorney interpreter for your case.]

The jail staff will ask whether you have visited the inmate before. If you say "no," they will give you a form to fill out. The request form will ask whether you are the attorney of record. If you answer "no," they may give you a non-contact visit (i.e. on a phone, through glass). Some of the guards will permit contact visits (i.e. in a room without any glass between you) if you tell them that you are interviewing the inmate in order to determine whether to take his case. (The

policy – not sure if it's official or not – is that you get one contact visit before you're the attorney of record.)

What about Interpreters?

If you are using an interpreter, you will need to contact the jail at least one week prior to your visit. You should call Supervisor Castillo at 714-245-8125, and tell her that you would like to obtain a security clearance for the interpreter to accompany you on a legal visit. She will provide you with a security clearance form that will need to be completed. (Public Counsel can also provide a copy of that form so that you do not need to wait for her return call.) You should fax Supervisor Castillo at 714-245-8116:

1. A cover letter clarifying that your interpreter works for your firm or is a law student who is volunteering with your firm and that you are requesting CONTACT visits for you and your interpreter to meet with X detainee;
2. The completed security clearance form;
3. A copy of the interpreter's driver's license and (if a law student interpreter) a student ID.

Before you visit the jail, confirm with the front desk that the security clearance has gone through.

What to Bring?

1. Government issued ID
2. Bar Card
3. Quarter (to store metal objects and valuables in locker)
4. Documents held together by small staples or plastic clips

What Not to Bring?

You cannot bring any metal objects into the attorney visiting room. This includes paper clips, binder clips, large staples, and (if you have a picky guard) legal files with metal fasteners. You should plan on having any documents in a manila envelope, and held together by small staples or plastics clips. You can bring in a pad of paper and pens as well. You will also have to leave all valuables – wallets, sunglasses, phones, keys (unless there is only one on a ring) –

behind in your car or in a locker located in the lobby. The lockers cost a quarter, so you should bring an extra quarter (or a dollar to put in the change machine located in the lobby).

VISITOR INFORMATION FOR THE THEO LACY FACILITY

Address: 501 The City Drive, South Orange, CA 92868

Phone Number: 714-935-2722

Visitation Times:

There is no specific time for official visits, but it is recommended to avoid regular visiting from Friday 8:00 AM through Sunday 6:30 PM. To avoid the public visiting crowds, it is recommended to visit between Monday and Thursdays anytime in the morning or afternoon.

Location of Visits:

1. Attorneys, Bondsmen, Social Service Employees and other official visitors for inmates at the Theo Lacy Facility check in at the Lobby Desk.
2. Official visitors requesting a visit with an inmate housed in the barracks will be directed to the non-contact side of public visiting in the Inmate Programs Building, at a table set aside for that purpose. Official visitors requesting a visit with inmates housed in the modules will be directed to that module's respective non-contact visiting area.
 - a. If more privacy is requested, the official visitor will be directed to the enclosed booths on the non-contact side of visiting.
 - b. Official visitors may only visit one inmate at a time unless approved by the Shift Commander.
 - c. Use of cell phones and all other electronic communication devices is prohibited with the exception of recording devices.
3. An attorney, including Public Defenders, may visit on the contact side of visiting, unless legitimate security or operational concerns exist. The official visitor will be advised of the lack of privacy afforded on the contact side.

What to Bring?

1. Official identification/credentials with photo