

KNOW YOUR RIGHTS

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WHEN ENCOUNTERING
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This booklet addresses what rights you have when you are stopped, questioned, arrested, or searched by law enforcement officers. This booklet is for citizens and non-citizens with extra information for non-citizens in a separate section. Another section covers what can happen to you at airports and other points of entry into the United States. The last section discusses concerns you may have related to your charitable contributions and religious or political beliefs.

This booklet tells you about your basic rights. It is not a substitute for legal advice. You should contact an attorney if you have been arrested or believe that your rights have been violated.

IV. ADDITIONAL INFORMATION FOR NON-CITIZENS

In the United States, non-citizens are persons who do not have U.S. citizenship, including lawful permanent residents, refugees and asylum seekers, persons who have permission to come to the U.S. for reasons like work, school or travel, and those without legal immigration status of any kind. Non-citizens who are in the United States—no matter what their immigration status—generally have the same constitutional rights as citizens when law enforcement officers stop, question, arrest, or search them or their homes. However, there are some special concerns that apply to non-citizens, so the following rights and responsibilities are important for non-citizens to know. Non-citizens at the border who are trying to enter the U.S. do not have all the same rights. See Section V for more information if you are arriving in the U.S.

Q: What types of law enforcement officers may try to question me?

A: Different kinds of law enforcement officers might question you or ask you to agree to an interview where they would ask questions about your background, immigration status, relatives, colleagues and other topics. You may encounter the full range of law enforcement officers listed in Section I.

Q. What can I do if law enforcement officers want to question me?

A: You have the same right to be silent that U.S. citizens have, so the general rule is that you do not have to answer any questions that a law enforcement officer asks you. However, there are exceptions to this at ports of entry, such as airports and borders (see Section V).

Q: Do I have to answer questions about whether I am a U.S. citizen, where I was born, where I live, where I am from, or other questions about my immigration status?

A: You do not have to answer any of the above questions if you do not want to answer them. But do not falsely claim U.S. citizenship. It is almost always a good idea to speak with a lawyer before you answer questions about your immigration status.

KNOW YOUR RIGHTS

Immigration law is very complicated, and you could have a problem without realizing it. A lawyer can help protect your rights, advise you, and help you avoid a problem. Always remember that even if you have answered some questions, you can still decide you do not want to answer any more questions.

For “nonimmigrants” (a “nonimmigrant” is a non-citizen who is authorized to be in the U.S. for a particular reason or activity, usually for a limited period of time, such as a person with a tourist, student, or work visa), there is one limited exception to the rule that non-citizens who are already in the U.S. do not have to answer law enforcement officers’ questions: immigration officers can require nonimmigrants to provide information related to their immigration status. However, even if you are a nonimmigrant, you can still say that you would like to have your lawyer with you before you answer questions, and you have the right to stay silent if your answer to a question could be used against you in a criminal case.

Q: Do I have to show officers my immigration documents?

A: The law requires non-citizens who are 18 or older and who have been issued valid U.S. immigration documents to carry those documents with them at all times. (These immigration documents are often called “alien registration” documents. The type you need to carry depends on your immigration status. Some examples include an unexpired permanent resident card (“green card”), I-94, Employment Authorization Document (EAD), or border crossing card.) Failure to comply carry these documents can be a misdemeanor crime.

If you have your valid U.S. immigration documents and you are asked for them, then it is usually a good idea to show them to the officer because it is possible that you will be arrested if you do not do so. Keep a copy of your documents in a safe place and apply for a replacement immediately if you lose your documents or if they are going to expire. If you are arrested because you do not have your U.S. immigration documents with you, but you have them elsewhere, ask a friend or family member (preferably one who has valid immigration status) to bring them to you.

It is never a good idea to show an officer fake immigration documents or to pretend that someone else’s immigration documents are yours. If you are undocumented and therefore do not have valid U.S. immigration documents, you can decide not to answer questions about your citizenship or immigration status or whether you have documents. If you tell an immigration officer that you are not a U.S. citizen and you then cannot produce valid U.S. immigration documents, there is a very good chance you will be arrested.

KNOW YOUR RIGHTS

Q: What should I do if there is an immigration raid where I work?

A: If your workplace is raided, it may not be clear to you whether you are free to leave. Either way, you have the right to remain silent—you do not have to answer questions about your citizenship, immigration status or anything else. If you do answer questions and you say that you are not a U.S. citizen, you will be expected to produce immigration documents showing your immigration status. If you try to run away, the immigration officers will assume that you are in the U.S. illegally and you will likely be arrested. The safer course is to continue with your work or calmly ask if you may leave, and to not answer any questions you do not want to answer. (If you are a “nonimmigrant,” see above.)

Q: What can I do if immigration officers are arresting me and I have children in my care or my children need to be picked up and taken care of?

A: If you have children with you when you are arrested, ask the officers if you can call a family member or friend to come take care of them before the officers take you away. If you are arrested when your children are at school or elsewhere, call a friend or family member as soon as possible so that a responsible adult will be able to take care of them.

Q: What should I do if immigration officers arrest me?

A: Assert your rights. Non-citizens have rights that are important for their immigration cases. You do not have to answer questions. You can tell the officer you want to speak with a lawyer. You do not have to sign anything giving up your rights, and should never sign anything without reading, understanding and knowing the consequences of signing it. If you do sign a waiver, immigration agents could try to deport you before you see a lawyer or a judge. The immigration laws are hard to understand. There may be options for you that the immigration officers will not explain to you. You should talk to a lawyer before signing anything or making a decision about your situation. If possible, carry with you the name and telephone number of a lawyer who will take your calls.

KNOW YOUR RIGHTS

Q: Do I have the right to talk to a lawyer before answering any law enforcement officers' questions or signing any immigration papers?

A: Yes. You have the right to call a lawyer or your family if you are detained, and you have the right to be visited by a lawyer in detention. You have the right to have your attorney with you at any hearing before an immigration judge. You do not have the right to a government-appointed attorney for immigration proceedings, but immigration officials must give you a list of free or low-cost legal service providers. You have the right to hire your own immigration attorney.

Q: If I am arrested for immigration violations, do I have the right to a hearing before an immigration judge to defend myself against deportation charges?

A: Yes. In most cases only an immigration judge can order you deported. But if you waive your rights, sign something called a "Stipulated Removal Order," or take "voluntary departure," agreeing to leave the country, you could be deported without a hearing. There are some reasons why a person might not have a right to see an immigration judge, but even if you are told that this is your situation, you should speak with a lawyer immediately—immigration officers do not always know or tell you about exceptions that may apply to you; and you could have a right that you do not know about. Also, it is very important that you tell the officer (and contact a lawyer) immediately if you fear persecution or torture in your home country—you have additional rights if you have this fear, and you may be able to win the right to stay here.

Q: Can I be detained while my immigration case is happening?

A: In many cases, you will be detained, but most people are eligible to be released on bond or other reporting conditions. If you are denied release after you are arrested for an immigration violation, ask for a bond hearing before an immigration judge. In many cases, an immigration judge can order that you be released or that your bond be lowered.

Q: Can I call my consulate if I am arrested?

A: Yes. Non-citizens arrested in the U.S. have the right to call their consulate or to have the law enforcement officer tell the consulate of your arrest. Law enforcement must let your consulate visit or speak with you if consular officials decide to do so. Your consulate might help you find a lawyer or offer other help.

KNOW YOUR RIGHTS

Q: What happens if I give up my right to a hearing or leave the U.S. before the hearing is over?

A: If you are deported, you could lose your eligibility for certain immigration benefits, and you could be barred from returning to the U.S. for a number of years or, in some cases, permanently. The same is true if you do not go to your hearing and the immigration judge rules against you in your absence. If the government allows you to do “voluntary departure,” you may avoid some of the problems that come with having a deportation order and you may have a better chance at having a future opportunity to return to the U.S., but you should discuss your case with a lawyer because even with voluntary departure, there can be bars to returning, and you may be eligible for relief in immigration court. You should always talk to an immigration lawyer before you decide to give up your right to a hearing.

Q: What should I do if I want to contact immigration officials?

A: Always try to talk to a lawyer before contacting immigration officials, even on the phone. Many immigration officials view “enforcement” as their primary job and will not explain all of your options to you, and you could have a problem with your immigration status without knowing it.

Q: What if I am charged with a crime?

A: Criminal convictions can make you deportable. You should always speak with your lawyer about the effect that a conviction or plea could have on your immigration status. Do not agree to a plea bargain without understanding if it could make you deportable or ineligible for relief or for citizenship.

REFERRAL CONTACT INFORMATION

American-Arab Anti-Discrimination Committee (ADC):
(202) 244-2990
<http://www.adc.org/>

American Immigration Law Foundation (AILF):
(202) 742-5600
<http://www.ailf.org/>

American Immigration Lawyers Association (AILA):
(800) 954-0254
<http://www.aila.org/>

Asian American Legal Defense and Education Fund (AALDEF):
(212) 966-5932
<https://www.aaldef.org/>

Council on American-Islamic Relations (CAIR):
(202) 488-8787
<http://www.cair.com/>

Mexican American Legal Defense and Educational Fund (MALDEF):
(213) 629-2512
<http://www.maldef.org/>

National Lawyers Guild (NLG):
(212) 679-5100
<http://www.nlg.org/>

National Immigration Law Center (NILC):
(213) 639-3900
<http://www.nilc.org/>

NAACP Legal Defense and Education Fund (NAACP LDF):
(212) 965-2200
<http://www.naacpldf.org/>

National Immigration Project:
(617) 227-9727
<http://www.nationalimmigrationproject.org/>

Puerto Rican Legal Defense and Education Fund (PRLDEF):
(800) 328-2322
<http://www.prldef.org/>

South Asian American Leaders of Tomorrow (SAALT):
(310) 270-1855
<http://www.saalt.org/>

U.S. Commission on Civil Rights (UCCR):
(800) 552-6843
<http://www.usccr.gov/>

PUBLISHED BY:

The ACLU Racial Justice Program, ACLU National Security Project, ACLU Immigrants' Rights Project, and the ACLU of Southern California.

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New York, NY 10004-2400

www.aclu.org

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