

Immigrant Rights in a New Enforcement Era

A Presentation of SOAR Immigration Legal Services



**SOAR IMMIGRATION
LEGAL SERVICES**

— A Program of EMOregon

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The content of this Know Your Rights presentation has been prepared for informational purposes only and does not constitute legal advice. The information provided shall not be construed as an offer to represent you, nor is it intended to create, nor shall the receipt of such information constitute, an attorney-client relationship.

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When Law Enforcement asks about your Immigration Status: **Overview**

- ✓ **You have the right to remain silent and do not have to discuss your immigration or citizenship status with police, immigration agents, or other officials. Anything you tell an officer can later be used against you in immigration court.**
- ✓ **If you are not a U.S. citizen and an immigration agent requests your immigration papers, you must show them if you have them with you.**
- ✓ **If an immigration agent asks if they can search you, you have the right to say no. Agents do not have the right to search you or your belongings without your consent or probable cause.**
- ✓ **If you're over 18, carry your papers with you at all times. If you don't have them, tell the officer that you want to remain silent, or that you want to consult a lawyer before answering any questions.**



When you have been Stopped by Police

Your rights include:

You have the right to remain silent. If you wish to remain silent, say so out loud. (In some states, you may be required to provide your name if asked to identify yourself.)

You do not have to consent to a search of yourself or your belongings, but police may pat down your clothing if they suspect a weapon.

If you are arrested by police, you have the right to a government-appointed lawyer.

If you are detained by ICE, you have the right to consult with a lawyer, but the government is not required to provide one for you. You can ask for a list of free or low-cost alternatives.

You do not have to answer questions about where you were born, whether you are a U.S. citizen, or how you entered the country. (Separate rules apply at international borders and airports, and for individuals on certain nonimmigrant visas, including tourists and business travelers.)



How to Reduce Risk to Yourself

Stay as calm as possible. Don't run, argue, resist, or obstruct the officer, even if you believe your rights are being violated. Keep your hands where police can see them.



Don't lie about your status or provide false documents.



What if the Police or ICE are at Your Home?





When the Police or ICE arrive at Your Home

- ✓ **Ask** if they are immigration agents and what they are there for.
- ✓ **Ask** the agent or officer **to show you a badge or identification** through the window or peephole.
- ✓ **Ask** if they have a **warrant signed by a judge**.
 - If they say they do, ask them to slide it under the door or hold it up to a window so you can inspect it.
- ✓ **Don't lie or produce any false documents.**
 - **Don't sign anything without speaking with a lawyer first.**
- ✓ **Do not** open your door unless ICE shows you a judicial search or arrest warrant naming a person in your residence and/or areas to be searched at your address.
 - If they don't produce a warrant, keep the door closed. State: **"I do not consent to your entry."**
- ✓ If agents force their way in, do not resist. **If you wish** to exercise your rights, state: **"I do not consent to your entry or to your search of these premises. I am exercising my right to remain silent. I wish to speak with a lawyer as soon as possible."**

***Exception:** If you are on probation with a search condition, law enforcement is allowed to enter your home.



When the Police or ICE are at Your Home, **Your rights Include:**

- **You do not have to let police or immigration agents into your home unless they have certain kinds of warrants.**
 - **If police have an arrest warrant, they are legally allowed to enter the home of the person on the warrant if they have a reasonable belief that person is inside.**
 - **But a warrant of removal/deportation (Form I-205) does not allow officers to enter a home without consent.**
- **You have the right to remain silent, even if the officer has a warrant.**



What if You Are Stopped by Police, ICE, or Border Patrol while in Transit: by car, bus, or train

***Reduce the risk to yourself!**

- ✓ Stay as calm as possible when interacting with police or immigration officials.
- ✓ **Do not lie** or provide false documents
- ✓ If you are driving and are pulled over, the officer can require you to show your license, vehicle registration and proof of insurance, but **you don't have to answer questions about your immigration status**
- ✓ **Never flee** from police or an immigration checkpoint
- ✓ **Don't run, argue, or obstruct the officer or agent.** Keep your hands where they can see them.



Your Rights if Stopped by Police while in a car include:

- ✓ **Drivers and passengers have the right to remain silent.**
 - If you are a passenger, you can ask if you are free to leave. If the officer says yes, calmly leave.
- ✓ **If an officer or immigration agent asks to look inside your car, you can refuse to consent to the search.**
 - **But if** police generally believe that your car contains evidence of a crime, your car can be searched without your consent.
- ✓ In addition to police, Border Patrol conduct “roving patrols” around the interior of the U.S., pulling over motorists.
 - Border Patrol must have **reasonable suspicion** that the driver or passengers in the car committed an immigration violation or a federal crime.
- ✓ Any arrest or prolonged stop by police or Border Patrol **requires probable cause**. You may ask the agents about the basis for probable cause, and they should tell you.
 - In this situation, both the driver and any passengers have the right to remain silent and not answer questions about their immigration status.



What if You Are Stopped by Police or ICE or Border Patrol while in transit: by car, bus, or train

- ✓ If you are in a car, pull over in a safe place as quickly as possible. Turn off the engine, turn on the internal light, open the window part way and place your hands on the wheel.
 - **Upon request**, show police your driver's license, registration, and proof of insurance.
- ✓ If you are not a U.S. citizen and an immigration agent requests your papers, **you must show** them if you have them with you. If you are over 18, carry your immigration documents with you at **all times**.
 - If you do not have immigration papers, say you want to remain silent.



Your Rights if you Encounter Police on Public Transit include:

- Border Patrol agents may board buses and trains in the 100-mile border region either at the station or while the bus is on its journey.
 - More than one officer usually boards the bus, and **they will ask** passengers questions about their immigration status, ask passengers to show them immigration documents, or both.
- Immigration enforcement officers **can only** ask questions that are brief and related to verifying one's lawful presence in the U.S.
 - **You are not required to answer** and can simply say you do not wish to do so.
- **As always, you have the right to remain silent.**



What if You are Stopped or Detained near the border

***Reduce the risk to yourself!**

- ✓ Stay as calm as you possibly can
- ✓ **Do not lie or provide false documents.**
- ✓ **Never flee from an immigration inspection checkpoint.**
- ✓ Customs officers can ask about your immigration status when entering or leaving the country.
- ✓ If you are a lawful permanent resident (LPR) who has maintained your status, **you only have to answer questions establishing your identity and permanent residency.** Refusal to answer other questions will likely cause delay, but officials may not deny you entry into the United States for failure to answer other questions.
- ✓ If you are a non-citizen visa holder, **you may be denied** entry into the U.S. if you refuse to answer officers' questions.



If you are Detained near the Border,

Your Rights Include:

- **You have the right to remain silent.** You can also tell the agent that you'll only answer questions in the presence of an attorney, no matter your citizenship or immigration status.
- **You do not have to answer questions about your immigration status.** A limited exception exists for people who have permission to be in the U.S. for a specific reason and for a limited amount of time (a “nonimmigrant” on a visa, for example). These individuals are required to provide information about their immigration status if asked.
- **Generally, a Border Patrol agent cannot detain you unless they have “reasonable suspicion”** that you are committing or committed a violation of immigration law or federal law.
- An immigration officer **cannot arrest** you without **“probable cause.”** That means the agent must have facts about you that make it probable that you are committing, or committed, a violation of immigration law or federal law.
- At immigration checkpoints, agents do not need any suspicion to stop you and ask you questions, but their questions should be brief and related to verifying immigration status. They can also visually inspect your vehicle.



What if you are Held and Detained near the Border

- People who have entered the U.S. without inspection by an immigration official **may be subject to "expedited removal" from the U.S. based on certain criteria.**
 - If you are told that you are subject to expedited removal, ask for the stated reason. Also, if you fear persecution if returned to your country of origin, you should immediately inform the agents of your fear.
- At border crossings, federal authorities do not need a warrant or even suspicion of wrongdoing to justify conducting what courts have called a "routine search," such as searching luggage or a vehicle.
- If an agent asks you for documents, what you need to provide differs depending on your immigration status. U.S. citizens do not have to carry proof of citizenship if they are in the U.S. If you have valid immigration documents and are over the age of 18, **the law requires that you carry those documents with you.** If you are asked by an immigration agent to produce them, show them to the agent.
- If you are an immigrant without documents, you can decline the officer's request, although an agent may then ask you more questions.



What are Your Rights during a workplace raid?

- ✓ **You have the right to say that you want to speak to an attorney.**
- ✓ **You have the right to remain silent.**
- ✓ **You do not** have to answer questions that ICE asks you, and anything you do say can be used against you.
 - In particular, you should not answer questions about your country of birth, how you came to the United States, or your immigration status.
- ✓ **You have** the right against unlawful searches by ICE agents and other government officials.
- ✓ ICE agents need a **legitimate reason and sometimes a warrant to search you**, your personal belongings, your car, and sometimes private work areas (such as employee lockers).



What are Your Rights during a Workplace Raid?

- *You have the right to refuse to sign any documents ICE asks you to sign.*

ICE might ask you or try to force you to sign documents. **You have the right to refuse to sign documents and you should *not* sign any documents until after you have had the opportunity to review these documents with a lawyer** who can help you understand the document and the consequences of signing it

- *Under most circumstances, when detained by ICE, you have the right to argue your case before an immigration judge.*

Note: You may not have the right to appear before a judge if you have certain criminal convictions or a prior removal order.

What are Your Rights during a Workplace Raid?

What should you DO during a workplace raid?

- Say that you wish to remain silent
- Say that you'd like to speak to an attorney
- Hand the ICE agent this card

What should you NOT do during a workplace raid?

- **Do not** answer any questions
- **Do not** sign anything before consulting with an attorney
- **Do not** lie (remain silent; if you choose to answer questions (not advised), do so truthfully)
- **Do not** give the ICE agent(s) false documents
- **Do not** flee or run



How can I Prepare for a Workplace Raid?

- Consult with an immigration attorney in advance to assess your options. Check these websites to find immigration attorneys near you:

**SOAR Immigration Legal Services, 7931 NE Halsey St. Portland, OR
(503) 384-2482 www.soarlegal.org
AILA's [Immigration Lawyer Search](#)**

- Know what to bring to work and what to leave behind:

- **Carry a Know Your Rights card with you to show to immigration officials.**

DO NOT: carry any false documents or foreign identity documents (such as a Mexican Consular Identification Card or “*Matricula*”).

- **Carry the name and telephone number of an immigration attorney or organization that you can contact in case you are arrested by immigration officers.**

Note: If you are already represented by an attorney, you should carry multiple signed copies of the G-28 form (“Notice of Entry of Appearance as Attorney”).

Know your rights! Become familiar with community groups and organizations, such as nonprofits and unions, that support undocumented workers or offer Know Your Rights trainings.

What if You are Arrested or Detained?

- ✓ **You have the right to say that you want to speak to an attorney.**
- ✓ **You have the right to remain silent.**
- ✓ **You do not have to answer questions that ICE asks you, and anything you do say can be used against you. In particular, you should not answer questions about your country of birth, how you came to the United States, or your immigration status.**
- ✓ **You have the right against unlawful searches by ICE agents and other government officials.**
- ✓ **ICE agents need a legitimate reason and sometimes a warrant to search you, your personal belongings, your car, and sometimes private work areas (such as employee lockers).**



What if you are arrested or detained?

- **Say you wish to remain silent and ask for a lawyer immediately.** Don't give any explanations or excuses. Don't say anything, sign anything, or make any decisions without a lawyer.
- If you have been detained by ICE, **you have the right to contact your consulate or have an officer inform the consulate of your detention.**
- **Remember your immigration number** ("A" number) and give it to your family. It will help family members locate you.
- Keep a copy of your immigration documents with someone you trust.
- **If you are a non-citizen:** Ask your criminal defense lawyer about the effect of a criminal conviction or plea on your immigration status. **Don't discuss your immigration status with anyone but your lawyer.** While you are in jail, an immigration agent may visit you. **Do not answer questions or sign anything before talking to a lawyer.** Read all papers fully. **If you do not understand or cannot read the papers, tell the officer you need an interpreter.**

If You Believe Your Rights were Violated

Write it down

Write down everything you remember, including officers' badges and patrol car numbers, which agency the officers were from, and any other details. Get contact information for witnesses.

Seek assistance

If you're injured, seek medical attention immediately and take photographs of your injuries.

File a complaint

File a written complaint with the agency's internal affairs division or civilian complaint board. In most cases, you can file a complaint anonymously if you wish.



Are there Places that ICE Will Not Go?

Previously, DHS policy instructed immigration and border agents to avoid conducting enforcement actions at "sensitive locations", with some exceptions.

The Trump Administration has ended this policy, replacing it with a directive that gives ICE agents unrestricted power to take enforcement actions in any of these spaces using so-called "common sense."

Sensitive Locations that are NO Longer Protected?



Schools, including known and licensed daycares, pre-schools and other early learning programs; primary schools; secondary schools; post-secondary schools, colleges and universities

Education-related activities or events, and school bus stops

Medical treatment and health care facilities, such as hospitals, doctors' offices, health clinics, and emergent or urgent care facilities

Places of worship, such as churches, synagogues, mosques, and temples. Religious or civil ceremonies or observances, such as funerals and weddings

During public demonstrations, such as a marches, rallies, parades

What rights remain in locations where enforcement is now permitted?

Individuals will need to rely on basic constitutional protections in these spaces: the Fourth Amendment protects from unreasonable searches and seizures. The Fifth Amendment ensures the right to remain silent when confronted by law enforcement.

Warrants are required in places within areas that are considered private. Areas open to the public such as lobbies, waiting areas and parking lots are considered public. Interior areas and those marked “private” with a sign are considered private.

For immigration enforcement to search or enter a private area within a formerly protected area, the Fourth Amendment requires a valid judicial warrant signed by a federal judge unless staff at those areas consent to the search.

If ICE agents enter a formerly protected area—either a public area or by gaining access to a private area through a warrant or consent—they can arrest people if they have a valid administrative warrant for that person or if they have probable cause to believe that the person is “removable” from the United States



When a Warrant is NOT Required

Probable cause can be established through questioning of individuals who disclose their immigration status or documentation that indicates they are noncitizens—which is why it is so important to remain silent!

Running from ICE agents can also establish probable cause.

Warrant Exception within 100 miles of a land or sea border! Border Patrol (CBP) has special legal authority to board buses, trains, and boats in order to search for individuals without lawful status. Although individuals in these zones retain the right to remain silent, their Fourth Amendment protection from stops and unreasonable searches are reduced under federal law.

Create a Safety Plan for You and Your Family: Overview



Identify your emergency contacts and memorize their phone numbers.



If you have children, create a childcare plan



Create a plan for communicating with your loved ones



Create a file of important documents and keep it in a safe place in your home, where your friends and family can access it if you are arrested



Create a Safety Plan for You and Your Family

- *Identify your emergency contacts and memorize their phone numbers.*
- *If you have children, create a childcare plan:*
 - **Have a discussion with your family** about who would care for your children in your absence.
 - **Make a plan** with the person who would care for your children. Make sure that they have all necessary information, including emergency contact information and information about your child's medical needs.
 - **Consider whether you'd like to prepare a form or document that authorizes another adult to care for your children.** For examples of different options, see Immigrant Legal Resource Center's "[*Family Preparedness Plan*](#)"
 - **Make sure that your children's schools have an updated list of people authorized to pick up your children**, including the person who would care for your children in your absence.
- *Create a plan for communicating with your loved ones:*
 - Provide authorization in writing for your emergency contact to make medical and legal decisions for your child.



Create a Safety Plan for You and Your Family

- ***Create a plan for communicating with your loved ones:***
- Make a plan for who you or your family members would contact in the event of a raid or if you were detained.
- **Tell your family members how to find you if you are arrested by ICE.**
 - Family members can use the **ICE detainee locator** to find individuals in ICE custody
 - If you have an “A-number,” make sure your family members know it. The A-number is how ICE keeps track of you in its system.
- ***Create a file of important documents and keep it in a safe place in your home, where your friends and family can access it if you are arrested:***
- This file should include: identity documents, birth certificates, your A-number (alien registration number) and immigration documents if you have them, and emergency contact information.

Here is **a list of other important documents to include**, from Immigrant Legal Resource Center.



You Have a Right to a Lawyer

- If you are arrested by the police, **you have the right to a government-appointed lawyer, and should ask for one immediately.**
- If arrested, **you have the right to a private phone call within a reasonable time of your arrest,** and police may not listen to the call if it is made to a lawyer.
- If you are detained by ICE or Border Patrol, **you have the right to hire a lawyer,** but the government does not have to provide one for you. **Ask for a list of free or low-cost alternatives.**
- If you are detained, **you have the right to call a lawyer or your family, 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.



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