

KNOW YOUR RIGHTS

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WHEN ENCOUNTERING
LAW ENFORCEMENT



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I. QUESTIONING

Q: What kind of law enforcement officers might try to question me?

A: You could be questioned by a variety of law enforcement officers, including state or local police officers, Joint Terrorism Task Force members, or federal agents from the FBI, Department of Homeland Security (which includes Immigration and Customs Enforcement and the Border Patrol), Drug Enforcement Administration, Naval Criminal Investigative Service, or other agencies.

Q: Do I have to answer questions asked by law enforcement officers?

A: No. You have the constitutional right to remain silent. In general, you do not have to talk to law enforcement officers (or anyone else), even if you do not feel free to walk away from the officer, you are arrested, or you are in jail. You cannot be punished for refusing to answer a question. It is a good idea to talk to a lawyer before agreeing to answer questions. In general, only a judge can order you to answer questions. (Non-citizens should see Section IV for more information on this topic.)

Q: Are there any exceptions to the general rule that I do not have to answer questions?

A: Yes, there are two limited exceptions. First, in some states, you must provide your name to law enforcement officers if you are stopped and told to identify yourself. But even if you give your name, you are not required to answer other questions. Second, if you are driving and you are pulled over for a traffic violation, the officer can require you to show your license, vehicle registration and proof of insurance (but you do not have to answer questions). (Non-citizens should see Section IV for more information on this topic.)

Q: Can I talk to a lawyer before answering questions?

A: Yes. You have the constitutional right to talk to a lawyer before answering questions, whether or not the police tell you about that right. The lawyer's job is to protect your rights. Once you say that you want to talk to a lawyer, officers should stop asking you questions. If they continue to ask questions, you still have the right to remain silent. If you do not have a

lawyer, you may still tell the officer you want to speak to one before answering questions. If you do have a lawyer, keep his or her business card with you. Show it to the officer, and ask to call your lawyer. Remember to get the name, agency and telephone number of any law enforcement officer who stops or visits you, and give that information to your lawyer.

Q: What if I speak to law enforcement officers anyway?

A: Anything you say to a law enforcement officer can be used against you and others. Keep in mind that lying to a government official is a crime but remaining silent until you consult with a lawyer is not. Even if you have already answered some questions, you can refuse to answer other questions until you have a lawyer.

Q: What if law enforcement officers threaten me with a grand jury subpoena if I don't answer their questions? (*A grand jury subpoena is a written order for you to go to court and testify about information you may have.*)

A: If a law enforcement officer threatens to get a subpoena, you still do

II. STOPS AND ARRESTS

Q: What if law enforcement officers stop me on the street?

A: You do not have to answer any questions. You can say, "I do not want to talk to you" and walk away calmly. Or, if you do not feel comfortable doing that, you can ask if you are free to go. If the answer is yes, you can consider just walking away. Do not run from the officer. If the officer says you are not under arrest, but you are not free to go, then you are being detained. Being detained is not the same as being arrested, though an arrest could follow. The police can pat down the outside of your clothing only if they have "reasonable suspicion" (i.e., an objective reason to suspect) that you might be armed and dangerous. If they search any more than this, say clearly, "I do not consent to a search." If they keep searching anyway, do not physically resist them. You do not need to answer any questions if you are detained or arrested, except that the police may ask for your name once you have been detained, and you can be arrested in some states for refusing to provide it. (Non-citizens should see Section IV for more information on this topic.)

Q: What if law enforcement officers stop me in my car?

A: Keep your hands where the police can see them. You must show your drivers license, registration and proof of insurance if you are asked for these documents. Officers can also ask you to step outside of the car, and they may separate passengers and drivers from each other to question them and compare their answers, but no one has to answer any questions. The police cannot search your car unless you give them your c

the police anything except your name. Anything else you say can and will be used against you. Ask to see a lawyer immediately. Within a reasonable amount of time after your arrest or booking you have the right to a phone call. Law enforcement officers may not listen to a call you make to your lawyer, but they can listen to calls you make to other people. You must be taken before a judge as soon as possible—generally within 48 hours of your arrest at the latest. (See Section IV for information about arrests for noncriminal immigration violations.)

Q: Do I have to answer questions if I have been arrested?

A: No. If you are arrested, you do not have to answer any questions or volunteer any information. Ask for a lawyer right away. Repeat this request to every officer who tries to talk to or question you. You should always talk to a lawyer before you decide to answer any questions.

Q: What should I do if officers come to my house?

A: If law enforcement officers knock on your door, instead of opening the door, ask through the door if they have a warrant. If the answer is no, do not let them into your home and do not answer any questions or say anything other than "I do not want to talk to you." If the officers say that they do have a warrant, ask the officers to slip it under the door (or show it to you through a peephole, a window in your door, or a door that is open only enough to see the warrant). If you feel you must open the door, then step outside, close the door behind you and ask to see the warrant. Make sure the search warrant contains everything noted above, and tell the officers if they are at the wrong address or if you see some other mistake in the warrant. (And remember that an immigration "warrant of removal/deportation" does not give the officer the authority to enter your home.) If you tell the officers that the warrant is not complete or not accurate, you should say you do not consent to the search, but you should not interfere if the officers decide to do the search even after you have told them they are mistaken. Call your lawyer as soon as possible. Ask if you are allowed to watch the search; if you are allowed

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Q: What if law enforcement officers do not have a search warrant, but they insist on searching my home even after I object?

A: You should not interfere with the search in any way because you could get arrested. But you should say clearly that you have not given your consent and that the search is against your wishes. If someone is there with you, ask him or her to witness that you are not giving permission for the search. Call your lawyer as soon as possible. Take note of the names and badge numbers of the searching officers.

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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

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

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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

tion 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.

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V. RIGHTS AT AIRPORTS AND OTHER PORTS OF ENTRY INTO THE UNITED STATES

REMEMBER: *It is illegal for law enforcement officers to perform any stops, search*

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covering. After the pat-down the TSA officer will rub your hands with a small cotton cloth and place it in a machine to test for chemical residue. If you pass this chemical residue test, you should be allowed to proceed to your flight. If the TSA officer insists on the removal of your religious head covering you have a right to ask that it be done in a private area.

Q: What if I am selected for a strip search?

A: A strip search at the border is not a routine search and must be supported by "reasonable suspicion," and must be done in a private area.

Q: If I am on an airplane, can an airline employee interrogate me or ask me to get off the plane?

A: The pilot of an airplane has the right to refuse to fly a passenger if he or she believes the passenger is a threat to the safety of the flight. The pilot's decision must be reasonable and based on observations of you, not stereotypes.

Q: What do I do if I am questioned by law enforcement officers every time I travel by air and I believe I am on a "no-fly" or other "national security" list?

A: If you believe you are mistakenly on a list you should contact the Transportation Security Administration and file an inquiry using the Traveler Redress Inquiry Process. The form is available at <http://www>

for treatment, types of searches conducted, and length and conditions of detention. When possible, it is helpful to have a witness to the incident. If you have been mistreated or singled out at the airport based on your race, ethnicity or religion, please fill out the Passenger Profiling Complaint Form on the ACLU's web site at <http://www.aclu.org/airline-profiling>, and file a complaint with the U.S. Department of Transportation at <http://airconsumer.ost.dot.gov/DiscrimComplaintsContacts.htm>.

Other Resources:

DHS Office for Civil Rights and Civil Liberties

http://www.dhs.gov/xabout/structure/editorial_0373.shtm

Investigates abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion by employees and officials of the Department of Homeland Security. You can submit your complaint via email to civil.liberties@dhs.gov.

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VI. CHARITABLE DONATIONS AND RELIGIOUS PRACTICES

Q: Can I give to a charity organization without becoming a terror suspect?

A: Yes. You should continue to give money to the causes you believe in, but you should be careful in choosing which charities to support. For helpful tips, see Muslim Advocates' guide on charitable giving—<http://www.muslimadvocates.org/docs/Donor-Guidance101106.pdf>.

Q: Is it safe for me to practice my religion in religious institutions or public places?

A: Yes. Worshipping as you want is your constitutional right. You have the right to go to a place of worship, attend and hear sermons and religious lectures, participate in community activities, and pray in public. While there have been news stories recently about people being unfairly singled out for doing these things, the law is on your side to protect you.

Q: What else can I do to be prepared?

A: You should keep informed about issues that matter to you by going to the library, reading the news, surfing the internet, and speaking out about what is important to you. In case of emergency, you should have a family plan—the number of a good friend or relative that anyone in the family can call if they need help, as well as the number of an attorney. If you are a non-citizen, remember to carry your immigration documents with you.

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REFERRAL CONTACT INFORMATION

American-Arab Anti-Discrimination Commit

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