

KNOW YOUR RIGHTS IN IMMIGRATION

IMMIGRANTS WHO ARE ARRESTED OR DETAINED by Immigration have certain rights. These rights change, however, if you are arrested or detained at the border or in an airport. In these cases, you may have fewer rights. You probably have more rights if you are arrested by Immigration at work, on the street, after a traffic stop, or at home. If you are arrested and detained, it is important that you keep calm, and remember the following things:

You have the right to an attorney. Even if you are not a United States citizen, this right is protected. But the government is not required to provide one for you for immigration. Ask for listing of pro bono immigration attorneys and organizations.

- Do not expect Immigration agents or the judge to explain your options, or to give you the right information. Wait to speak with a lawyer before saying or doing anything.
- If you see a judge before you can get legal advice, you should ask the judge for more time to find a lawyer.

You have a right not to answer any questions without a lawyer present. Federal law requires you to carry your registration documents with you at all times. Once your immigration status has been shown to an officer, you do not have to answer anything more.

You have a right not to answer any questions relating to your religious or political beliefs, groups that you belong to or contribute to, things that you have done or said in the past, or where you have traveled.

You have a right not to sign any statements or documents. Do not sign any documents or statements giving up your right to a hearing before an immigration judge. Ask to speak with a lawyer. You may be signing away your right to see a lawyer or a judge.

- Do not take “voluntary departure” (that is, do not agree to leave the United States) without first talking to a lawyer. Signing a voluntary departure agreement means that you won’t get a hearing, you will have to leave the U.S., and you may never be allowed to enter the U.S. again or get legal immigration status.

- Do not sign “stipulated orders of removal” without first talking to a lawyer. Signing a stipulated order means that you waive your rights to a hearing before a judge and serves as a final order of removal (deportation) signed by the judge.

You have the right to have an attorney visit you if you are in detention and represent you at any immigration hearings.

When you get a lawyer, you should tell the lawyer everything you think is important about your immigration case, including whether you have ever been arrested for a crime. It is important that anyone giving you legal advice knows everything about your case so that she or he can give you the best advice.

- If you think that your boss reported you to Immigration because you complained about your working conditions, make sure to tell the lawyer this fact. If your boss did report you for this reason, you might be able to bring an official complaint against him or her.
- If you have been convicted of any criminal offenses, it is extremely important to contact an immigration lawyer that is experienced in matters involving immigration consequences of criminal convictions. If you have a criminal record/conviction, get a copy of your certified transcript from the criminal court.
- **If you are charged with a crime, you have the right to be informed by both the judge and your lawyer that a criminal conviction may affect your immigration status and may subject you to deportation.**

If you are detained, you have the right to make a phone call after you are detained and contact your country consulate. Telephone numbers to your consulate are posted in the jail or you can ask the deportation officer for a list. Your Consul may help you obtain a lawyer.

If you are detained, you have the right to a bond hearing. You may not be eligible for bond if you: (1) have a previous deportation order, (2) have certain criminal convictions, (3) were arrested at the border/airport or (4) the government suspects you have terrorist ties.

- In most cases, Immigration must decide within 48 hours whether to put you into immigration proceedings (in front of a judge), and whether to keep you in custody or to release you on bond. After 72

hours, Immigration must give you a Notice to Appear (NTA). This is the notice that provides you with the information about your hearing before an Immigration Judge.

- In most cases, you have the right to ask to be released from detention by paying a bond, or to ask for a bond hearing in front of a judge. (Bond is an amount of money paid to the government to guarantee that you will attend future court hearings.) The judge, though, may order that you stay in detention if the judge decides that you might not show up for your court hearing or that you are dangerous to others.

If you are afraid to return to your home country, notify your deportation officer and the court immediately. You may be eligible to file a claim for asylum or other relief.

You have a right to a copy of your immigration file. You can make a request from your immigration judge or submit a “Freedom of Information Act” request to the Deportation Office.

You have a right to an interpreter at your immigration hearing. Make sure you or your attorney ask the judge for an interpreter at your master calendar hearing.

You have a right to appeal an immigration judge decision to the Board of Immigration Appeals (BIA) in a few circumstances. Discuss your options with an immigration attorney.

You have a right to file a complaint about detention conditions or serious medical/mental health concerns with the detention facility. Also file a complaint with Immigration Customs Enforcement (ICE) and the Department of Homeland Security (DHS). Make sure to notify your lawyer, friends and family.

If you have to leave the U.S., try to speak with an immigration lawyer before leaving. In some cases, you may not be allowed to come back into the country for a certain number of years for overstay of visa or certain crimes. It is important you know this before you leave, because if you come back earlier than you’re allowed to, you can be arrested for having committed a serious crime.