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Oral arguments in West Virginia v. B.P.J.

ACLU

KNOW YOUR RIGHTS

Immigrants' Rights

Regardless of your immigration status, you have guaranteed rights under the Constitution.

Issue: Immigrants' Rights

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Regardless of your immigration status, you have guaranteed rights under the Constitution. Learn more here about your rights as an immigrant, and how to express them.

Law enforcement asks about my immigration status

How to reduce risk to yourself

- Stay calm. 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.

Your rights

- 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.

What to do in such an encounter

- In some states, you must provide your name to law enforcement if you are stopped and told to identify yourself. But even if you give your name, you don't have to answer other questions.
- 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.
- 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.

Additional resources

- If you need more information, contact your local ACLU affiliate.
- National Immigration Law Center: Know Your Rights
- A Toolkit for Organizations Responding to Mass Worksite Immigration Raids
- Immigrant Legal Resource Center
- American Immigration Lawyers Association
- ACLU VIDEO: What to do if stopped by police or ICE

In other languages

- (Arabic) العَرَبِيَّة
- ____(_) (Chinese)
- Creole
- فارسی (Farsi)
- Français (French)
- Bahasa Indonesia (Indonesian)
- 한국어 (Korean)
- Português (Portuguese)
- Soomaali (Somali)
- Español (Spanish)
- Tagalog
- (Urdu) اُردُو
- Tiếng Việt (Vietnamese)
- हिंदी (Hindi)
- (Traditional Chinese)_____
- (Simplified Chinese)_____

I've been stopped by police or ICE

How to reduce risk to yourself

- Stay calm and do not resist or obstruct the agents or officers.
- Do not lie or give false documents.
- Prepare yourself and your family in case you are arrested. Memorize the phone numbers of your family and your lawyer. Make emergency plans if you have children or take medication.

Your rights

- You have the right to remain silent. If you wish to exercise that right, 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.)

What to do 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 arrested by police, you have the right to make a local phone call. The police cannot listen if you call 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 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 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.
- If you're injured, seek medical attention immediately and take photographs of your injuries.
- 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.

Additional resources
- If you need more information, contact your local ACLU affiliate.
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- A Toolkit for Organizations Responding to Mass Worksite Immigration Raids
- Immigrant Legal Resource Center
- American Immigration Lawyers Association
- ACLU VIDEO: What to do if stopped by police or ICE

In other languages

- (Arabic) العَرَبِيَّة
- فارسی (Farsi)
- Español (Spanish)
- (Urdu) اُردُو

Police or ICE are at my home

How to reduce risk to yourself

- Stay calm and keep the door closed. Opening the door does not give them permission to come inside, but it is safer to speak to ICE through the door.

Your rights

- You have the right to remain silent, even if officer has a warrant.
- 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 believe that person is inside. But a warrant of removal/deportation (Form I-205) does not allow officers to enter a home without consent.

What to do when the police or ICE arrive

- 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."
- If you are on probation with a search condition, law enforcement is allowed to enter your home.

Additional resources

- If you need more information, contact your local ACLU affiliate.
- National Immigration Law Center: Know Your Rights
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- Immigrant Legal Resource Center
- American Immigration Lawyers Association

I need a lawyer

Your rights

- 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.

Additional resources

- If you need more information, contact your local ACLU affiliate.
- Here is a list of contact information for legal organizations that assist immigrants.

I've been detained near the border by Border Patrol

How to reduce risk to yourself

- Stay calm when interacting with immigration officials. Do not lie or provide false documents.
- Never flee from an immigration checkpoint.

Your rights

- 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 to expect

- 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 to 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.

Additional resources

- If you need more information, contact your local ACLU affiliate.
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- Immigrant Legal Resource Center
- American Immigration Lawyers Association

I was stopped by police, ICE, or Border Patrol while in transit

How to reduce risk to yourself

- Stay calm. Don't run, argue, or obstruct the officer or agent. Keep your hands raised where they can see them.
- 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

In a car:

- 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 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.

On an airplane:

- A pilot may refuse to fly a passenger if he or she reasonably believes that the passenger is a threat to flight safety. A pilot may not, however, question you or refuse to allow you on a flight because of bias based on your religion, race, national origin, gender, ethnicity, or political beliefs.
- If you believe you are mistakenly on a "no-fly" list, you should review our guidance on No-Fly lists here.

On buses and trains:

- 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.
- These questions should be 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.

If you believe your rights were violated

- 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 from witnesses.
- If you're injured, seek medical attention immediately and take photographs of your injuries.
- File a written complaint with the agency's internal affairs division or civilian complaint board. In most cases, you can file a complaint anonymously.

Additional resources

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I am detained while my immigration case is underway

Your rights

- Most people who are detained while their case is underway are eligible to be released on bond or with other reporting conditions.
- 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.

What to do if you are detained

- If you are denied release after being 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.

Additional resources

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- American Immigration Lawyers Association

I've been arrested and need to challenge a deportation order

Your rights

- You have the right to a hearing to challenge a deportation order, unless you waive your right to a hearing, sign something called a “Stipulated Removal Order,” or take “voluntary departure.”
- You have the right to an attorney, but the government does not have to provide one for you. Ask for a list of free or low-cost alternatives. If you have no lawyer, ask the court to allow you time to find one.

What to do if you are arrested

- If you are told that you do not have the right to see an immigration judge, you should speak with a lawyer immediately. There are some cases in which a person might not have a right to see an immigration judge. But even if you are told that is your situation, you should ask to speak to a lawyer immediately because Immigration officers will not always know or tell you about exceptions might apply to you.
- If you fear persecution or torture in your home country, tell an officer and contact a lawyer immediately. You have additional rights if you have this fear.

Additional resources

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I want to share this information on social media

If you want to share this information with others, we’ve created graphics outlining your rights that you can download and share on social media. We’ve also created graphics that you can download to your phone and save it as your lockscreen background — so you can easily see your rights if you’re stopped

by police or ICE without unlocking your phone. Preview all the Know Your Rights graphics here and download the graphics here.



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