



KNOW YOUR RIGHTS: FREQUENTLY ASKED QUESTIONS

An overview of popular inquiry regarding know your rights in this political climate

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With the recent uptick of enforcement actions across the country, community members have expressed a lot of questions on what rights they have and how they can exercise their rights. Below is a list of common questions that have been asked by community members. No matter who you are or where you come from, remember that you have rights. Whether you're undocumented, have temporary status, or are a U.S citizen, your rights matter and you deserve to know them.

This guide offers practical answers to common questions, so you can feel more prepared and confident when facing interactions with federal immigration enforcement officials. The information below provides general information, not legal advice. It is important to speak to a legal representative if you have specific questions about your situation. As you will see throughout the guide, while our constitutional rights are the same regardless of where you live, there are some state laws that we must also keep in mind as we exercise our rights. As an example, the guide provides brief details from States like Texas and California, to highlight some differences.

This guide is divided into four parts:

Part I: General Know Your Rights Information

Part II: Know Your Rights at Home

Part III: Know Your Rights in Your Vehicle

Part IV: Know Your Rights at Work

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PART I: GENERAL KNOW YOUR RIGHTS INFORMATION

DO I HAVE ANY RIGHTS AS AN UNDOCUMENTED IMMIGRANT?

Yes. Every person in the United States has certain rights under the Constitution, regardless of immigration status. Under the Fifth Amendment of the U.S. Constitution, a person has a right to remain silent and due process under the law. This means that if you are stopped by federal immigration officials or these officials come to your home, you have a right to remain silent before their questions and have a right to not sign anything without first speaking to an attorney. You can tell the federal immigration officials that you are exercising your Fifth Amendment right. You can ask if you are free to go. If they say yes, walk away calmly.

NOTE

FEDERAL LAW ENFORCEMENT AGENCIES ROLE IN IMMIGRATION: WHILE IMMIGRATION ENFORCEMENT IS PRIMARILY CONDUCTED BY THE U.S. DEPARTMENT OF HOMELAND SECURITY (DHS), INCLUDING IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) AND CUSTOMS AND BORDER PROTECTION (CBP), OTHER FEDERAL AGENCIES MAY ALSO PARTICIPATE IN IMMIGRATION-RELATED ENFORCEMENT. THIS CAN INCLUDE THE DEPARTMENT OF JUSTICE (DOJ), THE U.S. MARSHALS SERVICE, AND OTHER FEDERAL AGENCIES. ADDITIONALLY, LOCAL LAW ENFORCEMENT OFFICERS ACTING UNDER FEDERAL AUTHORITY OR THROUGH JOINT TASK FORCES CAN ALSO PARTICIPATE IN IMMIGRATION-RELATED ENFORCEMENT. FOR MORE INFORMATION ABOUT LOCAL LAW ENFORCEMENT OFFICERS' DELEGATED AUTHORITY TO ENGAGE IN IMMIGRATION ENFORCEMENT SEE ILRC'S RESOURCES ON [287\(g\) AGREEMENTS](#).

Excercising Your Right to Remain Silent in Texas: In Texas some state and/or local law enforcement have delegated federal powers to participate in immigration enforcement. If you intentionally fail to give your name, address, or date of birth in connection to a lawful arrest and detention, then you may be charged with a criminal

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offense. However, a person in Texas with an enhanced library card can provide this and remain silent given that the enhanced library card contains your name, date of birth, and address on it.

Under the Fourth Amendment of the U.S. Constitution, you have a right against unreasonable searches and seizures. This means that you generally can keep your door shut if ICE is at your door. Federal immigration officials cannot enter your home without 1) your consent or 2) a judicial warrant, signed by a judge or magistrate. You do not have to provide consent, and ICE rarely has a *judicial* warrant (as opposed to an ICE warrant which does not give them the right to enter your home). This right extends to your person, your home, and your car. If federal immigration officials come to your home, you can ask them to slip the document under your door or show it through your window, so you can review it. Keep in mind that if you open the door, this could imply that you are giving federal immigration officials consent to enter.

WHY IS IT IMPORTANT TO KNOW YOUR RIGHTS?

It is important to know your rights and how to exercise these rights so you can protect yourself, your family, and your community. Knowing your rights might prevent a federal immigration arrest, can preserve defenses in a deportation case, and can help you identify when federal immigration officials are violating your rights. For example, federal immigration officials cannot deport you without proof that you are a noncitizen, and knowing your rights can stop that from happening.

WHAT IS A WARRANT?

There are several types of warrants, and it is important to know what type of warrant you are being presented because not all warrants give the same access to your private space. There are three types of warrants to learn about: an arrest warrant, a search warrant, and an administrative warrant.

A **judicial arrest warrant**, signed by a federal or state judge, is generally based on criminal charges filed against you but does not give authority to enter a home

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unless you are in your home.

A **judicial search warrant**, it is signed by a federal or state judge, gives law enforcement authority to enter a private space, like your home, to ask questions and inspect the area. Law enforcement is only able to search the location that is identified in the warrant.

An **administrative warrant**, or ICE Warrant, is signed by ICE officials themselves, never by a judge. This type of warrant gives federal immigration officials permission to arrest someone for civil immigration purposes, but not the right to enter your private space.

It is important to remember that even if the law enforcement agency has any of these warrants, you still have the right to remain silent. These warrants will always be in English, but you have a right to, if you live in a Spanish speaking household, to have a Spanish speaking federal official speak to you in Spanish.

For more information on warrants see the American Liberties Civil Union's (ACLU) [Know Your Rights: Immigration Enforcement and Warrants](#).

WHAT DOCUMENTS SHOULD I CARRY?

An individual should only carry a red card, a State or local identification, and/or a government issued document showing their lawful immigration status, if they have it. Everyone should carry a red card, regardless of their immigration status. A red card explains your constitutional rights in your language and in English and can be used to show federal immigration officials that you are aware of your rights and are exercising those rights. In addition to the red card, if a person has a state identification or driver's license, they can carry that as well. For states that have local identification or give licenses to undocumented folks, people can decide to carry those. A student ID may not be accepted for all purposes but may help.

State and Local Identification Cards: In California, individuals can access

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the AB60 license and can use this identification if they are stopped by the police while driving. Individuals can carry this identification with them, and local law enforcement should not be able to use this “federally restricted license” to determine immigration status. Generally, people who do not have a REAL ID are giving a “federally restricted” license, regardless of their immigration status.

In **Texas**, some counties accept the enhanced library card as a primary form of identification and can be used if stopped, though individuals operating motor vehicles will still need a driver’s license. In Texas, for counties that do not accept the enhanced library card as a primary form of identification, individuals should be mindful of what supplemental identity documents are acceptable to show along with the enhanced library card and consult an attorney to determine their risk if they show that identification to law enforcement.

If you have lawful immigration status or a status that gives you protection, you can carry that documentation. For immigration documentation, like a work permit or green card, a person can carry a copy if they are worried about carrying the original. Often people decide not to carry the original for fear of losing it and replacing these can get expensive. With that said, it is important to note that lawful permanent residents are required by law to carry their original card.

NOTE

CONSULAR ID NOTE: THOUGH CONSULAR IDS AND PASSPORTS ARE OFTEN USED AS A COMMON FORM OF IDENTIFICATION, PRESENTING YOUR CONSULAR IDENTIFICATION TO FEDERAL IMMIGRATION OFFICIALS, OR IN CERTAIN STATES LIKE TEXAS, TO LOCAL LAW ENFORCEMENT OFFICIALS, MAY PROVIDE THEM WITH THE PROOF THEY NEED TO DEPORT YOU. IT IS IMPORTANT TO NOT SHOW THESE WHEN QUESTIONED BY FEDERAL IMMIGRATION OFFICIALS OR LOCAL LAW ENFORCEMENT.

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PART II: KNOW YOUR RIGHTS AT HOME

CAN FEDERAL IMMIGRATION OFFICIALS COME INSIDE MY HOME?

Federal immigration officials cannot come into your home without your consent or without having in their possession a judicial search warrant signed by a judge that authorizes entry to your home.

Most people consent to officers who ask permission to enter, taking away one of their best defenses to an immigration arrest. It is important to remember that federal immigration officials hardly ever have a judicial search warrant that would let them enter without the individual's consent.

Judicial Arrest Warrant: Note that a judicial arrest warrant cannot be used to enter your home unless you are the individual named in the judicial arrest warrant, and they know that you are inside your home.

Entry to your home could include the protected surrounding areas of a home, like the places enclosed by a fence, and spaces that you took time to protect from observation or access by people passing by. For example, your front yard could be protected from federal immigration officials entering without permission or a proper judicial search warrant, especially if you have a fence.

For federal immigration officials to be able to enter your home without your consent or a judicial search warrant, there would need to be an urgent or dangerous situation that would make it impractical for them to wait for a judicial search warrant to be issued. These situations are usually ones where federal immigration officials would need to act quickly to prevent harm, prevent the destruction of evidence, or prevent a suspect from escaping.

WHAT SHOULD I DO IF FEDERAL IMMIGRATION OFFICIALS COME TO MY HOME?

Remember, federal immigration officials cannot enter your home without your consent or a judicial search warrant. If you do not give them consent and they do not have the

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proper warrant, but they still enter your home, they are violating your constitutional rights. If federal immigration officials come to your home, you can ask the officials which agency they are with and refuse to answer the door and ask them to show you the proper warrant that gives them permission to enter your home. It is important to remain calm and ask them to slip the warrant under the door, if possible, or show it to you through the window. You can decide to leave your door closed since they can argue that opening the door gave them implied consent to enter.

If they show you the warrant, make sure you check which court issued it, and whether it is current. The warrant needs to be signed by a judge. If the warrant is a judicial search warrant, it should list the correct address, the scope of the search, and the date of the search. Also, review that the warrant is in fact pertaining to you. Review the name of the warrant. If it is an administrative warrant, signed by ICE, they do not have permission to enter, you do not have to give them permission to enter your home.

IF I HAVE A PRIOR DEPORTATION ORDER, DO FEDERAL IMMIGRATION OFFICIALS STILL NEED A WARRANT TO ENTER MY HOME?

Yes. Even if someone in the home has a prior deportation order, federal immigration officials still need either 1) consent, or 2) a judicial search warrant to enter a home. These requirements are not waived due to a prior deportation order.

CAN FEDERAL IMMIGRATION OFFICIALS WAIT FOR ME OUTSIDE MY HOME?

Yes, federal immigration officials can wait for you outside your home, on the street. This is a tactic often used to arrest people while they are commuting from one place to another. While federal immigration officials need a judicial warrant to enter your home to arrest you, they do not need a warrant to arrest you on the street. It's important to note that federal immigration officials usually identify the person they are trying to arrest beforehand, and it is usually someone who has had contact with immigration in the past. After they identify the person, they go to a location

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where they believe that person will be at, like their home. Remember that if federal immigration officials wait for you on the street outside your home, and they call your name, you have a right to remain silent and do not have to answer any questions. You can ask them if you are free to go and if you are not, tell them you are exercising your right to remain silent and want to speak to your attorney.

NOTE

WELLNESS CHECKS: FEDERAL IMMIGRATION OFFICIALS ARE CONDUCTING “WELLNESS CHECKS” OF UNACCOMPANIED CHILDREN IN THEIR HOMES. IF YOU ARE AN UNACCOMPANIED CHILD, SPONSOR, OR A HOUSEHOLD MEMBER THAT LIVES WITH AN UNACCOMPANIED CHILD, PLEASE REVIEW ILRC’S COMMUNITY EXPLAINER, IMMIGRATION “WELLNESS CHECKS” FOR CHILDREN WHAT SPONSORS, HOUSEHOLD MEMBER, AND YOUNG PEOPLE NEED TO KNOW ([HTTPS://WWW.ILRC.ORG/COMMUNITY-RESOURCES/WELLNESS-CHECKS](https://www.ilrc.org/community-resources/wellness-checks)).

PART III: KNOW YOUR RIGHTS IN YOUR VEHICLE

CAN FEDERAL IMMIGRATION OFFICIALS STOP MY VEHICLE IF I AM DRIVING OR IN THE VEHICLE AS A PASSENGER?

Depends. Federal immigration officials may only make a vehicle stop if they have a reasonable suspicion (a standard that requires specific facts- in other words it's more than a "hunch") that an individual in the vehicle does not have citizenship or legal immigration status. However, if you are within 100 miles of the border, CBP claim they have the authority to stop your vehicle. For more information about your rights within 100 miles of any border see [ACLU's Know Your Rights](#)

NOTE

TEXAS SB 602: IN 2023, TEXAS PASSED SB 602 WHICH GIVES CBP OFFICERS THE AUTHORITY TO ARREST, SEARCH OR SEIZE, FOR FELONY OFFENSES UNDER TEXAS LAW, BUT ONLY WHEN INCIDENT TO A DETENTION UNDER FEDERAL LAW AND OCCURS AT A PORT OF ENTRY OR BORDER PATROL TRAFFIC CHECKPOINT.

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100 Mile Border Zone.

CAN FEDERAL IMMIGRATION OFFICIALS STOP MY VEHICLE DUE TO ANY VEHICLE OR TRAFFIC VIOLATION, IF I AM DRIVING OR IN THE VEHICLE AS A PASSENGER?

Generally, federal immigration officials cannot enforce vehicle or traffic laws and therefore may not stop a vehicle for any vehicle or traffic violation.

WHAT SHOULD I DO IF I AM THE DRIVER OR PASSENGER IN A VEHICLE, AND I AM STOPPED BY AN OFFICER, BUT I DO NOT KNOW IF THEY ARE FEDERAL IMMIGRATION OFFICIALS OR NOT?

You may ask the officer that stopped the vehicle what agency the officer is from and ask to see their badge.

IF FEDERAL IMMIGRATION OFFICIALS STOP MY VEHICLE WHILE I AM DRIVING OR AS A PASSENGER, CAN FEDERAL IMMIGRATION OFFICIALS ASK ME FOR IDENTIFICATION OR PROOF OF LEGAL STATUS?

Depends. Federal immigration officials may ask for identification or proof of legal status of the driver or passenger if ***there is a reasonable suspicion*** that the driver or passenger does not have legal status. However, federal immigration officials may not ask for the driver's license or registration because federal immigration officials do not have the authority to do so. Federal immigration officials generally cannot enforce traffic or vehicle laws.

NOTE

NOTE ON LOCAL STATE LAWS: AS NOTED ABOVE, IN TEXAS SOME LOCAL LAW ENFORCEMENT OFFICIALS HAVE BEEN DELEGATED IMMIGRATION ENFORCEMENT AUTHORITY AND INDIVIDUALS CAN BE LAWFULLY ARRESTED OR DETAINED IF THEY INTENTIONALLY REFUSE TO GIVE THEIR NAME, ADDRESS, DATE OF BIRTH TO A LOCAL LAW ENFORCEMENT OFFICIAL, WHICH CAN LEAD TO CRIMINAL CHARGES. IF YOU ARE A DRIVER IN TEXAS, YOU MUST NOT INTENTIONALLY REFUSE TO GIVE YOUR DRIVER'S LICENSE UNDER TEXAS LAW.

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IF I AM A DRIVER OR PASSENGER AND A FEDERAL IMMIGRATION OFFICIAL ASKS ME FOR IDENTIFICATION, WHAT CAN I DO?

Remember to always first ask the federal immigration official(s) to identify themselves (by presenting a badge or something similar). After identifying themselves, you may ask what the basis for their stop is. If they do not have a reason for the stop, you do not need to provide them with any identification and may remain silent and can assert that right in front of the federal immigration official(s). If you choose to break your silence and provide them with identification, remember that federal immigration officials may use any documents you provide them against you. Do not provide any identification like a consular card that may give them information about your citizenship or immigration status.

SHOULD I SPEED AWAY IF A FEDERAL IMMIGRATION OFFICIAL TRIES TO STOP MY CAR?

No. Do not speed away as this could escalate an arrest. Remain calm and slowly pull over.

DO I HAVE TO ROLL DOWN MY WINDOW AS A DRIVER OR PASSENGER OF A VEHICLE, IF A FEDERAL IMMIGRATION OFFICIAL TELLS ME TO?

You may roll down your window, but you do not have to roll down the window all the way. You may partially roll down the window to prevent a federal immigration official from reaching inside the vehicle.

CAN FEDERAL IMMIGRATION OFFICIALS ASK ME AS THE DRIVER OR PASSENGER TO GET OUT OF THE VEHICLE?

Federal immigration officials, even without reasonable suspicion, can ask a driver or passenger to step out of the car for safety reasons. However, the driver or passenger has the right to still ask what the reason for the stop is and if they are free to leave.

CAN FEDERAL IMMIGRATION OFFICIALS USE PHYSICAL FORCE TO REMOVE A DRIVER OR PASSENGER FROM A VEHICLE??

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Yes. However, federal immigration officials cannot use excessive force to remove a driver or passenger from a vehicle. They need to use the minimum non-deadly force necessary to fulfill their duty.

DO I AS A DRIVER OR PASSENGER NEED TO ANSWER ANY QUESTIONS FROM FEDERAL IMMIGRATION OFFICIALS?

Once a vehicle is lawfully stopped (meaning federal immigration officials had reasonable suspicion that someone in the vehicle does not have citizenship or immigration status - remember it must be more than a “hunch”), federal immigration officials may ask questions to everyone in the vehicle but only about citizenship and possible removability. Remember that you do have a Fifth amendment right to stay silent.

DO I HAVE TO LET FEDERAL IMMIGRATION OFFICIALS SEARCH THE VEHICLE I AM A DRIVER OR PASSENGER IN?

No. Federal immigration officials may only search the vehicle if they have a judicial warrant or consent from the driver or vehicle owner. If you are the driver or vehicle owner, you may tell a federal immigration official that you do not consent to searching the vehicle.

CAN FEDERAL IMMIGRATION OFFICIALS ARREST ME WHILE I AM IN A VEHICLE WITHOUT A JUDICIAL WARRANT OR ADMINISTRATIVE WARRANT?

Depends. Federal immigration officials may arrest you if they have probable cause (meaning there is a good reason to believe) the individual in the vehicle does not have legal status and is likely to escape before a warrant can be obtained.

WHAT IF I BELIEVE FEDERAL IMMIGRATION OFFICIALS STOPPED ME AND ARRESTED ME UNLAWFULLY?

You may write down the entire incident and discuss the incident with an immigration attorney who may use this information in your immigration case against the

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government. Consider recording yourself retelling the incident as soon as possible to keep the details clear. Make sure to include what was said but also where you were, who was there, how did you feel, and what made you think your rights were violated.

IF FEDERAL IMMIGRATION OFFICIALS STOP MY VEHICLE, EITHER AS THE DRIVER OR PASSENGER, WHAT RIGHTS DO I HAVE?

You have the right to remain silent, but you can break your silence to ask the following:

- ▶ To ask the official to identify themselves.
- ▶ To ask if you are free to go.
- ▶ To ask if they have an administrative or judicial warrant.
- ▶ To ask to speak to an attorney.

You can remain silent for other questions around:

- ▶ You have the right to refuse to answer any questions regarding your immigration status or citizenship.
- ▶ You have the right to refuse a search of your person, property, or vehicle.
- ▶ You have the right to refuse to sign anything.

PART IV: KNOW YOUR RIGHTS AT WORK

CAN FEDERAL IMMIGRATION OFFICIALS ENTER MY WORKPLACE?

Depends. Federal immigration officials may enter freely without an administrative warrant or judicial warrant to public spaces of a workplace that are generally open to the public and do not need special permission to enter. However, for private spaces of a workplace, federal immigration officials may not enter without a judicial warrant or consent from the business owner (or any individual with the power to authorize consent).

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HOW DO I KNOW WHAT SPACES ARE PUBLIC VERSUS PUBLIC IN MY WORKPLACE?

Public spaces are generally open to the public and can be accessed by anyone without an escort or special permission from a business owner (or any individual with the power to authorize consent). Public spaces in a workplace may include, but not limited to, a main entrance, lobby, or waiting area.

Private spaces are not accessible to the public without the consent of a business owner (or any individual with the power to authorize consent). Private spaces in a workplace may include, but not limited to, a locked room or private offices.

A workplace may designate areas as public or private. For more information on what areas of your workplace are public or private, consult with your workplace and ask which areas are private and public. If your workplace does not have any policy surrounding these spaces, you can advocate for your employer to put up signs that make the distinction between private and public spaces visible.

IF I AM A BUSINESS OWNER OR OVERSEE A WORKPLACE, WHAT CAN I DO TO PROTECT MY EMPLOYEES?

To protect your employers, you may establish policies that clearly state which areas of your workplace are private versus public. You can also train your staff to know which areas of the workplace are private versus public. You can also hang ILRC's [Solidarity Signs](#) in your place of business.

IF FEDERAL IMMIGRATION OFFICIALS COME TO MY WORKPLACE AND TELL EVERYONE TO GET INTO A LINE, WHAT SHOULD I DO?

Federal immigration officials cannot force you to get into a line. You may refuse to get into a line. If you get into a line, federal immigration officials will ask you for identification or proof of citizenship or immigration status and/or may arrest you.

CAN FEDERAL IMMIGRATION OFFICIALS COME TO MY WORKPLACE AND ARREST ME?

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Depends. Federal immigration officials may arrest an individual in public spaces with an administrative warrant, but in private spaces they cannot arrest someone without a judicial warrant or consent to enter. Federal immigration officials may arrest an individual without a judicial warrant or administrative warrant if they have probable cause (meaning a good reason to believe) that the person does not have lawful status and is likely to escape before a warrant could be obtained. However, keep in mind that federal immigration officials would still need a judicial warrant to enter a private space and as such may not arrest you in a private space without a judicial warrant.

IF FEDERAL IMMIGRATION OFFICIALS COME TO MY WORKPLACE, WHAT RIGHTS DO I HAVE?

You have the right to remain silent, but you can break your silence to ask the following:

- ▶ To ask the official to identify themselves.
- ▶ To ask if you are free to go.
- ▶ To ask if they have an administrative or judicial warrant.
- ▶ To ask to speak to an attorney.

Remember that you have the right to refuse to answer any questions regarding your immigration status or citizenship. You have the right to refuse a search of your person or property. You have the right to refuse to sign anything.

NOTE

FOR EMPLOYERS, NOTE THAT FEDERAL IMMIGRATION OFFICERS MAY ALSO CONDUCT WHAT IS CALLED A FORM I-9 AUDIT. FOR MORE INFORMATION ON FORM I-9 AUDITS, PLEASE REFER TO THE NATIONAL IMMIGRATION LAW CENTER'S (NILC) A GUIDE FOR EMPLOYERS: WHAT TO DO IF IMMIGRATION COMES TO YOUR WORKPLACE.