



# KNOW YOUR RIGHTS: INTERACTING WITH ICE IN COURTS

Non-citizens, including lawful permanent residents (“LPRs” or “Green Card” holders), DACA holders, refugees, asylees, temporary visa holders, and immigrants who are undocumented, have certain rights under the United States Constitution. Know your rights and how to exercise them if you are approached by Immigration and Customs Enforcement (ICE) inside or near a court or while you are traveling to and from court as a witness or party in a case.

## **Can ICE agents stop or arrest me in or around a courthouse?**

No. In *State of New York v. U.S. Immigration and Customs Enforcement*, a federal judge held that ICE agents cannot hold you or make arrests inside New York State courthouses or on courthouse grounds. If you are a witness in a case or a party to a case, ICE agents also cannot hold or arrest you traveling to or from courthouses for scheduled hearings.

## **What if ICE violates this rule?**

Stay calm. Do not run away or try to resist. Keep your hands in view.

## **If I am stopped by ICE, can I ask if I am under arrest?**

Yes, you have the right to ask if you are being arrested or detained. According to the New York Civil Liberties Union ([NYCLU](#)): “You should ask if you are under arrest or free to leave.” Before you say anything else (including your name), you can ask the question, “Am I under arrest or being detained?” If the ICE agent says no, you can ask, “Am I free to go?” If the agent says that you are free to go, walk away slowly. Do not run.

## **What if ICE says I am not free to leave or that I am under arrest?**

You have the right to ask if ICE has a warrant or if you are under arrest. If the agent says that you cannot leave or you are under arrest, you can ask, “Do you have a warrant?” ICE cannot detain you or arrest you without a warrant unless they have proof that you are not legally allowed to stay in

the United States or have committed a crime. According to the American Civil Liberties Union ([ACLU](#)): “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.”

## **Do I have to answer questions asked by ICE?**

No, you have the right to remain silent. If an ICE agent begins to question you, say, “I would like to remain silent.” Do not discuss where you were born, how or when you arrived in the United States, or your immigration status. According to the [ACLU](#): “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.”

## **If I do not have lawful immigration status and ICE asks for my identification (ID) or immigration documents, do I have to provide them?**

No, if you do not have lawful immigration status (e.g., you are undocumented, have overstayed your visa, or have had your lawful status terminated), you may decline to show foreign ID and immigration papers. Never provide ICE with false documents or a foreign passport, consular documents, or an expired visa. According to the [NYCLU](#): “If you are an immigrant and do not have valid U.S. immigration documents, remember that you have the right to remain silent. You can decide not to answer questions about your immigration status or whether you have immigration documents.”

**DISCLAIMER:** This fact sheet gives general information for NYC Residents; it is NOT legal advice.

### **If I have lawful immigration status and ICE asks for my immigration documents, do I have to provide them?**

Yes, if you have lawful status and have your immigration papers with you, you should show proof of that status (like a green card or valid visa) if ICE agents ask. If you do not have your papers with you when you are stopped, remain silent and tell the agents that you want to speak to a lawyer. According to the [NYCLU](#): “If you are an immigrant who is 18 or older who has been issued valid U.S. immigration documents, [...] you are legally required to carry those documents with you at all times. If you have your valid U.S. immigration documents and you are asked for them, it is usually a good idea to show them to avoid arrest.”

### **If an ICE agent asks to search me, can I say no?**

Yes, you have the right to refuse a search of yourself and your personal belongings. According to the [ACLU](#): “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 I am not under arrest, can ICE search me without my permission?**

Yes, but only if they have a warrant or reasonable suspicion that you have been involved in a crime. If you are not under arrest, ICE cannot search your pockets, bags, phone, or other personal property without your permission, a warrant, or a reasonable suspicion that you have been involved in a crime. ICE can pat down the outside of your clothing if they have reason to believe that you might be armed.

### **What if an ICE agent says they have a search warrant?**

If the ICE agent says that they have a search warrant, ask to see it. Make sure that the warrant has your name on it and that it was signed by a judge. If the agent does not have a search warrant, the warrant was not signed by a judge, or the information on the warrant is incorrect, say, “I do not consent to a search.” The agents may continue their search but saying this aloud could help in your immigration case in the future.

### **Do I have the right to take pictures and videos of ICE agents?**

Yes, you have the right to photograph and record ICE activity. According to the [ACLU](#): “Taking photographs and

video of things that are plainly visible in public spaces is a constitutional right—and that includes police and other government officials carrying out their duties.” If you feel safe, take photographs or videos of the interaction. They could be helpful in your immigration case in the future. Put enough space between yourself and the ICE agents to not interfere with their activity. Write down the names and badge numbers of the agents involved and any other details that you can.

### **Do I have to speak to ICE agents if I am under arrest?**

No, you have the right to remain silent. Do not answer any questions until you speak to a lawyer. Do not sign anything until you speak to a lawyer. According to the [ACLU](#): “You have the right to remain silent and do not have to discuss your immigration or citizenship status.”

### **Do I have the right to speak to a lawyer?**

Yes, you have the right to speak to a lawyer. Although the government will not provide you with a lawyer, ICE should stop asking you questions once you have asserted your right to an attorney. If you do not already have an immigration lawyer or do not remember the phone number, ask an ICE agent for a list of free or low-cost legal service organizations. According to the [ACLU](#): “If you are detained by ICE or Border Patrol, you have the right to hire a lawyer.”

### **Do I have the right to call someone?**

Yes, you have the right to make a phone call. If you have memorized or obtained the phone number of a lawyer, call that number. If not, call a trusted family member and have them contact an immigration lawyer for you. According to the [ACLU](#): “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.”

### **Do I have the right to call my consulate?**

Yes, you have the right to call your consulate or have ICE contact your consulate officials to tell them that you have been arrested. Your consulate may be able to help contact an immigration lawyer. According to the [ACLU](#): “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.”

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