

Know Your Rights: When Foreign Nationals Encounter Government Officials

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Today's Focus

Routine Interactions with law enforcement

- Domestic Travel
 - Flights, Border Patrol
- Other Encounters
 - Traffic Stops
 - Information Requests
- Border Crossings
 - Departure & Arrival

More To Come!

*Another session on
Immigration
Enforcement*

(1/25 Executive Order)



You Have Rights in the US!

- Noncitizens have constitutional rights
 - *5th Amendment:*
Protects against self-incrimination (remain silent)
 - *4th Amendment:*
Protects against unreasonable search or seizure
- If you give up these & other rights, you cannot claim later that they were violated



And, You Have Responsibilities!

- If you choose to speak, do NOT lie
 - Better to ignore or decline, than misrepresent
- Do not use or provide false documents
- Carry immigration documents, when possible
- Have the name and contact details for ISO, your Embassy or Consulate, and/or attorney



Domestic Travel

- Flights via domestic airport
 - Transportation Security Administration (TSA)
 - Must have government-issued photo ID
 - Consider obtaining US identification card, such as NYS Non-Driver ID or License
 - Encounter with immigration officials unlikely
 - Carry current documentation, in case
 - Right to ask for an attorney, within US



Border Patrol

- Branch of US Customs & Border Protection
 - Monitor border between official crossing posts
 - Transportation hubs, parks, public areas
 - Add. discretion 25/50/100 miles from US border
- Ability to inquire about citizenship/status
 - Not based on race, ethnicity, English fluency
 - Able to board vehicles & check documents



What To Do: Public Areas

- Ask the agent/officer to identify themselves
- Right to refuse a response and walk away
 - Agent must have reasonable suspicion that you are violating US immigration law
 - Do NOT run, since that could raise suspicion
- If detained or arrested, right to remain silent
 - Ask to contact an attorney, ISO, etc.



Traffic Stops

- Must drive with a valid Driver's License
 - Foreign licenses can be used in New York
 - Document translation to English may be useful
 - Learner's Permit is not sufficient
- Police can pull you over for traffic violation
 - Stop may not be based solely on race/ethnicity
 - Probable cause or warrant to search your car



What To Do: Traffic Stops

- Lights & sirens will signal you to pull over
 - Remain in your vehicle, unless asked to step out
 - Show valid license and vehicle registration
- May receive a ticket with specific charge(s)
 - Options to plead by mail or appear in court
 - *Caution:* Signing a guilty plea may not be best
 - DUI (alcohol/drugs) can impact your visa!



Information Requests

- Contact from FBI, ICE for an interview
 - Call to schedule a meeting; Come unannounced
- Fairly routine, but still alarming
 - Ask for badge and other credentials, ID, etc.
 - ISO and/or Public Safety can be a resource
 - Right to remain silent & speak to a lawyer
 - A warrant is needed to search your home



International Travel

- When departing, consider documentation
 - Bring US immigration forms, for re-entry
 - Verify departure in electronic I-94 record
 - What documents do you need at destination?
- Request updates & signatures in advance
 - I-20/DS-2019 signed (1 yr); Passport unexpired
 - ISO cannot provide documents when closed



Admission at Port of Entry

- Limited rights when seeking US admission
 - Valid visa/documents do not guarantee entry
 - Right to remain silent; May be denied entry
- Customs & Border Protection (CBP)
 - Authority to question and search all travelers
 - Discretion to evaluate legitimate travel purpose, intent to depart as required, security threat, etc.



Search & Seizure at the Border

- You & your belongings are subject to search
 - Warrant, suspicion, or consent are not required
 - Limited body search (need reasonable suspicion)
- Personal electronic devices
 - Ability to examine files and copy information
 - May ask for passwords, email, social media, etc.
 - Possible to keep device for further inspection



What To Do: Border Crossings

- Primary Inspection at US Port of Entry
 - Present relevant immigration documents
 - Give brief, direct answers to any questions
 - Make eye contact (honesty, not disrespect)
 - Do NOT lie or misrepresent your situation
- Referral to Secondary Inspection as needed
 - Expect delays, but remain polite & direct



Additional Considerations

- CBP may not discriminate during screening
 - Race, national origin, religion, gender, etc.
- Access to support & guidance at border
 - No right to an attorney during inspection, but do have the right to speak to your Consulate
 - Speak to a CBP supervisor with any concerns
 - ISO may be able to help resolve uncertainties



Questions & Discussion

- What happens if I refuse to give my phone, laptop, or passwords to CBP?
- Will local police check my immigration status? Who am I legally required to disclose this to?
- What about political activism? Could I lose my student visa or be deported for participating?



Thank You!

Immigration Enforcement & Public Safety

Our next session will discuss new priorities from an Executive Order signed 1/25/2017:

- *Criminal arrest, charge, and/or conviction*
- *Those who violate the terms of their visa*
 - *Undocumented persons*

Scheduling for 2/23; Stay tuned for details!!

