

FAQ

Frequently Asked Questions About Coming Forward as an Undocumented Immigrant

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Coming forward to share your story publicly as an undocumented person is a courageous step and, as with all courageous acts, carries risks.

Recent immigrants' rights victories, such as the creation of the Deferred Action for Childhood Arrivals (DACA) program, were won because undocumented people came forward and fought for them. Many undocumented activists have said that sharing their story led to them feeling empowered and that it inspired others to talk about their immigration status. Many of the risks can be minimized if you have a plan that includes support from loved ones and being connected to community groups. Many people have been able to fight back against their deportation!

If I come forward as undocumented, will I be deported?

If you are not a U.S. citizen and are present in the U.S. without authorization, there is always a chance that DHS may try to deport you. However, whether you will actually be deported depends on a number of factors, including whether you are considered to be a high or low priority for deportation.

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The Department of Homeland Security (DHS) can't deport every undocumented person in the U.S. There are about 11.5 million undocumented people in the U.S., and in 2014 DHS deported 133,000 of them. With a record-breaking budget of \$18 billion per year for immigration enforcement, DHS has managed to deport only 1 percent of the undocumented population. Because there is no feasible way the government could deport every undocumented person, DHS must prioritize whom it chooses to deport.

On November 20, 2011, DHS Secretary Jeh Johnson issued a memorandum to the heads of the agencies in DHS that enforce the immigration laws. The memo says that enforcement efforts should be focused on detaining and deporting people who are considered "high priority." "High priorities" include people

- who have been convicted of felonies, "serious" misdemeanors, or three or more misdemeanors
- who have deportation or removal orders issued on or after January 1, 2014
- who are considered a "threat" to public safety, border security, or national security

[Read the memo carefully to see if you might be considered a "high priority" for deportation.](#) If you are deciding whether to be more open about being undocumented, but you think that one or more of the factors listed above might apply to you, speak with a lawyer about your options and to get more information about your case so that you can make an informed decision.

Generally, people who are not "high priorities" are considered by DHS to be "low-priority" for deportation. U.S. Immigration and Customs Enforcement (ICE) can consider other factors in deciding whether to deport undocumented people, including:

- length of time in the U.S.
- community or family ties in the U.S.
- humanitarian factors, such as poor health, age, pregnancy, a young child, or a seriously ill relative
- extenuating circumstances surrounding a criminal offense for which a person has been convicted and the amount of time that had passed since the person committed the offense
- whether the person is a victim, witness, or plaintiff in civil or criminal proceedings
- whether the person is seeking asylum or qualifies for another way to get lawful immigration status

If I come forward as undocumented and my employer finds out, will I lose my job?

If you are employed, it is possible that you could lose your job if your employer finds out that you're undocumented. If you let it be known publicly that you are undocumented and this information gets back to your employer, it is likely to suggest to him or her that you are working without authorization.

The law prohibits the hiring, recruiting, or referring (to job openings) for a fee of people who are known to be unauthorized to work in the U.S. Employers who violate this law can face civil fines for violations or even criminal penalties if they have committed many violations. Therefore, an employer who finds out that you are undocumented may fire you in order to avoid civil or criminal penalties.

If you are currently employed and trying to decide whether to be more open about being undocumented, this is an important factor to take into account. If you decide to come forward as undocumented, you should be prepared for the possibility of losing your job.

What do I do if I am stopped by law enforcement? Do I have any rights?

Here are some suggestions for what to do if you are stopped by the police or some other law enforcement officer:

- Be calm and polite during your interactions with the officer.
- Do not run away, do not physically resist the officer (don't struggle or wrestle with the officer), and be sure to keep your hands where the officer can see them.
- Remember that, regardless of your immigration status, you have constitutional rights. These rights include:
- The right to remain silent. If you wish to exercise this right, tell the law enforcement officer that you want to remain silent.
- The right to refuse a search of yourself, your car, or your home. The officer is allowed to physically pat you down, but only for weapons and nothing more. You should not try to physically resist this "pat-down," but you may refuse to consent to a further search. If you do consent to a search, whatever is found during that search can be used against you in court.
- Carry a know-your-rights card with you at all times. You can download one from [aclu.org/files/assets/bustcard_eng_20100630.pdf](https://www.aclu.org/files/assets/bustcard_eng_20100630.pdf). Become familiar with what the card says. If you have it in your pocket when an officer stops you, do not reach into your pocket for it until you tell the officer what you are doing and are sure the officer understands what you're doing.
- If the officer has only stopped you—if the officer hasn't placed you under arrest—you can ask the officer if you are free to go and, if the officer says you are, walk away quietly and calmly.
- How do I remain silent if a law enforcement officer starts asking me questions?
- Tell the officer that you wish to exercise your constitutional right to remain silent, or show the officer your know-your-rights card. (But do not reach into your pocket for the card until you're sure the officer knows that you are not reaching for a weapon.)
- No matter what the law enforcement officer may say or how many times the officer asks you a question, you are entitled to exercise your right to remain silent.

What if the law enforcement officer asks about my immigration status?

You have the right to remain silent, and you do not have to discuss your immigration or citizenship status with a law enforcement officer, whether he or she is a police officer, a sheriff's deputy, an immigration agent, or any other type of officer.

If you are not a U.S. citizen and an immigration agent (not a police officer) asks you for your immigration papers, you must show the officer your papers if you have them with you.

If you are over 18 years old, it is recommended that you have your immigration papers with you at all times.

If you do not have any immigration papers with you, tell the immigration agent that you wish to remain silent.

It is better to say that you want to exercise your right to remain silent than it is to lie about your citizenship status or show fake documents to the agent. Never carry fake documents.

If I exercise my right to remain silent, could that make me look more suspicious to the law enforcement officer?

It may, but if you talk about your immigration status, the information you provide could be used to deport you. Be sure to remain calm, and remember that you have the right to refuse to answer the law enforcement officer's questions. You have the power to exercise your right to remain silent, regardless of your immigration status. You may not be punished for exercising your right to remain silent.

What should I do if I am arrested?

If you are arrested, do not struggle or wrestle or argue with the arresting officer, even if you believe the arrest is unfair. It is important to remember that while under arrest:

- You have the right to remain silent.
- You may ask to speak with a lawyer. It is highly recommended that you speak with a lawyer before you make any important decisions, sign anything, or answer any questions.
- It is best not to withhold information from your lawyer. Your lawyer will be better able to help you if you are open and honest with him or her.
- Remain calm and be polite with the law enforcement officers, regardless of how they treat you. Remember, misconduct by a law enforcement officer can be challenged at a later time. Speak with a lawyer if you feel you were mistreated.
- You have the right to make a local phone call. You can call a lawyer at this time if you wish.

If I am not a U.S. citizen, could my arrest result in me being transferred to Immigration and Customs Enforcement (ICE) custody?

While you are arrested or in jail, an immigration agent may come to interview you. However, this does not automatically mean that you will be transferred to ICE's custody, though it means that there's a possibility that you will.

Do not answer any of the immigration agent's questions or sign any document that the agent presents to you until you have spoken with a lawyer. If a law enforcement officer or immigration agent asks or tells you to sign a document you can't read or understand, tell the officer or agent that you won't sign the document until you're sure you know what it says. If necessary, ask for an interpreter who can explain in your own native language what the document says.

Although the government is not obligated to provide you with a lawyer when you are in ICE custody, you have the right to seek help or advice from a lawyer, if you can pay for a lawyer or find one (for example, through a nonprofit organization) who will help you for free.

NOTE: If you have an "alien registration number" (or "A-number"), it is a good idea to write it down someplace at home or wherever it would be easy for a loved one to find. This number can be used to find you and track your case if you are taken into ICE custody. (If you have an A-number, it will be written on documents that you have because of any dealings you've had with U.S. immigration authorities.)

What steps can I take to help my situation if I am taken into ICE custody?

If ICE takes you into custody, don't talk about the details of your immigration status with anyone except your lawyer or other trusted advocates.

Visit adminrelief.org/legalhelp to find information about reliable immigration lawyers and organizations.

Some lawyers who work with nonprofit organizations provide services at little or no cost. If you find a lawyer to represent you, keep the lawyer's name and contact information with you at all times. Talk to your lawyer about your criminal and immigration history. Again, remember that you will be helping your lawyer help you if you are open and honest with him or her.

How can I prepare myself and defend against deportation?

There are many steps you can take to protect yourself from deportation. Visit nilc.org/raids.html to learn more about how to prepare. Many times the people who have been able to successfully stop their deportation are those who have come forward and disclosed that they are undocumented. Telling other people that you are undocumented and creating a network that is prepared to make calls and take action on your behalf if you are picked up by ICE can be your best defense.



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DO NOT take advice from a notary public or an immigration consultant. Contact **ONLY** a qualified immigration lawyer or an accredited representative for legal advice on your case.