

KNOW YOUR RIGHTS

Know Your Rights When Interacting with Law Enforcement at Home, on the Streets, or in Schools

New Yorkers, especially Latinx youth, are reporting interactions with law enforcement that are leading to allegations of gang involvement. Police officers observe clothes, tattoos, and other qualities of community members and presume gang membership. These assumptions can lead to wrongful questioning, arrest, or serious immigration consequences.

Here are some of your rights in interacting with law enforcement at home, on the streets, or in schools.

Key Rules

- Do not speak with law enforcement officers.
- Tell law enforcement officers, that your attorney will call them.
- If you feel comfortable/safe, ask for law enforcement officer's business card.
- If on the street, ask if you are free to leave.
- Do not let law enforcement into your home.
- Say: "I do not give permission for this search."

When Law Enforcement Comes to Your Home

Do Not Open the Door

Ask:

Why are you here? Please show me your ID. Ask for a business card (which shows from which agency the officer is from and helpful in determining the purpose of their presence). Write down or try to memorize the officer's badge number and name.

There are only two ways for Law Enforcement to enter your home:

Consent or a Warrant

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Consent:

You have no obligation to give consent, so don't! Once you agree to let law enforcement into your home that can lead to more questions or a search of your private property. Even if you have nothing to hide, don't risk having it!

Warrant:

A piece of paper that allows law enforcement to make an arrest or to search the premises. If there is a warrant, ask law enforcement to slide it through under the door or through a window, before you allow them to enter. A warrant must have four things: 1) Your name (or another resident) (spelled correctly!), 2) Your correct address, 3) the correct date, 4) Judge's signature. If it does not contain these things, you do not have to open the door.

Do Not Speak to Law Enforcement Officers

If law enforcement insists on asking you questions, say, "I choose not to answer your questions at this time – not without my attorney" no matter how harmless the questions seem. If you do not have an attorney, you can still say, "I prefer not to answer any questions without a lawyer." Remember, that although it is your right in criminal proceedings or in police custody to have an attorney, the right does not extend to "simple" encounters with the police. *You have to say that you don't want to speak without a lawyer present!*

Remain firm and polite. Do not get heated with the officer! Do not give them a reason to arrest you or bring charges against you. Be ready to repeat yourself. It may feel like you are powerless, but you have power. *You don't have to speak with them!*

Do not lie to an officer. It is a crime to lie to a law enforcement agent. It is better to say nothing than to say something that is incorrect. An officer does not need to tell you the truth. Also, *if you are a noncitizen or the person you are speaking about is a noncitizen*, any slight inconsistency in what you say can be used to deny you future immigration benefits or may make you or your community members vulnerable to deportation.

If you choose to speak with a law enforcement officer, you can stop the conversation at any time. Remember, that if you allow an officer into your home, you may be giving law enforcement more information than you intend. These facts can later be used against you or others.

Write down everything you remember from the interaction as soon as you can. This can help in your or someone else's legal case. If you are witnessing a law enforcement interaction try to carefully observe. But remember, *never do anything that makes you feel unsafe.*

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When Law Enforcement Approaches You on the Street

If you are stopped by an officer in a public space, **Ask: “Am I free to leave?”** If the officer says, “yes,” walk away. Be prepared to repeat yourself. If they ignore you, ask again politely. If an officer says you are not free to leave, you need to stay put, but **you do not have to speak.**

Do Not Speak to Law Enforcement Officers

If you are stopped again, ask if you are free to leave. Tell the officer that if they need to speak with you, to talk to your lawyer or that you will get a lawyer to contact them. If you do not have a lawyer at the time, tell them you are going to get an attorney. Ask for the officer’s business card and seek legal help immediately.

Identification:

In New York, you are not required to carry ID. However, if you do not show an ID when the police have reasonable suspicion that you are about to commit or have committed a crime, the police can detain you until you can be positively identified. If you are asked for ID, give ID with the least amount of information on it as possible, anything with your name and picture on it (e.g. school ID, library card). **NEVER GIVE A FALSE ID!**

If you are a noncitizen, do not provide foreign ID or any ID that shows you were not born in the United States. Remember, you have the right to remain silent. Even if asked, you do not need to state your immigration status or where you were born. In fact, you should never state either.

Do not lie to an officer. Lying to any officer can result in criminal consequences. Remember, you do not need to answer any questions, especially without the presence of an attorney.

When You Are Questioned at School

School Safety Officers (SROs): work with and are associated with local police who may share information with ICE.

Do Not Speak to Law Enforcement Officers

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If you are questioned by a police officer in school, the school principal must try to notify your parents to give them the opportunity to be present during police questioning or search, unless the police have a warrant or when a crime has been committed on school property.

- You have the right to ask for your parents to be present/contacted when the police become involved or at a school suspension hearing.
- You must be informed of your legal rights.
- You have the right to remain silent (not to talk or to answer any questions).
- You may request the presence of an attorney.

If you are a noncitizen being questioned by a school administrator about your immigration status: **Ask:** the school administrator to speak with your parents or legal guardian. There have been reported instances where ICE somehow gained information from schools. **Ask:** “Am I free to leave?” If the school administrator says yes, you may go back to your classroom. If the school administrator says no, **Ask:** “Why?” Though each school may have different policies, students generally have the right to be informed of alleged misconduct if school personnel is to impose a penalty.

If you are being questioned about gang affiliation: Remember, you do not have to answer any questions about yourself or your fellow students.

THERE ARE CONSEQUENCES:

- Anything you say can be used against you in future school suspension hearings as well as criminal or immigration proceedings.
- Authorities may wonder why you know students who are in gangs and whether you are in a gang with them.
- Authorities may come back to you as a source of information within the school.

Clothing:

Law enforcement officers often assume that members of gangs wear certain clothing. There are reports of people being accused of gang activity for wearing certain sports jerseys, Nike Cortez shoes, or for certain tattoos. If someone asks why you are wearing certain clothing, you do not have to answer, even if you want to help or prove that you are not a gang member.

In schools, you should be aware of and follow the dress code as dictated by your school district.

Do not sign anything!

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Signed Statements:

Remember, even if you want to help and are close to school administrators, be aware that anything you say can be used against you at a later time. Sometimes, after questioning a student, a school administrator may draft a statement and try to have you sign it. **Do not sign it. Notify your parents!**

School Suspensions

Code of Conduct or Discipline:

Be sure to **get a copy of your school district's Code of Conduct or Discipline** each year as it contains important information about suspension. Because school districts on Long Island do not have uniform rules and have fewer protections for students than in New York City, it is particularly important to reference such Codes.

You have certain rights when facing a school suspension. These rights vary depending on the type of suspension involved and on the school district. You have the...

Right to *Proper Notice*: There are rules about **when** you get the notice, **how** you get the notice, **what it says**, and **how it is said**.

Right to know the accusations against you!

Right to seek out a defense!

Right to be heard!

Right to an education if suspended!

School Suspensions

Always challenge school suspensions, especially if gang allegation or gang-related school disciplinary code is involved.

Contact an education lawyer for advice and representation. Do so immediately, so the attorney has time to review your case, request necessary documents, give sufficient advice, and represent you.

Remember, your school records can impact future immigration proceedings or applications!

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Contact CUNY School of Law,
Main Street Legal Services for a Know Your Rights Training

IMMIGRANT & NON-CITIZEN RIGHTS CLINIC

**| MAIN STREET
LEGAL SERVICES**

CUNY SCHOOL OF LAW

Phone:

(718) 340-4300

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