

KNOW YOUR RIGHTS!

What to do if stopped and questioned about your immigration status on the street, the subway or the bus

National Lawyers Guild



We are concerned that the local and MBTA police may be targeting, detaining and questioning individuals who “look like immigrants” on the streets, subways and buses.

This pamphlet is designed to help you know your rights if you are subject to questioning or detention by the MBTA or local police. If you are subject to investigation by the MBTA or local police and are concerned about your immigration status, you should contact an immigration lawyer immediately.

Q. Does the MBTA or local police have the right in general to stop me and ask me questions?

Yes. Police officers are allowed to approach you in any public space and ask questions at any time. If police have reasonable suspicion that you are involved in criminal activity, they may detain you briefly to investigate. Although police are allowed to approach you and ask questions in any public space, you do not have to cooperate. You have the constitutional right to remain silent. It is not a crime to refuse to answer questions. Remember, anything you say can be used against you. Police may ask you to volunteer your identification, show them your belongings, or go with them. You do not have to cooperate, although refusing to answer might make the police suspicious about you. **The police cannot stop you or require you to answer questions without probable cause to believe you are involved in criminal activity.**

Q. What should I do if I am stopped and questioned by someone in plain clothes?

Politely ask the person for name, badge, and ID number. **Only Federal ICE agents can ask for your immigration status.** The MBTA or the local police should not be asking for your immigration status. **Be suspicious of anyone asking for your social security number. Do not answer any questions if they do not show you a badge or ID. Write down what happened, the person’s name and ID number and call any of the numbers listed at the end of this pamphlet.**

Q. What should I do if I am stopped by a police officer?

If you are stopped by a police officer, ask the reason why you are being detained and whether you are free to go. If you are free to go, consider just walking away or boarding the next train or bus. If the police say you are not under arrest but are not free to go, then you are being **detained**. The police can pat down the outside of your clothing if they have reason to suspect you might be armed and dangerous. If they search any more than this, say clearly, “I do not consent.”

Always be polite, respectful, and calm when interacting with the police. If you provoke or bad-mouth, resist physically or run away, you might be arrested. **You cannot be arrested for asserting your legal rights.**

Q. Do I have to answer questions about my immigration status asked by MBTA or local police?

No. You do not have to answer any questions or give information about your immigration status or citizenship to the MBTA police. Any information you volunteer can be used against you. Immigration law is governed by federal law. MBTA police are responsible for enforcing local laws, not immigration laws.

Q. Does being an undocumented immigrant amount to criminal activity?

No. Undocumented immigration status is a civil not a criminal violation. The MBTA or local police cannot stop you or require you to answer questions without probable cause to believe you are involved in criminal activity. If the reason you are being detained by the MBTA police is because you are suspected of being an undocumented immigrant, this does not amount to probable cause sufficient to detain you legally.

Q. If I am detained and questioned by a legal immigration official, do I have to answer questions about my immigration status?

If federal officials question you about your immigration status, you must show evidence of your status. Presenting false or expired papers may lead to deportation or criminal prosecution. Once you have shown evidence of your status, you do not have to talk to officers further about your immigration history – it is up to you. You may be better off remaining silent and talking to a lawyer first, depending on your situation. Immigration law is complicated. You may have a problem without realizing it. A lawyer can help protect your rights, advise you and help you avoid giving answers that might hurt you. If you are confronted by federal immigration officials, contact a lawyer immediately.

Remember, if the police or federal immigration officials ask anything about your political or religious beliefs, groups you belong to or contribute to, things you have said, where you have traveled or other questions that do not seem right, you do not have to answer them. An officer may not request evidence of your immigration status in your home or another private place unless he or she has a warrant.

Q. If I am detained, should I sign anything?

NO! If you do not demand your rights or if you sign papers waiving your rights, you may be deported before you see a lawyer or an immigration judge. Never sign anything without reading, understanding and knowing the consequences of signing it.

Q. If I am subsequently arrested after being stopped by the police, do I have to answer questions?

If you are arrested, you do not have to answer any questions. Do not answer questions or give any explanations or excuses. Ask for a lawyer right away. Repeat this request to every officer who tries to question or talk to you. You should always talk to a lawyer before you decide to answer any questions. Say nothing to the police except your name and address until you talk to a lawyer.

Q. What should I do after I am stopped and questioned about my immigration status?

If you are concerned that you were stopped and questioned about your immigration status without cause, write down the name of the officer, badge number or other identifying information, time you were detained, length of detention, location, and date. Try to find witnesses and their names and phone numbers. Then call a lawyer or the ACLU to report the incident.

Q. Why are civil liberties groups concerned with the police asking about immigration status?

We are concerned with the MBTA and local police enforcement of immigration laws because only trained federal immigration officers should enforce federal immigration laws. Local law enforcement officials such as the MBTA police are neither qualified nor trained to enforce immigration laws. Yet they sometimes detain and question individuals on what appears to be their own idea of who is in the country without lawful immigration status. In doing so, they threaten the lives and civil liberties of individuals they target.

Racial profiling is already a major concern in Massachusetts. Agents who are engaged in immigration enforcement should not be making decisions based on color, ethnicity or race. Moreover, such measures by the MBTA create further distrust between law enforcement and transit riders.

THE CONSTITUTION PROTECTS everyone – citizens and non-citizens alike – from unreasonable police intrusion. While public safety is important, enforcement of immigration laws by MBTA or local police based on people who “look like immigrants” will not make us any more safe.

If you see something, say something. If you endure something, do something.

If you have been stopped or detained by the MBTA or local police and questioned about your immigration status, call the ACLU of Massachusetts at 617.482.3170 x 315, or email info@aclu-mass.org

REFERRAL CONTACT INFORMATION

Centro Presente
(617) 497-9080

Braazilian Immigrant Center
(617) 783-8001

Greater Boston Legal Services
(617) 371-1234

East Boston Ecumenical Community Council
(617) 567-2750

Irish Immigration Center
(617) 542-7654

**Massachusetts Immigrant and Refugee Coalition
(MIRA)**
(617) 350-5480

National Lawyers Guild
(617) 227-7335

**The Office of the Attorney General's Civil Rights
Division**
(617) 727-2200

The American-Arab Anti-Discrimination Committee of Massachusetts
(617) 262-8902