Know Your Rights:
When Foreign Nationals Encounter Government Officials

Monday, February 13, 2017 • 4:00 pm
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!!*