

Your Rights When You Are Approached by the Police

NELP

Fact Sheet for Workers

Advocating for the working poor and the unemployed

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Day laborers are often approached by the police while assembling for work on street corners. This fact sheet provides information for day laborers and organizers interacting with the police on a street corner. **This fact sheet applies to both documented and undocumented workers.**

Not every police encounter is negative. In some places, day laborers and organizers have forged a respectful relationship with the police. Work with a trusted community group or worker center to learn about your rights and to make a plan of action for interacting with the police.

General advice when approached by the police on a street corner or public place while assembling for work:

- Remain calm and do not run. Running may provide the police with a reason to detain you.
- Never carry or produce false identification or immigration related documents.
- Carry a card that states you wish to exercise your right to remain silent. If the police start asking you questions, present this card to the police and remain silent. Go to www.nelp.org for sample cards.
- If possible, carry the name and contact information for an attorney or community groups who can provide you with advice in case you are arrested.

Q1: What should I do if a police officer approaches me on the street corner while I am waiting for work?

A1: The most important thing is to stay calm, because you may not be in any trouble. The police officer has a right to approach you and ask questions even if you are just standing on the corner, not violating any law. Regardless of your immigration status, you have the right to not answer the police officer's questions. However, refusing to speak with the police can make them suspicious.

You should ask if you are free to leave. If the officer answers, "yes," then you should walk away from the street corner. If the officer tells you that you may not leave, you should remain calm. If the officer does not have a reason to momentarily detain you, the officer will have to let you go.

Q2: Can the police issue a ticket or arrest me for looking for work on a street corner or other public space?

A2: Most likely, yes. Many cities have laws that prohibit loitering and blocking traffic. Some of these laws specifically prohibit solicitation of employment in particular places. These laws differ depending on the state, city, county or even town. Often in practice, these laws are selectively enforced as a tool to move workers from away particular shape-up site. The police cannot selectively enforce the law against one racial group. Day labor organizers in some neighborhoods have worked successfully with the local police to discuss alternate shape-up sites or means other than ticketing workers to address traffic or other neighborhood concerns.

Q3: What should I do if the police issue a ticket or arrest me?

A3: You should assert your right to remain silent and should say, “I am asserting my right to remain silent. I would like to speak to an attorney. I do not consent to a search.” Once the citation is issued or you have been arrested, do not argue with the officer. You cannot talk your way out of a ticket or arrest and the police can and will use anything you say against you.

Q4: If I am arrested, do I have a right to a lawyer?

A4: Yes. If arrested, you should say, “I am asserting my right to remain silent. I would like to speak to an attorney.” Once you say that you want to speak with a lawyer, officers should stop asking you questions.

Q5: What if the police stop me in my car?

A5: When asked, show the officer your license, registration and proof of insurance. If the police ask to search your car, say “I do not consent to a search.”

Q6: Can police officers ask me about immigration status?

A6: Generally, the police have the right to ask about anything they want. You do not have to answer any questions about immigration status. You should assert your right to remain silent and ask if you are free to leave.

Q7: Can the police ask to see a green card?

A7: The police will probably not ask to see immigration documents, since this is a matter for the Bureau of Immigration and Customs Enforcement (BICE). Formerly known as the Immigration and Naturalization Service (INS), the BICE is the federal agency now responsible for immigration enforcement. In most states, including New York, it is unlikely that the local police can arrest you for failure to possess a green card or documentation that lawfully admitted or paroled immigrants are required to carry.

If you have a valid state ID or drivers' license, you may want to show them. Never produce or carry false documents. As with other police questioning, you can also ask if you are free to leave or whether you are being detained.

Q8: Do I have to give my name to the police?

A8: Generally, no. In some states and localities, a person can be arrested for not giving his name if the police already suspect him of a crime. Police in these states cannot arrest you for not identifying yourself: New York State, Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon and Washington, New York City police cannot arrest you for not identifying yourself..

Q9: What documents am I required to carry?

A9: If you are a U.S. citizen, you are not required to carry any documents. If you are a lawfully admitted or paroled immigrant, you are required to carry documents related to your registration with the BICE at all times. The most common documents that satisfy the requirements are:

- I-94, Arrival-Departure Record
- I-185 or I-185, Border Crossing Cards for citizens of Mexico, Canada or British subjects residing in Canada. Note, that Border Crossing Cards do not provide work authorization. A person working with a Border Crossing Card is in violation of their visa status and can be arrested.
- I-551, Permanent Resident Card
- I-688, Temporary Resident Card
- I-688A, Employment Authorization Card.
- I-688B/ I-766, Employment Authorization Document.