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KNOW YOUR RIGHTS

I. A. WHAT ARE YOUR RIGHTS WHEN ICE...

1. Stops you on the street.
You have the right to not speak to police officers or answer their questions unless you are under arrest.
2. Knocks on your door at home.
You have the right to not allow them into your home unless they have a search warrant or an arrest warrant. However, if you provide a police officer with consent to search/enter your home, then you have given up this right.
3. Stops your car.
You must provide your driver's license, vehicle registration, and proof of insurance. If you do not provide these documents, a police officer will likely detain/arrest you because driving without a license is a crime.
4. Raids your place of work.
Raids in the workplace are currently uncommon. However, if ICE comes to your workplace, it is best to not elude ICE agents as this will provide agents with suspicion/probable cause to arrest/detain you.

B. WHAT ARE YOUR RESPONSIBILITIES

1. You have the responsibility to always have proper form of identification on your person. When driving a vehicle, you must have a driver's license, your vehicle registration, and proof of insurance coverage. You also have the responsibility to tell the truth.

II. IF YOU ARE IN JAIL

A. What are your rights?

1. You have the right to speak with an immigration attorney about your case.
2. You have the right to not sign any documents until you have spoken with an immigration attorney.
3. In some cases, you may have the right to obtain an immigration bond and be released from immigration custody. However, although you are released from immigration custody you will still be required to attend any scheduled immigration hearings or appointments.

B. What are your options?

1. Should I sign anything?

(i) Voluntary Departure

Prior to accepting voluntary departure, it is imperative that you consult with an immigration attorney to discuss all avenues of relief. Depending on your case, often times voluntary departure is not the best option for you since there are serious consequences when you depart the United States. It is important that you consult with an immigration attorney to ascertain whether voluntary departure is best in your case.

Voluntary departure is not a formal deportation. A deportation is different because it is an order signed by a judge or in the case where false documents are used, by an ICE Agent. Voluntary departure is when a person leaves the country, at the person's own expense and without the need to be escorted out of the country by the government.

(ii) Post Bond, if possible

- a. It is important to understand that there is two types of bonds when a person is detained in jail: criminal bonds and immigration bonds.
- b. **Criminal Bonds:** Generally speaking, it is not a good idea to pay a criminal bond/bail when you have an ICE hold. The moment that the criminal bond is paid, the criminal court will no longer have jurisdiction over your person, which will result in your being placed into immigration custody and often sent directly to the immigration detention facility in Tacoma. It is best to make sure your immigration bond is arranged before your criminal case is completed.
- c. **Immigration Bonds:** Generally speaking, an immigration bond is different in that it is only applicable to certain people depending on the offense committed. The lesser/lighter offenses typically make the case bondable. Whether it is a good idea or not to pay an immigration bond depends on the case. It is ultimately case-specific.

C. Posting Immigration Bond

1. Who can bond out?/ Who cannot bond out?

The question of who can and cannot bond out is extremely case specific, and is wholly dependent on a person's criminal history, the offense committed, and the final disposition of that offense. Generally, if you have a clean record you can bond out; if you have criminal convictions it might be more difficult to bond out.

2. How much is the Immigration bond?

The amount of an immigration bond varies, it can be as low as \$2500 or more than \$25,000. The Immigration judge or ICE agent will take into account the following facts: whether the person poses a danger to the community, the offense committed and final disposition, whether the person is a flight risk, ties to the community, and others.

3. Why bond out?

A person would want to bond out of immigration custody for various reasons including talking to his/her immigration attorney to determine whether all of avenues of relief have been exhausted and to determine whether an individual qualifies for any immigration benefit.

(i) What happens after bonding out?

Following payment of a bond, the detained person is released from immigration custody and then awaits an immigration hearing, while working with his/her immigration attorney.

(ii) How long until an Immigration Court hearing date?

The length of time awaiting an Immigration Court hearing depends on the volume of cases being processed at that moment. Currently, it is approximately 6-8 months, but it sometimes has been 1 to 2 years.

(iii) What happens at Immigration Court?

Among other possibilities, the three most common scenarios include a person being Deported/Removed from the United States, a person being granted Voluntary Departure, and/or a person applying for Cancellation of Removal.

a. Deportation

A deportation is a formal order signed by an immigration judge and can be referred to as a “removal” in legal terms. With a deportation, a person who is a non-citizen is removed from the United States. The non-citizen can also be granted voluntary departure, but if the client fails to depart the U.S. (and/or fails to prove they have departed) by the voluntary departure date, an automatic Order of Deportation in absentia is entered.

b. Voluntary Departure

Voluntary Departure usually does not require an appearance before an Immigration Judge. Voluntary Departure is typically given when people try to cross the border, get caught and are then sent back to Mexico in areas such as “El Cerro”. Usually the person is detained anywhere from 2-24 hours. Voluntary Departure also can occur inland in front of an immigration judge.

c. Cancellation of Removal

Cancellation of Removal is only available to someone who is already in removal (deportation) proceedings. A person should not purposely put themselves into deportation to apply for Cancellation of Removal because only a small percentage of these cases are actually approved by an immigration judge. In order for someone to apply for Cancellation of Removal they must PROVE the following:

- 10 years of continuous physical presence in the U.S.
- Good Moral Character
- Extreme Hardship to a U.S. Citizen/Legal Permanent Resident Parent, Child, or Spouse.

III. COMMONLY ASKED QUESTIONS

A. If I am a single mother and I have young kids at home and I get stopped by ICE, will they deport me?

It is possible, but it would not happen at that very moment. The ICE agent would most likely not make you leave your kids stranded and alone. However, you would likely get a Notice To Appear in front of an immigration judge at a later date.

B. Can I be deported if someone (my dad who is a LPR/USC or my brother/sister who is a USC) filed a Petition for me that has been approved, but I’m waiting for my Priority Date to become current?

Yes. A petition, even though approved, holds your place in line for a visa until one becomes readily available based on the priority date noted on the petition approval notice. Until your priority date comes current, you are not considered to be in lawful status.

C. I am working with an invented social security number. Someone said that he has a valid social security number that belongs to someone else that I should use. Is that a good idea?

No. This is definitely a very bad idea. Using an invented social security number that belongs to someone else is considered identity theft and is a serious crime.

D. Several years ago I was caught by Immigration, put in jail in Seattle, went in front of the Immigration Judge in Seattle, then thrown out of the country. Was that a formal deportation?

It depends. Maybe or maybe not. A formal deportation is an order signed by an immigration judge. However, a an immigration judge may also grant a non-citizen voluntary departure, and therefore it would be best to obtain records from immigration to ascertain whether a person was formally deported.

E. Is there anything that I can do NOW to prepare for the day I might be in the hands of Immigration?

Yes, there are proposals for immigration reform which detail the eligibility requirements for non-citizens. It is important to be prepared for an immigration reform.

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CONOZCA SUS DERECHOS/KNOW YOUR RIGHTS

I. A. CUALES SON SUS DERECHOS CUANDO ICE.../WHAT ARE YOUR RIGHTS WHEN ICE

1. Te detiene en la calle.../Stops you on the street...

Usted tiene el derecho de no hablar con los oficiales o contestarles sus preguntas al menos que usted este detenido o bajo arresto.

You have the right to not speak to police officers or answer their questions unless you are under arrest.

2. Toca en la puerta de su casa.../Knocks on your door at home...

Usted tiene el derecho de no dejarlos entrar en su casa al menos que los oficiales tengan una orden de búsqueda o orden de arresto. Pero, si usted le da al oficial consentimiento para entrar y hacer una búsqueda en su casa, usted pierde el derecho de no tener que dejarlos entrar.

You have the right to not allow them into your home unless they have a search warrant or an arrest warrant. However, if you provide a police officer with consent to search/enter your home, then you have given up this right.

3. Detiene su auto.../Stops your car...

Usted debe de proveer su licencia de manejar, registro de vehículo y prueba de seguridad. Si usted no provee estos documentos, un oficial muy probablemente lo detendrá porque manejar sin una licencia es un crimen.

You must provide your driver's license, vehicle registration, and proof of insurance. If you do not provide these documents, a police officer will likely detain/arrest you because driving without a license is a crime.

4. Incursiones en su lugar de empleo.../Raids your place of work...

Incursiones en el lugar de empleo ahorita no son muy comunes. Pero, si ICE viene a su trabajo, está en su mejor interés no eludir o tratar de escapar de los oficiales de ICE, siendo que esto probablemente le dará a los oficiales causa para arrestarlo/detenerlo.

Raids in the workplace are currently uncommon. However, if ICE comes to your workplace, it is best to not elude ICE agents as this will provide agents with suspicion/probable cause to arrest/detain you.

B. CUALES SON SUS RESPONSABILIDADES/WHAT ARE YOUR RESPONSIBILITIES

Usted tiene la responsabilidad de siempre tener una forma de identificación apropiada con sí mismo. Cuando este manejando un vehículo, debe tener su licencia para manejar, la registración del vehículo, y una prueba de seguridad. También tiene la responsabilidad de decir la verdad.

You have the responsibility to always have proper form of identification on your person. When driving a vehicle, you must have a driver's license, your vehicle registration, and proof of insurance coverage. You also have the responsibility to tell the truth.

II. SI ESTA EN LA CARCEL/IF YOU ARE IN JAIL

A. ¿Cuáles son sus derechos?/What are your rights?

1. Tiene el derecho de hablar con un abogado sobre su caso.
You have the right to speak with an immigration attorney about your case.
2. Tiene el derecho de no firmar ningun documento hasta que haya hablado con su abogado de inmigración.
You have the right to not sign any documents until you have spoken with an immigration attorney.
3. En algunos casos, usted podría tener el derecho de obtener una fianza migratoria y podría ser liberado de la custodia de inmigración. Pero, aunque usted sea liberado de la custodia de inmigración todavía será obligado asistir a una audiencia de inmigración o citas programadas para su caso de inmigración.
In some cases, you may have the right to obtain an immigration bond and be released from immigration custody. However, although you are released from immigration custody you will still be required to attend any scheduled immigration hearings or appointments.

B. ¿Cuáles son sus opciones?/What are your options?

1. ¿Debería de firmar algo?/Should I sign anything?

(i) Salida Voluntaria/Voluntary Departure

Antes de aceptar el retiro voluntario, es imprescindible consultar con un abogado de inmigración para discutir todas las posibilidades de alivio. Dependiendo de su caso, hay veces que una salida voluntaria no es la mejor opción para usted ya que hay graves consecuencias al salir de los Estados Unidos. Es importante consultar con un abogado de inmigración para determinar si una salida voluntaria es lo mejor en su caso. Salida voluntaria no es una deportación formal. Una deportación es diferente porque es una orden firmada por un juez o en el caso donde se utilizan documentos falsos, por un agente de ICE. Salida voluntaria es cuando una persona sale del país, a expensas de la persona y sin necesidad de ser escoltado fuera del país por el Gobierno

Prior to accepting voluntary departure, it is imperative that you consult with an immigration attorney to discuss all avenues of relief. Depending on your case, often times voluntary departure is not the best option for you since there are serious consequences when you depart the United States. It is important that you consult with an immigration attorney to ascertain whether voluntary departure is best in your case. Voluntary departure is not a formal deportation. A deportation is different because it is an order signed by a judge or in the case where false documents are used, by an ICE Agent. Voluntary departure is when a person leaves the country, at the person's own expense and without the need to be escorted out of the country by the government.

(ii) Obtenga una fianza, si es posible/Post Bond, if possible

a. Es importante entender que hay dos tipos de fianzas cuando una persona es detenida en la cárcel: fianzas penales y fianzas migratorias.

It is important to understand that there are two types of bonds when a person is detained in jail: criminal bonds and immigration bonds.

b. Fianzas Penales: En general, no es una buena idea pagar una fianza penal cuando la persona tiene una retención ICE. El momento en que se paga la fianza penal, la Corte Penal dejará de tener jurisdicción sobre su persona, que tendrá como resultado su puesta bajo custodia de inmigración y muchas veces podría ser enviado directamente al centro de detención de inmigración en Tacoma. Es mejor asegurarse de que su fianza migratoria esta puesta antes de que se completa su caso penal.

Criminal Bonds: Generally speaking, it is not a good idea to pay a criminal bond/bail when you have an ICE hold. The moment that the criminal bond is paid, the criminal court will no longer have jurisdiction over your person, which

will result in your being placed into immigration custody and often sent directly to the immigration detention facility in Tacoma. It is best to make sure your immigration bond is arranged before your criminal case is completed.

- c. Fianzas Inmigratorias: Por lo general, una Fianza Inmigratoria es diferente en que sólo es aplicable a ciertas personas dependiendo del delito cometido. Los delitos menores y ligeros por lo general resultan en que una fianza por el caso pueda ser negociada. Si es una buena idea o no pagar una fianza inmigratoria depende del caso. Ultimadamente es específico al caso.

Immigration Bonds: Generally speaking, an immigration bond is different in that it is only applicable to certain people depending on the offense committed. The lesser/lighter offenses typically make the case bondable. Whether it is a good idea or not to pay an immigration bond depends on the case. It is ultimately case-specific.

C. Obteniendo una fianza inmigratoria/Posting Bond

1. ¿Quién puede y quien no puede salir con fianza?/Who can bond out? & Who cannot bond out?

La cuestión de quién puede y no puede salir con fianzas es extremadamente específico al caso y es totalmente dependiente de la historia criminal de la persona, el delito cometido y la disposición final de ese delito. En general, si tiene un registro limpio puede salir con fianza; si tiene condenas penales podría ser más difícil salir con fianza. The question of who can and cannot bond out is extremely case specific, and is wholly dependent on a person's criminal history, the offense committed, and the final disposition of that offense. Generally, if you have a clean record you can bond out; if you have criminal convictions it might be more difficult to bond out.

2. ¿Cuánto cuesta una fianza de inmigración?/How much is the bond?

La cantidad de una fianza de inmigración varía; puede ser tan bajo como \$2,500 o más de \$25,000. El juez de inmigración o el agente de ICE tendrá en cuenta los siguientes hechos: si la persona supone un peligro para la Comunidad, la ofensa cometida y la disposición final, si la persona es un riesgo de vuelo, sus lazos con la comunidad y otros hechos.

The amount of an immigration bond varies; it can be as low as \$2500 or more than \$25,000. The Immigration judge or ICE agent will take into account the following facts: whether the person poses a danger to the community, the offense committed and final disposition, whether the person is a flight risk, ties to the community, and others.

3. ¿Para qué pagar la fianza?/Why bond out?

Una persona va querer salir con fianza de inmigración por varias razones incluyendo el hablar con su abogado de inmigración para determinar si se han agotado todas las avenidas de alivio y para determinar si una persona califica para cualquier beneficio de inmigración.

A person would want to bond out of immigration custody for various reasons including talking to his/her immigration attorney to determine whether all of avenues of relief have been exhausted and to determine whether an individual qualifies for any immigration benefit.

- (i) ¿Qué pasa después de que se paga la fianza?/What happens after bonding out?

Tras el pago de una fianza, la persona detenida es liberada de la custodia de inmigración y, a continuación, le espera una audiencia de inmigración, mientras trabaja con su abogado de inmigración.

Following payment of a bond, the detained person is released from immigration custody and then awaits an immigration hearing, while working with his/her immigration attorney.

- (ii) ¿Cuánto tiempo hasta una audiencia judicial en frente de un juez de inmigración en corte? /How long until an Immigration Court hearing date?

La cantidad de tiempo de espera de una audiencia judicial de inmigración en la corte de inmigración depende del volumen de casos que se están procesando en ese momento. Actualmente, es aproximadamente de 6 a 8 meses, pero a veces ha sido 1 a 2 años.

The length of time awaiting an Immigration Court hearing depends on the volume of cases being processed at that moment. Currently, it is approximately 6-8 months, but it sometimes has been 1 to 2 years.

- (iii) ¿Qué pasa en la corte de inmigración?/What happens at Immigration Court?

Entre otras posibilidades, los tres escenarios más comunes incluyen una persona siendo deportada de los Estados Unidos, una persona que se le concede la salida voluntaria o una persona solicitando la cancelación de deportación.

Among other possibilities, the three most common scenarios include a person being Deported/Removed from the United States, a person being granted Voluntary Departure, and/or a person applying for Cancellation of Removal.

a. Deportación/Deportation

Una deportación es una orden formal firmada por un juez de inmigración y puede referirse a una "expulsion" en términos jurídicos. Con una deportación, se le ordena a una persona que es no es ciudadano de los Estados Unidos que salga fuera del país. A la persona también se le puede conceder salida voluntaria, pero si la persona no cumple con salirse de los Estados Unidos (o no demuestra que ha salido) antes de la fecha de salida voluntaria, se introduce una orden automática de deportación en ausencia.

A deportation is a formal order signed by an immigration judge and can be referred to as a "removal" in legal terms. With a deportation, a person who is a non-citizen is removed from the United States. The non-citizen can also be granted voluntary departure, but if the client fails to depart the U.S. (and/or fails to prove they have departed) by the voluntary departure date, an automatic Order of Deportation in absentia is entered.

b. Salida Voluntaria/Voluntary Departure

Salida voluntaria normalmente no requiere una presentación ante un juez de inmigración. Salida voluntaria normalmente se da cuando las personas intentan cruzar la frontera, son detenidos y luego son enviados a México en las áreas como "El Cerro". Normalmente la persona es detenida por 2 a 24 horas. Salida voluntaria también puede concederse en frente de un juez de inmigración.

Voluntary Departure usually does not require an appearance before an Immigration Judge. Voluntary Departure is typically given when people try to cross the border, get caught and are then sent back to Mexico in areas such as "El Cerro". Usually the person is detained anywhere from 2-24 hours. Voluntary Departure also can occur inland in front of an immigration judge.

c. Cancelación de Deportación/Cancellation of Removal

Cancelación de deportación solamente está disponible a alguien que ya está en procedimientos de deportación. Una persona no debería meterse en procedimientos de deportación a propósito para poder aplicar para cancelación de deportación porque solamente un porcentaje pequeño de estos casos son aprobados por un juez de inmigración. Para que alguien pueda aplicar para cancelación de deportación debería PROBAR lo siguiente:

- 10 años de presencia física y continua en los Estados Unidos
- Buen carácter moral

- Dificultad extrema a un esposo/a, hijo/a, padre o madre que es ciudadano o Residente Permanente Legal.

Cancellation of Removal is only available to someone who is already in removal (deportation) proceedings. A person should not purposely put themselves into deportation to apply for Cancellation of Removal because only a small percentage of these cases are actually approved by an immigration judge. In order for someone to apply for Cancellation of Removal they must PROVE the following:

- 10 years of continuous physical presence in the U.S.
- Good Moral Character
- Extreme Hardship to a U.S. Citizen/Legal Permanent Resident Parent, Child, or Spouse.

III. PREGUNTAS FRECUENTES/COMMONLY ASKED QUESTIONS

- A. Si yo soy una madre soltera y tengo hijos pequeños en casa y me detiene un agente de ICE, ¿me van a deportar?

If I am a single mother and I have young kids at home and I get stopped by ICE, will they deport me?

Es posible, pero no pasaría en ese momento. El agente de ICE muy probablemente no le va hacer dejar a sus hijos solos y sin cuidado. Sin embargo, es probable que le darían un aviso para aparecer delante de un juez de inmigración en una fecha posterior.

It is possible, but it would not happen at that very moment. The ICE agent would most likely not make you leave your kids stranded and alone. However, you would likely get a Notice To Appear in front of an immigration judge at a later date.

- B. ¿Puedo ser deportado si alguien (mi papa que es un residente/Ciudadano o mi hermano/a quien es un Ciudadano metió una petición por mí que ha sido aprobada, pero estoy esperando a que se actualice mi fecha de prioridad?

Can I be deported if someone (my dad who is a Legal Permanent Resident/U.S. Citizen or my brother/sister who is a USC) filed a petition for me that has been approved, but I'm waiting for my Priority Date to become current?

Sí. Una petición, aunque aprobado, tiene su lugar en línea para una visa hasta que haya una visa disponible basándose en la fecha de prioridad señalada en el aviso de aprobación de la petición. Hasta que se llega a ser corriente la fecha de prioridad, y que usted aplique para estatus legal y se le apruebe la aplicación - usted no se considera estar en estatus legal.

Yes. A petition, even though approved, holds your place in line for a visa until one becomes readily available based on the priority date noted on the petition approval notice. Until your priority date comes current, you apply for legal status and become approved you are not considered to be in lawful status.

- C. Estoy trabajando con un número de seguro social inventado. Alguien me dijo que tiene un seguro social valido que le pertenece a alguien más que debería usar. ¿Es una buena idea?

I am working with an invented social security number. Someone said that he has a valid social security number that belongs to someone else that I should use. Is that a good idea?

No. Esto definitivamente es una muy mala idea. Usando un número de seguro social inventado que le pertenece a alguien mas es considerado como robo de identidad y es un crimen muy serio.

No. This is definitely a very bad idea. Using an invented social security number that belongs to someone else is considered identity theft and is a serious crime.

- D. Hace varios años fui detenido por inmigración, me pusieron en la cárcel en Seattle, fui frente a un juez de inmigración en Seattle, y luego me sacaron del país. ¿Esto fue una deportación formal?

Several years ago I was caught by immigration, put in jail in Seattle, went in front of the Immigration Judge in Seattle, then thrown out of the country. What that a formal deportation?

Depende. A lo mejor si, a lo mejor no. Una deportación formal es una orden firmada por un juez de inmigración. Pero, un juez de inmigración también puede aprobar una salida voluntaria, entonces sería lo mejor obtener records de inmigración para asegurar si la persona fue formalmente deportada.

It depends. Maybe or maybe not. A formal deportation is an order signed by an immigration judge. However, an immigration judge may also grant a non-citizen voluntary departure, and therefore it would be best to obtain records from immigration to ascertain whether a person was formally deported.

- E. ¿Hay algo que puedo hacer AHORA para prepararme para el día en que puede estar en manos de inmigración?

Is there anything that I can do NOW to prepare for the day I might be in the hands of Immigration?

Si, hay varias propuestas para una reforma inmigratoria que detallan los requisitos de elegibilidad para los que no son ciudadanos. Es importante estar preparados para una reforma inmigratoria.

Yes, there are proposals for immigration reform which detail the eligibility requirements for non-citizens. It is important to be prepared for an immigration reform.