

KNOW YOUR RIGHTS!

Immigration, Local Law Enforcement and 287(g)



The information in this packet is meant to educate you about your rights. Although the information might be helpful, please remember that police officers, sheriffs, and immigration agents might react differently in different situations and there is no way to ever predict an outcome. This is not a substitute for legal advice and you should always talk to a lawyer if you are arrested, receive a citation, or feel that your rights have been violated.

287(G) PROGRAMS (DETENTION MODEL)

287(g) is an agreement between local law enforcement and the federal government giving some immigration authority to local law enforcement personnel. In every other Tennessee County, sheriffs can have independent policing authority. In Davidson County, only the Sheriff's Office (those responsible for running the jails) has this agreement with the federal government (U.S. Immigration and Customs Enforcement, or ICE). However, because the Sheriffs in Davidson County only run the jails, in order for the Sheriffs to use their immigration authority on you, you must be in their **custody**, which means you must be arrested and taken to jail. *Other counties have applied for 287(g), but as of April 2010 Davidson County is the only county in Tennessee with the program in effect. The Tennessee Highway Patrol also has a 287(g) program.*

Are the Davidson County Sheriffs who have immigration authority the same as Metro Police?

NO. The police are local law enforcement. They protect people and investigate crimes. Their job is not immigration enforcement. But remember, when police arrest you in Davidson County, they turn you over to the Sheriff, who runs the jails and has immigration authority.

In Davidson County:

Police:

- Can arrest you (and then you are handed over to the Sheriffs at the jail)
- Do NOT have immigration authority

Sheriffs:

- Cannot arrest you
- DO have immigration authority once you are arrested and taken to the jail

Outside of Davidson County (non-287g):

Police and sheriffs have no immigration authority unless they are with a federal government immigration official. ICE can always question you about your immigration status no matter where you are, but you don't have to answer. You can ask for a lawyer. However, other 287(g) applications are pending.

THE DIFFERENCE BETWEEN AN ARREST, A CITATION & A TICKET, & HOW THEY CAN AFFECT YOUR IMMIGRATION STATUS

Arrest: An arrest is when the police take you to jail for committing a criminal offense. If the police arrest you and turn you over to the Sheriff for booking in a 287(g) county like Davidson County, Sheriff/ICE officers will check your immigration status. They will also ask you questions designed to determine your immigration status. **You do not have to answer any questions, and any questions you answer will be used against you.** If the Sheriff/ICE officer determines you lack legal immigration status, Federal ICE will be notified and deportation proceedings will begin. **You should not sign anything without speaking to a lawyer.** Although you will be given a lawyer for free (public defender) to help you with any criminal charge, you will have to pay for your own immigration lawyer.

Citation: Police do not have to take you to jail to charge you with a minor crime. Instead, they can give you a paper called a "citation" and let you go. A citation is like an arrest without going to jail. If you

get a citation in Davidson County, you never see the Sheriff/ICE officers who start deportation because they are only in jails. The citation will order you to go to court for fingerprinting and a hearing on a certain date. You should go to court on that date. You will likely not face immigration, unless you already have an immigration record (for example, if you have been deported before). **If you don't go to court, the court will issue a warrant for your arrest and you will likely be arrested and taken to jail the next time you have interaction with the Police.** Then you will face Sheriff/ICE officers in the jail. If you receive a citation, you should go to the public defender's office at least a few days before your court date to talk to a lawyer. Public defenders are lawyers who work for people accused of crimes who can't afford to hire a private lawyer. If you qualify, you get a public defender for free.

Ticket: A ticket is what you get for violating a traffic law, like driving too fast. You should pay the ticket. This will not trigger a check of your immigration status because you were not arrested.

What is a notice to appear (NTA)? Is it the same as a citation or a ticket?

A notice to appear, or NTA, is not the same as a citation or a ticket. It is a court order to appear in immigration court on a certain date. Although you will get a lawyer for free (public defender) for criminal cases, you do not get a free lawyer for immigration, so you should speak to a private attorney before going to court.

INTERACTION WITH POLICE

Never run from the police. Never insult, swear at, or yell at the police. Never falsely claim to be a U.S. citizen, and never show fake documents.

If you are stopped on foot (on the sidewalk, in a parking lot, at a park, in a front yard, etc):

General: You do not have to answer any questions. You can say, "I don't want to talk to you" and walk away calmly. Refusing to talk to the police might make the police suspicious of you, but talking to the police might give them a reason to ask you more questions, detain you longer or arrest you. **DO NOT RUN** from the police. You do not have to tell the police your name, where you were born, where you live, or what your immigration status is. If you say anything that makes the police think you were not born in the U.S., then you might give them cause to detain you. If you give the police a fake identification document, you will likely prompt them to detain or arrest you.

Stop (being detained) or arrest: You can always ask the police if you can leave. You can walk away unless the police tell you to stop. If the police say to stop, you should ask if you are under arrest. If you are not, but you are not free to go, you are being detained. The police can pat the outside of your clothing if they have reason to suspect you might be armed and dangerous. If they start to search you more than this, say: "I do not give you consent to a search." They might continue to search anyway. You do not need to answer questions if you are detained or arrested, but if you are arrested, you must give your name and address. If police just stop you to ask you questions, you do not have to answer.

Davidson County: If you have valid identification, then it will likely be beneficial to show it to the police, although you do not have to.

Search: You do not have to consent to any kind of search of yourself, your car or your home. Police usually need a warrant to do a search. When police do not have a warrant, they will ask you for your permission. If you say they cannot search, they probably cannot do a search lawfully. State clearly and loudly that you do not give them permission to search.

What if I'm standing with some friends at the gas station and the police come up to us?

The police might stop you even if you think you're not doing anything wrong because you might be trespassing. You don't have a legal right to be on someone else's property without their permission unless you are a customer. If you are just standing around talking outside the gas station, you could be trespassing. This applies to parking lots and the area behind stores. Remember, you do not have to answer questions and you can walk away unless the police tell you to stop, but DO NOT RUN.

What if I'm standing in my front yard and the police come up to me?

You do not have to answer questions or talk to the police if you don't want to, but DO NOT RUN!

If you are stopped in your car

General: Do not be rude to the officer. Keep your hands where the officer can see them. When the officer asks, show your driver's license, registration and proof of insurance. You do not have to answer questions except to show your license, registration and proof of insurance. You do not have to consent to a search. Police might have the right to search your car, and you must not resist if they are going to search, but you can state clearly that you do not consent to a search. Never carry or show an officer fake documents. Officers may separate passengers and drivers from each other to question them and compare their answers, but no one has to answer any questions.

If you do not have a license: The officer can make the decision whether to arrest you or give you a paper citation for driving without a license. If you are able to prove your identity to the police officer, you may receive a paper citation instead of being arrested and taken to jail where you would face sheriff/ICE officers in Davidson County or in another county with 287(g).

What type of identification can I carry if I don't have a license?

If you don't have a valid driver's license and you are stopped by police in Davidson County, it might be better to try to prove who you are to the officer. The police decide whether to write you a citation or arrest you if you can't prove who you are. If you can't prove who you are, it is likely you will be arrested. Some forms of identification that might help prove who you are include: an expired driver's license, bank card, gym card, school or work identification, utility bill with your name on it and other valid (not fake) identification. Be very careful about using foreign identification. While it may be helpful to show it in Davidson County to convince the officer not to take you to jail for lack of identification, the government can use it against you if you end up in immigration court. Never use fake documents!

What if I have fake documents, but they look real?

NEVER give fake documents to a police officer. It will not help your situation and you may end up in more trouble and even charged with a crime.

If an officer comes to your house

General: If police, sheriffs, or ICE knock on your door, do not open the door. Ask them through the door if they have a warrant.

If they say they have a warrant: Come outside onto the porch and close the door. **DO NOT LET THEM IN THE HOUSE** and do not answer questions. Look at the paper and make sure that it is a warrant signed by a judge (not an ICE agent). If you are not the person on the warrant, tell them it is not you. If you have valid identification, you can show it to the police to prove that you are not that person. **Do not show them a fake document.** If you are the person on the warrant or it is your address, you have to let the officers into your house. Use your rights card – say you don't want to talk to them and you want your lawyer.

If they do not have a warrant: **DO NOT LET THEM INTO YOUR HOUSE.** Do not answer any questions or say anything other than "I don't want to talk to you."

What if an officer knocks on my door and says he just wants to ask me a few questions?

Ask the officer through the door if he has a warrant. If he does not have a warrant but just says that he wants to talk to you, you do not have to talk to the officer.

GENERAL QUESTIONS

What if I need to call the police to report a crime?

If you contact the police to report a crime, you should never be questioned about your immigration status, you should never be detained, and you should not be deported.

What if I am stopped by an ICE (immigration) officer?

Do not show false papers. Do not falsely claim to be a U.S. citizen. ICE can only ask for proof of status if they suspect you to be an alien. If they do suspect you to be an alien and you do not show proof of status or ID, then ICE has the right to take you into custody and begin removal proceedings. You do not have to answer questions, but if you do have status, it is probably best to prove it so you are not taken into ICE custody. After showing your proof of immigration status, you can refuse to answer any other questions. It is better to speak to a lawyer first instead of trying to explain anything to an immigration agent yourself. If you do not have status and you answer questions, your answers will be used against you in deportation proceedings.

How can I prepare for these situations?

1. Know and understand the system where you live. If you are in Davidson County, 287(g) can apply to you.
2. Carry a rights card in your wallet and keep a copy of this rights packet near the front door of your house. **USE IT IF YOU ARE STOPPED.**
3. Make sure your family knows who to contact in case of emergencies. **Have the phone numbers of emergency contacts ready:**

-The Metro Public Defender (if you live in Davidson County) or the public defender in your area

-Your lawyer

-Relatives who can take care of your children or help if the family is split up

IF YOU FEEL YOUR RIGHTS HAVE BEEN VIOLATED, CONTACT ONE OF THE ORGANIZATIONS LISTED BELOW.

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RESOURCES

Statewide Organizations:

American Civil Liberties Union (ACLU) of Tennessee

P. O. Box 120160, Nashville, TN 37212

Phone - (615) 320-7142

www.aclu-tn.org

Tennessee Immigrant and Refugee Rights Coalition (TIRRC)

446 Metroplex Drive, Building A, Suite 224, Nashville, TN 37211

Phone – (615) 833-0384

www.tnimmigrant.org

Davidson County Organizations:

Davidson County Public Defender

Suite 2022, Parkway Towers Building, 404 James Robertson Parkway, Nashville, TN 37219

Phone – (615) 862-5730

Fax – (615) 862-5736

publicdefender.nashville.gov

Conexión Americas

800 18th Avenue S., Suite A, Nashville, TN 37203

Spanish Help Line – 615-269-6900

www.conamericas.com



In addition to ACLU-TN and TIRRC, this document was also drafted by Jessica Baba, Anoosh Bahiraei and Ben Russ.