Texas Immigration Law Council

KNOW YOUR RIGHTS

It is important that community members understand what type of conduct is criminalized, as well as what the Constitutional rights are of all individuals, regardless of immigration status, and how to properly assert and invoke Constitutional rights to minimize the risks of arrest and removal for Illegal Entry and Illegal Reentry.

4th Amendment

Under the 4th Amendment, you have a right to refuse a police search of your home, vehicle, or personal property without a warrant. Invoking the 4th Amendment protections includes not agreeing to a search of your personal belongings, including identification documents. Unless a person is driving (in which case the person must provide a valid Driver's License and insurance) no one is required to show identification to a state law enforcement officer. The only information that a person is ever required to provide is name, residence address, and date of birth if a peace officer requests the information after a lawful arrest (to avoid further prosecution for Failure to Identify under Texas Penal Code 38.02).

5th Amendment

Under the 5th Amendment, you have a right to remain silent and not incriminate yourself. Invoking the 5th Amendment requires a person to verbally invoke it by stating "I am invoking my 5th Amendment right to remain silent and want to speak with a lawyer." You do not have to answer questions about your immigration status to a state law enforcement officer.

6th Amendment

Under the 6th Amendment, you have a right to an attorney if you have been charged with a crime. If you cannot afford an attorney, you have a right to have one appointed to represent you free of charge. If you are arrested for a crime, you should always consult with a lawyer before making any decisions on how to proceed.