

## **Frequently Asked Questions about Immigration**

### **February 2017**

#### **Do immigrants have rights in the U.S.?**

Yes. The U.S. Constitution applies to ALL people - citizens, resident aliens, and undocumented immigrants. No state or government can deprive you of “life, liberty, or property, without due process of law;” or “equal protection of the laws.” If you are in immigration custody, you have the right to question your detention, know why you are in custody, contact a lawyer, see a Judge and have a hearing, and to be treated according to the same legal procedures that protect all of us. You cannot just be picked up and deported.

#### **My child was born in the U.S. Can his or her U.S. citizenship be taken away?**

No. All persons born in the U.S. have U.S. citizenship, even if their parents were not born in the U.S. There has been talk that President-elect Trump would get rid of citizenship rights for people born in this country with parents born in a different country. To change this, the U.S. Constitution would have to be changed. Changing the Constitution would require majority approval votes by both the U.S. House of Representatives and Senate and  $\frac{3}{4}$  of the States. Mr. Trump cannot make this change on his own. Across the U.S. there is little support to change citizenship rights.

#### **How do I answer questions from Law Enforcement and Immigration Officers?**

ALWAYS BE POLITE WITH OFFICERS. Law enforcement’s duty is to investigate crimes and keep us all safe. If officers reasonably believe a crime happened, they have the right to search and investigate it within limits.

*If stopped by officers:*

1. Show and have a valid driver’s license, registration, and insurance if you are driving and are pulled over. If your home is in Wyoming for more than 1 year, a valid license is only a Wyoming driver’s license. People that are undocumented cannot get a Wyoming driver’s license. If you live in Wyoming and are undocumented, it is illegal to drive and you can be arrested. If arrested in Teton County, Immigration will be called and notified that you are in jail.
2. Stay calm and identify yourself with valid identification if asked. You have the right to NOT answer questions about your status/papers. You can politely tell the officers that you do not want to talk about your status or would like to speak with a lawyer first.
3. You do not have to open the door of your home or work for an officer, UNLESS the officer has a warrant, or order signed by a Judge, or is serving court paperwork, to come and search for you or

another person in that place. You have the right to ask the officer to slide the warrant papers under the door to confirm they are properly issued. You have the right to limit officers' search to the areas listed in the warrant.

It is a federal misdemeanor crime for a person to enter the U.S. without proper documents. This can be investigated by federal authorities where they have reasonable suspicion you have committed this crime. Local officers do not have authority to investigate this federal crime. Officers have the right to ask you any question they want to. But, you also have the right to not answer.

### **Can President-elect Trump deport all 11 million undocumented immigrants?**

This is nearly impossible. More recently, Mr. Trump said he's going to focus on "2-3 million criminal immigrants." The real number of undocumented people in the U.S. with criminal records is around 820,000. Many of those are for minor traffic violations. Deporting the 820,000 undocumented people with criminal records would require billions of additional dollars that would need to be approved by both the U.S. House of Representatives and Senate. Current levels of available funding allow for about 400,000 deportations in a year.

### **What will happen to the Deferred Action for Childhood Arrivals (DACA)?**

President-elect Trump has said he will stop DACA when he takes office immediately. Because this is a presidential program Mr. Trump can cancel it on his own at any time.

Since the program was ordered by President Obama and started in 2012, 750,000 young people in the U.S. have been approved for DACA. They were already in the U.S. in 2012, entered the country before they were 16 years old, were in school or graduated from school, and were under 30 years old in 2012. DACA immigrants can obtain permission to work and driver's licenses in Wyoming. The privilege is granted for 2 years at a time and can be renewed repeatedly for 2-year extensions. It is believed that information in DACA applications will NOT be used for deportation.

*Different attorneys give different advice on filing DACA applications.*

1. Trefonas Law attorneys advise filing your **renewal** application if you can, which takes about 8 weeks to get approved. (Eight weeks from now will be after Trump's presidency will start).
2. It may be best to wait if you are a **new** applicant and see what happens with the program. New applications take about 9 months to be approved. Applications cost \$465.00 and this money can be lost if the program is ended.
3. If a person is a current DACA and entered the U.S. without papers, while DACA exists, there is a way to fix this entry to be eligible for other immigration benefits in the future. This is called "Advanced Parole" and gives a DACA the opportunity to leave the country for education, humanitarian, and employment reasons and to reenter the U.S. with a proper entry. If you believe you fit in this category you are encouraged to speak with lawyers experienced in this law.