

## ICE Hold and Immigration Procedures FAQ

Q: What do I say or do at the time of my arrest?

A: Do not say or do anything. Be respectful. Cooperate. Contact a qualified immigration defense attorney immediately.

Q: What is a “No Bond” and does this mean that I am forever going to be locked up for the remainder of my time in the United States?

A: A “No Bond” means that you cannot post bond and thus have to remain incarcerated at the time your *ICE* hold commences. However, once your local bail has been satisfied (i.e. a local criminal or municipal violation has been attached), you are then eligible to be heard on a “Bond Modification Hearing” within three days of filing (or at the court’s earliest discretion due to traffic on the docket). Once you are heard at a “Bond Hearing”, you may be eligible for a “Bond” set at a low amount so you and/or your family may bond you out. Each case may vary depending upon the client’s *criminal case history (CCH)*. Again, speak to a qualified immigration attorney to gather the law that applies to you.

Q: What is the “Notice to Appear”?

A: A “Notice to Appear” is just like being served with an indictment in a criminal court. This document acknowledges that you have been cited with violating the *Immigration Nationality Act (INA)* by being present in the U.S. as an illegal and are now the subject of federal prosecution to have you removed. It is highly suggested to consult with a qualified representative so as to advise you of your specific procedure and applicable options at bar.

Q: Do I have to be Deported?

A: Most ICE subjects believe that they have no legal options available at their disposal and thus decline representation and opt for an immediate removal. This is undoubtedly an option to a detainee not to mention one’s personal decision. However, please know that if you or your loved one chooses immediate removal absent legal representation, a ten (10) year bar will attach to a subject who does not have an aggravated felony conviction on their (CCH). To those that do have an aggravated conviction on their (CCH) will be barred from the United States for life. This means that no legal existence in the U.S. can ever occur on behalf of the individual who chooses to waive representation and get sent home as soon as the federal government can provide transportation. We understand that the lifestyle “behind bars” at an ICE site is grueling and disconcerting, however we strongly urge you to not let the present hardships of prison life influence a fast and loose decision “to go back” so you can “get out” as the consequences will be dire. Yes, you can request immediate removal and your Immigration Judge (IJ) will advise you of your rights, however bear in mind the prospects of coming back into the U.S. legally will be futile not to mention in a minimum time frame of ten (10) years for those who do not carry an aggravated felony conviction on their (CCH). See an attorney to clarify what crimes are included under “aggravated felonies”.

Q: What is “Voluntary Departure”?

A; “Voluntary Departure” may be an option if no aggravated felony conviction exists on the individual’s (CCH). The most important thing you need to know about “Voluntary Departure” is that if you do in fact qualify then you do not have a significant or serious criminal background, which in turn means you may get a low bond set during this procedure. A low bond would enable you to live legally in the U.S. between your “Master Hearing” and when the IJ orders your voluntary departure. Moreover, the ten (10) year bar that is discussed in the above paragraph then gets converted into a three (3) year ban whereby you may qualify for an I-601 waiver within the three (3) years when you return to your native country. Make sure you discuss the time period and proofs necessary to apply for the 601 as well as how to make arrangements for the purchase of your plane ticket and export of your personal effects and monetary currency.

Q: Am I eligible for a “green card” via cancellation of Removal?

A: One of the options for relief outside of Voluntary Departure is a 42b application. If you have ten (10) years continuous physical presence in the United States (and can prove it), are family related to a legal citizen and are of good moral character, then you may qualify for cancellation of your removal procedure. However, be advised that this is a very tedious and evidence intensive application where the success rate is highly competitive. Accordingly, you must hire the right attorney who understands your circumstances in such a fashion that he or she has the ability to communicate clearly and convincingly to the IJ who will be assigned to this hearing. This is an option that we attorneys do not pursue unless you have the proper foundation and proofs to support the same. There are other options for a stay on removal that include Battered Wives’ Syndrome (BWS) and Amnesty applications, however, these legal strategies are up against the strictest of scrutiny when it comes to the procedure, review and decision. Please be guided accordingly and consult a qualified expert in the event you believe your circumstances apply.

DISCLAIMER: This site and any information contained herein are intended for informational purposes only and should not be construed as legal advice. Seek competent counsel for advice on any legal matter.