

Know Your Rights as an Unsheltered Person: Public Transportation, Checkpoints, At the Airport



When encountering federal agents on public transportation:

You may encounter federal agents on or around public transportation.

- **Silence:** You have the right to remain silent.
- **Recording:** You have the right to record federal agents, but always maintain an “arm’s-length-plus-a-step-back” of distance.
- Please note that CTA violations may have a heightened risk of enforcement. **The following may be more strictly enforced:**
 - ✗ Cannabis use or possession (of particular concern because marijuana is still illegal federally, and public consumption is also prohibited by state and local law)
 - ✗ Disruptive behavior
 - ✗ Sleeping or dozing is a violation when “hazardous” or when it “interferes” with CTA service
 - ✗ Smoking or vaping (especially cannabis)
 - ✗ Crossing between train cars
 - ✗ Fare evasion (not paying to ride transit/ jumping the turnstile)
 - ✗ Unauthorized sales and solicitation (selling candy, panhandling)
 - ✗ Double occupying a seat (laying across several seats or having your bag on the seat next to you)
- **Detention:** If officers arrest you because they think you committed a crime, you have the right to a government-appointed attorney. If officers have detained you because of your suspected immigration status, you still have a right to a lawyer, but the government will not provide you with one.

For a full list, visit:

www.transitchicago.com/rules



When encountering federal agents at checkpoints:

There may be checkpoints established by the U.S. Customs and Border Protection (CBP), the federal agency tasked with patrolling the U.S. border. Check points were established in D.C.

- **Silence:** You always have the right to remain silent or to tell the agent that you’ll only answer questions in the presence of an attorney.
 - ▶ Note that while you have the right to remain silent, if you don’t answer questions to establish your citizenship, officials may detain you longer in order to verify your immigration status.
 - ▶ Silence alone is NOT enough to support probable cause or reasonable suspicion to arrest, detain, or search you or your belongings.
 - ▶ A limited exception: for people who do have permission to be in the U.S. for a specific reason and, usually, for a limited amount of time (a “nonimmigrant” on a visa, for example), the law does require you to provide information about your immigration status if asked.
 - ▶ While you can still choose to remain silent or decline a request to produce your documents, people in this category should be aware that they could face arrest consequences. If you want to know whether you fall into this category, you should consult an attorney.
- **Questions:** Agents should not ask questions unrelated to verifying citizenship, nor can they hold you for an extended time without reasonable suspicion of an immigration or federal law violation.

- **Detentions:** Generally, an immigration officer cannot detain you without “reasonable suspicion.”
 - ▶ Reasonable suspicion requires an agent to have specific facts about you that make it reasonable to believe you are committing or committed a violation of immigration law or federal law. It must be more than a hunch or gut feeling.
 - ▶ If an agent detains you, you can ask for their basis for reasonable suspicion, and they should tell you.
- **Searches:**
 - ▶ An officer cannot search you or your belongings without either “probable cause” or your consent. If an agent asks you if they can search your belongings, you have the right to say no.
 - ▶ An officer can do a visual search of your car.
 - ▶ If probable cause is present during an auto search, law enforcement may search the entire car, including locked compartments such as the glove box, center console, or trunk. Any locked personal items inside the vehicle can also be searched, including bags.
- **Arrests:** An immigration officer cannot arrest you without “probable cause.”
 - ▶ Probable cause means there are facts that indicate you are committing, or committed, a violation of immigration law or federal law.
- **Documents:** If an agent asks you for documents, what you need to provide differs depending on your immigration status.
 - ▶ U.S. citizens do not have to carry proof of citizenship on their person.
 - ▶ If you have valid immigration documents and are over the age of 18, the law does require you to carry those documents on you. If you are asked by an immigration agent to produce them, it is advisable to show the documents to the agent or you risk being arrested.
 - ▶ If you are an immigrant without documents, you can decline the officer’s request. An agent may likely ask you more questions if you decline a request. No matter what category you fall into, never provide false documents to immigration officials.
 - ▶ People who have entered the U.S. without inspection by an immigration official may be subject to expedited removal from the U.S. Expedited removal is a summary deportation that bypasses an immigration judge.



When encountering federal agents at or around the airport:

- **Silence:** You have the right to remain silent.
 - ▶ Silence alone is not enough to support probable cause or reasonable suspicion to arrest, detain, or search you or your belongings.
- You have the right to refuse to consent to a search of yourself or your belongings.
 - ▶ **Pat downs:** Law enforcement can conduct a pat-down if they suspect you have a weapon.
 - ▶ **Bag searches:** Law enforcement needs probable cause to search your bag, this must be based on objective facts, not just a hunch. If they have probable cause, an officer may search an individual or their nearby belongings without a warrant.
 - ▶ **Plain view:** For example – if a backpack is left open, and a marijuana pipe is visible in it, then the officer can search it.
 - ▶ **Search Incident to Arrest:** During a lawful arrest, officers may search a person and personal items within their reach without a warrant. Evidence obtained through an unlawful search is often inadmissible in court.

More guidance here:



bit.ly/airguidance



If you need help, observe unusual law enforcement activity, or have any information to share, call the **Chicago Coalition to End Homelessness** at **312-641-4148**.