

unconstitutional by a court. However, day laborers, like everyone else, have a right against unlawful discrimination regardless of their immigration status. This means that while there may be local laws that prohibit individuals from soliciting employment in certain areas, police officers cannot selectively enforce these or any other traffic, safety or loitering laws against day laborers alone.

**IMPORTANT:** Police officers can arrest you for trespassing onto private property without the owner's consent. If you see a "no trespass" sign or know that you are about to go onto private property, do not enter.

## 2. What rights do I have if the police approach me and want to speak to me?

**You have the constitutional right to remain silent.** You have the right to remain silent even if you are asked questions about your immigration status. The police cannot arrest you without "probable cause" (a good reason to believe you have committed an offense). Always remember you have the constitutional right to remain silent, regardless of your immigration status.

When approached by police, federal immigration officials or the FBI, always ask: "Am I under arrest or am I free to go?" **If they say you are not being arrested, then you are free to walk away.**

## 3. What should I do if police ask me to identify myself or ask about my immigration status?

Local police may ask for identification if they reasonably suspect you may have committed a crime. Federal immigration officials may ask for identification if they reasonably suspect you may be in the country illegally.

If you have valid identification, you can show it, or you can refuse and say that you want to speak to a lawyer before you show or say anything; this may result in detention by the local police or the federal authorities. You do not have to talk to anyone, even if you have been arrested or are in jail.

**BE AWARE:** Presenting fraudulent documentation is a federal offense and may result in your arrest and prosecution. Also, it is important not to run because this provides a reason for an arrest.

### Some Tips

- ✓ If the police arrive to break up a bad situation involving the Minutemen, you should obey the police and ask to be escorted away from the Minutemen. Do not give the police a reason to arrest you.
- ✓ Don't get into an argument with the police. Remember, anything you say or do can be used against you.
- ✓ Keep your hands where the police can see them. Don't run. Don't touch any police officer.
- ✓ Ask if you are under arrest. If you are told you are under arrest, you have the right to ask why you are being arrested. Tell the police officer or immigration agent that you do not want to answer any questions until you speak with a lawyer. If you are told you are not under arrest, then you are free to walk away.

### We strongly urge you to cooperate with law enforcement at all times.

BUT never forget that you have the constitutional **right to remain silent**. You can show the following information to any police officer or immigration agent to explain that you are exercising your right to remain silent.

## My Rights Card

**I am giving you this card because I do not wish to speak to you or have any further contact with you. I choose to exercise my right to remain silent and to refuse to answer your questions. If you arrest me, I will continue to exercise my right to remain silent and to refuse to answer your questions. I want to speak to a lawyer before answering your questions.**



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### For More Information Contact:

**American Civil Liberties Union  
Foundation of Arizona**  
P.O. Box 17148 • Phoenix, AZ 85011-0148  
Tel: 602-650-1854 • Fax: 602-650-1376  
[www.acluaz.org](http://www.acluaz.org)

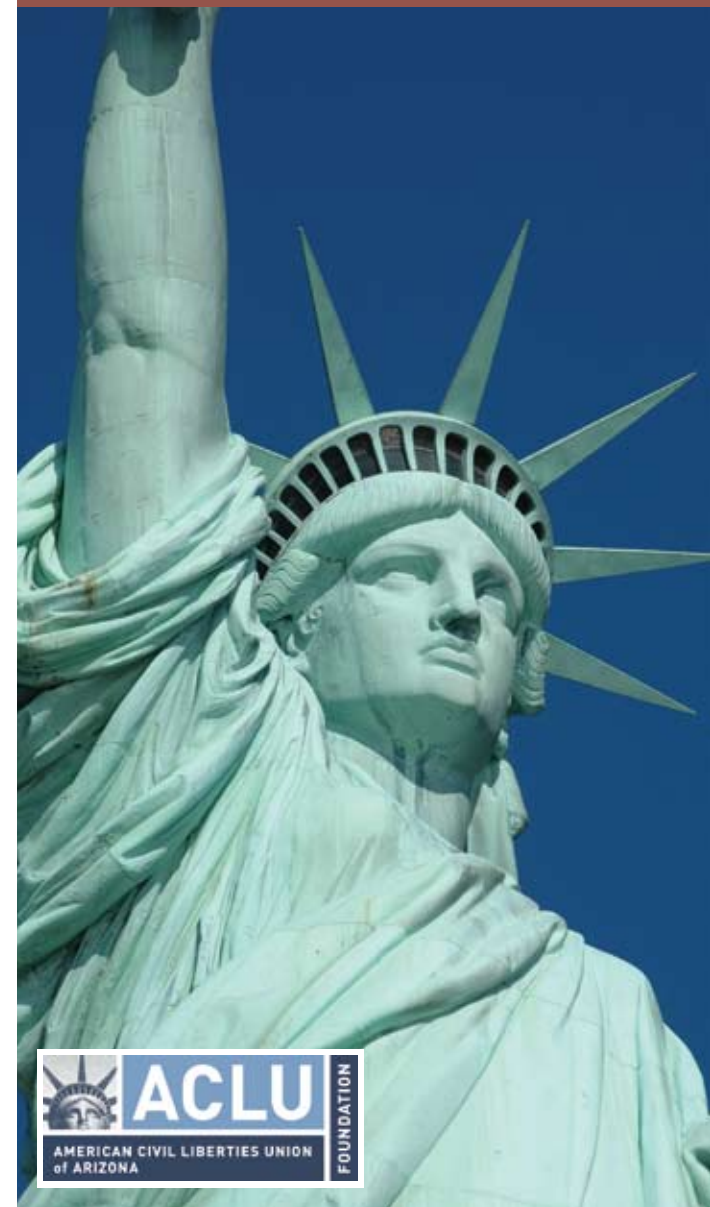
The American Civil Liberties Union is the nation's premier guardian of liberty, working in the courts, legislatures and communities to defend and preserve the individual rights and freedoms guaranteed by the Constitution and laws of the United States.

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The national Immigrants' Rights Project (IRP) of the ACLU contributed to this brochure. Information on IRP is available at [www.aclu.org/immigrants](http://www.aclu.org/immigrants).

Special thanks to the National Day Laborer Organizing Network (NDLON) for contributing to this brochure.

# Rights of Immigrant Day Laborers



## Your Basic Rights

Every person in this country—regardless of his or her immigration status—is entitled to certain constitutional protections. The First Amendment to the U.S. Constitution protects every person's right to free speech. **When you talk about work or look for work with a contractor or anyone else in a public area, like a sidewalk, you are exercising your right to free speech.**

In exercising this right, you must remember to always obey the law and not block cars in traffic or create a safety problem for yourself, other pedestrians or drivers. While you have a right to solicit work, you may be breaking local traffic and safety laws by running into the street to meet a potential employer. Avoid blocking pedestrians walking along the sidewalk or entering a business.

It is not uncommon for states, cities and counties to pass laws that restrict where, when and how you solicit work. If what the law prohibits is unclear, or if it goes so far as to prohibit you from soliciting work on sidewalks, it may be unlawful. **Contact the ACLU of Arizona if you have been cited or arrested under an anti-solicitation ordinance.**

**Keep in mind the distinction between public and private property.** You DO NOT have the same right to solicit work on private property as on public property. You could be arrested or fined for trespassing on private property without the owner's consent. A sidewalk is public, but a driveway for a house or a parking lot for a store is not.



## Vigilante Harassment

**The problem:** Despite day laborers' right to free speech, the Minutemen have been known to oppose day laborers' efforts to solicit work in Arizona and in other parts of the country. They often protest outside day laborer centers, take photographs of workers and employers' license plates and videotape encounters between potential employers and day laborers. These actions have frequently driven police, local business owners and residents to engage in hostile, and potentially illegal, activity against day laborers.

### What You Need to Know

#### 1. Can the Minutemen protest outside day laborer centers or where day laborers congregate in public areas?

The Minutemen, like day laborers, have a First Amendment right to express their beliefs and engage in protected speech on public property. The First Amendment, however, may not protect the Minutemen's use of racial epithets, abusive phrases or words that place someone in danger of harm. Always remember that the Minutemen do not have the same right to free speech on private property, which includes where you live and work.

Taking photographs or filming day laborers in public areas is permissible as long as it does not threaten your safety.

#### 2. What actions are NOT protected by the First Amendment?

The Minutemen cannot engage in arrests, detentions, stalking, harassment, intimidation or any criminal act against day laborers. Given the history of vigilantism in Arizona and the kind of anti-Latino speech that some well-known Minutemen have engaged in, there is a real concern that they will commit crimes against day laborers on the basis of their race, ethnicity or immigration status.

When private citizens engage in vigilante actions and commit crimes against immigrants that are motivated by hatred and racism, those actions may be considered hate crimes.

**IMPORTANT:** *If you are the victim of a crime or any physical aggression, call the ACLU of Arizona.*

#### 3. What are the rights of day laborers against the Minutemen?

The Constitution protects all persons, including undocumented immigrants, against improper or abusive detention and arrests. No one—not even the police, much less the Minutemen—has the right to commit any crime against you. The Constitution also protects your ability to peacefully counter-protest the Minutemen's actions.

**BE AWARE:** *If you are arrested during a protest, this information can be used against you during an immigration proceeding if you are applying for residency in the United States.*

The Minutemen have no right to pretend to enforce federal immigration law by taking the law into their own hands or by unlawfully detaining immigrants. The authority to decide who may enter, remain or work in this country should ultimately be in the hands of trained federal immigration officers who are accountable to the Constitution and the courts. That authority needs to be used fairly, humanely and subject to our constitutional norms of due process and equal protection.

### Some Tips

- ✓ Don't become alarmed when you see Minutemen or other vigilantes on your street corner or center. Try to remain calm. You have a constitutional right to stand in public areas and solicit work on sidewalks.



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- ✓ Document actions by Minutemen or police, or any other persons that may be a threat, such as when they arrive, what they say, their



license plate/badge/patrol car numbers, etc. Write down everything you remember.

- ✓ Avoid being provoked by the Minutemen's presence or insults. If the Minutemen try to speak to you, always respond with respect and try not to provoke them.
- ✓ If you do not want to be filmed or photographed, you should simply turn your back or cover your face. It is legal to film or photograph anyone in a public place.
- ✓ If your boss is picking you up near where the Minutemen are located, try to call your boss and see if he can pick you up elsewhere.

## Police Harassment

**The problem:** Police officers frequently respond to complaints from business owners or residents about day laborers by conducting surveillance where day laborers might congregate. In an effort to deter day laborers from soliciting work, officers may selectively enforce safety and traffic laws against day laborers. Sometimes police threaten day laborers with fines or arrest for simply standing on the sidewalk soliciting work.

### What you need to know

#### 1. Can police officers cite or arrest day laborers for soliciting employment from the street or public right-of-way?

Police officers can cite or arrest you if they have probable cause to believe you violated an existing anti-solicitation ordinance or any other law, unless it's declared