

# KNOW YOUR RIGHTS<sup>1</sup>

## IMMIGRATION ENFORCEMENT AGAINST POTENTIAL SPONSORS<sup>2</sup> OF UNACCOMPANIED IMMIGRANT CHILDREN

### What is happening?

As of June 2017, the Department of Homeland Security (“DHS”) and Immigration and Customs Enforcement (“ICE”) began arresting potential adult sponsors of unaccompanied children in cases where DHS believes these adults were involved in “smuggling,” a crime of bringing or helping to bring someone into the U.S. unlawfully.

There are reports from several states, including New Jersey, of a small number of potential sponsors being investigated for smuggling, which can result in charges under immigration law and/or criminal law. These reports involved children who were recently apprehended at the border and were in immigration shelters.

**Will it happen to adults who have already sponsored children?** At this time, we don’t know.

**Will it happen to adults who brought children with them to the U.S.?** At this time, we don’t know.

**How can I protect myself?** See information below and *share it* with everyone in your home, family, friends, and neighbors, including children. Especially share it with children who are thinking of coming to the U.S.

### **1. YOU PLAN TO SPONSOR OR BRING A CHILD TO THE U.S. IN THE FUTURE**

If you have ever been detained by immigration officials, have a removal order from an immigration judge, have ever been denied entry into the U.S. by immigration officers, or have a criminal history in the U.S., you are at increased risk of being apprehended by ICE and should consult with an immigration attorney *before* agreeing to be a sponsor.

Everyone, including a child, has the right to remain silent when questioned by immigration officials at the border. A child or other person can say, “I’m sorry, but I don’t want to answer your questions.” While children should share their correct name, age, and country of origin, children do not need to answer other questions posed by immigration officers, including questions about who paid for or arranged their trip to the U.S.

Alternatively, so long as it is true, a child, potential sponsor, or accompanying adult can answer “I don’t know” or “I’m not sure” in response to questions from immigration officials about who arranged or paid for the child’s trip to the U.S. Do not make false statements; you can be charged criminally for making false statements.

Information about the arrangement or payment of a child’s trip should not be shared with the child or others because if the child or sponsor reveals this information to authorities, it could be used against them in immigration and/or criminal proceedings.

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<sup>1</sup> This resource is for information purposes only and is not intended to be legal advice. It was created in August 2017 by the Immigrant Rights Program of the American Friends Service Committee in Newark, New Jersey.

<sup>2</sup> “Sponsor” is a term used to describe an adult who agrees to house and care for a child released from an immigration shelter while the child faces removal proceedings in immigration court.

## **2. YOU ARE IN THE PROCESS OF SPONSORING AN UNACCOMPANIED CHILD**

Remember: law enforcement officials are permitted to lie, intimidate, and bluff.

If law enforcement officials try to question you about a child's trip or call you for an interview, reach out to a trusted attorney immediately. You have the right to remain silent. Do not answer any questions without an attorney present. Do not make false statements; you can be charged criminally for making false statements.

If law enforcement officials come to your home, they need a search warrant signed by a judge to enter. An immigration arrest warrant is not sufficient. Do not open the door for officials who do not have a warrant signed by a judge. If you are unsure whether the officials have a proper warrant, don't open the door. Even if officers enter your home, you have the right to remain silent, to refuse them permission to search, and to ask them to leave.

You have a right to know why you are being questioned and whether you are free to go. If facing criminal charges in the U.S., you have a right to an attorney paid for by the U.S. or state government. If facing immigration charges, you have a right to an attorney but must pay the cost or find an attorney to represent you for free.

If you plan to participate in a child's immigration case in any manner, (e.g. as a witness, by attending court, or as a potential custodian) consult with an attorney who can advise you on the potential risks of participating and how to minimize those risks. This must be a different lawyer from the child's lawyer.

## **3. YOU ALREADY SPONSORED AN UNACCOMPANIED CHILD**

Create a Family Safety Plan, possibly including a Power of Attorney form which allows you to give a trusted adult the authority to care for and make decisions about children in your care if you are apprehended by ICE.

Prepare a file for safekeeping in your home that includes important documents such as birth certificates of children in your care, marriage certificates, medical documents for any sick relative, school records of children in your care, proof of lawful immigration status in the U.S. for any close relative, proof of your physical presence in the U.S. for the past two years (such as a lease, rent receipts, utility bills, medical or school records). A copy of this file should be shared with a trusted adult who does not live with you.

If you have already participated in a child's immigration case, consult with an attorney who is not representing the child to advise you on the potential risks of your participation and how to mitigate those risks.

Especially if you have had prior encounters with immigration officers or have a prior removal order, seek a consultation with an immigration attorney for careful review of your case in order to assess your eligibility for immigration relief. Even if you have a prior removal order, you still have the right to ask for a "reasonable fear interview" from an asylum officer if you fear returning to your country.

If you have considered applying affirmatively for an immigration benefit (e.g. a family-based petition) it is important that you consult with an immigration attorney before filing any application.

If a removal case is started against you, you may qualify for immigration relief. Consult with an immigration attorney. You must attend all hearings because if you don't, you could be deported in your absence.

If you are detained by immigration officials, you may be eligible to be released on bond.