

What to Do if Approached by Law Enforcement

By criminalizing essential health care, politicians and prosecutors deny the humanity of people who become pregnant, seeking to control their bodies and determine their futures.

The information in this document pertains to interactions between criminal law enforcement and individuals who are being investigated, threatened with arrest or criminal charges, or charged with a crime for allegedly having helped someone get an abortion or other reproductive care.



Do I have to answer questions from law enforcement?

- No. You have a constitutional right to remain silent. You cannot be punished for refusing to answer questions. It is a good idea to talk to a lawyer before agreeing to answer any questions posed by any law enforcement official or agency.
- If you've already spoken to law enforcement, you can still refuse to answer other questions until you have a lawyer.
- If you do speak to law enforcement, anything you say could be used in a criminal proceeding against you or potentially someone else, such as the person you are trying to help obtain reproductive care.

If law enforcement reaches out to me, how do I get a lawyer?

- If you are approached by law enforcement and believe the government may be criminally investigating abortion or other reproductive care, you can contact the ACLU's Abortion Criminal Defense Initiative to help you obtain criminal defense representation to navigate these encounters.

What should I tell law enforcement if I do not want to answer their questions?

- You can respond: "I want to speak to my attorney before answering any questions" or "I will not be answering any questions without speaking to my attorney."

- Ask for the name, agency, and telephone number of any law enforcement officer who stops or visits you and give that information to your lawyer.
- Refrain from speaking to or communicating with (including texting, emailing, and posting on social media) anyone else about the matter, as statements you make to anyone who is not your attorney could be used against you.

What do I do if I am pulled over by law enforcement while driving a patient to or from a reproductive care appointment?

- Stop the car in a safe place and as quickly as possible.
- Turn off the car, turn on the internal light, open the window part way, and place your hands on the wheel. If you're in the passenger seat, put your hands on the dashboard.
- Upon request, show the police your driver's license, registration and proof of insurance.
- Avoid making sudden movements and keep your hands where the officers can see them.
- Both drivers and passengers have the right to remain silent.
- If you're a passenger, you can ask if you are free to leave. If yes, you may silently leave.

Can law enforcement search my cell phone?

- Law enforcement cannot seize your property, including your cell phone, without a warrant or an exception to the warrant requirement (for example, if you give consent). If law enforcement asks for your cell phone without a court order, you have the right to decline their request.
- If law enforcement asks for the passcode to your phone or other electronic device, you do not have to provide it unless there is a court order requiring you to do so. Even then, depending on the jurisdiction, it may be possible to invoke your rights and refuse to provide any passcode. Your attorney would be able to advise you if this is an option and, if so, help you assert your rights.

What if I or my organization receives a subpoena?

- If you receive a subpoena, you should contact your lawyer right away. Although the subpoena may direct you to either turn over documents or appear in court or before a grand jury to testify, your attorney may be able to quash the subpoena or limit its scope.
- Even if you are ultimately required to produce documents or testify, you may be able to assert your right against self-incrimination or assert that certain documents or answers to questions are protected. Your attorney can assert your rights and work on your behalf to protect your interests.

Additional Resources

If you need more information, contact the
ACLU's Abortion Criminal Defense Initiative:
aclu.org/acdi

Abortion Defense Network:
abortiondefensenetwork.org