Frequently Asked Questions (FAQs) Regarding Lopez-Venegas Settlement

Systemic Reforms

What is the Lopez-Venegas settlement agreement? It is an agreement (not a law) that resulted from a lawsuit brought by an American civil rights organization, the American Civil Liberties Union (ACLU), against the U.S. Government.

If it is not a law, can it still help me? Yes. The Lopez-Venegas settlement agreement created basic rights to protect immigrants who are given “voluntary return” here in Southern California, as explained below.

Why did the ACLU fight for this settlement? The ACLU is one of the oldest and most respected civil rights organizations in the United States. For more than ninety years, we have been defending civil rights and civil liberties and representing clients whose fundamental freedoms have been violated. When we learned about how U.S. immigration officials were forcing immigrants to sign voluntary return forms—documents they did not understand and that led to their self-deportation—we sued in court to change these practices. The settlement agreement is the result, and makes important changes that protect your rights.

What does the settlement agreement do? The agreement gives you rights and requires U.S. immigration officials to change the way they treat people in Southern California who are given a voluntary return, which is a form of deportation.

Which immigration officials does this apply to? The two immigration agencies are ICE (U.S. Immigration and Customs Enforcement) and Border Patrol. This information is important because if you call your family members to tell them you’ve been detained, you want to give them as much information as possible so they know where to find you. ICE officers and Border Patrol agents have different offices, and if your family thinks you were detained by one but it was actually the other, they may call the wrong office.

How can I tell them apart? In general, ICE officers wear blue uniforms and Border Patrol agents wear green uniforms. Again, it is important to pay attention to which immigration agency detained you so that your family can find you.
Does the settlement agreement apply to the entire United States? No. The Lopez-Venegas settlement agreement only applies to Southern California.

If you or someone you know was offered a voluntary return by U.S. immigration officials from somewhere else, this agreement unfortunately does not apply. We’re working to extend it, but currently the agreement only applies to Southern California.

What are the different ways I can get deported? The U.S. immigration system is very complicated. Very generally speaking, there are two ways an immigrant can be deported (“removed”) from the United States: either by seeing an Immigration Judge (called “judicial removals”), or by being offered forms by ICE or Border Patrol (called “administrative removals”). This is why it is VERY important that you NEVER sign a form you do not understand. You could be signing your rights away and agreeing to be deported from the United States!

What is a voluntary return? Voluntary return is a type of administrative deportation. This means that immigrants who accept a voluntary return will NOT see a judge before they are deported from the United States. Instead, this kind of deportation is processed by a U.S. immigration official.

If you leave the United States on your own without being offered a voluntary return form and without signing that form, that is NOT a voluntary return. Only ICE or Border Patrol can offer an immigrant they have picked up a voluntary return.

Is a voluntary return a good option for me? We can’t answer that. For some people, a voluntary return is a good choice, but this will always depend on each person’s particular personal circumstances. An immigration attorney or person with special training in U.S. immigration laws (called a “BIA-accredited representative”) may help you to make the best decision based on your particular circumstances. This is why it is so important to speak to a lawyer or a BIA-accredited representative BEFORE you sign any form.

How can I identify a voluntary return form? The form for a voluntary return is called an I-826. Under the agreement, Border Patrol and ICE had to change the form so now you have to physically mark and sign that you want a voluntary return. [insert I-826 Eng. & Spn.].

Does the Lopez-Venegas settlement agreement apply to all forms of deportations? No. This agreement specifically applies only to voluntary returns in Southern California.

What if I have been picked up by ICE or Border Patrol, and they’ve taken me to their station. Do I have the right to make a phone call? Yes. Under the agreement, you have the right to use the telephone BEFORE you agree to sign a voluntary return form.
Where are the phones? In many ICE and Border Patrol stations, there are office phones behind the counters where the immigration agents sit. You can ask the agents to use one of these phones for free. If you can’t hear, you can tell the immigration agent and ask them to turn up the volume on the phone for you. You can also ask them to let you make the call from a quieter place.

What if I try to make a phone call, but I can’t get through? Don’t worry. Under the settlement agreement, you must be given at least two hours to try contact a family member, lawyer, BIA-accredited representative, and/or the Mexican consulate.

What is a BIA-accredited representative? A BIA-accredited representative is a person with specialized training in U.S. immigration laws.

What if I don’t know my family’s phone number? Please remember to memorize or write down important family phone numbers and carry this information with you at all times. If you don’t know your family’s phone number, call the Mexican Consulate.

Where do I get the number for the Mexican Consulate? ICE and Border Patrol are required to give you the contact information for the nearest Mexican consul. The contact information may also be posted in the holding cell, and/or near the phones. If you aren’t able to find it, ask an agent for the telephone number.

What if I don’t have a lawyer, but would like to have one? ICE and Border Patrol must give you a list of free legal service providers. This list includes contact information for attorneys in your area and contact information for BIA-accredited representatives. This list may be found taped to the holding cell windows and/or near the phones. Many of the lawyers and BIA-accredited representatives on this list provide services at no cost or at low cost.

What happens if I try to make a phone call, but no one answers the phone? Again, once you have asked to make a phone call, you have at least two hours to try and reach the person you are calling. During those two hours, ICE and Border Patrol cannot offer you a voluntary return. Even after two hours, if you have not been able to contact anyone, ICE and Border Patrol cannot process your voluntary return UNLESS you clearly say that you want to continue. If you don’t choose to go forward with a voluntary return without talking to someone, you should instead be given an “NTA” – which stands for a “Notice to Appear” before an Immigration Judge. You can ask for an NTA if you don’t want a voluntary return.

Do ICE and Border Patrol have to give me information on voluntary returns? Yes. ICE and Border Patrol agents must tell you the following information:

1) If you sign a voluntary return, you may lose immigration benefits that you would otherwise have a right to, AND
2) If you have been in the United States without legal status for one year or longer and you sign a voluntary return, you may not be able to legally return to the United States for ten years, unless you get a waiver (see below for what a waiver is). If you have been in the United States without status for more than 180 days but less than one year, you may not be able to legally return to the United States for three years, unless you get a waiver, AND
3) If you request to see an Immigration Judge, you may spend more time in detention, OR you could be released on bond, AND
4) You can change your mind about signing a voluntary return any time before you physically leave the United States and enter Mexico. If you do change your mind, you should be returned to the station and given a “Notice to Appear,” which will give you information about a hearing before an Immigration Judge.

What is a waiver? A waiver is a special permission granted by the U.S. Government that allows you to legally return to the United States without having to wait three or ten years.

Who can apply for a waiver? Only a person who has a spouse or parent who is a U.S. citizen or legal resident can apply for a waiver.

What if Border Patrol or ICE don’t tell me the above information? Under the agreement, ICE and Border Patrol must give you the information above. If they don’t, that’s an abuse of your rights and you should call us to let us know what happened. Call us at 619.398.4189 if you are in the United States. If you are in Mexico, call 01-800-681-6917.

Where can I get more information about my rights? If you are being detained, look around you. There should be posters or pieces of paper that say “Advisals.” These posters are in English and Spanish. Sometimes, they’re high on the wall near the
ceiling. The notices may be printed on small pieces of paper taped outside the holding cell window. They may also be at the counter where the agents ask your name and where you live. These “Advisals” will spell out your rights. If you need time to review these advisals, let the agents know.

What if there are no posters or paper describing my rights? That’s an abuse of your rights. Under the agreement, ICE and Border Patrol agents must post your rights so that you can read and understand them before you are asked to sign a voluntary return. If you don’t see any posters, please call us and let us know. Call us at 619.398.4189 if you are in the United States. If you are in Mexico, call 01-800-681-6917.

Is there a number I can call that will give me information about my rights? If you are detained, you have the right to call a toll-free telephone number (“Hotline Number”) that will tell you about your rights. This number is only a recording and does not connect to a live person. It only provides information on voluntary returns so that you can make the best decision for yourself.

Where do I find this hotline number? This number should be towards the bottom of the “Advisals” posters and signs described above. You’ll see the words, “Hotline Number.” This number may also be next to the phones at the counter where the agents asked for your name and address. If you can’t find the number, ask an agent to connect you to the Advisal Hotline. The recording is about 9 minutes long and is in Spanish and English.

Can Border Patrol or ICE force me to sign a voluntary return? No. Remember, you have rights and you can ask to see an Immigration Judge. No one should ever threaten you or your family, or try to force you to sign anything.

If you are uncertain about what is the best thing for you to do, do not let any immigration agent intimidate you or try to influence your decision. Do not sign anything until you’re certain it’s the right thing for you and your family.

Here are some other things Border Patrol and ICE cannot do:

Border Patrol and ICE cannot threaten or pressure you to sign a voluntary return. For example, Border Patrol and ICE cannot tell you that you will be detained for a long time if you don’t sign a voluntary return form. They also cannot tell you that if you don’t sign a voluntary return, they will deport your family.

These are only examples. If you feel Border Patrol or ICE forced you to sign a voluntary return in anyway, please call us and let us know. Call us at 619.398.4189 if you are in the United States. If you are in Mexico, call 01-800-681-6917.

Border Patrol and ICE cannot give you their opinion about whether an Immigration Judge may or may not listen to your case. A judge may grant your immigration relief, or she or he could deny your immigration relief. But Border Patrol and ICE cannot give you their opinion on what an Immigration Judge will do.

What if Border Patrol or ICE tells me that I can “fix” my papers from Mexico? This is not true. Also, Border Patrol and ICE are not allowed to give you their opinion on whether you will legally be able to return to the United States.

Can I change my mind about signing a voluntary return? Yes. You can change your mind and instead ask to see an Immigration Judge any time before you physically leave the United States and enter Mexico. Just tell the immigration agent “I changed my mind, I do not want a voluntary return, I want to see an Immigration Judge.”

What should I do if my rights are violated? Please contact us. We are here to defend and support your rights. Call us at 619.398.4189 if you are in the United States. If you are in Mexico, call 01-800-681-6917.