

KNOW YOUR RIGHTS

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WHEN FACED WITH ANTI-
MUSLIM DISCRIMINATION

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ACLU

AMERICAN CIVIL LIBERTIES UNION

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Recently, we have seen a particular rise in instances of discrimination against American Muslims, those perceived to be Muslim, and members of other religions. As a result, we have prepared this resource, which provides information on civil rights when faced with religious discrimination in general and anti-Muslim discrimination in particular. You can find this and other Know Your Rights materials at www.aclu.org/know-your-rights.

Inside you will find information on:

- The Right to Wear Hijab
- Your Rights at the Airport and the Border
- Religious Freedom for Houses of Worship
- Religious Freedom in Public Schools
- Religious Freedom in the Workplace
- Religious Freedom for Prisoners
- Important Information About Informants
- Religious Freedom in Public Accommodations and Housing
- Your Rights During Law Enforcement Encounters

Please note that this information is not a substitute for legal advice. You should contact an attorney if you believe that your rights have been violated.

You can find more information at www.aclu.org or by contacting:

ACLU of Hawai'i
P.O. Box 3410, Honolulu, HI 96801
(808) 522-5900
www.acluhi.org

I. THE RIGHT TO WEAR HIJAB

Because the right to wear hijab can often depend on your particular circumstances and state or local law, it is important to contact an attorney for more information. The ACLU of Hawai'i can help.

Religious freedom includes the right to wear religious garb, such as headscarves or hijabs. Unfortunately, many Muslim women face discrimination in a variety of contexts because of their decision to wear a headscarf or hijab. **You have a right to wear your headscarf or hijab:**

At the airport and the border.

If asked to remove your hijab, you should assert your right to wear it before going through the airport security screening. If an alarm goes off, however, airport security officers may request additional screening. They may then conduct a pat-down of your hijab or ask you to remove it. You have the right to request that the pat-down or removal be conducted by a person of your gender and that it occurs in a private area.

If you do not want the TSA officer to touch your hijab, you must refuse and say that you would prefer to pat it down yourself. You will then be taken aside and a TSA officer will supervise you as you pat down your hijab. After the pat-down, the TSA officer may rub your hands with a small cotton cloth and place it in a machine to test for chemical residue. If you pass this chemical residue test, you should be allowed to proceed to your flight. If the TSA officer insists on the removal of your hijab, you have a right to ask that it be done in a private area.

Officers may not conduct additional screening based solely on your race, national origin, religion, gender, ethnicity, or political beliefs.

In public schools.

School officials might be required to permit you to wear your headscarf or hijab in school, depending on the circumstances of your particular situation.

For example:

- If your school does not allow headwear, you may request a waiver from the school.¹
- If your school allows students to wear head coverings of any sort, it must allow you to wear your hijab.
- School officials must take action to stop repeated religiously based harassment by other students (including harassment based on your hijab or headscarf).

¹ Hawai'i Board of Education Policy 106-4.

In the workplace.

If asked, an employer must provide a reasonable accommodation for you to wear your hijab or headscarf. An accommodation is not reasonable if it will cause your employer an undue hardship (for example, if it compromises safety or would impose more than minor costs on the employer). This determination is very fact-driven and whether you have a legal claim for the denial of an accommodation will depend on both the circumstances of your particular situation and those of your employer.

In public accommodations and public facilities.

Under the law, “public accommodations” cannot turn you away because of your hijab or headscarf, or demand that you remove it in order to obtain goods or services. Public accommodations covered under the law include most restaurants, other food service establishments, inns, hotels, motels, other places of lodging, movie theaters, concert halls, sports arenas, stadiums, and other entertainment venues. Some state and local laws provide additional protections.

In addition, any public facility that is “owned, operated, or managed by or on behalf of any State or subdivision thereof,” except for public schools or public colleges (which are governed by other laws), cannot discriminate against you for wearing your hijab or headscarf. For example, if a public library, public community center, or public hospital allows other types of head coverings, you must be permitted to wear your hijab.

In state-issued photo IDs.

Hawai‘i law requires that the application for an identification card, which is used solely for purposes of identification, include a “[a] digitized frontal photograph of the applicant’s full face.”² For purposes of driver’s licenses, there does not appear to be a uniform law and each county may have different rules and regulations on the issue.

² Hawai‘i Revised Statutes (“HRS”) § 286-303(c)(9).

II. YOUR RIGHTS AT THE AIRPORT AND THE BORDER

The Constitution and federal law prohibit customs and border agents from performing stops, searches, detentions, or removals based solely on religion, race, national origin, gender, ethnicity, or political beliefs. **You have the right to:**

Be free from discriminatory questioning at the airport or border.

Customs and Border Protection (CBP) officers have the authority to ask your immigration status when you are entering or returning to the United States or leaving the country. They have the power to determine whether non-U.S. citizens and lawful permanent residents have the right to enter the country. If you are a U.S. citizen and you have presented a valid passport, you do not have to answer officers' questions, although refusing to answer routine questions about the nature and purpose of your travel could result in delay and/or further inspection. If you are a lawful permanent resident, we recommend you answer officers' questions. If you are a non-citizen visa holder, you may be denied entry into the United States if you refuse to answer officers' questions. Officers, however, may not select you for questioning based on your religion, race, national origin, gender, ethnicity, or political beliefs.

If you are a U.S. citizen and the officers' questions become intrusive, you have the right to talk to a lawyer before answering any questions. You should be aware that refusing to cooperate with officers may result in delay and/or further inspection. If you are a lawful permanent resident, your right to talk to a lawyer depends on the circumstances. If the officers' questions become intrusive, you may ask to speak to a lawyer but, in some situations, officers have the authority to refuse to allow you to speak to a lawyer before you answer their questions. If you are a non-citizen visa holder selected for further questioning, you may ask to talk to a lawyer but you generally do not have the right to consult a lawyer before answering the officers' questions. Importantly, for anyone attempting to enter the United States, if a customs officer or border agent informs you that you are under arrest, or if it becomes clear that he or she suspects you have committed a crime, you have the right to talk to a lawyer before answering any questions.

Be free from discriminatory stops and searches at the airport or border.

Generally, CBP officers may stop, detain, and search any person or item at the border, including laptops or cell phones. This is true even if there is nothing suspicious about you or your luggage. Officers, however, may not select you for a personal search or secondary inspection based on your religion, race, national origin, gender, ethnicity, or political beliefs.

Officers have sometimes asked travelers to provide their laptop passwords or unlock their mobile phones. Whether you have a right to decline to provide this information is a contested legal issue. The extent to which officers have the authority to search or copy files in your electronic devices without any reasonable suspicion that the devices contain evidence of wrongdoing is also a contested issue. U.S. citizens cannot be denied entry to the United States for refusing to provide passwords or unlock devices, but refusal to do so might lead to delay, lengthy questioning, and/or

officers seizing your device for further inspection. For lawful permanent residents and non-citizen visa holders, refusing to cooperate might also lead to officers denying your entry into the country.

If an officer searches and/or confiscates your laptop or cell phone, write down his or her name and get a receipt for your property.

Wear your religious head covering.

You should assert your right to wear your religious head covering if asked to remove it before going through airport security screening. If an alarm goes off, however, airport security officers may request additional screening. They may then conduct a pat-down of your religious head covering or ask you to remove it. You have the right to request that the pat-down or removal be conducted by a person of your gender and that it occurs in a private area. Officers may not conduct additional screening based solely on your race, national origin, religion, gender, ethnicity, or political beliefs.

Be free from discriminatory questioning or removal by airline employees.

An airline pilot may refuse to fly a passenger if he or she reasonably believes, based on observation, that the passenger is a threat to flight safety. A pilot may not, however, question you or refuse to allow you on a flight because of biased stereotypes, including any based on your religion, race, national origin, gender, ethnicity, or political beliefs.

Return to the United States after traveling abroad if you are a U.S. citizen or a lawful permanent resident.

If you are a U.S. citizen or green-card holder denied boarding in a foreign country due to apparent inclusion on the No Fly List or other watchlist, the U.S. government must help you secure approval to return to the United States on a commercial flight. For additional information if you are denied boarding on a flight or believe you are on the No Fly List, visit <https://www.aclu.org/know-your-rights/what-do-if-you-think-youre-no-fly-list>.

If the answer to any of these questions is yes and you want more information, contact the ACLU of Hawai'i:

- Has a customs officer, border agent, or airline employee questioned you about your religion (e.g., how many times you pray or what mosque you attend) or your political beliefs (e.g., your view on the conflict in Syria or U.S. foreign policy)?
- Has a customs officer or border agent searched or confiscated your laptop or mobile phone, or asked you to provide your laptop password or unlock your mobile phone?
- Have you been denied boarding on a flight returning to the United States?
- Have you been questioned by U.S. law enforcement officers abroad about your religious or political beliefs?

III. RELIGIOUS FREEDOM FOR HOUSES OF WORSHIP

Religious freedom for houses of worship and other religious institutions is protected by the federal Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc et seq., and certain state laws. Under these laws, **houses of worship have the right to:**

Be free from religious bias in zoning and land-use proceedings.

Federal law prohibits discrimination among faiths in the application of zoning and land-use laws. These anti-discrimination provisions help ensure that zoning boards do not treat some faiths less favorably than others. These protections apply to houses of worship of every faith, including mosques and Islamic centers, churches, temples, gurdwaras, and synagogues.

Be treated at least as favorably as comparable nonreligious institutions under zoning laws.

Federal law also forbids any zoning law or land-use regulation that “treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution.” This means that zoning officials can’t treat religious institutions less favorably than similar nonreligious ones (e.g., civic organizations) when it comes to land-use decisions.

Be accommodated under certain zoning and land-use laws.

Under federal law, zoning bodies cannot place excessive burdens on the ability of houses of worship to exercise their faith. If a zoning or land-use regulation imposes a “substantial burden” on the religious exercise of a house of worship, the government *must* grant an accommodation *unless* it can show that the regulation is the least restrictive means of furthering a compelling governmental interest. This determination is very fact-driven; whether you have a legal claim will depend on your particular situation.

If the answer to any of the questions below is yes, you might have a legal claim. For more information, contact the ACLU of Hawai‘i or visit the U.S. Department of Justice website.³

- Have you been denied a zoning permit or variance even though houses of worship or religious institutions of other faiths have been granted similar permits or variances in the same jurisdiction?
 - Is there evidence this denial was motivated by discriminatory beliefs about your faith (for example, anti-Muslim comments by zoning board members or others about a proposed mosque)?
- Have you been denied a zoning permit or variance even though a comparable nonreligious institution (such as a civic or fraternal organization, commercial concert hall, or other place of assembly) has been permitted to operate with a similar zoning permit or variance in the same jurisdiction?

³ Statement of the Department of Justice on the Land-Use Provisions of the Religious Land Use and Institutionalized Persons Act (RLUIPA), http://www.justice.gov/sites/default/files/crt/legacy/2010/12/15/rluipa_q_a_9-22-10_0.pdf

- Have zoning officials completely banned new houses of worship from the jurisdiction?
- Has a denial of a zoning permit or variance placed a substantial (meaning, more than minimal or incidental) burden on your ability to practice your faith?
 - Has the zoning body failed to identify a compelling governmental interest that justifies the denial or failed to provide evidence to support that claim?
 - Has the zoning board failed to show that the denial is the least restrictive way to further its compelling interest (or is there another way the identified interest could be protected other than by denying the permit)?

IV. RELIGIOUS FREEDOM IN PUBLIC SCHOOLS

Religious freedom in public schools is protected by federal and state law. Under the U.S. Constitution, Titles IV and VI of the Civil Rights Act (42 U.S.C. §§ 2000d, 2000e), and the Hawai'i Constitution, **you have a right to:**

Be safe from religious harassment and discrimination in school.

Public school officials are required by law to maintain a school environment that is free of religious harassment by school officials and other students. In addition, public schools may not discriminate against students based on their faith backgrounds or religious beliefs. Whether your school has violated the law in this area will depend on the circumstances of your particular situation.

This means that:

- School officials cannot disparage your faith by, for example, making anti-Muslim or anti-Arab remarks.
- School officials must take action to stop repeated religiously based harassment by other students.
- School officials cannot deny you the same privileges and opportunities provided to students of other faiths.

Exercise and express your faith in school.

Students have broad rights to express their religious beliefs at school. You may, for example, pray individually or in groups and discuss your religious views with your peers during student activity times (like recess or lunch), provided you are not disruptive. You may express your religious beliefs in reports, homework, and artwork, where the beliefs are relevant to the assignment. You may pass out religious literature to classmates, subject to the same rules that apply to other materials distributed by students. And, under state law, you may request religious exemptions from certain rules, such as dress and grooming codes.⁴

This means that:

- Under certain circumstances, school officials might be required to accommodate student prayer, provided the prayer is wholly voluntary and non-disruptive.
- School officials might be required to permit you to wear religious clothing or a religious head covering, such as a hijab, depending on the circumstances of your particular situation.
- School officials must allow you to express your faith, form religious student clubs, and engage in other religious activities to the same extent that students of other faiths may do so.
- School officials might be required to excuse your absences for religious holidays.

⁴ See, e.g., Hawai'i Board of Education Policy 106-4.

Be free from school-sponsored prayer and proselytizing.

Students and families have the right decide for themselves where and when to pray and which faith, if any faith, to follow — without direct or indirect pressure from school officials. Thus, school officials may not promote religion to students.

This means that:

- School officials may not incorporate organized prayer into class or school events.
- School officials may not evangelize students, teach religious doctrine as truth, or display religious symbols and messages for non-educational reasons.

Students of every faith, and those of none, should feel safe and welcome in our public schools. If you believe your religious liberty rights have been violated in the public schools, contact the ACLU of Hawai'i.

V. RELIGIOUS FREEDOM IN THE WORKPLACE

Religious freedom in the workplace is protected by federal and state law. Under Title VII of the Civil Rights Act, 42 U.S.C. § 2000e et seq., and certain state laws, **you have a right to:**

Be free from discrimination in the workplace.

State and federal laws prohibit employers from discriminating on the basis of religion, among other protected categories. These provisions apply under federal law if your employer has more than 15 employees, but Hawai'i law prohibits all employers from discriminating on the basis of religion, among other protected categories, without regard to how many employees the employer has.⁵ *If you work for the local, state, or federal governments, additional legal protections may apply.*⁶

Be safe from harassment in the workplace.

An employer can be liable for religious harassment of an employee if the harassment is so pervasive or severe that it creates a hostile work environment. This determination is very fact-driven and whether you have a legal claim for harassment will depend on the circumstances of your particular situation.

Have certain religious practices accommodated in the workplace.

If asked, an employer must provide reasonable accommodations for the religious practices of employees. An accommodation is not reasonable if it will cause your employer an undue hardship (for example, if it compromises safety or would impose more than minor costs on the employer). This determination is very fact-driven and whether you have a legal claim for the denial of an accommodation will depend on both the circumstances of your particular situation and those of your employer.

If the answer to any of the questions below is yes, your employer may be violating the law. Contact the ACLU of Hawai'i for additional details on workplace protections or visit the Equal Employment Opportunity Commission's website.⁷

- Have you suffered a negative employment action? (For example, were you fired, not hired, or denied a promotion for a job you were qualified for?)
- Were you treated differently than similarly situated employees? (For example, were you segregated from your co-workers or customers?)
- Is there evidence that this action was motivated by your religious practices or faith? (For example, were you subjected to anti-Muslim comments by a supervisor or demands that you stop wearing certain religious garb?)

⁵ HRS §§ 378-1 ("Employer" means any person, including the State or any of its political subdivisions and any agent of such person, having one or more employees, but shall not include the United States."), 378-2.

⁶ HRS § 346-102(b)(3).

⁷ Workplace Rights of Employees Who Are, or Are Perceived to Be, Muslim or Middle Eastern, http://www.eeoc.gov/eeoc/publications/muslim_middle_eastern_employees.cfm.

- Have you been harassed at work because of your faith?
- Has the harassment been so severe that it interfered with your work by creating an intimidating, hostile, or offensive work environment?
- Does your employer know about the harassment?
- Has your employer refused to give you a religious accommodation (for example, a change in schedule so you can celebrate a religious holiday or an exemption from a clothing or grooming policy to allow you to wear a hijab or beard)?
- Does your employer know that you need the accommodation for religious reasons?
- Would the accommodation create only a small or nonexistent burden for your employer (for example, allowing you to switch shifts with another employee)?

VI. RELIGIOUS FREEDOM FOR PRISONERS

Religious freedom for prisoners and other incarcerated individuals is protected by the federal Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc et seq., the federal Religious Freedom Restoration Act, 42 U.S.C. § 2000bb et seq., and certain state laws. Under these laws, **you have the right to:**

Have certain religious practices accommodated.

Under federal law, prison officials cannot place excessive burdens on prisoners' ability to practice their sincerely held religious beliefs. If a prison regulation imposes a "substantial burden" on your religious exercise, officials must grant an accommodation unless they can show that the regulation is the least restrictive means of furthering a compelling governmental interest. Some courts have required prisons to provide religious accommodations for certain grooming practices (like beards), foods (for example, kosher or halal diets), literature (for example, religious books), and worship practices (like group prayer). However, this legal determination is very individualized and fact-driven; whether you have a legal claim will depend on your particular situation.

Be free from official prayer, proselytizing, or other impositions of religion.

Under the First Amendment's Establishment Clause, we have the right to decide for ourselves which religious beliefs (if any) to adopt and practice, without pressure or coercion from the government. Thus, prison officials may not impose religious beliefs or practices on their wards. They may not penalize you for refusing to pray, worship, or profess certain religious beliefs. They cannot punish you for declining to take part in religious activities (like a religious drug treatment class) or events that include religious elements. In addition, prison officials may not give special preference to members of one faith, or treat prisoners of one or more religions less favorably than those of other religions.

If the answer to any of the questions below is yes, you might have a legal claim. Contact the ACLU of Hawai'i for more information.

- Has a prison regulation or policy placed a substantial (meaning, more than minimal or incidental) burden on your ability to practice your faith (e.g., pray, worship, or follow some other religious belief)?
- Can you provide evidence to demonstrate that your religious belief is sincere?
- Have prison officials failed to identify a compelling governmental interest that justifies the regulation or failed to provide evidence to support that claim?
- Have prison officials failed to show that the denial is the least restrictive way to further the compelling interest, or instead, are there other ways that the identified interest could be protected?
- Do prison officials hold religious events or activities at which attendance is mandatory?
- Do prison officials incorporate religious elements (for example, prayer or proselytizing) into otherwise non-religious events?

- Have prison officials punished you in any manner for refusing to take part in religious activities or non-religious events that include religious elements, such as prayer?
- Are prisoners of one faith given special privileges or treatment denied to other prisoners?
- Have prison officials singled out members of one faith for harassment or unfavorable treatment?

VII. IMPORTANT INFORMATION ABOUT INFORMANTS

The Federal Bureau of Investigation defines an informant as “any individual who is believed to be providing useful and credible information to the FBI for any authorized information collecting activity, and from whom the FBI expects or intends to obtain additional useful and credible information in the future, and whose identity, information or relationship with the FBI warrants confidential handling.”

Informants often operate in secret, and law enforcement officers may offer them money or leniency in criminal or immigration-related proceedings in exchange for information. An informant is different from an undercover officer, which the FBI defines as a law enforcement employee who works under the FBI’s control for a particular investigation but whose cooperation with the FBI is kept secret through the use of a cover or different identity.

The number of informants on the rosters of the FBI and other federal agencies has grown dramatically in recent years. American Muslims and other minorities have long complained about the overuse and abusive use of informants in their communities. Unfortunately, courts and legislatures have given law enforcement agencies significant deference in recruiting and using informants, and safeguards protecting against abusive practices are weak.

What should you do if you suspect someone is an informant?

If you think that someone within your mosque or organization is an informant, you should raise your concerns with your imam or organizational leadership, and you or the leadership should consult a lawyer.

The use of informants by the FBI and other law enforcement agencies has sown understandable distrust and suspicion within many American Muslim communities. Among other harms, members of targeted communities report diminished attendance at mosques and in community organizations; religious leaders and others do not discuss topics that law enforcement might perceive to be controversial; and communities’ trust and relationships are damaged as people suspect each other of spying for law enforcement. At the same time, community members express concern about unfairly casting suspicion on people who are not actually informants.

What should you do if law enforcement asks you to become an informant?

You have the right to refuse to become an informant.

Keep in mind that a law enforcement officer might offer money or promise leniency on criminal charges or in immigration proceedings in exchange for becoming an informant. An officer might also threaten to impose more severe criminal charges, negatively adjust immigration status, or place a person on a government blacklist, like the No Fly List, for refusing to become an informant. It is important to know that if you agree to become an informant, the FBI maintains that it does not have to keep any promises made in exchange for cooperation. The FBI also does not guarantee that a person’s identity as an informant will be kept secret.

We strongly urge you to talk to a lawyer before deciding to become an informant. It is especially important to consult a lawyer if a law enforcement officer threatens to impose more severe criminal charges, change your immigration status, or place you on a government blacklist if you refuse to become an informant.

If you want more information, contact the ACLU of Hawai'i.

VIII. RELIGIOUS FREEDOM IN PUBLIC ACCOMMODATIONS AND HOUSING

Religious freedom in public accommodations (such as restaurants, hotels, and theaters) and housing is protected by federal and state law. Under Titles II and VIII of the Civil Rights Act (42 U.S.C. §§ 2000a et seq. & 3601 et seq.), and certain state and local laws, **you have a right to:**

Patronize public accommodations without encountering religious harassment and discrimination.

In a pluralistic society, people of all faiths, and those of none, should be able to frequent businesses without facing discrimination because of their religious beliefs. Under Title II of the Civil Rights Act, certain places of business — defined as “public accommodations” — cannot discriminate against customers based on religion, race, color, or national origin.

Public accommodations covered under the law include most restaurants, inns, hotels, motels, movie theaters, concert halls, sports arenas, stadiums, and other places of lodging, food service, or entertainment. Hawai‘i law also prohibits discrimination on the basis of religion, among other protected categories, in public accommodations.⁸

This means that:

- Proprietors of public accommodations cannot — because of your faith — deny you *full and equal enjoyment* of the goods, services, facilities, privileges, advantages, and accommodations they provide.
- Public accommodations cannot turn you away because of your religious appearance or dress (e.g., hijab, yarmulke, or turban), or demand that you alter your religious appearance in order to obtain goods or services.
- Public accommodations must deliver goods and services of the same quality as those delivered to customers of other faiths and cannot charge you more for those goods and services because of your religion.

Be free from religious discrimination and harassment in leasing or purchasing a home.

The religion you practice should not be a barrier to acquiring or maintaining housing. Title VIII of the Civil Rights Act, known as the “Fair Housing Act,” prohibits discrimination in the rental, sale, and financing of homes because of religion, race, color, national origin, sex, disability, or familial status. It also prohibits the application of discriminatory terms and conditions in connection with any sale or rental of a home.

Although the Fair Housing Act covers most types of public and private housing, there are some exemptions, including for small, owner-occupied buildings. Hawaii law, however, forbids several

⁸ HRS Chapter 489.

types of discrimination, including on the basis of religion, by an owner or any other person in a real estate transaction.⁹

This means that:

- Landlords and brokers cannot refuse to rent or sell you a home because of your religion.
- You cannot be charged more for the sale or rental of a home, or for a mortgage, because of your faith.
- You cannot be offered less favorable terms and conditions relating to the sale or rental of a home (for example, in an apartment or condo complex, you must be allowed to display religious symbols if tenants or owners of other faiths are allowed to display religious or non-religious symbols).
- Your neighbors cannot threaten, harass, or intimidate you because of your faith.

No one should be denied participation in public accommodations or adequate housing because of their faith. If you believe your religious liberty rights have been violated in these contexts, contact the ACLU of Hawai'i.

⁹ HRS § 515-3.

IX. YOUR RIGHTS DURING LAW ENFORCEMENT ENCOUNTERS

The Constitution and federal law prohibit law enforcement officers from performing stops, searches, or arrests based solely on religion, race, national origin, gender, ethnicity, or political beliefs.

For additional information on what to do if you're stopped by the police, visit <https://www.aclu.org/know-your-rights/what-do-when-encountering-law-enforcement-questioning>.

You have the right to:

Remain silent and have a lawyer present.

In general, you do not have to talk to law enforcement officers, and you do not have to answer any questions. In Hawai'i, you only need to provide your name and address to law enforcement officers if and only if the officer reasonably believes you have committed a traffic infraction.¹⁰ If you are driving and pulled over for a traffic violation, you must show your license, vehicle registration, and proof of insurance. If you wish to exercise your right to remain silent, say so clearly and remain calm. You have the right to talk to a lawyer before answering questions and to have a lawyer present if you decide to answer questions. Once you have asked for a lawyer, the officer must stop asking you questions, and she or he cannot resume questioning you without the presence of your lawyer. Officers may not question you based solely on a discriminatory motive.

Decline a voluntary interview.

If law enforcement officers ask you to agree to an interview, you have the right to refuse. We strongly urge you to talk with a lawyer before agreeing to a voluntary interview with law enforcement because a lawyer can protect your rights. If you agree to be interviewed, you have the right to have a lawyer present, to set the time and place for the interview, to find out the questions beforehand, and to answer only the questions you feel comfortable answering. Law enforcement officers are not allowed to ask you questions about your religious or political beliefs, and you are not required to discuss those beliefs.

Insist on seeing a warrant if a law enforcement officer wants to enter your home or office.

If law enforcement officers knock on your door, ask if they have a warrant. If the answer is no, you have the right to refuse to let them in. If the officers have a search warrant and the information on it is accurate and complete, you still have the right to remain silent while they conduct the search.

If you are detained or taken into custody, you should ask for an attorney.

¹⁰ HRS § 291C-172.

Remember that it is a crime to provide false information to a federal officer and sometimes to state and local law enforcement. Remaining silent is not a crime.

If you are a non-U.S. citizen, you generally have the same constitutional rights as U.S. citizens when law enforcement officers stop, question, or arrest you, or search your home. However, there are some special concerns that apply to non-citizens. For more information, please visit <https://www.aclu.org/know-your-rights/what-do-when-encountering-law-enforcement-additional-information-non-citizens>.

If the answer to any of the following questions is “yes,” contact the ACLU of Hawai‘i:

- Has a law enforcement officer questioned you about your religious beliefs (e.g., which mosque you attend or your views on a particular religious belief or scholar)?
- Has a law enforcement officer questioned you about your political beliefs (e.g., your view on the conflict in Syria or U.S. foreign policy)?
- Have you been asked to participate in a voluntary interview with the FBI or other law enforcement officers and told you cannot refuse or you cannot have a lawyer present?
- Have you participated in a voluntary interview and been questioned about your religion (e.g., how many times you pray or which mosque you attend)?
- Have you participated in a voluntary interview and been asked about the practices or beliefs of other congregants in your mosque?