

# IMMIGRANT PROTESTERS

**KNOW YOUR RIGHTS. KNOW THE RISK.**

In light of the most recent protests against racial inequity and oppression, the Immigrant Legal Center (ILC) and the American Civil Liberties Union of Nebraska (ACLU-NE) have put together a Know Your Rights (KYR) one-pager for immigrants on the impact that protesting may have on your immigration status. A comprehensive Know Your Rights and Safety Planning Guide is available on ILC's website: [www.immigrantlc.org/rightsandplanningguide](http://www.immigrantlc.org/rightsandplanningguide).

Immigration has always been part of the racial landscape of America. The very first law (in 1790) regarding Naturalization reserved citizenship by naturalization to "free white persons." To this day, immigration policies disproportionately affect immigrants of color. Just like Black Americans, Black immigrants are more likely to be arrested, convicted, and imprisoned than the immigrant population as a whole. The high proportion of immigrants with criminal records who are targeted for immigration enforcement is the result of an intentional and pervasive reliance on the criminal enforcement system to identify people for deportation. Because immigrants of color are disproportionately arrested and because that arrest can result in deportation for non-citizen immigrants regardless of whether they commit any crime and in further investigation and possible denial of an application during the naturalization process, it is important for immigrant protesters to know their rights and know the risks of protesting.

## KNOW YOUR RIGHTS OVERVIEW

### YOUR FIRST AMENDMENT RIGHTS

- The right to protest is guaranteed by the First Amendment regardless of immigration status.
- Your rights are strongest in traditional public forums, such as streets, sidewalks, and parks. You don't need a permit to march on sidewalks or to gather in public spaces like parks, generally. However, you may need a permit depending on your city's ordinances and it would be best to check with city officials or legal counsel about permit requirements prior to any event. A permit cannot be denied because the event is controversial or will express unpopular views.
- Download **Mobile Justice-NE** available for Android and iPhone to record video and automatically upload to the ACLU-NE database.
- You have the right to photograph anything in plain view, including federal buildings and the police. (On private property, the owner may set rules about photography or video.)
- Police officers may not confiscate or demand to view your photographs or video without a warrant, nor may they delete data. They may order the public to cease activities that are interfering with legitimate law enforcement operations.

### YOUR RIGHTS IF STOPPED BY THE POLICE WHILE PROTESTING OR PHOTOGRAPHING/VIDEOTAPING

- Always remain calm and be sure to keep your hands visible. Never physically resist a police officer.
- If you are stopped while protesting, ask if you are free to go. If the officer says yes, walk away.
- If the officer says no and proceeds to arrest or detain you, remember:
  - You have the right to ask why you are being detained or arrested and what crime you are suspected of committing.
  - If you are detained for taking photographs or videotaping, remind the officer that taking photographs and videotaping in a public space is your right under the First Amendment and does not constitute reasonable suspicion of criminal activity.
  - Once told why you are being arrested or detained, verbally exercise your right to remain silent by stating "I am asserting my right to remain silent and will not answer any questions. I want to speak to a lawyer." You can assert this right in any language you speak. Repeat this if the officer continues to ask you questions.
- The only question you must answer, according to Nebraska law, is your name.
  - Do not answer any questions about your immigration status, country of birth, or manner of entry.

- Do not provide identification documents from your home country.
- Do not lie to the officer or provide the officer with false documentation.
- Do not sign or say anything without an attorney present.
- Police may “pat down” your clothing if they suspect you have a weapon and may search you after an arrest. If the officer begins to search your pockets or belongings, say “I do not consent to this search, please stop.” Do not resist or obstruct the police officer’s search during pat down as that can trigger other charges.

**NEXT STEPS**

- If even after following the above steps you are arrested/detained and charged with a crime, we advise you to obtain a criminal defense and immigration defense attorney. The immigration and criminal defense attorney can work alongside each other to guide you on the consequences that the charges/convictions may have on your immigration status.

**Keep in mind that in certain jurisdictions, once a person is arrested, they can be turned over to Immigration Customs Enforcement (ICE).** If you have no defense to removal, you can be deported. Also, even if you are a lawful permanent resident (a/k/a green card holder), this protest and subsequent arrest may need revealed as part of the naturalization application process. Depending on how the protest, and your involvement in the protest, is categorized (and a number of other factors), your involvement could negatively affect your ability to naturalize in the future.

- Know Your Rights if you are issued a fine or fee for a criminal offense. Depending on your immigration status and if ICE decides not to pursue your removal, you may have the right to have a court hearing to ask for one of three things:
  - That you be given more time to pay;
  - That you do community service instead of paying;
  - That the court discharge (or not make you pay) the fine or costs.
- You can find more information including instructions and forms on how to request the above from a judge, in English and Spanish, here: [www.aclunebraska.org/myrightsincourt](http://www.aclunebraska.org/myrightsincourt).
- Also, for a screening and possible referral for an immigration legal consult through ILC’s Pro Bono Detainee Project, please contact the Nebraska Immigration Legal Assistance Hotline (NILAH) at **(855) 307-6730**.

- Always contact an immigration attorney before submitting an immigration legal application to help assess risks of all application processes — this is even more important if you have an arrest record.

We highly recommend that you speak to an immigration attorney before deciding to protest. If you decide to participate in a protest, print a red card to carry on your person which you can present to an officer or ICE agent if you are detained:

[www.aclunebraska.org/printcard](http://www.aclunebraska.org/printcard).

I do not wish to speak with you, answer your questions, or sign or hand you any documents, based on my Fifth Amendment rights under the United States Constitution.

I do not give you permission to enter my home, based on my Fourth Amendment rights under the United States Constitution, unless you have a warrant to enter, signed by a judge or magistrate, with my name on it that you slide under the door.

I do not give you permission to search any of my belongings, based on my Fourth Amendment rights.

I choose to exercise my constitutional rights.

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You have constitutional rights:

- **DO NOT OPEN THE DOOR** if an immigration agent is knocking on the door.
- **DO NOT SIGN ANYTHING** without first speaking to a lawyer. You have the right to speak with a lawyer.
- **NEBRASKA LAW** requires you to state your name to an immigration agent if asked. Otherwise, you have the right to remain silent.
- If you are outside of your home, ask the agent if you are free to leave and if they say yes, leave calmly.
- **GIVE THIS CARD TO THE AGENT.** If you are inside of your home, show the card through the window or slide it under the door.

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