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KNOW YOUR RIGHTS OVERVIEW

Center for Immigrant and Refugee Advancement

Everyone in the United States, regardless of their immigration status, has inalienable rights afforded to them under the Constitution. Interactions with law enforcement and immigration officials can be stressful situations—knowing your rights prior to such interactions can reduce anxiety and minimize the chances of negative consequences for your immigration status. Knowing your rights may even help you avoid apprehension and detention. While knowing your rights cannot completely prevent them from being violated, it can help you identify situations in which your rights are violated, and in some cases, it may limit what evidence is admissible in court against you.¹

The goal of the information provided in this document is to empower Nebraska’s immigrant community by providing individuals with knowledge of their rights in the United States. This information is not intended to take the place of individualized legal advice obtained by consulting with an attorney.

This document is divided into the following sections for easy navigation:

- Interacting with Law Enforcement or Immigration **in your Home**
- Interacting with Law Enforcement or Immigration **in Public Places**
- Interacting with Law Enforcement or Immigration **in the Workplace**
- Interacting with Law Enforcement or Immigration **in your Car**
- Interacting with Law Enforcement **in Police Custody or Jail**
- Interacting with Immigration Officials in **Immigration Detention**
- Key Takeaways
- *Know Your Rights* Card for Printing

¹ If evidence is collected against you during a violation of your rights, an attorney may help you present a motion to suppress the evidence that was unconstitutionally collected against you.

Interacting with Law Enforcement or Immigration in your Home

In order for immigration officials or other law enforcement officers to enter your home, they need one of the following:

- A. Your permission; or
- B. A valid judicial warrant signed by a judge or magistrate

What to do if immigration officials or other law enforcement officers knock on your door:

- (1) Do not open the door,
 - a. Opening your door can be interpreted as giving officers permission to enter your home
- (2) Speak to the officers through the closed door;
- (3) Ask the officers if they have a warrant;
- (4) If the officers state they do have a warrant, ask to see the warrant
 - a. Have the officers slip the warrant under the door or hold it up to a window so you can review the warrant;
- (5) If the warrant is valid, let the officers into your home to complete the warranted search;
- (6) If the warrant is not valid, tell the officers that the warrant is not valid, and you do not consent to their entry and search of your home. If there is not a valid warrant, the 4th Amendment provides that you are not required to let the officers into your home and can ask them to leave the premises.
- (7) If officers enter your home (with or without a valid warrant) inform them if there are children, elderly, or sick people in the home.
- (8) Even if the officers have a valid warrant, you are NOT REQUIRED to speak to them, you have the right to remain silent and refuse to answer their questions.
- (9) As soon as officers leave your home, write down what happened in as much detail as you can recall (what types of officers entered your home, number of officers, names of officers, their badge numbers, where they looked/what they were looking for, and the contact information of any other witnesses to the search).

Different types of warrants & requirements for validity

- A. Judicial Search Warrant
 - In order for a search warrant to be valid, it must contain:
 - Signature of a Judge, Justice of the Peace, or a Magistrate;
 - State the address of the location to be searched;
 - State in detail the area to be searched;
 - State a current date range when the search must occur.

B. Judicial Arrest Warrant

- In order for an arrest warrant to be valid, it must contain:
 - Signature of Judge, Justice of the Peace, or Magistrate;
 - State the name of the person to be arrested; and
 - State a current date range when the arrest must occur.
- Typically, arrest warrants only provide authority for police to enter the home of the named subject of the warrant and only when the alleged crime is for a felony². Police must have a reasonable belief that the home to be searched is the subject's place of dwelling, and they must reasonably believe the subject is within the home at the time of entry.³
- In order to enter a third party's home to make an arrest, officers must have a search warrant even if they already have an arrest warrant.⁴ The homeowner can also consent to entry by law enforcement without a warrant, even if the subject of the arrest warrant protests.
- There are also "exigent circumstances" that allow law enforcement to enter a home without a warrant (hot pursuit, threat of imminent evidentiary destruction, risk of danger, etc.). But these are infrequent exceptions to the requirement to have a valid search warrant.

C. ICE Warrant

- **ICE Warrants** (which are the warrants that ICE officers most often carry) **DO NOT give immigration officials the right to enter your home;**
- An ICE or immigration warrant (also called an administrative warrant) is usually titled "Warrant of Removal/Deportation" and it does not contain the name of a court or the signature of a Judge or Magistrate.
- If officials present an ICE warrant as evidence of their right to enter your home, state "you do not have the right to enter my home with this warrant, please leave the property."
- Immigration officials very rarely have a judicial search or arrest warrant that gives them the right to enter your home.

² (i.e., Joe Doe has a warrant out for his arrest for a felony drug violation, the police only have authority to use the arrest warrant to enter Joe Doe's home, not to enter a third party's home like Joe's sister, Josephine)

³ *United States v. Thabit*, 2023 WL 108013 (8th Cir. 2023).

⁴ *Steagald v. United States*, 451 U.S. 204 (1981).

Interacting with Law Enforcement or Immigration in Public Places

**This information is specific to stops in public in the state of Nebraska. Your rights and obligations differ slightly based on location for two reasons: (1) the laws regarding inspections are different when you are detained in an airport or near the border; and (2) various states have different "stop & identify" laws (aka "Hiibel" laws) that require people to identify themselves to law enforcement officers.*

General Tips:

- In general, police need a warrant to arrest you. However, you can be arrested in public without a warrant if officers have evidence you committed a crime or are about to commit a crime.
- In general, the police do not have the right to search your person. However, officers can search you to ensure that (1) You are not carrying illegal weapons; and (2) You are not carrying illegal materials. If you are searched, state "I do not consent to this search," but do not resist or fight back; resisting can be grounds for your arrest.
- You have the right to remain silent. You generally do not have to answer questions from officers, based on 5th Amendment protections. However, in Nebraska, you are required to provide your name and address if questioned by police in public.
- Immigration officials generally avoid enforcement actions in public places that are "protected areas" or "sensitive locations." On October 27, 2021, DHS issued a memo regarding protected areas (see [here](#)). The memo directs officers to not take enforcement actions in or near schools; healthcare facilities; places of worship; recreation centers; social service centers; disaster response & relief distribution points; funerals, weddings, and parades; and demonstrations or rallies. However, because this is agency policy and not law, it may change under the new administration — that said, during the last Trump administration, DHS honored similar memos from 2011 and 2013 (although enforcement activities frequently took place near the sensitive locations).

What to do if immigration officials or other law enforcement officers start walking toward you:

- (1) Do not run away if you see immigration officials or other law enforcement officers in the area or approaching you;
- (2) Before you say anything (including your name), ask the officer: "Am I free to leave?";
- (3) If the officer says you are free to leave, walk away slowly; if the officer says no, remain calm and do not walk away.
- (4) You have the right to remain silent (5th Amendment):

- a. Do not provide officers with any information about your immigration status, including where you were born, how/when you came to the U.S., documents from your home country, etc.;
 - b. State out loud that you are invoking your right to remain silent or hand the officer a Know Your Rights Card (at the end of this document);
 - c. Under Nebraska Law, law enforcement officers can require that you provide your name and address if you are stopped in public under reasonable suspicion that you've committed or are about to commit a crime. See Neb. Rev. Stat. § 29-829.
- (5) If the officer searches you, arrests you, or detains you, remain calm:
- a. Do not resist or fight officers;
 - b. If you are searched, state out loud "I do not consent to this search."

Interacting with Law Enforcement or Immigration in the Workplace

**Businesses that are open to the public are considered public places; reference the section above on interacting with law enforcement or immigration officials in public. The employer may ask ICE/CBP to leave their business just as they can ask any patron of their business to leave.*

To enter a private workplace, officials need:

- A. A valid warrant; or
- B. Permission of the employer

What to do if immigration officials or other law enforcement officers come to your workplace:

- (1) If your employer is not present, have one employee act as a spokesperson and speak to officers;
- (2) The spokesperson should ask to see the officer's identification and warrant;
- (3) The spokesperson should read the warrant carefully to determine if the warrant is valid (see the section on interactions with officers in-home above for more information).
- (4) In the event that officers enter the workplace, everyone has the right to remain silent (5th Amendment):
 - a. You are not required to provide any information about your immigration status;
 - b. You are not required to tell them where you were born or when/how you came to the United States;
 - c. You should not show the officers documents from your home country;
 - d. You should state out loud that you are invoking your right to remain silent or show the officers your Know Your Rights card.
- (5) If officers search you, arrest you, or detain you, remain calm:

- a. Do not fight back or resist;
 - b. If you are searched, state “I do not consent to this search.”
- (6) After the interaction, report the raid to a trusted advocate in your community and/or to United We Dream’s deportation defense hotline at 1-844-363-1423 or text 877877.

Your rights if you are questioned or detained in a workplace raid:

- You have the right to remain silent (5th Amendment):
 - A warrant does not require you to answer questions from officers;
 - Assert your right to remain silent by stating out loud “I am invoking my right to remain silent” or showing the officers your Know Your Rights card.
- If you are detained, you have the right to speak with a lawyer:
 - You should affirmatively invoke this right by telling officers you want to speak to a lawyer;
 - If you are arrested on a criminal matter that carries possible jail time (i.e., by local police), you have the right to have a lawyer appointed to you if you cannot afford a lawyer;
 - If you are detained by immigration officials, you have the right to consult an immigration attorney, but a lawyer will not be appointed to you so you must find your own.
- If you are detained, you have the right to make a phone call:
 - You must affirmatively ask to make the phone call.
- You have the right to refuse to communicate with officers and to refuse to sign any document before speaking to a lawyer.

Interacting with Law Enforcement or Immigration Officers in your Car

**Different laws apply to interactions with law enforcement while you are in your car than when you are in public/on the street. The laws also differ at border checkpoints/airports. This section reviews interactions with officials on the roads of Nebraska and does not cover what is allowable closer to the border of the United States.*

Who is pulling you over?

- Local law enforcement officers will generally be wearing an identifiable uniform containing the name of the agency for whom they work, and most often, a badge identifying the officer by a number and name.
- ICE officials are often in plain clothes or sometimes wear clothing that says “ICE”, “Police”, or “Federal Agent”.
- If you are not sure who has pulled you over, ask the officer what organization they work for.

What to do if an immigration official or another law enforcement officer stops you in your car:

- (1) Pull your car over to a safe place, and turn it off;
- (2) Put on the overhead lights in the cabin of your car if it is nighttime;
- (3) Place your hands on the steering wheel where the officer can see them;
- (4) Determine who has pulled you over:
 - a. If it is a local law enforcement officer who has pulled you over (like a state patrol, police officer, or sheriff), provide your license, registration, and proof of insurance on request. If you do not have any of these documents, do not provide officers with fake documents and do not lie.
 - b. If it is an ICE officer, first ask if you are free to leave. If you are free to leave, calmly and slowly leave the area. If you are not free to leave, invoke your right to remain silent by informing the officer of your intent to remain silent or showing the officer your Know Your Rights card.
 - c. Regardless of who pulls you over, do not provide any officer with information on your immigration status or how/when you came to the U.S.
- (5) If officers ask to search your car, you can say “no, I do not consent to a search”:
 - a. In some situations, the officer may still search your car without your consent and without a warrant. You should reiterate you do not consent to the search, but do not resist/fight officers as this could lead to your arrest;
- (6) You have the right to remain silent (affirmatively state your intent out loud):
 - a. Do not provide any information on your immigration status, where you were born, how/when you came to the United States;
 - b. Do not show officers documents from your home country.

Interacting with Law Enforcement Officers in Police Custody or Jail

**Know that in some cases, local police/jail officials may share information with immigration officials, leading you to be transferred from police custody/jail to immigration custody. This is why you should avoid discussing your immigration information with anyone other than your attorney(s).*

Your rights in police custody or jail:

- You have the right to make a phone call
- You have the right to remain silent—state out loud that you wish to invoke this right:
 - Being arrested or detained by the police does not mean you are required to answer their questions;

- You are not required to discuss your immigration information with anyone other than your attorney while you are in police custody;
 - This includes where you were born, where you hold citizenship, how/when you came to the U.S., and any criminal history;
- You have the right to speak to an attorney:
 - You should request to speak to an attorney. If you have not been charged with a crime or have only been charged with a minor offense that cannot result in jail time, you will not be provided an attorney, but you should try to hire one and speak to them as soon as possible;
 - If you are being charged with a crime that carries possible jail time, an attorney (called a “public defender”) will be provided to you if you cannot afford to hire one;
 - Public defenders and other criminal defense attorneys practice criminal law and are better equipped to assist you while you are in police custody or if you are being charged with a crime than an immigration attorney.
 - Even if you have an immigration attorney, unless that attorney also practices criminal law, it is best to have a public defender appointed to you or hire an attorney who specializes in criminal law. You should always inform your immigration attorney of any arrests/interactions with the police.
- You have the right to refuse to sign anything before speaking to an attorney.

What to do in the event you are taken into police custody:

- (1) Request a phone call so that you can call your emergency contact (family member, attorney, religious or community organization, consulate, etc.);
- (2) Do not discuss your immigration status with anyone other than your attorney;
- (3) Do not sign anything until you speak to an attorney;
- (4) If you wish, invoke your right to remain silent by informing the officers you are not going to speak to them without an attorney present and refuse to answer questions until you speak to an attorney;
- (5) After you are released, request copies of all documents related to your arrest and/or court from your criminal attorney so that you may share such information with your immigration attorney.

Interacting with Immigration Officials in Immigration Detention

**While the Fifth Amendment right to silence and due process of law only applies when a person can be subject to criminal penalties, it still applies in civil immigration detention and proceedings because there are criminal penalties available for many immigration offenses.*

Your rights in immigration detention:

- You have the right to make a phone call:
 - In theory every person should be able to at least call a legal service provider. Despite this right, phone access has historically been unreliable in immigration detention. As of October 2024, ICE no longer provides free phone calls for detainees;
- You have the right to call your consulate if you wish to do so;
- You have the right to remain silent (5th Amendment);
- You have the right to speak to an attorney or a DOJ accredited representative:
 - You or a loved one must contact the attorney or accredited representative;
 - This is not done automatically on your behalf, and you are responsible for paying the representative;
- You have the right to refuse to communicate with the officers or sign any documents before speaking to your attorney or accredited representative.

What to do if you are detained in immigration detention:

- (1) Request a phone call so that you can call your emergency contact (attorney, family member, community or religious organization, consulate);
- (2) Call your consulate for assistance:
 - a. This is optional;
 - b. Calling your consulate for assistance is NOT recommended if you are fleeing danger in your home country and may wish to apply for asylum in the United States;
- (3) Do not provide information about your immigration status to anyone other than your attorney or representative:
 - a. State out loud to officers that you are invoking your right to remain silent or show officers your Know Your Rights card;
- (4) Do not sign anything until you have the chance to speak with your attorney:
 - a. State "I will not sign anything until I speak to my attorney";
 - b. If you have questions on what you are being asked to sign, ask for clarification.

KEY TAKEAWAYS

- (1) Immigration officials and other law enforcement officers can only enter your home with your consent or a valid search or arrest warrant;
- (2) You have the right to remain silent and anything you do say can be used against you in court:
 - a. You should assert your right to remain silent by stating your intention and/or presenting the attached Know Your Rights Card;
 - b. Anything you post on social media can also be used against you;
- (3) You should generally carry only U.S.-issued identification documents on your person;
- (4) You should not carry any false documents on your person;
- (5) You should not carry identification documents issued by other countries on your person;
- (6) You should never lie to immigration officials or any other law enforcement officer;
- (7) Never run away if you are being approached by law enforcement or immigration officers;
- (8) Never physically fight back or resist if you are being arrested or detained;
- (9) If you are taken into custody, you have the right to speak to an attorney:
 - a. This applies both while you are in custody of local law enforcement and in immigration custody;
 - b. To invoke your right to speak to an attorney, you should state out loud that you will not communicate with the officers until your attorney is present;
 - c. Know your attorney's contact information so that you can contact them in the event you are arrested or detained;
 - d. If you are arrested by the police and are being charged with a crime that carries jail time, you have the right to a government-appointed lawyer if you cannot afford one yourself—ask for an appointed lawyer immediately;
 - e. If you are detained by immigration officials, you have the right to hire a lawyer, but you will not be appointed one;
- (10) You have the right to refuse to sign anything before speaking to an attorney;
- (11) Do not discuss your immigration information or criminal history with anyone other than your attorney;
- (12) If you encounter law enforcement or immigration, as soon as the event has taken place and you are safe, write down what happened to you in as much detail as you can recall—contact an attorney immediately to talk about what occurred and what steps you should take next to protect your rights.

KNOW YOUR RIGHTS CARD

I AM EXERCISING MY RIGHT TO REMAIN SILENT

Please be informed that I am choosing to exercise my right to remain silent. I am also exercising my right to refuse to sign anything until my attorney reviews it. If I am detained, I request to contact my attorney immediately.

I have the right to speak to my attorney.

I have the right to remain silent in ANY situation.

I have the right to refuse to sign anything before my attorney reviews it.

I am showing this card to invoke my right to remain silent.

