



## KNOW YOUR RIGHTS: PROTESTING AS A NON-CITIZEN

Non-citizens, including lawful permanent residents (“LPRs” or “Green Card” holders), DACA holders, refugees, asylees, temporary visa holders, and immigrants who are undocumented, have certain rights under the United States Constitution.

### Do I have the right to protest?

Yes, as a non-citizen, you have the right to peacefully protest in public spaces regardless of your immigration status. According to the [American Civil Liberties Union \(ACLU\)](#): “The right to free speech applies to all, regardless of immigration status.” According to the [New York Civil Liberties Union \(NYCLU\)](#), you have the right to hold signs, as long as they are not attached to sticks or poles.

### Do I have the right to take pictures and videos of the police?

Yes, as a non-citizen, you have the right to photograph and film police activity. According to the [ACLU](#): “Taking photographs and video of things that are plainly visible in public spaces is a constitutional right—and that includes police and other government officials carrying out their duties.” Police officers may not ask to view your pictures or videos without a warrant. Police officers may not delete data or take your device without your permission. You should put enough space between yourself and officers to not interfere with police activity.

### How can I protect my rights if I am approached, detained, or arrested by police at a protest or demonstration?

After answering basic identifying questions, remain silent and ask for a lawyer. Do not sign anything without first speaking to a lawyer. If you have an encounter with the police, write down everything you remember including time, location, officer names, and badge numbers. If you are injured by police, take pictures as soon as possible. If you believe your rights have been violated, file a complaint with the Civilian Complaint Review Board as soon as you can.

### If I am stopped by the police, can I ask if I am under arrest?

Yes, you have the right to ask an officer if you are under arrest. According to the [NYCLU](#): “You should ask if you are under arrest or free to leave.” According to the [ACLU](#), an officer may only keep you from leaving if they reasonably suspect that you have committed, are committing, or are about to commit a crime. Before you say anything else (including your name), you can ask the question, “Am I under arrest or being detained?” If the officer tells you that you are not under arrest, you can ask, “Am I free to go?” If the officer says that you are free to go, walk away slowly. Do not run. If the officer says that you are not free to go, use the information below.

### Do I have to answer questions asked by the police?

No, you have the right to remain silent. According to the [ACLU](#): “You have the right to remain silent. If you wish to exercise that right, say so out loud.” If the police ask you basic identifying questions, it may be best to tell the police your name, address, and date of birth only. You have the right to decline, but not answering could lead to further problems. If asked any other questions, say, “I would like to remain silent.” Do not discuss where you were born or your immigration status with police or other officials. For more information, see the [National Employment Law Project \(NELP\)](#), [ACLU](#), and [Make the Road New York](#).

### Do I have the right to speak to a lawyer?

Yes, if you are arrested by police, you have the right to and should ask for a lawyer immediately. For urgent legal help, call 1-833-3-GOODCALL (1-833-346-6322) or National Lawyers Guild 212-679-6018.

**DISCLAIMER:** This fact sheet gives general information for NYC Residents; it is NOT legal advice.

### **If the police ask to search me, can I say no?**

Yes, you have the right to say no to the police asking to search you and your personal belongings. According to the [ACLU](#): “You do not have to consent to a search of yourself or your belongings.”

### **If I am not under arrest, can the police search me without my permission?**

Yes, but only if they have a warrant or reasonable suspicion that you have been involved in a crime. If you are stopped by the police but are not arrested, an officer cannot search your pockets, bags, phone, or other personal property without your permission, a warrant, or a reasonable suspicion that you have been involved in a crime. The police can pat down the outside of your clothing if they have reason to suspect that you might be armed. For more information, see the linked resource from the [ACLU](#).

### **What if the police say that they have a search warrant?**

If the police say that they have a search warrant, ask to see it. Make sure that the warrant has your name on it and that it was signed by a judge. If they do not have a search warrant, the warrant was not signed by a judge, or the information on the warrant is incorrect, say, “I do not consent to a search.”

### **If the police ask me for identification (ID), do I have to give it to them?**

No, if an officer asks for ID, you have the right to decline, but it is best to provide ID if possible. Not giving your ID to a police officer after they ask for it may lead to further processing, including fingerprinting. For more information, see the linked resources from [NYCLU](#) and [Make the Road New York](#).

### **What forms of ID should I bring to a protest?**

State driver’s licenses and municipal IDs (e.g., IDNYC) are the best forms of identification. If you do not have an official state- or city-issued ID, you can provide anything displaying your name and photo (e.g., a school or work ID).

### **What forms of ID should I leave at home?**

Never carry your passport, consular documents, or expired visas to a demonstration or protest. Never provide another person’s ID or provide false information during an encounter with police. If an officer asks where you were born or requests immigration-related information or documentation, do not respond and ask to speak with a lawyer regardless of your status.

### **What can I do to reduce risk before going to a protest or demonstration?**

Although everyone has the right to peacefully protest, protesting can lead to contact with police. For non-citizens, contact with the police could end up with you having immigration problems. Don’t go to a protest alone. Make a plan with friends or family on where to meet up if you become separated. Write the phone numbers of an emergency contact and emergency legal services organization on your body in permanent marker so that you don’t forget if you need to call someone.

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