



# Know Your Rights at a Protest

## Your Right to Protest

### What speech is protected?

The First Amendment protects many forms of expression, including the right to free speech, participating in demonstrations like protests and marches, leafleting, chanting, drumming and dancing. It also protects “symbolic speech,” e.g., wearing T-shirts with messages, carrying signs, sculptures or puppets, etc.

### Are there limits on what I can say?

Yes. The First Amendment broadly protects speech, including controversial viewpoints and criticism of virtually anything, including government officials, but there are limits. You can be arrested for encouraging “imminent” violence or other immediate illegal activities that threaten harm to people or property. It’s a federal crime to threaten to harm the president or vice president.

### Can violence or property destruction ever be constitutionally protected?

No. Violence or criminal activity does not become constitutional simply because you do it while expressing a political message.

### Where can I exercise my speech rights?

On any private property where the owner gives permission (the owner always decides) and in any area open to the public, such as streets, sidewalks, town squares or parks. If you plan to or actually block passage on a street or sidewalk, you must apply for a permit.

### Can I express myself in public places without a permit?

Yes, you can picket or leaflet in public places by yourself or in small groups without a permit so long as you are not blocking streets or sidewalks.

### Can I approach other people in public areas?

Yes. You may approach pedestrians with leaflets, newspapers, petitions and requests for donations. But you cannot prevent people from getting by or walking away, and should leave them alone if asked to do so. You cannot block building entrances.

### Can I heckle other speakers?

Yes, unless you attempt to physically disrupt an event or drown out other speakers. If speakers have a permit to use a public space, hecklers may be required to stand outside that area. Police may keep two opposing groups separated but should allow them to be within the same general area.

### Is civil disobedience constitutionally protected?

No. Civil disobedience – peaceful, but unlawful, activities as a form of protest – can legally be (and often is) prosecuted. You may be arrested. Make arrangements with a lawyer in advance.

### What should I do if I am ordered to disperse?

A police officer can order a “disorderly” group to leave an area, even in a place where they have a right or a permit to be, if that officer reasonably expects the group’s presence will result in substantial harm or serious inconvenience, annoyance or alarm. If you hear an officer give an order to disperse, you will be arrested if you do not obey.

## Interactions with Law Enforcement

### Can I record or photograph police in public?

Yes. Pennsylvania law forbids audio recordings of what people say without their permission if they have a reasonable expectation of privacy, but that does not apply to police who are performing official duties in public. Police also can record or photograph demonstrators.

### Can police legally attend a protest undercover?

Yes. And you should be aware that they may try to attend planning meetings to learn about plans for illegal activity.

### Do I have to show ID when police demand it?

Not in Pennsylvania. If you are detained or arrested, you may choose to show ID when police demand it. If you choose not to show ID, you could be detained for a longer time while police attempt to identify you. If you are an undocumented immigrant, showing your ID may result in your detention by immigration authorities.

### Can police search demonstrators?

If police have reasonable suspicion that you are involved in or about to commit criminal activity, they can frisk your outer clothing to search for weapons.

### Can police search bags and containers without probable cause?

Yes, if you are entering what has been marked a secure area. But you can refuse and should be allowed to leave. Otherwise, police can only search bags if they have probable cause that it contains contraband, weapons or evidence of illegal activity.

**If you think your rights have been violated, contact the ACLU of Pennsylvania.**

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## Interactions with Law Enforcement *(continued)*

### If You Are Stopped or Questioned by Police

Police may legally stop and detain you only if they reasonably suspect that you have committed, are committing or are about to commit a crime.

- Determine if you are being detained by asking the officer if you are free to leave.
- Stay calm and in control of your words, body language and emotions.
- If police ask to frisk and “pat down” your outer clothing, tell them you do not consent, but do not physically resist. Also, say clearly that you do not consent to further search.
- The First Amendment allows you to criticize or swear at the police, but especially in tense situations, insulting, arguing with or running away from the police may get you arrested.
- In Pennsylvania, you do not have to give the police any information. But if you do talk to the police, do not lie. That is a crime. Remember, anything you say or do can be used against you.
- Keep your hands where police can see them and don’t make any sudden moves.
- Remember officers’ badge and patrol car numbers.
- Write down everything you remember ASAP.
- Try to find witnesses, and get their names and phone numbers.
- If you are injured, take photos of the injuries ASAP but get medical attention first.
- Even if you think the police are doing something wrong or illegal, do not argue with them or physically struggle. You won’t win and the charges against you are likely to be more severe. Police misconduct should be addressed only after the fact.

### If You Are Arrested or Taken to a Police Station

- Ask for a lawyer immediately if you are arrested. If you can’t afford a lawyer, you are entitled to a free, court-appointed lawyer.
- You have the right to remain silent. You may simply say, “I am going to remain silent and would like a lawyer.” If you are not an undocumented immigrant, you may choose to give your name and address to law enforcement. But, in Pennsylvania, you are not required to give any information.
- Do not discuss your case over the phone; calls from police stations and jails may be monitored or recorded. Do not discuss your case with others being held; they may be undercover police.
- Do not make any decisions in your case until you have spoken with a lawyer.
- You must be taken before a judge without unreasonable delay (no longer than 48 hours). The 48 hours do not include the day of the arrest, weekends or legal holidays.
- A judge will decide if the charges against you are supported by probable cause, and if so the judge may set bail. Bail may be denied if you don’t have ID.

### Things to Keep in Mind

- Carry ID. Never carry false ID.
- You should make arrangements in advance with friends about what to do if one of you is arrested.
- Memorize important phone numbers. If you are arrested your personal possessions, including your cell phone, will be taken by the police.
- Avoid carrying drugs or weapons – even a pocketknife. If you are arrested, you could face additional charges for their possession.
- If you have an outstanding warrant or problems with your immigration status, you may encounter problems if you are arrested during the protest.
- If you take medication for a chronic condition, you should consider how long you can go without your medication if you are arrested. If you own a medical alert tag, wear it.

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