

GUIDE FOR DEMONSTRATORS

First Amendment Activity And Potential Consequences

You have a constitutionally protected right to express your views in public spaces. This includes sidewalks, parks, as well as other locations that the government has opened up to similar speech activities, such as the plazas in front of government buildings. Because these and other activities are constitutionally protected, there is little risk of arrest when holding signs, leafleting, marching (or standing still) and chanting, drumming, singing or dancing when demonstrating.

Some activities are illegal, and you can be arrested for them. Since Police Officers usually warn demonstrators to stop if they believe that the demonstrators are engaging in illegal activities, demonstrators will sometimes participate in activities that may subject them to arrest without being arrested. There is some risk of arrest nonetheless. Other demonstrators engage in peaceful but unlawful activities to be arrested as a form of protest called “civil disobedience.” A short list of activities engaged in at demonstrations is provided below.

Protected Activities

- Holding signs
- Leafleting
- Drumming, dancing, singing, chanting
- Marching
- Standing still in a group
- Approaching pedestrians on a public sidewalk with leaflets, newspapers, petitions, and solicitations for donations
- Setting up tables on public sidewalks for these purposes, so long as the walk is not blocked
- Wearing a mask or concealing your face

Illegal Activities

- Blocking street traffic
- Blocking pedestrian right of way
- Harassing or accosting passers-by
- Inciting a crowd to imminent violence or illegal activity
- Entering or remaining on other property after being informed that you are not welcome
- Violence against any person
- Destruction of property
- However, wearing a mask or concealing your identity, while engaging in unlawful activity, can act as a penalty enhancer.

Other activities seen at demonstrations that may be illegal include: Resisting arrest or obstructing an officer (see reverse), fastening signs (other than to bulletin boards generally open for posting information), littering, or using excessive noise.

If you are an **immigrant**, you still have the right to protest. However, Immigration officials can target non-citizens for deportation because of their First Amendment activities, as long as it could deport them for other reasons. If you are an immigrant and are targeted by law enforcement, you should assert your rights. It is also a good idea to carry the name of an immigration lawyer who will take your calls - and talk to the lawyer before talking to law enforcement or signing any papers.

What to Do if You Are Stopped by the Police

Remain **calm**.

You are not required to talk to the police, unless a judge orders you to. If you don't want to talk or answer questions, ask **"Am I under arrest or free to go?"** If you are not being detained, you may go. Walk (don't run) away calmly. If you are not released, do not fight or try to run away. (You may be sentenced to jail for resisting a lawful arrest (physically or verbally) or obstructing an officer in the performance of her duties, including when arresting you or another protester).

Make note of and remember the officer's badge number and name, as well as the contact info of any witnesses.

Do **not** consent to being patted down or searched. The police can pat you down to check for the presence of a concealed weapon. Say, **"I do not consent to being searched."** You don't have to change your mind or give in, **but don't resist physically or attempt to run away**

What to Do if You Are Arrested

The most important thing to remember: If you are arrested, you should provide the officer with your name and address, and then you should state, **"I choose to remain silent. I want to speak to an attorney."**

If you say this, the police should stop trying to question you. **You do not need to already have an attorney to request one.** Do not believe the police officer if he/she tells you anything to the contrary. **You are entitled to remain silent and to consult with an attorney. You do not have to answer the police officer's questions, other than your name and address.**

Always remember: Anything you say will be used against you and against others. Do not try to "educate" the officer or "explain" your situation.

In Milwaukee, a clearinghouse of attorneys willing to consider representation for those arrested or ticketed during demonstrations has been created. If you need legal assistance, please contact the ACLU- Wisconsin intake coordinator at the number below.

The ACLU of Wisconsin and the National Lawyers Guild are interested in developing a comprehensive database of police response to demonstrations. Therefore, even if you do not need legal representation as a result of an arrest or a ticket, please call the following number if you witnessed police conduct while you were demonstrating that caused you concern:

414-272-4032, ext 14

