

# KNOW YOUR RIGHTS

## Peaceful Protest and Counter Protest

Disclaimer: This resource is designed for informational purposes only. It is not legal advice and is not intended to create an attorney-client relationship. Please note that this resource is not exhaustive. Situations or inquiries may arise that are not answered below.

### Do You Have a Constitutional Right to Peacefully Protest?

- You have a First Amendment right to free speech and peaceful assembly.
- Generally, sidewalks, parks, and other public places may be used for a peaceful protest, provided your group has obtained any required permit(s).
- The First Amendment does **not** protect speech that threatens; intends to cause others to violate laws; or provokes a person to violence.
- The First Amendment does **not** protect civil disobedience, which is considered peaceful but unlawful activity. Such activity may lead to arrest.

### Where Can I Protest or Demonstrate?

- Depending on where you intend to conduct a peaceful protest (such as land owned by federal, state, or local government), various restrictions may apply. You are **never** allowed to protest on private property without the landowner's permission.
- In general, your exercise of First Amendment rights cannot disrupt or impede others' use of the same public space for its usual purpose. For example, demonstrators may not block pedestrian or vehicular traffic on sidewalks and streets, or prevent entry or exit from buildings.

### Do I Have the Right to Record During a Protest?

- You have the right to take photographs and video during a protest of demonstration, including recordings of law enforcement activity, as long as you do not interfere with police activity or their operations. Police officers **cannot** confiscate or order you to delete your recordings, phone, camera, or other equipment without a warrant.

### Limits on the Government's Obligation to Protect Public Safety

- Law enforcement officers are sworn to preserve the peace and protect the general public. Law enforcement must employ crowd control measures to the extent appropriate and necessary to ensure safety for all—protestors, counter-protestors, spectators, and passers-by.
- Law enforcement may not interfere with a lawful protest but may use blockades to restrain a crowd from engaging in illegal activity.
- Generally, law enforcement may only require you to provide ID if there is a reasonable suspicion that you are involved in criminal conduct.
- You may only be detained if law enforcement reasonably suspects you are involved in criminal activity.
- If a law enforcement officer has a reasonable suspicion that you have a weapon, they may conduct a pat down but not a full search.
- A crowd may lawfully be ordered to disperse, if there is a substantial risk of violence or disturbance of the peace, e.g. blocking a highway.

## **De-Escalating Protester-Police Encounters**

- Keep calm. Make clear your intent to be non-violent.
- Open and maintain lines of communication and negotiation between protesters and law enforcement.
- Follow law enforcement orders to disperse if you seek to avoid arrest.
- Memorize and share the phone numbers you may need to call if you need help, or are arrested or detained.
- You have the right to leave the protest location if you are not under arrest. Ask if you are free to leave. If you are free to leave, walk away; if you are not, politely ask why.
- You have the right to remain silent and cannot be arrested for refusing to answer questions by law enforcement. Statements that you make can be used against you. If you wish to remain silent, say so out loud—"I don't want to talk," for example.
- You do not have to give law enforcement your name or show identification unless you are suspected of criminal activity.
- Do not give false information to law enforcement. Doing so is a crime, and can be used against you in later proceedings.
- Fall back to a safe place if the situation becomes dangerous or violent.

## **What Should I Do If An Arrest Occurs?**

- Ignoring an order to disperse could result in your arrest. Try to memorize the arresting officer's badge number, name, or other identifying information.
- During an arrest, law enforcement may conduct a pat down of your body for the exclusive purpose of finding hidden weapons. If law enforcement wishes to search your person or possessions, phones, or bags, you must first provide your consent. If you do not consent to such a search, say so out loud.

## **What Should I Do If Subject to Discrimination or Harassment?**

- If you believe that you have been targeted for discrimination on the basis of your identity while protesting or otherwise, you can call 844-9-NO-HATE or visit [www.communitiesagainsthate.org](http://www.communitiesagainsthate.org) to report the incident and get support.