

PRACTICAL TIPS FOR PROTESTING

☐ We advise you to remember that the coronavirus remains a threat to your health and the health of others, and that when you protest you should take precautions such as wearing a mask and social distancing as best as possible.

☐ You may want to bring water to drink and flush out your eyes if pepper spray is used against you (see below). Also bring any vital medication, such as an asthma inhaler, which you may especially need if you are subjected to tear gas. You may also want to avoid wearing contact lenses for this reason as well.

☐ Wearing a mask may also help if the police use pepper spray or tear gas since inhaling these compounds is very irritating. If you are exposed to pepper spray, do not rub your eyes. Blink in order to produce tears to wash out the oils. While many people are seen on television pouring milk on their face after being pepper-sprayed during protests, some experts have said that this only helps reduce the burning sensation but doesn't remove any of the oil contained in the substance. Lots of water to flush out the oil may be the best remedy.

☐ If tear gas is used, leave the area or seek higher ground. The CDC says people should quickly take off any clothing that may have tear gas on it. If clothing needs normally to be pulled over the head, like a shirt or sweater, you should instead cut it off to limit exposure to the eyes or mouth. Wash skin with soap and water and flush your eyes with water.

☐ Memorize or write down important phone numbers since, if you are arrested and held in custody, you will no longer have access to your phone for

Questions?

Free legal services are available.

Contact Kevin Stadelmaier, Chief Attorney
716-853-9555 ext. 219

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KNOW YOUR RIGHTS WHILE PROTESTING

#FIRST
AMENDMENT



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WHAT ARE MY RIGHTS?

The First Amendment of the United States Constitution ensures us the right to freedom of speech and protest. This right applies to everyone who lives in the U.S. You do not have to be a U.S. citizen to enjoy the right to free speech and protest. However, limitations on time, manner and place can be placed on this right. These would include violating a curfew and going onto private property, for example. You can be arrested if you stay out past a curfew or protest on private property.

Whenever you protest, there is the possibility of police contact or an arrest. Be honest with yourself about your tolerance for police contact and how this will affect you and your future as you read about your rights, so that you act accordingly. Understand that civil disobedience is different than constitutionally-protected free speech and protest. This advice may be particularly important for immigrants who are not U.S. citizens and whose status might be affected by an arrest and conviction.

WHERE CAN I PROTEST AND WHAT CAN I DO LAWFULLY?

☐ Public spaces are the locations where your First Amendment right to protest is most protected. These would be sidewalks, streets and parks. However, you cannot intentionally block access to or obstruct vehicles or pedestrians, or entrances and exits to buildings unless you have a special permit to do so. Permits are required to close off streets and shut down traffic for a demonstration. Permits are also required if more people than the allowable limit are going to demonstrate in a park. Without a permit, the police may ask you to move for public safety reasons if you are blocking access or violating space limitations in a park.

☐ The police may order you to move, leave, put down a sign, or stop an activity during a protest. Obey their instructions unless you have specifically planned to engage in peaceful civil disobedience. Any time you disobey the direct orders of a police officer you are risking arrest. If you believe that your rights have been violated, organizations like the ACLU or the NYCLU can assist with such complaints. The NYCLU in Buffalo may be reached at 716-852-4033. See, nyclu.org

☐ Do not touch a police officer, or get in his/her way in the course of official functions. Do not try to prevent an officer from approaching or arresting someone else at the event. These actions can lead to immediate arrest. If the police move to arrest or get physical with a demonstrator, you can observe from a safe distance unless ordered to leave the area. Write down times, names, locations. Get the contact information for any witnesses. You can also ask an officer for their name and badge number. If you are injured, photograph the injury, and save medical records if you seek medical care

☐ Do not bring weapons or controlled substances to a protest.

☐ When you are lawfully present in any public space, you have the right to photograph anything in plain view, including federal buildings and the police. The police cannot stop you or confiscate your phone without a search warrant obtained from a judge. Whether you stop photographing or videotaping when ordered to do so, or turn over your phone to the police, is your decision to make, especially if you feel threatened or there is a risk of conflict and to your safety. If you give up your phone, you can always file a complaint against the police afterwards. Again, organizations like the ACLU or the NYCLU can assist with these complaints, and others, if you believe your rights have been violated.

☐ When you are at a public protest, you consent to a photo taken of you just by being there. Anyone who photographs you protesting in a public place may have a right to use your image, and you may see images of yourself in the media or online.

WHAT HAPPENS IF I AM STOPPED OR ARRESTED?

☐ If you are stopped by police, stay calm and don't resist. Keep your hands visible to the police. Ask if you are free to leave after the police have spoken to you. If you are, walk away. If not, stay put. Stay safe. Police cannot detain you without reasonable suspicion that you have or are about to commit a crime or are in the process of doing so. You may ask why you are being arrested. The lawyer who represents you in court will want to know the details of how your arrest occurred.

☐ If you are arrested, stay calm and don't resist. You have the right to remain silent and you should respect this right and not answer questions without a lawyer present, other than your name. You are not required to tell the police where you were born or your immigration status.

☐ Do not consent to being searched or having your property searched, including your phone. Tell the lawyer who represents you in court if the police searched you without consent. The police may pat you down to see if you have a weapon.

☐ Under the current bail laws, most offenses related to protesting (for example: disorderly conduct, unlawful assembly, trespass, resisting arrest, obstruction of governmental administration, harassment) will not allow the police to take you into custody. You should receive an appearance ticket with the date of your scheduled appearance before a court. Do not lose this ticket. If you do not appear in court, you may have a bench warrant issued against you.

☐ During a demonstration, rioting, the destruction of property, theft and assault, as examples, remain clearly unlawful acts which may subject you to arrest.

☐ If you are arrested for an offense involving violence, have a warrant against you, pending charges or past convictions, you may be taken into custody by the police. If you are arrested in Erie County, you will be held at the Buffalo Police Holding Center at 121 West Eagle Street in Buffalo until your arraignment.

☐ You can call a lawyer when you are in custody. If you cannot afford one, the court will appoint one to you at arraignment, but you will not have a free lawyer before that time.

☐ If you are held in custody, your phone conversations will be recorded.

☐ You have a right to challenge the charges against you, and are never required to take a guilty plea. Your lawyer will explain the legal options that are available to you.

☐ If you are not a citizen of the U.S., please understand that convictions for many crimes may affect your status. Do not plead guilty to any offense without fully understanding those consequences. Ask your criminal defense lawyer to contact our Regional Immigration Assistance Center for more information.