

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. Other actions such as a school walkout could result in truancy charges or school discipline.

PROTECTED ACTIVITIES

- Holding signs or puppets
- Leafleting.
- Drumming, dancing, singing, chanting
- Marching
- Standing still in a group
- Approaching pedestrians on a public sidewalk with leaflets, newspapers, petitions or solicitations for donations

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 public or private property after being informed that you are not welcome
- Violence against any person
- Demonstrating on private property
- Destruction of property
- Picketing in front of a single house

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 anything.

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STOPPED BY THE POLICE?

Remain calm.
You are not required to talk to law enforcement unless a judge orders you to. If you don't want to talk or answer question, ask, "Am I under arrest or free to go?" If you are not being detained, you may go. Walk away calmly. Don't run. If you are not released, do not fight or try to run away or you may be sentenced to jail for resisting a lawful arrest (physically or verbally) or obstructing an officer in the performance of their duties. Do not lie to police - it is always better to remain silent. Write down or remember the officer's badge number and/or name, as well as the contact info of any witnesses.
Do NOT consent to search of your person or property. Say, "I do NOT consent to being searched". Police may pat you down to check for the presence of a concealed weapon. You don't have to change your mind or give in, but DO NOT physically resist or attempt to run away.

ARRESTED?

If you're arrested provide the officer with your name and address and state clearly, "**I choose to remain silent. I want to speak to an attorney**". You do not need to already have an attorney to request one. Do not believe the police officer if they tell you anything to the contrary. You are entitled to remain silent and to consult with an attorney. You do not have to answer any law enforcement questions other than your name and address.
Always remember: Anything you say will be used against you and others. Do not try to "educate" the officer or "explain" your situation. The ACLU of Wisconsin trains legal observers to monitor protests and demonstrations. Please contact us if you are interested in being trained, or if you need legal assistance regarding a demonstration or protest, or if you witnessed questionable police conduct.

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You may file a complaint with the police if you feel your rights were violated.

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Milwaukee, WI 53202
www.aclu-wi.org
414.272.4032

liberty@aclu-wi.org
Twitter.com/ACLUofWisconsin
Twitter.com/ACLUMadison

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