

KNOW YOUR RIGHTS

A guide for protesters





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Know Your Rights Information and its Limitations

It is important to keep in mind that there are limitations to Know Your Rights information when it comes to personal safety and police behavior in the streets. The U.S. Constitution and various state laws guarantee that you have certain rights — but just because the law says you have those rights does not always mean that the police will respect them, or that a court will uphold your rights if they're violated.

When you are protesting or having any interaction with law enforcement, asserting your rights does not usually mean that the police will respect your rights or change how they are treating you. However, by using your rights (by saying them out loud, as this booklet will teach you to do), you can make it harder for police to use your own statements or anything found on you during a search as evidence against you during a trial. Using this information could help your case later in court and, importantly, can help you protect your fellow activists.

This booklet aims to give people thinking about going to or organizing a protest information about best practices for interacting with law enforcement in-the-moment, as well as advance information to consider in order to assess risk and prepare for possible police encounters.

Disclaimer:

This booklet is not a replacement for legal advice. If you need legal advice, please contact a lawyer.

**More Protest Legal
Support Resources**

[NLG Mass Defense Program:](#)



Interacting With Law Enforcement

Limitations of Know Your Rights Materials: Most of the usual best practices in know-your-rights guides focus on verbal interactions between cops and protesters. If you are d/Deaf, non-verbal, or otherwise unable to hear or verbally respond to police questions or orders, this booklet may not give you all the information you need to best protect yourself. You have all the same rights as everyone else and you have the legal right to ask for an interpreter. However, cops are not required to give you an interpreter in all circumstances, especially if the officer believes the situation is urgent. Some advocacy organizations have recommended carrying a card that says you're d/Deaf and/or nonverbal, staying near a friend who knows how to step in if a cop starts speaking to you, or attempting to sign and/or speak to the cop directly, where possible. This does not guarantee your safety, and unfortunately, d/Deaf, non-verbal, and other disabled protesters may be at higher risk, with few concrete protections.

If you are arrested or detained, you can contact a disability rights-focused legal aid organization, such as the Disability Rights Legal Center or a local group.



[Disability Rights Legal Center](#)

Key Takeaways of Interacting with Law Enforcement

The United States legal system is not designed to support dissent. Police are meant more to enforce order than civil rights. The courts are hard to navigate and judges are often hostile or unfair to people who have been arrested, including activists. Though we urge you to learn the information in this whole booklet, here are some important highlights about direct interactions with police officers:

“Invoking your rights” means stating a few key phrases out loud.

The goal is to end the law enforcement interaction as quickly as possible. If a cop is speaking to you on the street, ask: **"Am I free to go?"** If they say yes, you should leave, if you can do that safely. If the cop says anything other than yes, follow up with: **"Am I being detained?"** If they say anything other than yes, then say that you do not want to talk further and leave immediately.

You have the right to remain silent. If a police officer asks you any questions, you can respond with: **"I am going to remain silent, and I want to speak to a lawyer."**

- There is one exception: In 23 states¹, if a

¹ Some states have "stop and identify" statutes which require you to provide identity information or your name if you have been detained on reasonable suspicion that you may have committed a crime. A lawyer in your state can advise you of the status of these requirements where you reside. As of June 2022, these are the 23 states with "stop and identify" statutes:

Alabama, Arizona, Arkansas, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Louisiana, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Ohio, Rhode Island, Utah, Vermont, Wisconsin

- police officer asks you for your name, you must answer honestly.
- If you have been arrested, it might be helpful to answer questions about things like your name, address, and date of birth, or to ask to use the bathroom or for medical attention. These are all things the police already know, or they are requests about your safety and bodily dignity. After speaking about anything, however, re-invoke your rights by repeating **“I am going to remain silent, and I want to speak to a lawyer.”**
 - If you need to, you can keep repeating that phrase. No matter what the cops say, there is *never* a good reason to speak to them *before* talking with a lawyer, and it is dangerous to yourself and your movement to do so.

You should not agree to be searched (even if you don't think police will find anything illegal). Police are allowed to pat down the outside of your clothing whether or not you tell them you're okay with it, but they need your permission or a search warrant to search beyond that. (A search warrant is a written

court order that allows the police to search for specific things in specific places.)

If you do not directly say anything that tells cops you don't want to be searched, a judge may say that your silence meant that you consented to the search.

Remember to say, **"I do not consent to this search."** (Consenting to something means you're freely agreeing to it — using the word "consent" helps you avoid confusion with the cops by using standard legal language.)

If you are arrested, you will be searched as a part of the arrest process.

Police are allowed to lie to you. It is sometimes illegal for you to lie to police (and it can be difficult or impossible to know whether or not you're in a situation where it's illegal for you to lie). Even if you are in a situation where it isn't illegal, it can create serious issues for you and other people later in your case. For this reason, once you have been detained or arrested, it is safest to say **nothing** besides: **"I am going**

to remain silent, and I want to speak to a lawyer.”

The rest of this booklet will go into more detail on basic Know Your Rights information and what to keep in mind when preparing for a protest or action — or any other interaction with law enforcement.

If you need legal information to help you as you organize a local action, reach out to your local NLG chapter to ask if they're able to host a training or a Q&A before the action. You can also reach out to a nearby legal aid or advocacy organization. Local laws and law enforcement practices can vary, and *people who are familiar with the local laws can help you make informed decisions as an organizer or activist*. While only a lawyer can give legal advice, non-lawyer legal workers and experienced activists may have useful knowledge of the common practices of local law enforcement during protests. *Police are not reliable sources of legal information.*

Common Police Tactics — What to Prepare For

Lying. It is legal for police officers to lie to you to trick you into sharing information or confessing to a crime. Common lies told by the police include:

- **Claiming to have non-existent evidence.** Police may claim another person has confessed and said you were involved in unlawful conduct, or police may lie about having other evidence linking you to a crime, even if that evidence does not exist.
- **Offering a “deal.”** For example, offering to let you go without charges if you tell them who the “leaders” are. Police are not actually able to make and keep that offer; only a prosecutor can decide charges.
- **Misstating penalties.** Police may overstate the penalties for any crime, or say you will be prosecuted more harshly or charged with “obstructing justice” if you do not answer their questions.
- **“We’ll just get a search warrant.”** Cops will make this threat thinking it will get you

to agree to a search. The truth is, one of the reasons they want you to talk to them voluntarily is that it is much easier for them than trying to get a search warrant. Plus, if you talk to the police, it can be *much* easier for them to get a search warrant, based on whatever you tell them, even if you don't say anything that you think is incriminating!

- "If you don't cooperate, you're going to be here for a while" or "You'll be released today if you make a statement." There is no good way to talk yourself out of arrest. If you have been arrested, there is nothing you can reliably do to get released except wait. The U.S. Constitution says that you can be held for up to 48 hours before being released or taken to a judge. Some states have shorter time periods, usually a maximum of 24 hours. Cooperating with law enforcement is much more likely to make them hold you longer, set higher bail, and other serious consequences for yourself and others. Cooperating with law enforcement is extremely unlikely to lead to you being released early.
- "We're not recording any of this." Police

may tell you they have turned off the recording and anything you say is “off the record,” even if they have not. The best idea is to continue to say you are using your right to remain silent.

- “We’re only trying to help you.” Officers may tell you it will make things easier if you answer their questions. If you believe this, you may end up accidentally giving them evidence to use against you — even if you didn’t do anything illegal! The things you say can be interpreted in ways that are against your interests. Just say: **“I am going to remain silent, and I want to speak to a lawyer.”**

Leading Questions. Police may use leading or seemingly innocent questions about things that appear to be unrelated to your arrest or your movement to get you to say something they can use against you. If you are nervous or trying to be cooperative, you may unintentionally say something that they will use against you later.

The Reid Technique. Officers use this strategy,

commonly known as the “good cop/bad cop” technique, to lead you to believe that confessing is in your best interest — ***don’t be fooled!*** An officer playing “bad cop” may first argue that you are guilty, present some theory of the crime, and ignore when you say you didn’t do it. Another officer, the “good cop,” may then tell you they understand why you “did” what they’re saying you did, and try to convince you that, if you tell them that you did do the crime, you might have a less harsh punishment or get to go home.

The safest thing to do is not to answer any questions and instead say: **“I am going to remain silent, and I want to speak to a lawyer.”**

When you’re being held by cops, even statements you make to people who are not police (or don’t appear to be police) can be used against you. When you are interacting with the police, assume you are being recorded. Cops have audio and video on their uniforms, in the cop car, and in jail cells. In addition, all jail telephones are recorded. If

you are arrested, assume you are being fully surveilled.

People often believe that police must read them their Miranda Rights in order for an arrest to be valid. This is not the case.

More Resources to Prepare for Contact By Law Enforcement:

[If An Agent Knocks by the Center for
Constitutional Rights](#)



Preparing for a Protest

The information in this section is intended to outline potential risks associated with protesting so you can choose what kind of participation makes sense for you. Clear, honest information about risk can help people make informed decisions. Additionally, this information can be used by organizers to consider ways to make protesting safer for attendees.

Resources for Considering Legal and Personal Risks of Protesting:

[A Tilted Guide to Being a Defendant by Tilted Scales Collective](#)



| Locations and Risk

Do I need a permit? How do permits work? What do I do if I am denied? If I proceed without a permit, what are the risks?

Choosing to hold a permitted event is a political choice that is up to organizers. If getting a permit is important to you:

- Permits for protests are usually given out by your local government. Check their website or call for the relevant laws regarding permits. Most cities require some kind of fee, but it may be waived if you can't afford it.
- Most local governments require notice ahead of time for a "free speech event," which can vary from 5 to 60 days. However, some cities will still give out permits after that window has passed, if the protest is in response to "breaking news" — just be sure to notify whichever office issues local permits as soon as you can, if having a permit is important to you.
- You shouldn't need a permit to protest on

sidewalks, or in the streets, so long as the protest is not blocking traffic. (However, some small towns have laws that require permits and fees for sidewalk protests.) Local governments usually require permits if the plan is to block street traffic. Without a permit, police can force protesters to move onto the sidewalk. If police order people to leave, they may be arrested even on the sidewalk. You may hear them issue an “order to disperse” before making these arrests.

Not having a permit has certain risks that some organizers and activists choose to take, including arrest, fines, and bodily harm. For example, as of 2022:

- Iowa has passed a law that would protect a driver who injures or even kills a protester in a protest that didn't have a permit, as long as the driver exercised “due care.”
- Florida has a proposed law which, if passed, would allow local authorities to make the organizers of a protest without a permit pay for the cost of “designating and enforcing”

- the zone for the event.
- Ohio has a proposed law that would allow more serious consequences for holding an unpermitted protest, making it a 3rd degree felony instead of a minor misdemeanor.

These laws are always changing, and you can see what the status of the law is in your state here:



[U.S. Protest Law Tracker](#)

Do certain locations carry more risk when it comes to holding a protest?

The First Amendment does not include a right to protest on a **military base**. The military has a right to exclude anyone from the entire property of a military base.

Some states have “**critical infrastructure**” laws which criminalize protests at or near oil and gas pipelines. Other facilities considered critical infrastructure under these laws include, but are not limited to railroads, refineries, water treatment plants, and cell phone towers. If you plan a protest at or near a critical infrastructure site, be prepared for the possibility of higher bail as well as more severe penalties. As of June 2022, the following states passed “critical infrastructure” laws:

- Alabama
- Arkansas
- Florida
- Indiana
- Iowa
- Kansas
- Kentucky
- Louisiana
- Mississippi
- Missouri
- Montana
- North Dakota
- Ohio
- Oklahoma
- South Dakota
- Tennessee
- Texas
- Utah
- West Virginia
- Wisconsin

Be aware that while the First Amendment protects your right to protest, there may still be legal consequences for related behavior

(such as trespassing) when you protest in non-government/non-public places. Remember: The First Amendment protects your right to protest, but it doesn't protect you from being arrested for anything that's considered a criminal offense.

What are the laws and risks around blocking traffic? Is there any difference for the degrees of blocking traffic, such as if protesters only block only a single lane as opposed to blocking all lanes?

Generally, marches or parades that take place on a street require a permit if they are going to block traffic. If your city requires permits and the protest does not have one, blocking traffic by marching in the street becomes illegal. Engaging in First Amendment-protected political activity does not protect protesters from being arrested for other illegal behavior that they may engage in while they're protesting, including walking in the road or damaging property.

If I want to play music during my protest or

use a megaphone, what do I need to know about noise levels, particularly amplified noise in public spaces?

This depends on where you are protesting. Some cities have very lax restrictions on noise levels, while other cities are a lot stricter. If you are considering using a noise amplification device, like a bullhorn or a megaphone, you can check your local laws to see what the policy is in your area in order to consider your risk levels.

Some cities require protestors to get a permit if they plan on using music, drums, or loudspeakers to make themselves louder. Some require groups putting on the protest to get a permit before using megaphones and bullhorns. This information can also be found in your local permit laws.

| Digital Security

When I'm organizing a protest, what are some digital security measures I can take?

It's worth thinking about what sort of information needs to be protected from the government. For example, lots of events can be shared on social media. But when the events involve potentially illegal actions, talking about them publicly could put you and other organizers at risk. There may be events and conversations that you would not want to have in public or in the presence of law enforcement, even if these conversations were not about unlawful activity. Be careful when doing protest organizing or protest support using corporate-owned tools like Google and Slack.

Private, encrypted communication methods (like Signal and Jitsi) as well as in-person hyper-local organizing can be used for planning direct actions you think might attract unwanted government attention. It's worth noting that encryption is only helpful if you trust the person or group in charge of the encryption. Many platforms that are encrypted might still share your data with the government or police, and the intended recipients of encrypted messages are able to screenshot or share those messages.

Remember: using digital encryption does not protect against physical surveillance, such as infiltration, CCTV, law enforcement surveillance, or someone who is cooperating with law enforcement.

More Digital Security Resources:

[Electronic Frontier Foundation:](#)



[Civil Liberties Defense Center's Digital Security \(DS\) Program:](#)



What is encryption? Encryption is a method of scrambling data to maintain security. Whoever sets the encryption code, however, can still read the data, and can share the code when and where they see fit.

If I need to bring my phone to a protest, what are some security measures I can take?

In general, police need a warrant to search your devices. In practice, it is possible for your device to be searched without a warrant. Therefore, you may want to consider how to make it less easy for someone to get onto your phone or other electronics. Consider using encryption, password-protecting your device and hard drive, or even using a burner phone. The Fourth Amendment protects against forcing you to unlock your phone in most places, so a password can be a solid way to defend against cops looking through your phone. If you use biometric unlocking settings—such as facial recognition or fingerprint recognition—cops may forcibly put your finger on the phone or hold it up to your face. In general, consider turning off location services, or even not bringing your primary phone to a protest. Remember there may be things in your phone that are private, even if they aren't unlawful.

What should I know about live-streaming,

posting videos and pictures, and talking to the media?

Protesters may feel that it is important for the public to see what is happening on the ground at protests, from the point of view of the activists themselves. Be aware that the safest thing to do is to film police or counter-protesters. Live-streaming the activity of other protesters can expose people to criminal liability by creating evidence that can be used by law enforcement, even just to show that someone was in a certain place at a certain time. In addition, law enforcement could use these images to try to get information about the protest or movement from people they are able to identify in video or photos as having been present at a protest. Videos and photos can also expose people to danger, whether it is family members who may disapprove of their political views or doxxing and threats from those who are ideologically opposed to the message of that protest.

However, video can be important in terms of showing misconduct or violence by police or

counter-protesters. If you have video that you believe might prove someone's innocence, or show that police or others behaved violently, show it to an attorney, rather than posting it online. There are now many instances of people being criminally charged, and even doing significant jail time, as a result of well-intentioned people publicly posting videos to social media. What appears to one person to show a police officer attacking a protester can often be used to convince a judge or jury that the protester assaulted the cop. Be careful and take precautions before posting something that might help send one of your friends to jail!

If you decide to speak to the media, be careful about what you say. Anything you say publicly can be used as evidence against you — or someone else!

| **Creating an Arrest Safety Plan**

What can I do to prepare for an action with a high risk of arrest?

Be prepared. If you are going to a high-risk

protest or are worried about getting arrested, make a plan with a trusted friend or family member who is available to be on-call while you are protesting. This person should not go to the protest with you.

What should I tell the trusted person/people who are part of my safety plan?

You should provide this person with information for contacting local jail support groups and bail funds, and tell them to reach out to those groups if you are arrested. You should memorize the phone number of this trusted contact and your attorney, if you have one.

In addition, tell your trusted individual where you're going as well as your full name as it appears on your ID, date of birth, and any medical needs. Give them a copy of your keys and make plans to have your children, pets, and plants looked after. If there is a legal support arrest hotline or bail hotline which can be called from jail, another option is to have the phone number memorized or written in permanent marker on your body.

Note: Be aware that writing out a pre-arrest form may be used as evidence that you intended to engage in unlawful conduct. It may be safer to have a “standing emergency plan” with a single trusted friend, rather than having any “pre-arrest” or “jail support” forms.

| **Providing Support to Protestors**

Are there other protest-related activities besides protesting that could have legal consequences?

Yes, but some activities are higher risk than others. Protest support activities that could have legal consequences include fundraising, offering legal support, and offering medical support. Less risky activities include providing emotional support or jail support.

Fundraising: Accepting donations into your own bank account can expose you to certain tax obligations. If you accept donations personally, even if you intend to give them to an organization or group, you should talk

with an attorney to make sure you remain in compliance with tax laws. If you ask for donations, whether for a non-profit, an individual, or a group, you must actually use those donations for exactly what you said you would. Using donations for a different purpose, even if it is similar to what you told people the donations would be used for, may result in criminal charges for mail fraud or wire fraud.

Legal Support: If you are not a lawyer, you may give out legal information, but offering legal advice would be considered practicing law without a license, which is a criminal offense — and is also potentially very harmful to the person you are trying to advise!

Medical Support: Administering a prescription medication without a prescription is a criminal offense. (It can also hurt people). If you want to act as a street medic, you can find street medic trainings offered by street medic collectives around the country. These trainings are specific to medical treatment during protests and are critical even for people with formal, high-level, medical training. These trainings include

information on the laws about giving medical care in protest environments, what medications are illegal to give out, the ethical and legal scope of practice for street medics, and Good Samaritan laws.

Emotional Support: Providing emotional support is an important form of movement work. However, people who are not licensed therapists need to be careful not to take on emotional support that they're not qualified for, as this can be legally dangerous. Licensed therapists have patient "privilege," meaning a court cannot ask them to testify against a client. If you do not have a license, you may be subpoenaed. Plus, providing some kinds of support without training can hurt the person you're trying to help!

| **What to Bring and Not to Bring**

What should I avoid bringing to a protest?

The level of risk will vary from event to event. However, do not bring anything to a protest that you are not prepared to potentially lose. In

general:

- Jewelry or other valuables could be damaged, lost, or taken by cops.
- Do not bring anything you wouldn't want to be arrested with (e.g. illegal drugs or illegal weapons), as these can result in additional charges.
- Do not bring anything to a protest that you do not want cops to see, including any documents related to the movement, activists that planned the protest, the march route, or other participants, and anything private or intimate.
- If you have any medication that you will need to take during the time of a protest, bring it with you in the original prescription bottle. However, only bring as much as you will need. Be aware that if you are arrested, police will not let you keep that medication with you, and they will not administer it to you. If you require medication, you are going to have to demand the police take you to a hospital, where a doctor will give you your medication.

What are some other tips?

- Makeup, contact lenses, vaseline, mineral oil or oil-based moisturizers and sunscreens can make it harder to wash off tear gas, making the effects last longer. Contact lenses can become stuck to your eye (which is a medical emergency!), and people might accidentally scratch their corneas trying to remove contacts in a panic. Glasses are a safer option.
- If you bring your phone: disabling data, turning on airplane mode, and disabling biometric data (face or fingerprint recognition) can protect against law enforcement looking into your photos, texts, and other data.
- Wearing easily identifiable clothing (like a sweater with bright labels) can make it easier to identify you or might make you stand out in a crowd—if it helps, you can turn clothing inside out to make it more plain.
- Loose clothing may make you easier to grab.

Specific Considerations for Marginalized Groups

Police officers and the legal system regularly harm marginalized people. Though all of the rights explained so far in this booklet apply to all people, the reality is that our legal system is unfair. This makes it riskier for some groups to protest, even though they have the right to do so. The groups included in this booklet are not the only groups targeted by law enforcement, and not all members of a marginalized group are treated equally by cops.

Protesting as a Minor

Generally, minors (people younger than 18 years old) have the same civil rights as adults, but there are differences in some situations. For example, some states have laws saying that minors must be released to a parent or guardian as soon as possible after arrest, instead of being held for longer processing like people over 18. If you are a minor, it can be helpful to check your state's policies as part of preparing for a possible arrest.

Do I have to answer questions if somebody in my school is the one asking?

No. Minors have the right to remain silent. You cannot be arrested for refusing to talk to the police, probation officers, or school officials, unless you are asked your name in a state with a “stop and identify” law. These states are listed on page 5.

What if I am detained?

If you are detained at a community detention facility or juvenile hall, you normally must be released to a parent or guardian. If charges are filed against you, you have a right to a lawyer at no cost, just like an adult.

Do I have the right to express political views at school?

Public school students generally have a First Amendment right to politically organize at school by passing out leaflets, holding meetings, etc., as long as those activities are not disruptive and do not violate school rules.

School rules may not single out any individual or group based on politics, race, ethnicity, or religion.

Can my backpack or locker be searched?

School officials can search students' backpacks and lockers without a warrant. You may state that you do not consent to the police or school officials searching your property, but remember that if you physically resist, you may face criminal charges.

Protesting as a Disabled Person

What if I cannot stand for the entire time during a protest?

If you need a break or to sit somewhere, be sure to review the laws in your protest location. If there is a sit-lie ordinance (which prohibits anyone from sitting or lying down on a street or sidewalk), you may not legally be able to sit or lie down unless you find a bench. These types of ordinances are extremely ableist, but it is important to consider these laws when you're

deciding whether or not to attend a protest. You could bring a chair, wheelchair, or assistive device, but know that those items may be taken away from you or damaged.

What is my right to use a bathroom during a protest?

For the most part, it is legal for private businesses to tell members of the public they can't use the bathroom. However, there are some states and places that have a Restroom Access Act for people with medical conditions. See the American Restroom Association's Restroom Access Act page for a list of states.

[American Restroom Association's Restroom Access Act Page](#)



Is prescription medicine treated differently than other medical equipment when I am arrested? How (if at all) can I get access to needed medication if arrested?

You may not have access to medication if you are arrested, even if you bring your medication with you. One option for a safety plan is to ask your trusted person to bring your medication when you're released. Because they could be sued, police do not typically give you your medication, but they can take you to a hospital in order for a doctor to do so.

How can I best protect my accommodation resources (mobility aid, other medical equipment, service or emotional support animals, etc.) when participating in a protest?

If you are attending a protest with a high risk of arrest, the standard advice is not to bring anything that you are not willing to lose. However, you may not be able to attend without your mobility aid, service animal, or medical equipment.

The decision of whether or not to risk losing or endangering your accommodation resource or animal is challenging. If you bring a service animal or piece of necessary medical equipment, one option is to coordinate a safety plan in advance with a friend who will attend the event with you and take your medical equipment and/or service animal if you are arrested. However, there are still risks associated with this in the case of mass arrests, especially for animals. Your animal may be harmed at a protest despite your best efforts to protect them.

If you are organizing jail support, consider keeping canes and other mobility devices in your jail support materials for disabled people who are being released and are not able to get their mobility devices back immediately.

I want to organize an accessible protest. What are some tips?

Protests can be unpredictable. There is the possibility of arrest, the possibility of police violence, and the inaccessibility that walking

or standing around may pose. Include as many details as possible in communication to participants so that people can make informed decisions about their own risk. Some questions to address in your communications include: Are there interpreters that you will provide? Where is the nearest bathroom? Where is the closest transit station? If there is a protest path, are there any stairs? Have organizers proactively asked jail support organizers to bring backup mobility aids?

Resources on Organizing Accessible Protests:

[HEARD's The Revolution Must Be Accessible:](#)



more resources on the next page

[S.E. Smith's How to Make Your Social Justice Events Accessible to the Disability Community: A Checklist:](#)



[ADA National Network's A Planning Guide for Making Temporary Events Accessible to People With Disabilities:](#)



Protesting as a Trans Person

When it comes to interacting with law enforcement, what should I do if my ID and presentation differ?

Police departments in some major U.S. cities have policies about police interaction with trans and gender non-conforming people—check your city’s police department website, or consult your local queer advocacy group or queer-competent attorney, if there are any. This information may not change your experience in the streets, but if your rights are violated, it may be helpful to your case to have this information.

It can be extremely useful to have an attorney who understands the laws affecting or protecting queer and trans people as well as queer and trans protesters’ particular needs and desires. Such an attorney can call the jail and advocate for you, remind the cops that there are attorneys paying attention to their behavior, and educate the cops on their obligations and best practices. If there are not already such attorneys in your area, reach out to Femmelaw, which will be happy to provide or facilitate connections to people who can provide training and education for attorneys in your local area.



[Femmelaw](#)

There is no legal requirement that gender markers on your various documents are all the same. However, this can create administrative problems or frustration that could work against you. Make sure your photo identification is as up to date as possible. Even if you are not able to change your gender marker, you may retake your photo for your ID. If you have changed your name, it may be helpful to carry a copy of name-change documentation.

In some states, you can be charged with impersonating another person or providing false information, in addition to whatever other protest-related charges you may face. These charges tend not to be actually prosecuted, and are very rarely successfully prosecuted, but it can be traumatic to be criminally charged. There may be times when explaining your

gender may feel like the safer choice. There may also be times when you feel it is safer to use your deadname and pronouns. It is entirely up to you.

As new anti-trans laws are passed in different cities and states, it can be helpful to stay up-to-date on the laws about trans people in the area you're protesting in. Knowing whether or not you or your loved ones are at legal risk if you're outed to the police can help inform your decision whether or not to protest, what form(s) of identification you want to carry, and other safety questions.

What should I know about my rights when it comes to pat-downs, invasive searches, and gender affirming body-wear?

Police can do an over-the-clothes pat-down only after you have been detained or arrested. Any officer may perform this pat-down on anyone. You may request that an officer of a particular gender perform this pat-down, but police may not be required to comply with your request.

They are not permitted to do a more invasive search (e.g. strip-search or reaching into bras or pockets) without a “reasonable suspicion” or “probable cause” that you have committed some criminal offense. In this case, you have the right to request a search from an officer of the same gender. Police may not perform a strip-search solely for purposes of examining your body. Such a search must be supported by probable cause.

Many police departments do not have a nuanced understanding of sex and gender, and may choose someone they perceive as having the same sex assigned at birth when determining who will perform an invasive search. State clearly, and loud enough for people around to hear, that you do not consent to a search.

When it comes to arrests, most U.S. city police departments have no policy regarding appearance-related materials. This means that items like breast forms, binders, and packers may be taken away at the officer’s discretion. There are very few clear protections in this area.

Anything an officer perceives as “dangerous” can be taken, and courts tend to trust the judgments of police officers and jails when they make decisions based on “safety.”

I have legally changed my gender marker. If I get arrested, will I get sent to the jail that matches my current legal gender?

It depends. Most jails and prisons do not have a policy on where to house trans people, and some of them will house a trans person according to their sex assigned at birth, even if your gender as stated on your state-issued ID is different from your sex assigned at birth. In some places, you may be housed alone “for your protection.” Ask for what you want, and if you can, make friends with a gender-affirming attorney who can call the police station and advocate for you in the ways you would like.

More Resources on Protesting As a Trans Person:

[Transgender Law Center:](#)



["Participating in Direct Actions: A Guide for Transgender People" by the Sylvia Rivera Law Project & National Center for Trans Equality:](#)



Protesting Without US Citizenship

Am I required to talk to government officers about my immigration history?

Absolutely not. If you are undocumented, out of status, a lawful permanent resident (green

card holder), or a citizen, you do not have to answer any questions about your immigration history. If you have a lawyer, you can tell the agent that the lawyer will answer questions for you.

Should I carry my green card or other immigration documents with me?

The best practice is to carry copies, and not the original document. If you do not carry these papers with you, you could be charged with a criminal offense, but a copy of an unexpired green card, unexpired I-94, Employment Authorization Card, Border Crossing Card, or other papers can prove your legal status, while keeping the originals safe from loss or damage.

In addition, always keep a copy of your immigration papers with a trusted family member or friend who can fax them to you, if need be. Check with your immigration lawyer about your specific case. Keep in mind that presenting false or expired papers to Department of Homeland Security (DHS) may lead to deportation or criminal prosecution.

More Resources on Protesting and Immigration Status:

[National Immigration Law Center's page on Participating in Demonstrations:](#)



[NLG National Immigration Project's page on Tools to Defend Your Rights:](#)



Other Risk-Related Protest Questions

If I have a criminal record, or outstanding warrants, what should I keep in mind in terms of my risks?

If you have a warrant for failing to appear in court, it is much more likely that a judge will set a bail in order to secure your release. If you have an open warrant somewhere else, you may be moved to that place (or 'extradited').

If you have an open case already, you may face harsher penalties. If you have a record of previous arrests and convictions, you may face a more aggressive prosecution, or less favorable plea offers.

What are “collateral consequences” of arrest or conviction, and how might I be affected?

A “collateral consequence” is a negative consequence of arrest or conviction that isn't a punishment set by a judge.

Any contact with the criminal legal system may trigger such collateral consequences. For example:

- If you are a **foster parent**, any arrest, even without a conviction, could trigger review

- from the Department of Children and Family Services;
- Anyone who works for the Department of Education, such as a **teacher** or **paraprofessional**, may be required to report the arrest within a certain time frame and may be subject to discipline;
 - If you are not a citizen, you may suffer negative immigration consequences, including removal proceedings, simply as a result of being arrested;
 - Residents of **public housing** may lose their eligibility for housing if they have drug-related offenses or allow someone with drug-related offense convictions to stay with them;
 - Students may become ineligible for **student loans** based on certain offenses;
 - Certain kinds of **public assistance** may be withheld based on arrest; and
 - You may need to disclose the arrest to your employer or licensing commission in order to maintain certain professional licenses.

In some places, arrests and convictions for

low-level offenses may appear on your record, and law enforcement and certain government agencies may be able to see that you were arrested, even if you were not convicted. You are not supposed to be punished if you have not been convicted of an offense. Collateral consequences are not punishments imposed by a court, and it can be difficult to challenge them. If you are suffering collateral consequences of arrest, don't hesitate to reach out to your local NLG chapter for help.



During a Protest

| Police Searches

I plan to drive to a protest or participate in a car caravan. Can the police search my car?

The police can search your car if there is a checkpoint, or if they believe that you have something illegal. If the police stop you in your car, keep your hands where the police can see them. If you are driving a vehicle, you must show your license, registration and, in some states, proof of insurance. However, you do not have to consent to a search. The police may or may not have legal grounds to search your car, but clearly state that you do not consent. Officers may separate passengers and drivers from each other to question them, but (as always) no one has to answer any questions. Just say: **"I am going to remain silent, and I want to speak to a lawyer."**

I am carrying a backpack at a protest. Can the police search it?

The police are not allowed to search your backpack unless they have a valid search warrant or probable cause. However, they may search your bag anyway. Trying to stop the police from searching your bag probably won't actually stop the search, even if you know the police don't have a warrant. You should say **"I do not consent to a search,"** and call a criminal defense lawyer. If you are arrested, your belongings **will be searched**, and this is legal.

If you are protesting at your workplace or school, your employer or school might be able to consent to a search of your **workspace** without your permission—but you still have authority over your own body, as well as your First Amendment right to protest. You cannot be criminally charged for the political protest, even if your workplace or school sets consequences.

| **Physical Self-Defense**

To what extent, if at all, can protestors defend themselves against far-right militia

members?

Far-right militia members have the same right to protest as you do. Under the U.S. Constitution, opposing groups each have the right to protest or counter-protest, but they do not have the right to fight one another. In theory, this means that police should keep opposing groups apart so that they don't silence or harm one another. In practice, however, there is a well-documented history of law enforcement working with, or even being members of far-right organizations. This means that more progressive protesters may be put at serious risk of arrest or bodily harm. If you wish to avoid arrest or violence, you can try to put distance between yourself and the police and counter-protesters, but there is no way to eliminate the risk. Always do what feels safest to you.

What are other safety tips I can keep in mind if violence breaks out?

Walk, Don't Run: Running in a crowd creates serious risks of physical injury to yourself and

the people around you. If you are in an area where you feel unsafe, **walk** (do not run) to a place that feels safer. Stay in a group, if possible. Unfortunately, there are some situations where leaving quickly may be safest. Use your best judgment.

If you are actively being harmed and you are unable to get away, you do have the right to defend yourself, but are only supposed to use as much force as it takes to exit the situation, and nothing more. Even if you are justified in using self-defense, you may still be arrested and charged — but you may have a strong defense against the charges.

If you are caught in a violent situation and police officers start arresting people, there is a chance you will be arrested just because you're in the area. Do your best to remain calm, and remember to say: **"I am not resisting"** (and invoke your other rights as needed).

Next Steps if You've Been Arrested

| Navigating an Arrest

- Say **"I am not resisting."** Even if you have not done anything illegal, resisting arrest can lead to severe charges — and the risk of physical violence against you.
- Say **"I am going to remain silent. I want to talk to an attorney."** And then remain silent.
- It may be illegal to lie to cops — keep in mind that although they are allowed to lie to you, lying to a government agent is sometimes a criminal offense, while remaining silent is not. It is always safer **not** to say anything besides **"I am going to remain silent and I want to speak with a lawyer."**
- Speaking to other arrestees about your arrest, including what the police think you did, is dangerous and unnecessary – you never know who could be listening.
- You are not obligated to discuss your immigration status with anyone other than your attorney, and it is dangerous to do so.

- Police may take your DNA from water bottles, cigarettes, or chewing gum, so be wary if they offer you any of those things.
- Use your right to make a local phone call. Within a “reasonable time,” the police are supposed to let you make a phone call (though they do not always actually let you make a call). If you call an attorney, police are not supposed to listen, and anything you say is not supposed to be used against you in court. Still, it is a good idea to assume that police are listening, and there is no reason to share any potentially incriminating information. Just let your attorney know that you have been arrested, and where you are.

I’ve been injured during a protest and have been arrested. If I have insurance, how does medical coverage work while I’m arrested?

When you are arrested, insurance coverage for medical treatment varies based on the insurance carrier’s policies, and on how a state defines “medical necessity.”

Some insurance plans do not cover services provided in a prison, jail, or detention center. Other insurance plans have specific policies for medical services you may need while in custody.

If you or someone with you requires medical care, especially as a result of injuries caused by police, it is important to get medical care as soon as possible, even if police say it will prolong your stay in custody. You deserve medical attention, and it is important to document any injuries.

I was arrested, and the cops took my belongings. How do I get them back?

Don't bring anything to a protest that you are not prepared to lose. If you are arrested, the police will at least temporarily take your personal items. These items will be recorded by a clerk. The clerk will give you a property voucher. This voucher will allow you to get your items back from the clerk when you are released, or sometimes, if the items are considered evidence, they will be released to

you (or confiscated) once the case is resolved. If the voucher is incorrect or has items missing, refuse to sign it until it is fixed.

If you are taken to a central booking facility before you are given a voucher, return to the precinct where you were arrested once you are released. The property officer will ask the date of your arrest, your arrest number, and the name of the arresting officer. You will need to present your ID and your voucher to the clerk to get your items back. You may be asked to identify the items in some other way, such as describing them. However, sometimes one or more of the items may be kept as evidence, in which case you won't be able to get them back without permission from the District Attorney. This usually happens once the case is over.

What resources might be available to support me if I am arrested? How might I support others who have been arrested?

Jail Support is the practice of tracking arrestees through the jail and court system, facilitating their release, and providing support

to them upon their release. Jail support volunteers may collect the names of arrestees in order to track them, communicate with jails and courts to gather information, and may also wait outside the jail to meet people when they come out. They may gather contact information of arrestees so they can help them return to court on the scheduled dates, provide rides home for anyone who needs one, and take photos to document injuries. Street medics are often present at jail support to provide first aid, document injuries, or help people access clinics.

[*Jail Support and Solidarity —
Up Against the Law Collective*](#)



A **bail fund** is an organization, often charitable, community, and/or volunteer-driven, that collects money for the purpose of posting monetary bail for those in jail, particularly those who cannot afford bail on their own or those in

jail who were arrested while protesting.

The purpose of bail is to make sure that a defendant shows up to their court date. Bail involves a defendant promising to give the court a certain amount of money or property until their case is over, at which point, if they have come to all their court appearances, the court will return the money or property. A third party may also post bail for someone who does not have any assets to lend the court during their case.

If a judge believes that an individual is likely to return to court without holding some of their property hostage, that individual may be released without bail “on their own recognizance.” If the judge believes bail is needed to make sure the person returns to court, and that person does not have any money or property, a bail fund may pay their bail. Although community bail funds vary in their operations, the basic process is the same: if a bail fund pays the individual’s bail to have them released, the fund will receive the money back (minus fees) when the individual returns

to court when scheduled and completes their case. The bail fund can reuse this money for another case.



[How It Works — The Massachusetts Bail Fund](#)

If you are organizing a very large event with a risk of arrest, it can be useful to contact your local bail fund ahead of time to let them know so that they will have enough volunteers during your event.

Bail funds vs. bail bond companies: Bail funds post bail for people at no cost. Many funds have criteria for who they'll post bail for, so be sure to check your local funds' policies. Bail bond companies charge a fee for posting bail.



[Bail 101 — Northwest Community Bail Fund](#)

Bail bond companies are out to make a profit, so be aware and try to find out if there are any that are more (or less) trusted in your area.

More Bail Fund Resources:

[List of bail funds around the country:](#)



The National Bail Fund Network is made up of over 90 community bail and bond funds across the country that are regularly paying bail/bond within the criminal legal or immigration detention systems for community members. Find a bail fund in your area using the [Network's Directory of Community Bail Funds:](#)



more resources on the next page

[Pre-Trial Directory:](#)



[The Bail Project](#) provides bail assistance in cities throughout the country while working in coalition to eliminate cash bail:



Legal defense funds are usually non-profit organizations set up to raise funds for legal purposes for organizations, individuals, or a specific function. Funds may pay for lawyers' fees, legal advice, court filings, and more. For example, the NAACP's Legal Defense Fund supports and starts cases aimed at protecting civil rights, challenging racial discriminatory

policies, and advancing criminal justice reform.

More Legal Defense Fund Resources:

Want to set up a legal defense fund in your area? Check out [NLG's Best Practices Guide](#):



Disclaimer

This booklet is not a substitute for legal advice. You should contact an attorney if you have been visited by the FBI or other federal law enforcement officials. You should also alert your relatives, friends, co-workers, and others so that they will be prepared if they are contacted as well.

This booklet was created by the National Lawyers Guild, in collaboration with Colin Kaepernick's Know Your Rights Camp, the National Police Accountability Project, and the National Immigration Project of the NLG, and with contributions from NLG's Disability Justice Committee, NLG Mass Defense Committee, and NLG law student members.

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[BMIKE's website:](#)



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