

**KNOW YOUR RIGHTS**

# YOUR RIGHT TO DEMONSTRATE



When you know what the law says, you can better protect yourself. We've prepared this guide to help advocates on the ground understand their First Amendment rights and how to safely hit the streets to express themselves. Specifically, this guide:

- outlines your free-speech rights under the U.S. and California Constitutions;
- outlines the steps you can take to keep your demonstration lawful;
- defines the limits to your rights, including when speech may not be protected; and what you can expect if you engage in civil disobedience;
- gives you the tools to recognize when your rights have been violated.

## Do's and don'ts of demonstrating

- Your right to express your opinion is protected no matter what beliefs you hold.
- Free-speech rights are for everybody. It doesn't matter whether you're a U.S. citizen, whether you're of voting age, or whether you speak English.
- When, Where, and How: Every city has regulations and it's your responsibility to understand them.

## Getting a permit

- The government cannot prohibit marches on public sidewalks or streets, or rallies in most public parks or plazas. However, it can require a permit.
- Permit ordinances should require advance notice of a protest measured in days, not weeks, and there should be an exception to allow demonstrations in response to breaking news.

## Don't have a permit? You can:

- Hold a small rally in a public park or march on the sidewalk and obey traffic laws.

- Stop willing passersby to hand them a leaflet, engage them in conversation, or ask them to sign a petition.
- Register people to vote in shopping malls or other public venues.
- You **don't** have the right to engage in free-speech activity on private property. Shopping malls are an exception. (Private walkways and parking lots in front of some strip malls or free-standing stores like Target are not part of this exception.)
- There are different rules for different locations. Make sure you look up local laws. Be aware that laws vary by city.

## What California cities can't do

- Deny a permit the event is controversial or will express unpopular views.
- Deny a permit just because past demonstrations by your group or others ended in civil disobedience.
- Reroute your march away from busy crowds or main streets or dictate when it must start and end—because you can't communicate your message if nobody can hear it.
- Charge increased fees because the content of the event is controversial.
- Charge burdensome fees, but they can charge for the costs of processing permits, traffic control, narrow insurance requirements and clean-up costs.

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## Protected speech

- As long as your words don't directly incite violence or law-breaking, you cannot be held responsible for the way that counter demonstrators or your own supporters react.
- Your right to free speech **does not** extend to libel, slander, obscenity, "true threats," or speech that incites imminent violence or law-breaking. If you grab a megaphone during a protest and yell "shoot the cop" or "loot the shop," your speech is **not** protected.
- Counterprotesters also have free speech rights. Police must treat protesters and counterprotesters equally. Police are permitted to keep antagonistic groups separated but should allow them to be within sight and sound of one another.

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## Limits in California clinics and campuses

- You **cannot** physically obstruct or intentionally interfere with the staff, patients, or building of a medical clinic offering reproductive health services. This also applies to houses of worship.
- You **can** organize a protest at your public school or university, but the school may require you to observe reasonable time, place and manner regulations, including not interfering with class.

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## Civil disobedience and arrest

Civil disobedience is the active refusal to comply with certain laws as a form of protest. If you're planning to block an intersection or chain yourself to a building:

- Keep a valid ID and a list of phone numbers on your person. You may request an attorney and make up to three local phone calls if you are arrested.
- Be aware of consequences particular to you before engaging in civil disobedience. For example, if you are a non-citizen an arrest may affect your immigration status.
- For a full list of California statutes most often invoked against demonstrators, visit [www.aclunc.org/rights-of-demonstrators](http://www.aclunc.org/rights-of-demonstrators).

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## Restrictions on police

Police officers may not use their powers in a way that has a "chilling effect" on ordinary people who wish to express their views. However, they can break up acts of civil disobedience or gatherings no longer observing reasonable time, place and manner restrictions.

You have the right to film the police:

- In public spaces, you **can** photograph or film the police and police activity.
- The police **cannot** demand to view your photographs or video without a warrant, but they may be able to seize your phone while they get one. They should return it (or a copy of your data) within a few days. The police **cannot** delete your images.
- The police may order you to cease activities that interfere with law enforcement. In private spaces, the owner can limit photos.
- NOTE: The police can also photograph or videotape events that are open to the public, including protests. However, California's right to privacy prohibits maintaining unnecessary information.
- Even though you have a constitutional right to film, you can't interfere in an investigation, and you might be hassled if you appear to be doing so.

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## What to do if you are stopped or detained for taking photographs

- Always remain calm and never physically resist a police officer.
- 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.
- If you are stopped, ask the officer if you are free to leave. If the answer is yes, calmly walk away.
- If you are detained, ask the officer what crime you are suspected of committing, and remind the officer that taking photographs is your right under the First Amendment and does not constitute reasonable suspicion of criminal activity.

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## Police dispersal orders

- Shutting down a protest through a dispersal order must be law enforcement's last resort. Police may not break up a gathering unless there is a clear and present danger of riot, disorder, interference with traffic, or other immediate threat to public safety.
- Individuals must receive clear and detailed notice of a dispersal order, including how much time they have to disperse, the consequences of failing to disperse, and what clear exit route they can follow, before they may be arrested or charged with any crime.
- If you are subject to a dispersal order that you believe is unlawful, comply. But when you can, write down everything you remember, including the officers' badge and patrol car numbers and the agency they work for. Take photographs. Get contact information for witnesses. And please call the ACLU [intake line](#).