



KNOW YOUR RIGHTS AS A PROTESTOR (2025)

[Shortened version from the National Lawyers Guild's "Know Your Rights: A Guide for Protestors" – edited by Cynthia Kosiak, NLG member]

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.”

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."

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.

Note: 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.

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.

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.

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.
- Loose clothing may make you easier to grab.

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.

Next Steps if You've Been Arrested

- 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."
- Do not speak to other arrestees about your arrest, including what the police think you did. It is dangerous and unnecessary and the police are probably listening.
- You are not obligated to discuss your immigration status with anyone other than your attorney, and it is dangerous to do so.
- 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.

IF ARRESTED CALL: Cynthia Kosiak, Attorney at 218-830-1225.