

LEGAL DEPARTMENT OF THE CENTER FOR AWESOME AMERICA

A stylized illustration of a hand holding a sign. The hand is rendered in a high-contrast, black and white style, with the fingers gripping a wooden handle. The sign is rectangular with a thick black border and contains the text 'KNOW YOUR RIGHTS' in a bold, black, sans-serif font. The background is a solid red color with a subtle pattern of small, light-colored dots.

**KNOW  
YOUR  
RIGHTS**

**PROTECT YOURSELF AND YOUR COMMUNITY FROM  
POLICE, ICE, THE FBI, AND THE JUSTICE SYSTEM**

## **KNOW YOUR RIGHTS: PROTECT YOURSELF AND YOUR COMMUNITY FROM POLICE, ICE, THE FBI, AND THE JUSTICE SYSTEM**

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## INTRODUCTION

**T**he purpose of this guide is to equip you with information so that you can make informed decisions. This guide was originally written in 2004 by lawyers who have dealt with these issues many times across many years. Worst of all, these issues do not become less relevant as time goes by but as a result of changing times, this guide has been updated several times over the past 20 years.

We believe that you are smart enough to know what's best for you and to think critically about your own choices.

When faced with complicated legal situations in daily life or people who may be attempting to restrict your rights, the best defense is information. Call on this knowledge, trust your instincts and watch out for each other. The rights described here are part of the U.S. Constitution; hence every state must protect these rights. States can create additional protections, but cannot further restrict these rights.

Rights exist in relation to the government as opposed to your relationship to other people or private institutions. For example, a publisher doesn't have to publish your book just because of the first amendment. A restaurant may not appreciate your behavior and ask you to leave.

On the other hand, a government cannot prohibit speech like a corporation can. So choose your actions wisely.

## THE FIRST AMENDMENT

*Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.*

**T** In 45 words, this amendment provides 5 Constitutional guarantees.

According to the First Amendment, Congress cannot make any law that could prohibit the exercise of a religion, abridge expression, limit the press, prohibit assembly, or prohibit people from filing a lawsuit because of government wrong doing.

These rights are not absolute and the government may create time, place, and manner restrictions on the exercise of these rights.

While federal courts have held that there is a division between speech that is protected and speech that is not protected, the Department of Justice is attempting to rewrite this standard in order to stifle effective activism.

Cases from the anti-Vietnam War era—protests made it clear that promoting immediate illegal action, like telling people to run across the street and smash a Starbucks window, was prohibited. But talking about a time or times that windows at Starbucks were smashed or

how others have smashed these windows was not prohibited. (This section of law has been repeatedly tested. See the SHAC7 section for more information.)

Awesome photos or videos from protests might implicate someone else. Don't rush to publish the documents online. It may feel important to get the news out on what is happening on the streets, but talk to an attorney or someone that can get you in touch with an attorney who can view it before you put it online.

Working with an attorney prior to distributing your photos and video footage could benefit your cause as well as protect the identities of those in the photos and video who do not wish to be broadcast on YouTube, Facebook, Twitch, TikTok, or any other online distribution services.

The SHAC7 is comprised of six activists and a corporation, Stop Huntingdon Animal Cruelty USA Inc., that were found guilty of multiple federal felonies. They were convicted for their alleged role in campaigning to close down the notorious animal testing lab Huntingdon Life Sciences. Five of the individuals were imprisoned for years. The sixth, Darius Fullmer, was released after a one year sentence. They are not accused of actually smashing windows, liberating animals or even attending demonstrations; rather, they were convicted of reporting on and encouraging others to engage in legal demonstrations and supporting the ideology of direct action. ([shac7.com/](http://shac7.com/))

The SHAC7 case is important to note. In this case, the government argued that publishing a website and newsletter and speaking out in support of both legal and illegal actions taken on behalf of the animals inside

HLS was conspiring with the individuals who took illegal actions such as liberating animals. Six activists and the organization SHAC USA were convicted, not for taking illegal actions, but for publicizing these actions. This is a MAJOR shift in constitutional law and the case went through many sets of appeals.

This major restructuring of the interpretation of law is similar to what we are seeing today with the Trump administration, immigration, federal funding, federal appointments, and targeting one's political enemies. The trouble with speech is that it isn't always equal. Wield power responsibly, certify information, and do not spread rumors or incomplete facts.

The guarantee of free expression can be tricky. Over the years, many cases have tested the limits of the Constitutional guarantee to the right to speak. Here are ten examples. Guess if they are included in the First Amendment guarantee.

## Quiz

1 A friend wants to start a religion that involves picking flowers regularly and feeding them to local animals. Is this protected under the freedom to establish and practice a religion?

2 A friend wants to carry a sign at a protest with language that might not be appropriate for children under 13. Is that protected under freedom of speech?

3 At a protest, you want to urge people to destroy their military draft cards in front of the media cameras. Is that protected under freedom of expression?

4 At a protest, there is a flag burning symbolically. Is that protected under freedom of expression?

5 In a crowded place, you want to get through. You decide that the best way to get through the mass of people is to yell, "FIRE!" Is that protected under freedom of speech?

6 At a demonstration a speaker decides to direct people towards a nearby Starbucks where bricks are being thrown through windows. Is that protected under freedom of speech and assembly?

7 You have a zine and want publish negative information about a local advocate's personal life. Is that protected under freedom of the press?

8 After a war was launched, a group wants to march to City Hall to dissent from the war declaration by the President. No one has a permit. Is that protected under the freedom to assemble?

9 At a protest you are arrested. An officer tells you that you have no chance to appeal your arrest, no matter what the outcome is. Is he right?

10 Even though you did nothing to provoke an arrest, an officer tells you that he can make the process smoother if you "just cooperate." He says that it is the only way to do things now that you are arrested. Is he right?

## **Answers**

1 You can think up and practice any religion you want, but it cannot involve harm. This means, if the food you want to feed the animals could be harmful to them, then you cannot practice that part of your religion.

2 Including language on a protest sign that may be unsuitable for young readers is guaranteed by the First

Amendment. If, however, you include images that are “obscene” (like bestiality, child porn, etc.), then your expression is not protected by the First Amendment.

3 It might seem like the best media opportunity to burn a draft card, or something like it in front of media cameras. If you did, however, you may be arrested. In this example, the draft cards are actually government property. If you were arrested, you may be arrested for destruction of government property rather than the content of your expression.

4 Specifically, flag burning is currently protected as a form of expression. The case that helped to establish that also helped to establish the legal concept of symbolic expression. There may be some issue with the fire itself, however, the act of burning a flag is a First Amendment guarantee.

5 This is an example of how speech that can cause harm is not protected as a First Amendment guarantee. Yelling “FIRE!” in a crowded place can cause panic and people can get hurt. Because the words create the potential for immediate danger through the false claim of a fire, the speech is not protected.

6 A speaker at a demonstration cannot instruct people to “riot.” The law considers a riot “A disturbance of the peace by several persons, assembled and acting with a common intent in executing a lawful or unlawful enterprise in a violent and turbulent manner.” This means a speaker cannot direct a group toward a place where unlawful activity (like property destruction) is taking place and encourage you to take part. A speaker can talk about things in the past that have been effective, such as sit-ins during the Civil Rights Movement. This section of law

is starting to shift. See the chapter on the SHAC7 for more information.

7 The private information released about an advocate may not be protected as a part of freedom of the press. There is a lot to take apart when it comes to printing private information about private citizens, including advocates. Generally, public figures (elected officials, household name celebrities, individuals who are pervasively in the in the public sphere, etc) are not as protected from defamatory remarks as private individuals who are not frequently in the public eye. In between these two groups is a group that includes advocates called “limited purpose public figure.” This may include advocates who choose to be in the media for their cause. They have less protection than private individuals, but more than public figures. One other group, “involuntary public figures” receive more protection than limited purpose public figures and less than a private individuals. These are individuals who may have experienced an injustice and went to the media about it.

8 In this example, the events that provoked the decision to protest went beyond a reasonable expectation to get a permit. While there is no guarantee that you will not be arrested, you do have a Constitutional guarantee to assemble. However, some states and cities are attempting the limit public assembly by passing laws such as parade permitting schemes.

9 Even if you are convicted following your arrest, if you feel there was foul play, you have a Constitutional guarantee to petition the government for a redress of grievances. The petition is usually in the form of a lawsuit and the redress may include both damages to compensate you and punish the police for their illegal acts.

While in custody, an officer is allowed to lie to and try to intimidate you. Don't let them! Know your rights!

10 While in custody prior to arraignment, you do not have to speak to an officer except to say, "I wish to remain silent. I want to speak to my attorney." You can almost always appeal your case through the appellate process and the First Amendment provides you with the right to petition the government for wrong-doing.



## THE FOURTH AMENDMENT

*The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.*

**T**he Fourth Amendment protects us from unreasonable searches and seizures of our property, person, and life without due process of law. For activists, this amendment protects from unreasonable searches of our houses, cars, and bags as well as seizure of any property or their person, that is, arrests.

### Searches

Warrants are needed for many, but not all, searches. There are a few basic practices that you can implement to help guide your process when faced with a potential search warrant situation.

You can consent to a search without a warrant, but this is rarely, if ever, advisable. As an example, you are stopped by an officer under the suspicion of possessing illegal drugs. If guilty of possession, you may be guilty of a misdemeanor and receive a fine and sentencing. You confess to the officer that you have illegal drugs in your pocket. The officer requests that you comply with a search, and you take out the illegal drugs. Because you

took the illegal drugs out of your pocket and into the open, you are then potentially guilty of a higher misdemeanor offense that carries more severe consequences.

## **Warrants**

The 4th amendment protects our due process rights by requiring that a warrant be issued for either a search or an arrest. Arrest warrants must state the name of the person, but do not need to include their home address, as they can be issued to arrest someone anywhere the police find that person. Search warrants must state the address, the items to be seized, the place to be searched, and should be issued on or around the day the search is conducted.

However, there are exceptions to the warrant requirement. No warrant is necessary for an arrest on the street or in a public place immediately after a crime has occurred if the crime is committed in front of the police officer or a witness. And after an arrest, the police do not need a search warrant to conduct a search of your pockets or anything you can reach. A search of your bag at the police station will also be conducted without a warrant as an administrative search necessary to catalog anything you have with you when you are arrested.

If items are seized, at home, on the street, or at the police station, make sure to ask for a written receipt listing each item. If you are arrested and processed, you will be asked to sign a form that indicates the property taken from you. You can sign this form directly underneath the last item listed. This prevents the police from including additional items that you did not have in your possession. You should also make sure that all items you had are listed on this receipt.

## **Warrant for Arrest (Seizure of Persons)**

A warrant is required to arrest someone in their own home unless the arrest is made in immediate flight from a crime. Ask the police to slide the warrant under the door and review it to ensure it has the necessary information. The person may go outside and close the door behind them to prevent police from searching the house. An arrest warrant does not mean that you must consent to a home search.

If arrested, the police can search your person (your body) and anything in your wingspan. This is both for their safety and to see if you tossed anything away.

## **Warrant for Property (Seizure of Property)**

If police come to your door with a warrant, you may ask them to slide it under the door rather than opening the door for them. Review it to make sure that it lists the necessary information. If it does not, you may tell the police that their search is not legal, but do not try to physically prevent them from entering. You may say, “I do not consent to this search,” call your lawyer, and find witnesses.

It is a good idea to try to monitor the police and videotape them while they search your apartment or house. It is best that if you have a lawyer, contact him or her when the police arrive and ask that he or she come over to monitor the search. You can also ask other individuals to witness the search. If you are unable to take notes during the search, write down everything you remember as soon after as you can.

If you live with a parent, they can consent to the search of your room unless you have a lock on your door

and they do not have a key. They cannot consent to a search of anything in your room that is locked, such as a desk drawer or footlocker. If you live with roommates, they can consent to the search of only common areas but not your own bedroom. It is a good idea to prepare for what to do in the event of a search with your entire household if you live in a collective environment.

If an officer sees contraband in plain view, they can seize it. They may then use that evidence to obtain a search warrant. If they see the item while knocking on your door or standing outside of your property, they can also use that information to obtain a search warrant. If police find contraband while searching in a location listed on the warrant, they can seize it, even if the item is not listed.

Remember, the search warrant must state the items to be seized and the places to search for these items. If they are looking for a large item, the cops cannot poke around in your desk drawers. Although officers will not always follow proper procedure, you can record or make note of these incidents.

### **Requirements: What does a warrant say?**

We think of this amendment as protecting us from unreasonable searches and seizures. Seizures relates to the arrest of an individual while searches relate to the taking of things from individuals.

Arrest warrants must state the name of the person to be arrested and can be executed anywhere.

Search warrants must state the address, the items to be seized, the place to be searched, and should be issued on or around the day the search is conducted.

## **On the street**

If police approach you on the street, you can ask if you are being detained or if you are free to go. If you are free to go, you may try to leave carefully. If you are not free to go, the police have stopped you and may ask for your name and ID. Although in most states you don't have to give this information unless you are being accused of a crime, they may try to arrest you if you do not give this information.

Police need a “reasonable articulable suspicion” that you have committed, are committing, or are about to commit a crime to stop you on the street. They can then do a pat-down of your outer clothing but may not search bags or pockets unless you consent to the search. However, if, during the pat-down, they feel an object that they believe is a weapon, they may search that pocket or location and seize the object.

The police do not have to inform you that you do not have to consent to a search. This is why it is important to know your rights so that you can use them. Oftentimes, not asserting your rights waives them. Sometimes you can imply consent without stating it, such as if you open your bag for police.

If you do not want to consent to a search but the police threaten you with arrest and you feel unsafe, say in a loud voice “I DO NOT CONSENT TO THIS SEARCH” if they force a search of your person or property. While it sounds corny, by drawing attention to yourself and the police, you gain witnesses to the search, which can help later if you find yourself in court. It is helpful to get contact information for witnesses if you can, or have a friend do so if you cannot.

If you have just been arrested, your consent is not needed to search your pockets and bags or anything you can reach.

## Cars

Automobile searches are complicated, so we aren't going to get into those specifics. However, you should know that if you are arrested while in your car, your car will be searched, the items found in your car will be cataloged and most likely seized, and your car will be impounded.



## Try These Out

Note one or two things that you can learn about the demonstrator, the protest, the organization or group the demonstrator was with, or similar information during the conversation with the cop.

COP: It's hot out today.

DEM: Yeah. Not as hot as it was in New York in 2004. There was no end to that heat. At least in Miami it was November, so it wasn't as bad.

COP: I can imagine. Although, we should be thankful the RNC isn't in the winter here. It's brutal.

DEM: No kidding. I came out here for an animal rights demonstration in the fall last year and it was already snowing. I couldn't believe it. It was worse than New York.

COP: You must travel a lot, then. I wouldn't come here in fall or winter if I didn't know what it was going to be like.

DEM: Yeah, I guess you can say that. I mean, I go out of the country more than I travel the U.S.

COP: Is that right?

DEM: Well, it seems like activism is dead here; it feels like it never makes much of a difference. I am going to a demo tomorrow and I will bet that even though it's the RNC that there will only be about 50 people there.

COP: That hardly seems worth it to go.

DEM: If it wasn't for the fact that it was KFC, I wouldn't. KFC is terrible.

COP: I bet you are vegetarian.

DEM: Of course I am. I bet most out here are. They might be anti-war activists, but I've seen some of them at animal rights stuff.

COP: Yeah, my daughter is a vegetarian. My wife and I are trying to understand where she is coming from, but we are more concerned for her health than anything else. She's 15. How is she going to get her protein or iron or stuff like that. The kid has to grow.

DEM: That's what a lot of people say. But really, there are meat alternatives. There are a bunch of websites that can show you how to eat healthily, even for a 15year old. It's possible.

COP: I don't know about that. My wife and I would-have to make separate meals for her and that's a pain, too.

DEM: To be honest, you and your whole family should consider going vegan—or at least vegetarian. It's not just about the animals. There's a lot at stake right now. We consume far too much to be sustainable.

## Highlights

Most folks at the demonstration are vegetarian or vegan. News stories have confirmed the idea that police or federal agencies develop a profile of activists. Confirming, denying, or introducing a new profile only helps them to potentially harass and arrest your membership or organization.

Whatever the reality is, there is no need to assist police efforts to harass a group by letting them know where the next protest might be. It may be innocuous if the police or federal officers know, but there is no need to notify them of another venue where they may be able to gather additional profile information on individuals and groups.

## **Demonstrator travels internationally for activist causes.**

International travel for political purposes has come under particular scrutiny since 9/11. Again, it may be completely innocuous for anyone to know, but is there an assured positive outcome if the police or federal officers know who travels for political reasons?

Disclosing information on who organizers of a protest might be. One of the reasons why it is important to invoke your right to silence and request an attorney is that lawyers can speak to city officials with a known set



## THE FIFTH AMENDMENT

*No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.*

### What does the Fifth Amendment mean?

**T**he Fifth Amendment contains your right to remain silent; the right to a grand jury indictment for all felony crimes; and the right to speak to a lawyer.

### **"I wish to remain silent. I want to speak to my attorney."**

The right to remain silent is your right to not incriminate yourself. If you are arrested, regardless of whether or not there was an arrest warrant, you have the right to remain silent. Once arrested, you do not have to speak to the police or answer their questions.

If you choose to remain silent, we suggest you also invoke the right to speak to a lawyer. To do this, state “I wish to remain silent. I wish to speak to a lawyer.” It does not matter if you have not hired a lawyer—the state must provide you with one, or you can contact one as soon as possible. Only both statements will terminate questioning. It is a good idea to assert these rights every time the police try to question you, especially if it is different officers or they are asking you about a different protest or alleged crime.

Remember, cops can lie to you. It is a crime, usually a felony, to lie to any law enforcement officer.

We suggest you do not sign anything without a lawyer present

### **But I’m smarter than this guy...**

When being questioned at a police station or in a police car, it is likely that everything you say is being recorded. The same may apply on the street. No matter how clever you think you are, casual talk can be used to implicate you or others; don’t engage in casual conversations with police or other individuals while in custody.

There is no such thing as “friendly conversation” with an officer.

Everything you say can be used against you. Although it may not seem like a formal interrogation, cops may question you while in custody.

People often think they can outsmart cops but this is always a bad idea. Remember to say, “I wish to remain silent, I want to speak to my lawyer,” we also want you to remember these three things:

If you speak to cops or try to outsmart them, you are giving up your constitutional right to the Fifth Amendment. If you don't use this right by remaining silent, you lose it. If you start talking to the police after you have invoked your right to remain silent and demanded to speak to your lawyer, you are waiving your right to remain silent and must invoke it again.

Even the most innocuous answers are all local police or federal agents need because they will use this information to figure out associations and connections between activists and then charge all of you with conspiracy.

They actually want you to give a false answer because it is a crime to lie to the police.

Remember, cops can lie to you. Never think you can outsmart the police.

## **Grand Juries**

Grand Juries are a complicated area of law and not normally discussed in detail during a know your rights training. We suggest that you attend a specific training or research this area of constitutional law for more information. If you are called to testify before a grand jury, contact a lawyer IMMEDIATELY. Reach out to your community for support and make sure others are aware that you are being subpoenaed.

Activists called to grand juries typically invoke their 1st Amendment right to association and their 5th Amendment right not to incriminate themselves. The 1st Amendment right guarantees the freedom of association—for example, it is not a crime to associate with a group that defines itself by race, politics, or philosophy. The 5th Amendment right, however, only protects

you and does not protect you from answering questions about others. In the case of a grand jury subpoena, the 1st Amendment will protect your association, but the attorneys may ask detailed questions about others in a group. These questions are not protected by the 1st or 5th Amendments.

Grand juries often function as fishing expeditions for the state. If you are called to testify, you will not have your lawyer with you in the courtroom and may not refuse to answer questions. You may be offered immunity from prosecution to get you to testify. If you still refuse to answer questions, you can be found in contempt of court and imprisoned for the duration of the grand jury (normally 18 months, but the grand jury can be continued). If your attorney can prove that imprisonment will not compel you to testify, you may be released early. Deciding not to testify protects your community and prevents the state from gaining information, but you should prepare for your appearance and likely imprisonment if you choose to use this tactic. Research and plan ahead to ensure you make the best decisions for yourself and have all possible options to advocate for your release. Get support from your community to advocate for you on the outside and protest grand jury harassment.

A person is distributing fliers at a protest. An officer approaches the person and begins to ask questions. The demonstrator is given several ways to respond. Choose the answer or answers to respond to the officer.

Jo is distributing materials about the demonstration.

An officer approaches Jo and says:

“Who are you? Who are you here with? What do you have there? Who said you could be here?”

Jo might respond with:

- Am I being detained? Am I free to go?

• It's a flyer. I am a part of this group that meets on Wednesdays in a community center. It's really open to everyone. It's very non-hierarchical. We support independent autonomous action, but we are not a real cohesive group with much of a membership aside from the listservs and website.

- The man in the orange shirt has our permit; please speak with him.

- Listen, I just got out of jail. This is a joke. There is no way you guys can be harassing me again. Look. I'm flyering. That's not a crime. This isn't sedition. It's a flyer. That's it. Now bugger off. I really don't want to go through all this again.

- My name is Earl. I'm here with Anti-War, Inc. I have a stack of flyers to distribute today. We do not have a permit to be here.

The officer continues with Jo:

“What's in your bag? I'm going to take a look for public safety reasons. You don't mind.”

Jo might respond with:

- I do not consent to this search.

- Am I being detained? Am I free to go?

- It's right there. I mean, I don't really know what's in it besides flyers. I haven't really looked around in it cause I just got out here and the bag was just given to me when I was leaving our collective space.

• If I tell you what's in the bag before I give it to you, will I still get in trouble?

• Sir? I really don't know what you are looking for. I'm really sorry. I think I'm not the person you want to talk to. I mean, there are a couple of organizers that I can show you. I think they would be in a better position to know the information you are looking for. I am really no one. There are lots of other people who know a ton more than me, I swear. Just don't arrest me! I'm too young to go to jail!

“You are under arrest!”

If necessary, Jo can state clearly:

• I wish to remain silent. I want to speak to my attorney.

• You can't arrest me! I'm not the organizer. I was told I had to flyer to be a member! It's not my fault! I didn't do anything!

Answers:

1 – NA;

2 – First and third responses;

3 – First and second responses;

4 – First response





# OTHER STEPS TO PROTECT YOURSELF

## Remember the basics

Know your rights. Educate others. The limits of the law are constantly tested. It's important that once you know your rights, you continue to keep up to date on any changes in law that current cases may initiate. Some of these changes may include cyber law. This is an extremely new section of law that has very little case precedent to guide it. Below are some tips to guide you to knowing your rights!

## Digital Rights

Computers, online activity, etc, have a protocol for recording transfers, bits of files, emails, and other similar data. It is important to be conscious of the files you keep on your computer or in your email and always maintain your hard drives and backup drives in a responsible way.

**Email:** Emails are especially susceptible to interception because they are like a postcard – there is no envelope preventing anyone from reading them.

**Attachments and physical security of your computer:** police, as well as criminal organizations, are increasingly using your own computer to spy on you.

Cell phones use signals that can be intercepted by anyone the same way that emails can be intercepted. For this reason, there is no warrant necessary to listen to your cell phone conversations. The batteries in cell phones also act as receiving devices, so conversations can be intercepted without making a call. Landlines, however, require a warrant for federal officials to listen to your conversations.

## **Know Your Rights During Demonstrations; High Risk Groups**

Some folks are more likely to be picked out on the street, separated in jail, prosecuted more harshly in court, or face other challenges during a demonstration. Non-U.S. citizens, people of color, people who are seen as leaders, minors, transgender or queer people, people with visible and non-visible disabilities, people who dress punk or who wear all black clothing (especially the often-demonized “black-clad anarchists”), people on probation or parole, and people with prior arrests or convictions are a few examples of vulnerable people. Even if you do not consider yourself a member of one of these high-risk groups, it is still good to know what people in these groups might face so that you can be more aware of others’ needs. The following info is not comprehensive. You may want to talk to your doctor, your friends, or a lawyer about these issues before attending a demonstration.

### **Information for Folks with Disabilities**

The Americans with Disabilities Act and the 504 Rehabilitation Act make it illegal for anyone, including law enforcement, to discriminate against persons with disabilities. However, it is certainly not unheard of for people with disabilities to be singled out and targeted by the police when in custody or upon arrest. It is important for people to let their collectives, groups, posses, and friends know of any disabilities before the action and how to support them in the event that their disabilities may make their situation worse during or after arrest. The group should have a discussion about this before the action and come up with strategies to deal with situations where the person with a disability is arrested/ targeted.

## **Protesting and Medical Issues**

In situations where you need medication, you may take out a few days' worth of the medication with an original copy of the prescription (to avoid possible charges for possession of controlled substances, and as proof to police that the medication is necessary) and then leave the remainder of the medication in the original container, along with the prescribing doctor's phone number, with the support person. You should let officers at the scene and at the precinct know that you have a medical condition. In case your medication is confiscated, let a lawyer or legal support person (or witnesses) at the site of your arrest know that you have a medical issue that needs attention. Also let the legal team or lawyer know how to contact your support person so they can get a lawyer to try and get the medication to you while you are detained and possibly unable to call a lawyer. Though it is up to the discretion of each officer whether you receive your medication, it is more likely that they will give it to you if you have the prescription bottle and copy of the prescription or doctor's note. However, if they do not allow you to take your medication and your support person does not have your medication in a prescription bottle, it will be more difficult for them to get your medication to you.

Alternately, you may bring a recently dated doctor's letter that explains what you need. Keep one copy of this letter with you, leave one copy with your affinity group or supporters, and leave copies with your legal and medical teams. If you don't want to give your name, give your doctor a photo to go with the letter, and have the doctor refer to you as "the patient in the attached photograph."

## **Information for Queers, Transfolks, and The Gender-Variant**

Affinity groups, posses, people arrested together or groups of friends should strategize around protecting trans and intersex folks before and during the action.

Be aware that you may not be placed with your own gender, but with whatever gender the police decide to assign you, or you may be placed alone. Trans or intersex identity can lead to targeting and brutality by police and/or by other prisoners. Verbally identify and object to targeting or abuse by other prisoners if it happens. Solidarity can be a valuable tool in protecting people who may be targeted or abused.

What may happen if a trans person is arrested is uncertain. If you are transgender and are treated unfairly during and/or after your arrest, one option available is to demand to have an officer GLBT Community Liaison paged. They may be able to calm the situation.

## **Information for Minors**

Anyone who is under 18, or who looks under 18 and doesn't provide identification or age at the time of arrest, may be processed as a juvenile. The authorities will attempt to contact a parent or guardian. It is often a good idea to arrange for a legal support person beforehand (even if you are an adult). Minors may give their parents' or guardian's contact info to their legal support person before the action. Providing the parents' or guardian's contact info upon arrest to the legal team or to a trusted lawyer can help accelerate the release process, when accelerated release is desired. Please be advised that minors are not usually released except into the custody of an adult.

## **Information for Non-Citizens**

Do not speak to any police officers, members of law enforcement agencies (FBI, CIA, DEA) or any Secret Service officers. If any of those persons asks about your immigration status, tell them you would like to speak to your attorney. Always stay with another person in case the police officer does not give you the chance to make the phone call immediately. Select a friend you trust to handle your documents and be your contact with lawyers in the event that you are arrested. Give that person the number of the legal team or a lawyer to call. Your friend should tell the legal team or lawyer your full name as it appears on your passport, where you were arrested, any identification information of the arresting officer, including badge number, and what police station or jail you are being taken to if the officer will tell you. Your friend should also have a copy of your passport page with your picture and birth date on it, as well as a copy of your visa if you have one. This information will be invaluable in locating you while you are being detained and processed.

If you are picked up by the Department of Homeland Security-Office of Immigration and Customs and Enforcement (DHS-ICE), formerly INS, after being released from police custody or on the streets, demand to talk to your lawyer. Remember the INS is under no obligation to provide a lawyer for you (unlike criminal detention).

If you are picked up by ICE, do not answer ANY questions. **DO NOT SIGN ANYTHING** without talking to a trusted immigration attorney! ICE often tries to get people to sign voluntary deportation orders, which

can have consequences for your ability to re-enter the U.S. at a later date.

Remember, unity is an invaluable means of protecting each other. Let your affinity group know about your status beforehand and have a strategy worked out to protect undocumented persons and other noncitizens.

If you are being held on suspicion of criminal activity or on criminal charges, you have the same rights as citizens in this situation. If you are being held on suspicion of having violated immigration laws, your rights are slightly different. You should speak to an immigration attorney

## **On Immigration Status**

If you are not a United States citizen, your rights may be substantially different. A single arrest or a plea to a misdemeanor may affect your ability to leave and reenter the United States or bar you from becoming a citizen. Please consult an immigration attorney with your specific situation and do not rely on your criminal defense attorney's knowledge of immigration law when discussing possible deals.

# GLOSSARY

## Amendment 1

protected speech – expression that is guaranteed under the First Amendment; expression that is considered by the court to be obscene is not protected speech or expression; laws that regulate the content of speech must be narrowly tailored to achieve the desired goals.

time, place, manner restriction – the courts are restricted from regulating most content of speech, but the courts can regulate the time, the place, and the manner in which First Amendment rights are used; to regulate or restrict First Amendment activity the State must show that the activity is content neutral, or that the restrictive measures in place do not rely on the content of the activity, ex: it is questionable if one organization is denied a permit to rally on a given day at a specific time whereas another group is permitted to rally at the same time in the same area.

unprotected speech – expressions that are not protected as a First Amendment activity; may include some forms of pornography, pornography involving children, expression that specifically directs criminal activity (ex: directing people to immediately burn their draft or selective service cards in a lit fire), and expression that places the public in danger (ex: yelling “FIRE!” in a crowded movie theater).

## Amendment 4

affidavit – voluntary testimony that affirms the given statements to be correct according to what you believe to be true; an affidavit is usually given before a notary public and may be under penalty of perjury (see Navigating the System, perjury).

arrest warrant – a court order to bring the person listed on the warrant before a judge or justice of the peace in relation to a criminal offense. Probable cause is necessary to obtain an arrest warrant.

consent – a written, stated, or implied agreement to a given proposition; ex: an officer asks to view the contents of your bag at a subway station and you do not reply, but you do open your bag. The act of opening your bag for the officer is consent.

custodial search – a search of your person while in custody or detained at a police booking station; may involve emptying pockets and holding items in a separate room until you are processed.

plain view – evidence of criminal activity that can be seen without an arrest or search warrant; ex: during the execution of a search warrant of only a common area of an apartment, an open door leading to a roommate’s room shows a stockpiling of illegal guns. The officer can enter and seize contents in the room because evidence of criminal activity exists in plain view.

probable cause – information that would lead a reasonable and prudent person to believe that a crime has occurred or that some property was involved with a crime. Probable cause can permit an officer to stop

and detain a person and conduct a search of the person's pockets and bags or arrest them. Probable cause is necessary to obtain an arrest warrant or search warrant ex: A police officer comes across a wall with fresh graffiti and also sees a person with paint on their index finger near the wall and walking away from the graffiti. Graffiti is considered a crime. An immediate crime is present, so probable cause exists to stop the person and conduct a search the person's pockets, backpack, and any other items she or he may be holding.

reasonable suspicion – the amount of apparent facts available that would not lead to probable cause, but would lead a reasonable and prudent person to believe that a criminal activity is occurring or about to occur and that a person has some involvement with the activity; ex: police see two individuals facing a wall with a spray paint can. A crime is not immediately present, but there is reasonable suspicion to believe that a crime (painting the wall) is about to occur. The police have reasonable suspicion to stop the individuals and pat them down.

search warrant – a document indicating a court-authorized search to obtain contraband, stolen property, or other evidence of guilt that will be used by the prosecution in a case. Probable cause is necessary to obtain a search warrant.

seizure – taking of property from someone accused of criminal activity.

## **Amendment 5**

casual conversation – a conversation with a local, state, or Federal officer that may have nothing to with an allegation of a crime; questions asked may include information about an organization, affiliations, likes or dislikes, eating habits, etc; it is best not to engage in casual conversation with an officer because this information may be collected, held and used against others in another casual conversation.

grand jury – a court proceeding with a panel of citizens in which the panel decides whether there is enough evidence to indict or formally charge someone suspected of a felony.

## **Navigating the System**

Adjournment in Contemplation of Dismissal (ACD) – This is a plea offer that requires for you not to be arrested or ticketed for a certain time period, often six months or twelve months; you will not have to return to court again (unless you are subsequently arrested or ticketed), but you will need to stay out of “the legal system” until the time period expires; you do not have to take an ACD, the prosecutor may offer it again but is not required to do so; violating an ACD will likely result in the reinstatement of the original charge.

arraignment – a legal proceeding in which a defendant is named and the list of offenses are officially brought against a person; at this time, the defendant can tell the court whether they plead not guilty,

guilty, or *nolo contendere*; at this time, bail may be set for the defendant's release; a person may or may not be released at this time.

conspiracy – a crime in which those who are involved in the planning but not the actual commission of the crime can be charged with that crime or conspiracy to commit that crime.; ex: one can be charged with burglary and conspiracy to commit burglary.

Desk Appearance Ticket (DAT) – Involves only minimal processing in which your information is recorded and you are given a date and time to appear in court; DATs can be issued for a violation and for some misdemeanors (and very rarely for low level felonies); An arrestee is ineligible for a DAT if he or she has an outstanding warrant or warrant history, is on parole or probation, has a record of multiple arrests, cannot offer verifiable name and address, lives out of state (this may be at the discretion of the Desk Officer), is arrested for either a graffiti offense or threatening/menacing a police officer or public official.

felony – A criminal offense, carries no minimum sentence; you will be “put through the system,” held overnight, and arraigned the following day; felony sentences vary, please consult a local attorney for more information; please also note that there are special categories of felonies with enhanced sentencing.

malicious prosecution – a claim made in a lawsuit if the plaintiff believes that the prosecution unnecessarily pursued the defendant without probable cause for the alleged crime; the defendant believes that the prosecution was baseless in their pursuit.

misdemeanor – A criminal offense, carries a maximum sentence of one year in jail; usually what you are charged with when you receive a Desk Appearance Ticket (DAT); you may also be “put through the system,” held over night, and arraigned the following day.

*nolo contendere* (“no contest” plea) – the Latin phrase literally means, “I will not contest it;” the plea does not admit guilt or innocence; a *nolo contendere* plea will stay in the person's criminal record.

notice of claim – this puts the city on notice that a person can or intends to file a lawsuit at a later date for the allegations listed on the notice; ex: an arrested person was held in police custody over 24 hours before seeing a judge or talking to their attorney. This violates the policy that no person can be held in custody for over 24 hours without seeing a judge and talking to their attorney. The person can then file a notice of claim within 90 days of the arrest citing unlawful detention as a potential claim in the lawsuit (among other claims). The notice of claims varies from state to state.

perjury – a person willfully makes a false statement during a judicial proceeding; the statement must be relevant to the proceedings and the person must have an intent to deceive; perjury may be either a misdemeanor or a felony and may carry jail time.

summons – similar to a traffic ticket; issued within the discretion of the police officer for a minor offense, usually at or near the scene; directs you to appear in court at a certain date and time.

statute of limitations – the time in which formal court proceedings can be brought to court; ex: if a person is arrested and during the arrest

the officers denied the person Constitutional rights, then a person must submit a notice of claim to the city within 90 days.

violation – Not a criminal offense; carries either a fine or no more than fifteen days imprisonment; usually what you are charged with when you receive a summons.

## Key Players

ATF – the Bureau of Alcohol, Tobacco, and Firearms is the agency responsible for “preventing terrorism, reducing violent crime, and protecting our Nation.” ([atf.org](http://atf.org))

civil suit attorney – this attorney is hired by the plaintiff seeking damages against a defendant; claims may include violation or infringement of Civil Rights, unlawful arrest, negligence, and contract issues, to name a few.

criminal defense attorney – the attorney designated to represent an individual in a criminal proceeding; income levels may permit a court appointed attorney, such as Legal Aid, to represent an individual.

Department of Justice – the federal department responsible for conducting all suits in the Supreme Court; the Attorney General represents the United States government in legal matters before the Court. ([www.usdoj.gov](http://www.usdoj.gov))

JTTF – Joint Terrorism Task Force is a local police and FBI hybrid task force established in the early 1980s; the task force quadrupled in size after September 11, 2001.

prosecutor – the attorney appointed by the District Attorney’s office to press charges against an individual or multiple individuals for an alleged crime.

plaintiff/defendant – the key players in civil suit; the plaintiff brings the complaint to the court against the named defendant(s) listed in the officially submitted complaint.

prosecution/defendant – the key players in criminal proceedings.

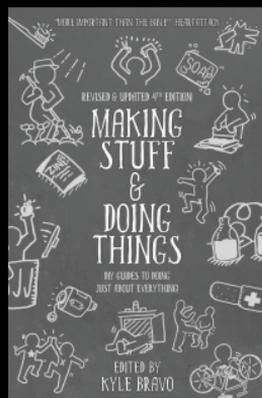
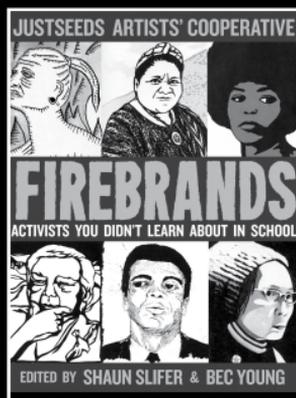
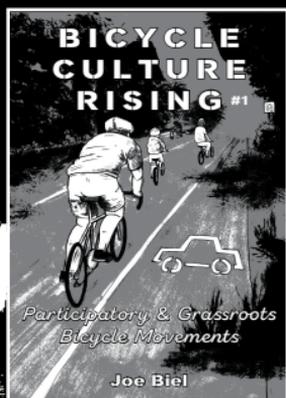
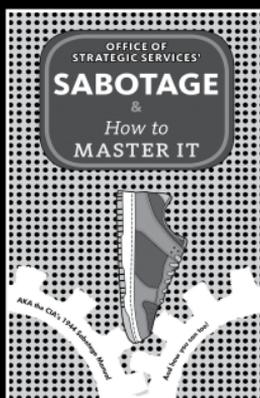
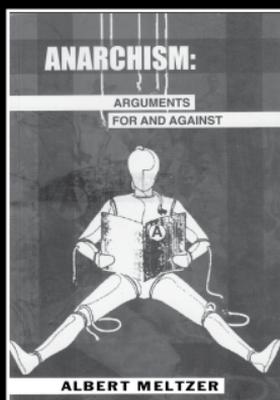


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