



### **KNOW YOUR RIGHTS: DEMONSTRATIONS AND PROTESTS IN KENTUCKY**

The First Amendment protects many forms of expression, including the right to free speech, participating in demonstrations like protests and marches, leafleting, chanting, drumming and dancing. It also protects "symbolic speech," e.g., wearing T-shirts with messages, carrying signs, sculptures or puppets, etc.

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#### **Are there limits on what I can say?**

Yes. The First Amendment broadly protects speech, including controversial viewpoints and criticisms of the government, but there are limits. You can be arrested for encouraging "imminent" violence or other immediate illegal activities that threaten harm to people or property.

#### **Can violence or property destruction ever be constitutionally protected?**

No. Violence or criminal activity does not become constitutional simply because you do it while expressing a political message.

#### **Where can I exercise my speech rights?**

Generally, all types of expression are constitutionally protected in traditional "public forums" such as streets, sidewalks and parks. In addition, your speech activity may be permitted to take place at other public locations that the government has opened up to similar speech activities, such as the plazas in front of government buildings. However, if you plan to (or actually) block passage on a street or sidewalk, you must apply for a permit.

#### **Can I express myself on private property?**

Generally, owners of private property may set the rules limiting speech activity on their property. If you disobey the property owner's rules, she can order you off the property (and have you arrested for trespassing if you refuse to comply).

#### **Can I express myself in public places without a permit?**

Yes, you can picket or leaflet in public places by yourself or in small groups without a permit so long as you are not blocking streets or sidewalks.

#### **Can I heckle other speakers?**

Yes, unless you attempt to physically disrupt an event or drown out other speakers. If speakers have a permit to use a public space, hecklers may be required to stand outside that area. Police may keep two opposing groups separated but should allow them to be within the same general area.

#### **What should I do if I am ordered to disperse?**

Under Kentucky's "Failure to Disperse" law, no police officer should give an order to "disperse" unless three or more persons are engaged in disorderly conduct that is likely to cause substantial harm or "serious inconvenience, annoyance or alarm." If such a situation occurs, you must first be given an order to disperse by police. If you refuse to comply with a valid order to disperse, you may then be arrested.

#### **Is civil disobedience constitutionally protected?**

No. Civil disobedience — peaceful, but unlawful, activities as a form of protest — can legally be (and often are) prosecuted. If you engage in acts of civil disobedience, you may be arrested. Make arrangements with a lawyer in advance.

#### **Can I record or photograph police in public? Yes.**

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### **Can police legally attend a protest undercover?**

Yes. And you should be aware that they may try to attend planning meetings to learn about plans for illegal activity.

### **Can police search demonstrators?**

If police have reasonable suspicion that you are involved in or about to commit criminal activity, they can frisk your outer clothing to search for weapons. You should not physically resist, but you have the right to refuse consent for any further search. If you do consent, it can affect you later in court.

### **Can police search bags and containers without probable cause?**

Yes, if you are entering what has been marked as a secure area. But you can refuse and should be allowed to leave. Otherwise, police can only search bags if they have probable cause that it contains contraband, weapons or other evidence of illegal activity.

### **Can I picket on public sidewalks?**

Yes. However, picketing must be done in an orderly, non-disruptive fashion so that pedestrians can pass by and that entrances to buildings are not blocked.

### **Can I wear a mask while protesting?**

Kentucky does not have a specific law banning masks during protests, but some cities and counties have adopted local anti-mask ordinances. Generally, these types of ordinances prohibit individuals from wearing masks in public and court decisions vary upon whether they are valid. Consult with an attorney in advance regarding your specific location.

### **What should I do if I am stopped by the police?**

Do NOT complain or get into an argument with the police.

Do NOT run.

Do NOT touch any police officer.

Do NOT lie or give false documents.

DO ask if you are free to leave. If the officer says yes, you may calmly and silently walk away. If the officer says no, remember that you have the right to remain silent and cannot be punished for refusing to answer questions. If you wish to remain silent, tell the officer out loud. In Kentucky, you do not have to give your name if asked to identify yourself.

DO keep your hands where the police can see them.

DO stay calm.

DO write down everything you can remember as soon as possible, including badge numbers, patrol car numbers, witnesses and contact information.

DO file a written complaint or contact your local ACLU or NLG if you feel your rights have been violated.

## **Resources:**

American Civil Liberties Union — Pre-eminent civil rights organization in the country. [www.aclu.org](http://www.aclu.org)

American Civil Liberties Union of Kentucky — Kentucky's ACLU affiliate dedicated to protecting and expanding individuals' constitutional rights throughout the Commonwealth. [www.aclu-ky.org](http://www.aclu-ky.org)

National Lawyers Guild, National and Lexington/Louisville Chapters — National and local association of lawyers, law students, jailhouse lawyers, and legal workers. Offers legal observers, on-call lawyers, and other resources on a volunteer basis. [www.nlg.org](http://www.nlg.org); [www.facebook.com/NLGLex](https://www.facebook.com/NLGLex)