

# **Current Issues**

## **Essay #2**

### **PERSONAL FREEDOMS**

#### **During A Protest**

*Reflect on the issues that have come up as Americans have protested through 2020 and into 2021. Read updates on the latest protests. When does a protest become illegal?*

*Explain your answer in your essay.*

# The facts, summarized:

*Turn the page to read the full report*

## 1. Personal Freedom as Outlined in the Constitution



## 2. ACLU Guide to Your Rights During a Protest



## 3. News: Seattle Rioter Claims Destruction of Property Isn't Violence



## 4. News: Senator Cotton Backs Bill Toughening Penalties for Rioters



***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.***

The right of petition took its rise from the modest provision made for it in chapter 61 of the Magna Carta (1215).<sup>1</sup> To this meager beginning are traceable, in some measure, Parliament itself and its procedures for the enactment of legislation, the equity jurisdiction of the Lord Chancellor, and proceedings against the Crown by petition of right. Thus, while the King summoned Parliament for the purpose of supply, the latter—but especially the House of Commons—petitioned the King for a redress of grievances as its price for meeting the financial needs of the Monarch, and as it increased in importance, it came to claim the right to dictate the form of the King’s reply, until, in 1414, Commons declared itself to be as well assenters as petitioners. Two hundred and fifty years later, in 1669, Commons further resolved that every commoner in England possessed the inherent right to prepare and present petitions to it in case of grievance, and of Commons to receive the same and to judge whether they were fit to be received. Finally Chapter 5 of the Bill of Rights of 1689 asserted the right of the subjects to petition the King and all commitments and prosecutions for such petitioning to be illegal.<sup>2</sup>

Historically, therefore, the right of petition is the primary right, the right peaceably to assemble a subordinate and instrumental right, as if the First Amendment read: the right of the people peaceably to assemble in order to petition the government.<sup>3</sup> Today, however, the right of peaceable assembly is, in the language of the Court, cognate to those of free speech and free press and is equally fundamental. . . . [It] is one that cannot be denied without violating those fundamental principles of liberty and justice which lie at the base of all civil and political institutions,—principles which the Fourteenth Amendment embodies in the general terms of its due process clause. . . . The holding of meetings for peaceable political action cannot be proscribed. Those who assist in the conduct of such meetings cannot be branded as criminals on that score. The question . . . is not as to the auspices under which the meeting is held but as to its purpose; not as to the relations of the speakers, but whether their utterances transcend the bounds of the freedom of speech which the Constitution protects.<sup>4</sup> Furthermore, the right of petition has expanded. It is no longer confined to demands for a redress of grievances, in any accurate meaning of these words, but comprehends demands for an exercise by the government of its powers in furtherance of the interest and prosperity of the petitioners and of their views on politically contentious matters.<sup>5</sup> The right extends to the approach of citizens or groups of them to administrative agencies (which are both creatures of the legislature, and arms of the executive) and to courts, the third branch of Government. Certainly the right to petition extends to all departments of the Government. The right of access to the courts is indeed but one aspect of the right of petition.<sup>6</sup>

Source: Constitution Annotated

[https://constitution.congress.gov/browse/essay/amdt1-4-1/ALDE\\_00000407/](https://constitution.congress.gov/browse/essay/amdt1-4-1/ALDE_00000407/)

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ACLU:

# KNOW YOUR RIGHTS



## Protesters' Rights

The First Amendment protects your right to assemble and express your views through protest. However, police and other government officials are allowed to place certain narrow restrictions on the exercise of speech rights. Make sure you're prepared by brushing up on your rights before heading out into the streets.

### I'm organizing or joining a protest

#### Your rights

- Your rights are strongest in what are known as "traditional public forums," such as streets, sidewalks, and parks. You also likely have the right to speak out on other public property, like plazas in front of government buildings, as long as you are not blocking access to the government building or interfering with other purposes the property was designed for.
- Private property owners can set rules for speech on their property. The government may not restrict your speech if it is taking place on your own property or with the consent of the property owner.
- 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.
- When you are lawfully present in any public space, you have the right to photograph anything in plain view, including federal buildings and the police. On private property, the owner may set rules related to photography or video.

#### Do I need a permit?

- You don't need a permit to march in the streets or on sidewalks, as long as marchers don't obstruct car or pedestrian traffic. If you don't have a permit, police officers can ask you to move to the side of a street or sidewalk to let others pass or for safety reasons.
- Certain types of events may require permits. These include a march or parade that requires blocking traffic or street closure; a large rally requiring the use of sound amplifying devices; or a rally over a certain size at most parks or plazas.
- While certain permit procedures require submitting an application well in advance of the planned event, police can't use those procedures to prevent a protest in response to breaking news events.
- Restrictions on the route of a march or sound equipment might violate the First Amendment if they are unnecessary for traffic control or public safety, or if they interfere significantly with effective communication to the intended audience.
- A permit cannot be denied because the event is controversial or will express unpopular views.
- If the permit regulations that apply to your protest require a fee for a permit, they should allow a waiver for those who cannot afford the charge.

#### What happens if the police issues an order to disperse the protest?

- 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.
- If officers issue a dispersal order, they must provide a reasonable opportunity to comply, including sufficient time and a clear, unobstructed exit path.
- 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.

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## **I want to take pictures or shoot video at a protest**

### **Your rights**

- When you are lawfully present in any public space, you have the right to photograph anything in plain view, including federal buildings and the police. (On private property, the owner may set rules about photography or video.)
- Police officers may not confiscate or demand to view your photographs or video without a warrant, nor may they delete data under any circumstances. However, they may order citizens to cease activities that are truly interfering with legitimate law enforcement operations.
- If you are videotaping, be aware that there is an important legal distinction between a visual photographic record (fully protected) and the audio portion of a videotape, which some states have tried to regulate under state wiretapping laws.

### **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.

## **I was stopped by the police while protesting**

### **Your rights**

- Stay calm. Make sure to keep your hands visible. Don't argue, resist, or obstruct the police, even if you believe they are violating your rights. Point out that you are not disrupting anyone else's activity and that the First Amendment protects your actions.
- Ask if you are free to leave. If the officer says yes, calmly walk away.
- If you are under arrest, you have a right to ask why. Otherwise, say you wish to remain silent and ask for a lawyer immediately. Don't say anything or sign anything without a lawyer.
- You have the right to make a local phone call, and if you're calling your lawyer, police are not allowed to listen.
- You never have to consent to a search of yourself or your belongings. If you do explicitly consent, it can affect you later in court.
- Police may "pat down" your clothing if they suspect you have a weapon and may search you after an arrest.
- Police officers may not confiscate or demand to view your photographs or video without a warrant, nor may they delete data under any circumstances. However, they may order citizens to cease activities that are truly interfering with legitimate law enforcement operations.

### **What to do if you believe your rights have been violated**

- When you can, write down everything you remember, including the officers' badge and patrol car numbers and the agency they work for.
- Get contact information for witnesses.
- Take photographs of any injuries.
- Once you have all of this information, you can file a written complaint with the agency's internal affairs division or civilian complaint board.

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Current Issues Essay #2  
PERSONAL FREEDOM DURING A PROTEST

## Seattle Antifa Rioter Claims Destruction of Property Isn't Violence

"I don't think you can be violent against a window," she told KOMO

By **Paul Best** | Fox News

Antifa rioters marched through downtown Seattle Wednesday in protest of President Joe Biden's inauguration, breaking windows at a courthouse and multiple businesses along the way, including the original Starbucks.

Three people were arrested on charges ranging from property damage to felony assault in the aftermath, but one of the demonstrators dismissed the significance of property destruction, telling KOMO that she doesn't "think you can be violent against a window."

"Direct action is beyond the picket signs in the streets," she told the local news outlet. "It's taking that a step further (and) it's willing to be confrontational, if needed."

Seattle police said that the demonstrators, who used umbrellas to conceal each other as they vandalized property, were mostly dressed in black.

"The reason people dress in black bloc is not to be scary," the Antifa militant told KOMO. "If we are all (dressed) similar, then we are safer together. And people have legitimately had death threats made against them and threats against their family."

Vandalism, looting, arson, and other destructive activities have been a hallmark of the unrest that sometimes evolves out of peaceful protests. The left and the right have been at odds over how these acts should be perceived for decades, but that debate reached a fever pitch during protests in the wake of George Floyd's death last summer.

For instance, R.H. Lossin, a teacher at the The Brooklyn Institute for Social Research, wrote in The Nation, a progressive magazine, that it's a false equivalency to conflate violence against people with property damage.

"Plateglass windows don't bleed," Lossin wrote last June. "They don't die and leave loved ones grieving. They don't contribute to the collective trauma and terror experienced by their communities. They just break, and then, at some point, they are replaced by identical sheets of glass."

On the other side, National Review editor Rich Lowry wrote in Politico that the "blasé attitude about the destruction of property doesn't pass the common-sense test."

"Property is not an abstraction," Lowry wrote last June. "It gives people shelter, and a sense of protection and stability. People pour themselves into their property, using their earnings to pay for it, improving it, becoming identified with it. If the property is a business, it often represents years of blood, sweat, tears and dreams."

"For someone to come and destroy it in a spasm of rage or gleeful looting, is felt as a profound violation, and understandably so."

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Current Issues Essay #2  
PERSONAL FREEDOM DURING A PROTEST

## **Cotton Backs Buck Bill Toughening Penalties for Rioters, Slams Lawbreakers 'No Matter Their Party Affiliation'**

Rioters whose actions result in severe injury could face 25 years in prison if the bill passes

By [Tyler Olson | Fox News](#)

**EXCLUSIVE:** Sen. Tom Cotton is joining Rep. Ken Buck in introducing for the new Congress a bill to strengthen federal penalties for rioters in the wake of violence from the right at the Capitol and from the left in the West this month.

Buck, R-Colo., first introduced the legislation, called the BRICKS Act, in November, following months of protests last year that often turned into riots. They started in the late spring and continued through the summer and into the fall before the presidential election. Buck at the time condemned "an unprecedented amount of violence from riots organized by Antifa and other radical leftist groups."

But in the wake of a riot by a pro-Trump mob that interrupted the Jan. 6 certification of the presidential election results and forced hundreds of lawmakers and former Vice President Pence into hiding, Buck plans to bring the bill back for the new Congress and has Cotton, R-Ark., on board to introduce companion legislation in the Senate.

"Those who use violence to advance their political agenda must be met with the full force of the law—no matter their party affiliation," Cotton said in a statement. "This bill will strengthen our laws to deter political violence and prevent further destruction."

Added Buck: "The riot at the Capitol and the riots that occurred over the summer were both disgraceful and caused harm to our nation. Those responsible must be held accountable — and the BRICKS Act would do just that. Any act of violence is wrong," Buck said. "In order to truly restore unity in this country, we must prosecute these individuals to the fullest extent of the law."

The BRICKS Act would increase federal penalties for participating in or aiding rioting from five years in prison to ten years. If serious bodily injury is inflicted, that penalty goes up to 25 years. And rioters could face life in prison if a person dies because of their actions.

It's unclear what the bill's prospects for passing are. There are no Democrat co-sponsors and Democrats control both chambers of Congress. But Democrats have taken a stronger stance on riots since the Jan. 6 sacking of the Capitol.

Historically, most riot-related crimes are charged and prosecuted in the local jurisdictions where the riots happened. Buck in November told Fox News that federal prosecutions of Antifa-related riots should be stepped up because rioters "are operating across the country and their members are traveling across the country. This is a federal crime, federal jurisdiction and the federal government should be prosecuting these."

Following the Jan. 6 violence, the federal government has undertaken sweeping investigations into the rioters who stormed Capitol and brought multiple cases against the rioters.

Meanwhile, more violence has struck Portland, Ore., and Seattle, the sites of much of last year's unrest, in recent days. More than a dozen people have been arrested in the two Northwest cities, according to police reports Thursday, after anti-Biden demonstrators targeted government buildings and the Oregon Democratic Party building in Portland.

But despite the targeting of the Democratic Party office, a photo from The Oregonian shows the rioters in Portland weren't Trump supporters but appeared to be Antifa-related, demanding "revenge," "for police murders," "imperialist wars," "and fascist massacres."

Rioters also targeted the building for Immigration and Customs Enforcement (ICE).

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Current Issues Essay #2  
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## ESSAY OUTLINE

### A. Explain the right to protest.

- \*Where is it guaranteed in the Constitution?**
- \*How is it relevant in lives of Americans today?**
- \*Include a quote from an article.**
- \*Explain this right in at least 4-5 sentences.**
- \*Your answer should be clear enough to enlighten someone who does not have good background understanding of protests.**

### B. When does a protest become illegal?

- \*Give examples of actions that you think should not be protected under the First Amendment.**
- \*Give your opinion: when do protestors cross the line to rioting?**
- \*Bring proof from the ACLU guidelines and other articles.**
- \*Explain your opinion in 4-5 sentences.**

### C. There are different viewpoints in the US regarding protests.

- \*Share some viewpoints, including your own.**
- \*Which issues did you feel warranted protests?**
- \*Also, discuss viewpoints you oppose and explain your opposition.**
- \*Where there any protests in your neighborhood? How did you feel about it?**
- \*Do you know anyone who joined a protest?**
- \*Share any relevance this issue has in your life.**







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RUBRIC

# PERSONAL FREEDOMS

## During A Protest

Essay explores the rights of protestors	<b>/15 points</b>
Essay explains background and relevance of protests	<b>/15 points</b>
Essay includes quotes that back up opinions of writer	<b>/15 points</b>
Essay explores the line between protests and riots	<b>/15 points</b>
Essay connects with other viewpoints	<b>/15 points</b>
Essay is written in full sentences	<b>/5 points</b>
Essay does not have any abbreviations	<b>/5 points</b>
Proper nouns are capitalized in essay	<b>/5 points</b>
Essay is written clearly and neatly	<b>/5 points</b>
Class time was spent productively in a manner that does not disturb classmates	<b>/5 points</b>