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# Overview

## What this manual is – and is not

I am not an attorney. The information in this manual is not legal advice. It is a compilation of publicly available law and cases organized in a way to share information that could be most useful to the animal activist community in DC. This manual does not create a legal relationship, and the reader should read and research the cited codes themselves.

This manual is intended to be a resource for activists in DC, with a focus on animal rights activists. The law is an ever-changing body, and there often is not a clear answer to a legal question. Additionally, people are free to sue other people - even when activists follow all the rules and choose the safest option, they could still face a civil action (when one person or company sues another), and will have to defend themselves in court. Similarly, police might arrest activists, even if they have not violated the law. The activist may not actually be prosecuted (criminally charged), but they will still have had to endure the police encounter.

Therefore, this manual does not tell people what they are and are not allowed to do. Instead, it provides information to help activists make decisions for themselves about whether to engage in an action, and to what extent. It will further allow them to make strategic decisions about how to perform an action – for example, whether a certain slogan may be more or less risky than another.

## Freedom of Speech

Many of the issues and questions faced by activists relate to their First Amendment rights; particularly their Freedom of Speech.[[1]](#footnote-0) It is therefore important to get a lay of the land before analyzing specific questions.

The First Amendment protects citizens from government interference which dilutes their freedom of speech, their right to assemble, and their ability to demand things of the government, among other protections.[[2]](#footnote-1) These rights are not absolute, however, and do not apply in every situation. There are a few boundaries for animal activists to keep in mind:

* The First Amendment only applies to the government – it does not prevent a private individual or business from limiting someone’s speech. It does, however, apply to civil actions, even though civil actions are between private people or businesses, not the government.
  + Therefore, a restaurant owner will not succeed in a lawsuit against someone who was engaging in protected First Amendment speech, such as a chant outside their restaurant, unless the chant triggered a separate criminal or civil action, such as defamation.
* These rights generally apply to peaceful demonstrations – First Amendment rights are not an excuse to commit a crime.
* Certain words and phrases are not protected by the First Amendment. Most relevant to animal activists are:
  + Fighting Words, which are those directed at a specific individual, face to face, that provoke immediate violence.[[3]](#footnote-2)
  + Incitement, which is “directed to inciting or producing imminent lawless action and is likely to incite or produce such action.”[[4]](#footnote-3)
  + True Threats, which is an expression of a genuine intent to commit violence against a specific person or group.[[5]](#footnote-4)
    - The ‘genuine intent’ element means rhetorical statements like “I’m going to break out *every* animal and burn all the slaughterhouses down” would likely still be protected.
  + Defamation, which is explored further below.
  + Additionally, freedom of speech does not allow you to violate other people’s privacy, like by sharing their personal information.
* In addition, the government is able to impose reasonable “time, place, and manner” restrictions on speech – such as by requiring permits for large groups, or prohibiting loud protests after a certain time of night.[[6]](#footnote-5) The restrictions must:
  + be content-neutral, meaning there must be one rule that applies, regardless of the content of the protest;
  + be “narrowly tailored to serve a significant government interest,” meaning the restrictions are not arbitrary, but rather for a valid reason, such as preventing constant loud noises in residential neighborhoods; and
  + ensure that there are other ways protestors can get their message across – for example, protestors are not allowed on the White House lawn, but may protest on the sidewalk in front of it.
* If the words spoken are in a public place and concerning “matters of public concern,” there will not generally be grounds for the tort of intentional infliction of emotional distress.[[7]](#footnote-6)

# Planning for a demonstration

## Permitting

Permits are only *required* in certain situations, but may be a good idea even when not required, as they could reduce harassment and make clear that you are permitted to protest. The requirements and process for obtaining a permit change based on whether you are protesting on DC or Federal Property.

Regardless of whether the group has a permit, always make sure not to obstruct the sidewalk – pedestrians should still be able to pass through.

Federal Permits

Federal land includes all parks in DC, all monuments and federal buildings, and the sidewalks immediately surrounding them. Permitting is done through the National Park Service (NPS)[[8]](#footnote-7), and is required to follow these steps:

* Download the permit at [www.nps.gov/nama/planyourvisit/demonstrations.htm](http://www.nps.gov/nama/planyourvisit/demonstrations.htm).
* **Mail** or deliver in person (no email or fax is accepted) to:

Division of Permits Management

National Capital Area

900 Ohio Drive SW

Washington, DC 20024

* If delivering in person, you may go from Monday-Friday, 8am-4pm, except holidays.

Some things to keep in mind when applying for a permit through NPS:

* You must submit the application at least 48 hours in advance of the protest. It will then be automatically deemed **granted** unless you receive a denial within 24 hours of receipt.
* An application must be submitted for groups of 25+ people
  + Note: If the group of less than 25 is simply an offshoot of a larger group, a permit is still required.
* The fee does NOT apply to First Amendment events (protests), but you DO have to follow the turf resource protection guidelines and event guidelines, found on the website above.
* Obtaining a permit explicitly allows you to use sound amplification equipment, as long as you include this in the permit application – although amplification is not permitted on the White House sidewalk.
* If you have questions that can’t be answered on their website, you can contact the NPS Division or Permit Management at 202-245-4715 or [NAMA\_Permits@nps.gov](mailto:NAMA_Permits@nps.gov).

Some locations do not require a permit unless there is a very large group[[9]](#footnote-8). For example:

* McPherson Square only requires a permit for groups of 500+
* Franklin Park only requires a permit for groups of 500+

**Example**: An activist is planning a protest outside the USDA. They should make sure to get a permit through the NPS link above if they expect more than 25 people to attend.

**Example**: There is a convergence in DC, where 200 advocates plan to protest in front of HHS before gathering in McPherson Square near the White House to demand the President act to protect animals. Organizers should get a permit to protest in front of HHS, but do not need to get a permit for the gathering in McPherson Square, as it is one of the locations listed under the exceptions. Even though it is not required, it could still be useful to obtain.

DC Permits

The Metro Police Department (MPD) manages most other permit applications. You can apply for a permit following these steps:

* Download the 1-page form (“Assembly Plan Notification”) from <https://mpdc.dc.gov/service/get-permit-special-event>
* Email the completed form to [sod.events@dc.gov](mailto:sod.events@dc.gov)

Some things to keep in mind when applying for a permit through MPD:

* The ‘purpose’ section of the application is to let them know this is a First Amendment event, and should therefore say something like “to protest the inhumane treatment of animals.”
* An application must be submitted when organizers “reasonably believe” there will be 50+ people.[[10]](#footnote-9)
* There is no fee for First Amendment event permit applications.[[11]](#footnote-10)
* The permit application should be received at least 15 days before the action. If it is received 60+ days before, a response is guaranteed 30 days before the action. If it is received less than 15 days before, they cannot guarantee they will be able to review and grant it.[[12]](#footnote-11)
* You will receive a decision in writing, so you can bring it to the action.
* If there are more than 100 people, organizers need to provide recycling bins or they could be fined $5,000 per day.[[13]](#footnote-12)
* If you have any questions, you can contact the MPD Special Events branch at 202-671-6522 or [sod.events@dc.gov](mailto:sod.events@dc.gov).

**Example**: The convergence mentioned in the Federal Permitting section above decides to also protest in front of a restaurant that sells foie gras. Because there are more than 50 people, organizers should also obtain a permit through MPD at least 15 days in advance, although applying 60 days in advance would ensure them a response 30 days before the event. Because there are more than 100 people, recycling bins should be provided.

**Note: Protesting at a residence in DC ALWAYS requires notifying MPD![[14]](#footnote-13)**

* If you are protesting a residence in a group of three or more people, you must email [sod.events@dc.gov](mailto:sod.events@dc.gov) at least two hours in advance.
* You may not wear masks while protesting a residence, and cannot protest a residence between 10pm and 7am.[[15]](#footnote-14)

## Criminal Liability

It is important for activists to know the law and possible repercussions when deciding to partake in an action. Below is a chart with DC rules that could be relevant to protestors – the explanation is just a short summary, and activists should go to the code directly to read the full rule. Note, only charges that carry a possible sentence of 6 months or more are eligible for a jury trial (with some limited exceptions). Otherwise, it will be a bench trial, which is when the judge is the sole decisionmaker.

Additionally, it is important to understand the ramifications of criminal charges. These differ by charge and person, but some people may become ineligible for student loans or public assistance, or they may have to disclose charges to an employer or licensing board, among other issues.

| **Crime and Code[[16]](#footnote-15)** | **Explanation** | **Penalty** |
| --- | --- | --- |
| § 22-405.01: Resisting Arrest | -It’s a crime to either resist your own arrest or prevent someone known or believed to be an officer from arresting or detaining another person. | Misdemeanor; up to 6 months imprisonment and/or $1,000 fine |
| 22-1307: Crowding, Obstructing, or Incommoding | -It is unlawful to obstruct the sidewalk, entrance to a private or public building, etc, and to continue doing so after an officer says to stop.  *Note:* a person is not subject to arrest unless they refuses to move when an officer tells them to.[[17]](#footnote-16) | Misdemeanor; up to 90 days imprisonment and/or $500 fine |
| 22-1314.02: Disturbances of the Public Peace; Prohibited Acts | -Unlawful to obstruct access to a medical facility, disturb the peace with noise, trespass in the common areas, or telephone repeatedly to harass.  -Unlawful to prevent a health professional or family from entering or leaving their home.  *Note:* could be relevant for medical facilities that have labs that test on animals | Up to 180 days imprisonment and/or $1,000 fine |
| 22-1321: Disorderly Conduct | -In public places, cannot act in a way to make people have a reasonable fear of harm[[18]](#footnote-17); incite violence that is then likely to ensue; or direct offensive language at someone in a way that makes them likely to retaliate.  -Cannot impede another group’s gathering through loud, threatening, or disruptive language (either in public or in a public building).  *Note:* This may be relevant for protesting government meetings, such as the USDA  -Illegal to make unreasonably loud noises from 10pm-7am when its likely to disturb people in their residences. | Misdemeanor; up to 90 days imprisonment and/or $500 fine |
| 22-1322: Rioting or inciting to riot | -A riot is 5+ people doing a public disturbance where their violent conduct or threat of violent conduct causes grave danger of injury to people or property.  -Statute applies both to people who partake in a riot and those who urge others to engage in a riot.  -Members of a crowd (i.e., a march) who cheer the violent acts of other members could be considered to be urging the riot – the analysis is whether it seemed they were a ‘cohesive unit’.[[19]](#footnote-18) | Up to 180 days imprisonment and/or $1,000 fine  If anyone is injured in the riot (or there is property damage over $5,000), all who encouraged it could face up to 10 years in prison |
| 22-2752: Engaging in an unlawful protest targeting a residence | -It is unlawful for a group of 3 or more people to do a demonstration targeting a residence without first notifying MPD. See the section on permitting above for more information.  -During the protest, demonstrators cannot wear face masks, and cannot protest between 10pm-7am.[[20]](#footnote-19) | Misdemeanor; up to 90 days imprisonment and/or $500 fine |
| 22-3311: Disorderly Conduct in public buildings or grounds; injury to or destruction of US property | -Pertains to “public buildings and public grounds belonging to the United States.” Crime to engage in disorderly conduct both in and around them.  -Includes if someone removes even just sand or gravel from the public grounds. | Up to 6 months imprisonment and/or $1,000 fine |
| 22-3312.01: Defacing public or private property | -Any markings on property are illegal, including chalk. This just hasn’t historically been strongly enforced. Because it is illegal, officers are allowed to confiscate chalk, even if they do not make an arrest.[[21]](#footnote-20)  -This likely covers stickering as well, as graffiti is defined to include designs “otherwise placed on structures,” and “graffiti material” includes adhesive labels.[[22]](#footnote-21)  -Public property includes streets and sidewalks.[[23]](#footnote-22)  -The public property explicitly includes mass transit equipment, so markings on the metro would be included here.  -Officers have a higher interest in preventing chalking on areas where there is an interest in preserving the aesthetics, such as the sidewalk in front of the White House.[[24]](#footnote-23) | Up to 180 days imprisonment, a fine of $250+, restitution to owner of property, and community service  -If have graffiti material (defined to include paint, adhesive materials, or engraving tools[[25]](#footnote-24)) with intent to use it, fine of $100 to $1,000 |
| 22-3302: Unlawful Entry on Property | -Covers both public and private property. For private property, it is unlawful for someone to remain on the property after the owner has asked them to leave. For public property, two prongs must be met – both that the owner asked them to leave, and that there is some specific reason why the party does not have a legal right to remain.[[26]](#footnote-25)  -Commercial establishments (such as stores and restaurants) are private, so someone will be guilty of unlawful entry if they refuse to leave after being asked by the person in charge.[[27]](#footnote-26) | Misdemeanor; up to 6 months imprisonment and/or $1,000 fine |
| WMATA Regulations:[[28]](#footnote-27)4.1 | -No speech activities or leafleting is permitted in the paid or underground areas of metro stations, and any demonstrations must be at least 15 feet from aboveground escalators and fare gates.  -At no point can demonstrators impede pedestrian traffic. |  |

## Organizer Liability for Actions of Others

Organizers may face liability for crimes committed not by themselves, but by other protestors partaking in an action they organized. This risk of liability is lowest when the protest is a peaceful/nonviolent protest, and the crime was committed by a rogue actor. The risk of liability may increase when the protest was planned to include civil disobedience from the beginning.

### Primarily Peaceful Protests

Protection from liability for the actions of protestors during a peaceful protest stems from NAACP v Claiborne Hardware.[[29]](#footnote-28) In Claiborne, the NAACP organized a boycott of white merchants in Claiborne County, Mississippi. While the protest was largely nonviolent, some protestors did engage in acts of violence, such as shooting at the windows of the homes of people who ignored the boycott, and throwing bricks through their windshields.[[30]](#footnote-29) They also had protest members stand outside of targeted stores and track everyone who violated the boycott by entering, then published their names in their paper and read them out loud at NAACP meetings.[[31]](#footnote-30) While one leader, Charles Evers, gave impassioned speeches which included some violent language, there was no evidence that any of these incidents of violence were discussed by organizers or participants in the weekly planning meetings.[[32]](#footnote-31)

The owners of the boycotted stores sought to show that the violence and intimidation made the boycott unlawful, and therefore all members should be held liable for any damages.[[33]](#footnote-32) The Mississippi Supreme Court supported this view because it believed the organizers had *agreed* to use force, violence, and threats in the course of the boycott.[[34]](#footnote-33) The United States Supreme Court then overturned the decision, finding that “civil liability may not be imposed merely because an individual belonged to a group, some members of which committed acts of violence.”[[35]](#footnote-34)

The Supreme Court analyzed the general right to protest. The First Amendment of the United States Constitution protects citizens’ freedom of speech.[[36]](#footnote-35) Protesting is therefore constitutionally protected, but it can lose its protection if it includes violence or criminal acts – freedom of speech is not a shield for illegal actions. Protected protest may come in various forms – picketing is lawful, even when it may result in financial harm.[[37]](#footnote-36) Attending a peaceful meeting of an organization known to engage in illegal conduct does not make the attendee liable.[[38]](#footnote-37) Leafletting near a target’s home is legal.[[39]](#footnote-38) Even speech that may embarrass or coerce a target into specific behavior may not lose its protected status.[[40]](#footnote-39) Speech may lose its protection, however, when it includes fighting words, which provoke immediate violence, or creates an immediate panic.[[41]](#footnote-40)

The Supreme Court laid out three ways in which Evers’s speech, in which he stated, among other things, that members of the community who broke the boycott would have their necks broken, could be the basis for holding him liable for the unlawful conduct of other participants:

1. If he authorized, ratified, or directed specific tortious activity, he could be liable for the consequences of that activity;
2. If it were found that his speeches were “likely to incite lawless action,” he could be held liable if lawless action did in fact shortly follow; or
3. If he gave specific instructions in his speeches for participants to carry out violent acts or threats.[[42]](#footnote-41)

Because no violent action occurred for weeks or months after his speech, the Supreme Court found that the actions were not a direct cause, and his speech remained protected – that is, mere advocacy of the use of force or violence does not remove speech from First Amendment protection.[[43]](#footnote-42)

As for the violent acts that did occur, the Supreme Court found that there was no organizer liability – only the people who engaged in the violent acts could be held responsible for the damages. For others to be held responsible, it would have to be shown both that the group possessed unlawful goals, and that the individual held specific intent to further those illegal aims.[[44]](#footnote-43) Furthermore, protestors can only be held liable for the damages proximately caused by the illegal acts – not the broader boycott.[[45]](#footnote-44)

**Example**: Advocates in DC are engaging in a peaceful protest on the sidewalk in front of a store that sells fur. In a speech or through chants, organizers yell “break the cages,” referring to the cages in which fox, mink, and other animals harvested for fur are kept. Because these are theoretical cages, as there are no actual fox or mink cages in the area, this would likely be considered protected speech, as it would not immediately result in violence or panic. If, however, a protestor hearing the speech shortly after found and broke fox and mink cages, there is a risk of liability for the organizers.

**Example**: At the same event as above, an organizer makes a speech which includes saying “those animals never got to go home – these store employees shouldn’t either! Make them feel the fear the animals felt!” Some protestors then block the store doors so workers cannot leave, and slash their car tires. The person who gave the speech would likely be liable for any damages coming from this, but other organizers of the event, who did not have specific intent for those actions to occur, likely would not be liable.

### Protests with Pre-Planned Civil Disobedience

Activists may face higher risk of liability when the action includes an element of civil disobedience. This is a currently evolving area, with little clear guidance. While Claiborne directed that states may hold a protest leader personally responsible for wrongs committed by others only when the leader himself authorized, directed, incited, or ratified the violent acts, there have been concerning developments.[[46]](#footnote-45)

A recent case, Doe v McKesson, involved a Black Lives Matter (BLM) organizer who led a demonstration which included unlawfully blocking a street.[[47]](#footnote-46) During the protest, unidentified participants threw rocks at police, and one injured officer sued Deray McKesson as the organizer of the protest, claiming he was liable because he should have known the illegal act of protesting on the highway would lead to a police confrontation – that is, there was a foreseeable risk of violence. The 5th Circuit affirmed, finding the organizer could be held liable. The case went to the Supreme Court, but the Supreme Court chose not to rule on the organizer’s liability, but rather remand to the 5th Circuit based on an issue relating to Louisiana tort law theory. [[48]](#footnote-47) McKesson appealed again to the Supreme Court, but in April 2024, the Supreme Court decided not to hear the case, allowing the charges against him to remain.[[49]](#footnote-48) While this case was in a different jurisdiction whose rules do not apply in DC, it is very concerning for organizers across the country that the Supreme Court did not intervene, and allowed McKesson to be held liable for another’s actions.

### Other Considerations for Organizers

In DC, someone who advises, incites, aides, or abets the person who actually commits the crime will be charged as a principal to the crime – that is, they will be charged similar to as if they had committed the crime themselves.[[50]](#footnote-49) Mere “presence or awareness” of the crime, however, is insufficient.[[51]](#footnote-50)

# Legality During Demonstrations and Actions

## Protesting on Sidewalks

Free speech and the ability to protest in public forums is a critical part of our democracy. Most commonly for animal activists, this involves protesting on public sidewalks, a right which is protected by both the Supreme Court and DC law.[[52]](#footnote-51)

In United State v. Grace, the Supreme Court reviewed a case where two protestors, at separate times and acting alone, passed out leaflets on the sidewalk in front of the Supreme Court.[[53]](#footnote-52) The local law at the time included the sidewalks as part of the Supreme Court grounds, and forbade leafletting on the grounds, which the government argued was a reasonable time, place, and manner restriction because there is a government interest in protecting the building and grounds and maintaining decorum, and the protestors could simply use the sidewalk across the street. The Supreme Court highlighted that sidewalks are public forums, and the government’s right to restrict First Amendment activities on them is very limited.[[54]](#footnote-53) They also noted that there was no indication the protestors had obstructed, threatened, or interfered with pedestrians in any way. They therefore found the government provided an insufficient nexus, and required the protestors be allowed to leaflet on the sidewalk immediately connected to the Supreme Court.[[55]](#footnote-54)

The right to protest on a sidewalk in DC is subject to reasonable time, place, and manner restrictions.[[56]](#footnote-55) The DC Code provides protestors have a right to “engage in First Amendment activity near the object of their protest so they may be seen and heard, subject to reasonable restrictions designed to protect public safety, persons, and property, and to accommodate the interest of persons not participating in the assemblies to use the streets, sidewalks and other public ways to travel to their intended destinations….”[[57]](#footnote-56)

Essentially, protestors may not block a sidewalk, or make it such that pedestrians cannot also use the sidewalk. If this does happen, an officer must ask the protestors to stop obstructing the sidewalk, usually by asking them to move on – they generally cannot arrest protestors for obstructing the sidewalk without first asking them to stop.[[58]](#footnote-57) There is no set parameters for obstruction, so it will generally be up to the officer’s discretion.[[59]](#footnote-58)

Finally, the right to protest on a sidewalk applies only to public sidewalks. However, protestors may generally assume they are on a public sidewalk unless they have reason to know they are not, such as those sidewalks within a military reservation.[[60]](#footnote-59)

**Example:** Protestors demonstrate in front of a target restaurant every week. One week, the police have set up a barricade and requested the group protest on the sidewalk across the street instead. If the protestors have been crowding the entire sidewalk so that pedestrians cannot easily walk by, or chanting loudly and excessively so that the noise disturbs the people inside, this might be a reasonable time/place/manner restriction and request. An organizer should ask the police for the reason. If they do not believe it is valid, they can reach out to the DC ACLU at [intake@acludc.org](mailto:intake@acludc.org) or DC-based attorney Greg Lipper at [glipper@legrandpllc.com](mailto:glipper@legrandpllc.com) to consider legal recourse.

## Defamation

General

Even though we have freedom of speech, we can still be held liable if that speech crosses certain lines. One example activists may run into is defamation – essentially, publicly saying something false about someone which harms their reputation. There are a lot of nuances to defamation, however, and no statutory law around it – rather, DC’s defamation protocol has been developed through court cases (common law). A plaintiff (the person suing) bringing a defamation case must prove four elements:

1. That the defendant made a false and defamatory statement concerning the plaintiff;
2. That the defendant published the statement without privilege to a third party;
3. That the defendant’s fault in publishing the statement met the requisite standard; and
4. Either that the statement was actionable as a matter of law irrespective of special harm or that its publication caused the plaintiff special harm.[[61]](#footnote-60)

The first prong requires the statement be both false and defamatory, or else it is not defamation. The plaintiff has the burden to show the statement is false.[[62]](#footnote-61) It is a defense to the defamation claim if the statements were true, although this is limited by “defense by implication,” as explained below.

The second prong addresses privilege, such as peoples’ right to express a pure opinion, which is something that cannot be proven true or false – like that someone is a jerk or a failure.[[63]](#footnote-62) Someone cannot just say “in my opinion….” before a statement to prevent it from being defamatory, however. As with true statements, this will be evaluated through defamation by implication.

The third prong relates to the mental state of the person making the claim, and this standard varies based on the status of the target as either a public figure or a private individual, as explained below.

The fourth prong requires that there was some actual type of harm to the plaintiff. Therefore, it is a defense to a defamation charge to show that the statement could not harm someone’s reputation. Any written or printed statement accusing someone of a crime will be considered defamation per se – the plaintiff does not have to show they were harmed.[[64]](#footnote-63)

Defamation of Public Figures

In New York Times v Sullivan, the Supreme Court created a heightened standard for defamation of public figures, reasoning that the right to protest and push back against the government is so crucial, the country cannot risk tamping down this free speech by threat of suit for any slightly false statement.[[65]](#footnote-64) Instead, a speaker can only be found liable for defamation against a public figure if they made false statements with *actual malice*.[[66]](#footnote-65) DC describes this to mean “knowledge that it was false or with reckless disregard of whether it was false or not.”[[67]](#footnote-66)

There are multiple types of public figures – 1) a public official; 2) a general-purpose public figure, and 3) a limited-purpose public figure.[[68]](#footnote-67)

There is no set definition for the first category, public officials. Case law shows, however, that not all government employees are public officials. Rather, public officials are government employees who may have some decision-making role, have a public facing role, or interact with press or constituents.[[69]](#footnote-68) Law enforcement and corrections officers are also considered public officials.[[70]](#footnote-69)

The difference between the second and third categories is essentially whether the person is generally well known, or if they are only in a more public position related to the controversy at hand. DC has a three-part test to determine whether someone is a limited-purpose public figure:

1. Whether the controversy to which the defamation relates was the subject of public discussion prior to the defamation;
2. Whether the subject of the alleged defamation achieved a special prominence in the debate, either by purposely trying to influence the outcome or because the plaintiff could realistically have been expected, because of his position in the controversy, to have an impact on its resolution; and
3. If the first two elements are satisfied, whether the alleged defamation was germane to the role the subject played in the public controversy. An allegedly defamatory statement is germane unless it is wholly unrelated to the controversy for which the plaintiff is a limited-purpose public figure.[[71]](#footnote-70)

DC has further clarified that “the touchstone remains whether the individual has assumed a role of special prominence in the affairs of society that invites attention and comment.”[[72]](#footnote-71)

Determining if someone is a limited-purpose public figure is a difficult analysis, and one the court makes on a case-by-case basis. The Court will first determine if there is a pre-existing public controversy, which they define as a dispute which will affect members of the public, and has therefore received public attention.[[73]](#footnote-72) Furthermore, this controversy must have been ongoing before the alleged defamation.[[74]](#footnote-73)

As an example, Supreme Court justices are general-purpose public figures, as they are generally well known and have a degree of notoriety. In contrast, a local DC attorney who advocates for affordable housing and begins bringing controversial cases, speaking to newspapers, and testifying to Congress would likely be a limited-purpose public figure in the arena of affordable housing in DC – but a defendant would not be able to label her a public figure in a defamation case where the defendant said she cheats on her taxes, as this is not related to the issue around which she became a public figure.

For animal activists, it may be difficult to determine whether a campaign target is a public figure. In a recent Federal DC case, a woman who breeds birds to sell for cockfighting abroad, brought a defamation case against Animal Wellness Action for publishing an investigative report claiming she was involved in cockfighting.[[75]](#footnote-74) The court found the plaintiff to be a public figure, as she had participated in many media interviews and videos, with one Filipino video even saying she needs no introduction because her farm is so famous there.[[76]](#footnote-75) She utilized these media opportunities to promote herself as a leader in the breeding field, and promote cockfighting as a sport.[[77]](#footnote-76)

On the other hand, in Salem Media Group, Inc. v. Awan, Congressional staff who were thrown into a controversy because of their actions were found to be private figures, in part because they did not have regular and continuing access to media in such a way that they were able to influence the outcome of the debate, but rather used it to defend themselves.[[78]](#footnote-77)

It is not clear how a DC Court would rule, but it is plausible that a chef, albeit a famous one, who serves foie gras at a restaurant would be considered a private figure. If that chef gained some prominence for serving foie gras, for example by giving magazine interviews about the importance of blocking advocacy efforts to end the sale of foie gras, he could potentially become a limited-purpose public figure. Either way, the chef’s employees, such as a restaurant manager, would *not* be considered public figures simply because of the chef’s notoriety.

Defamation of Private Citizens

A person is more likely to be held liable for defamation if they were speaking about a private person, as the standard is simply negligence.[[79]](#footnote-78) That is, not exercising normal care to determine the truth of the statement made.

I was unable to find any DC cases that turned on the interpretation of the words used – such as whether calling a chef who serves a cruelly-made food an “animal abuser” would be considered defamatory. If a defamation case were brought against such an activist, their defense would center around their steps in ascertaining the truth of the statement – for example, that they confirmed both that the chef does prepare the specific food, and that the food is created in a way that abuses animals. Additionally, they would try to show that a reaosnable person would understand the claim in the context of the broader protest – for example, a reasonable person hearing the chef be called a murderer would likely understand that to mean he kills animals, not that he is a serial killer of humans.

Defamation by Implication

Making statements that *imply* something that could harm the target’s reputation can still be considered defamation. The test in DC for defamation by implication is whether the statement: 1) “was capable of bearing a defamatory meaning;” and 2) “that it contained or implied provably false statements of fact.”[[80]](#footnote-79) It is not enough, however, for a statement to be able to be interpreted in a defamatory way – the speaker must have actually intended it to be so.[[81]](#footnote-80) For example, the Court in Fells v. SEIU cites a case where a gas station employee alleged that he was fired for refusing to put leaded gasoline into a car that uses unleaded gasoline, at the request of a customer who happened to be handicapped.[[82]](#footnote-81) The gas station representatives then claimed he was fired for failing to provide service to a handicapped customer. While technically true, the intentional insinuation is defamatory – that the attendant refused to help *because* the customer was handicapped.

Other

The Statute of Limitations for defamation is one year, meaning generally, someone will be barred from bringing a defamation case against someone if the alleged defamation happened more than a year before.[[83]](#footnote-82)

There is debate around whether calling someone a racist should be considered defamation, with federal courts around the country reaching the issue.[[84]](#footnote-83) In DC, however, it likely would be. In Afro-American Publishing Co. v Jaffe, the court found a newspaper liable for defamation for printing a piece that insinuated a local pharmacist was a bigot.[[85]](#footnote-84)

Examples

| **Safest** | **Use Caution** | **Highest Risk** |
| --- | --- | --- |
| -Statements focused away from a specific person, like that foie gras is cruel and inhumane  -Saying a designer who is famous for promoting fur and leather, supports animal abuse  -Saying a government employee with a public-facing role oversees animal abuse  -Saying that we believe employees who allow animal abuse shouldn’t lead the humane division of a government agency | -Saying a government employee with a public-facing role is failing at her job and approves animal abuse  -Saying that we believe animal abusers shouldn’t lead the humane division of a government agency | -Saying a private figure, like a fur store owner, is a bad person who cheats on his wife  -Saying a private chef likes torturing animals, or that he tortures animals in his free time  -Saying someone is racist, especially if it is not during a protest of a racist occurrence |

## Amplifiers

DC permits demonstrators to use megaphones and amplifiers, with some noise restrictions. Most pertinent to activists, “a noise shall not be considered a noise disturbance if it is made during noncommercial public speaking during the daytime and does not exceed 80 decibels inside the nearest occupied residence in districts zoned R-1A, R-1B, R-2, R-3, or R-4.”[[86]](#footnote-85) Daytime is defined as 7:00a.m. to 9:00p.m.[[87]](#footnote-86) Additionally, the noise disturbance limit does not apply to gatherings conducted pursuant to a permit issued by MPD.[[88]](#footnote-87) [[89]](#footnote-88)

When measuring sound for a possible violation, the agent must perform a battery check both before and after measuring the sound, and must do a calibration before each reading.[[90]](#footnote-89) The CDCR says only that police may give a violator a verbal warning to cease making noise above a decibel limit, but not that they must do so before issuing a citation.[[91]](#footnote-90) The maximum punishment is a fine of up to $1,000 and/or ten days imprisonment.[[92]](#footnote-91)

## Recording

While this section explains the legality of recording both police and civilian interactions, activists should consider the broader implications for themselves. For example, if an activist wearing a GoPro is arrested, the recording can then be used as evidence. If any protestors were engaging in prosecutable acts, the activists’ own recordings could result in criminal charges against other protestors.

### Recording Police and Police Access to Videos

Civilians are allowed to record the police, as long as they do not interfere. Additionally, the police usually need a warrant to view pictures and videos on a civilian’s phone – though there could be exceptions made, like when the police have a reasonable, good faith belief that the videos are evidence of a crime, and they would be destroyed if the police had to wait for a warrant.[[93]](#footnote-92) Under no circumstances, however, may the police delete videos or pictures from your phone.

### Recording Civilians

Generally, it is ok to record a video of people when they do not have a reasonable expectation of privacy. People do not have a reasonable expectation of privacy when they are in public, and therefore recording video of people in public is generally protected under the First Amendment.[[94]](#footnote-93) However, recording video of people in private settings is more likely to require consent. Additionally, some public government buildings have limitations or bans on recording, and businesses, such as stores and malls, may be free to create their own no-filming policies.

Recording audio is more nuanced. DC has “one-party consent,” which means that you can record audio if one of the parties to the conversation gives consent, or if they are the one recording the conversation.[[95]](#footnote-94) The person recording does not have to be actively participating in the conversation, but “their presence must be apparent to those individuals whose conversation is being intercepted.”[[96]](#footnote-95)

There are limitations around posting videos that were lawfully recorded. Videos cannot be posted for commercial gain – that is, if the video is of a publicly recognized figure, you cannot distort the video to indicate that the person supports or endorses your cause, or to make money off of the posting.[[97]](#footnote-96) Additionally, the video will not be protected against civil action, such as a defamation claim, just because it was lawfully recorded.

**Example**: An activist doing a Cube on a public sidewalk wears a GoPro to capture the conversation they have with a passerby. This would be allowed, because the passerby has no expectation of privacy so video is permitted, and the activist is a party to the conversation, so the audio is permitted.

**Example**: Another activist at the Cube begins secretly recording the conversations of people who are talking amongst themselves as they leave the Cube, to get insight on the reactions of people who didn’t engage. This would not be allowed, as the activist is not a party to the conversation, and their presence is not apparent to the people being recorded.

**Example**: A group of activists is protesting in front of the home of a scientist who tests on beagles. Some activists take video when the homeowner comes to the front door to yell at the protestors. It is more likely that a court would find the homeowner has a reasonable expectation of privacy in her front door, and the activist’s video recording of her would not be constitutionally protected.

# Police Interaction and Arrest

## Pre-Planning When There may be Police Interaction

Activists should familiarize themselves with security culture, and consider what measures to take for themselves. For example, some activists may want to put their phone in airplane mode, or turn off location services. If you usually have your ID on your phone, consider bringing your physical one instead, so that you aren’t in a situation where you have to give the police your unlocked phone. Generally, police can open your phone if you use a biometric lock, but cannot force you to give them or enter your password, so activists may want to switch to password protection.

If organizers believe an action may lead to arrest, they can call the Public Defender Service (PDS) Protestor Hotline in advance at 202-824-2462. PDS will be able to answer some questions, and appreciate the heads-up to look for the protestor group in the list of arrestees.

Additionally, the DC National Lawyer’s Guild (NLG) Mass Defense Committee has resources available for every step of an action.[[98]](#footnote-97) Beforehand, they can help with the permitting process, or prepare activists to understand their rights and the steps that may occur should they be arrested. During the protest, they have volunteer legal observers available to join the event to monitor the police and document arrests and police misconduct. If there are arrests, they will also be able to help connect the arrestees to defense attorneys, and follow up on any police misconduct they observed. Email [dcmassdefense@gmail.com](mailto:dcmassdefense@gmail.com) for more information.

If you think you may be arrested, the ACLU suggests bringing $100 cash and three days of any necessary medications, in their original bottles.[[99]](#footnote-98) You can also memorize the NLG jail support hotline number: 202-850-0010.

## Types of DC Police

Activists may encounter many types of law enforcement and quasi-enforcement in DC. While there are many federal divisions, the local DC landscape generally consists of police officers, special police officers (SPOs) and security guards.[[100]](#footnote-99)

| **Police Officers** | **Special Police Officers[[101]](#footnote-100)** | **Security Officers[[102]](#footnote-101)** |
| --- | --- | --- |
| -May make warrantless arrests when a crime is occurring  -May carry a weapon | -Appointed by DC to protect property  -Less power than Police, but more than Security Guards  -Allowed to make warrantless arrests in the zone to which they are assigned  -May carry a weapon | -May not make arrests  -BUT if a police officer is working as a security guard off-hours, they are still allowed to make arrests in their capacity as a police officer  -May not carry a weapon besides a wooden baton[[103]](#footnote-102) |

## Interaction during the action

There are two main categories of police interaction covered in this section: instruction, and investigation.

Instruction

If an officer instructs you to take a certain action, such as to leave a store, to lower the volume on a megaphone, or to make space on the sidewalk, it is often best to follow the orders. If you have a permit, you can show it to them to see if it allows you to continue your action. You can ask for and write down the officer’s name and badge number, and take steps after the event to make a complaint or get clarification as to whether they were allowed to make the request they did. See the section on filing complaints below.

Investigation

If an officer is not explicitly asking you to do something but rather seemingly just asking questions, there are three possible options as explained by the ACLU[[104]](#footnote-103) and the National Lawyers Guild[[105]](#footnote-104), linked in the “Resources” section below.

1. First, ask if you are **free to leave**.

* If they say yes, say you would not like to answer any questions, and calmly walk away. You are NOT required to show your ID in DC unless you are driving.

1. If they say no, ask if you are being **detained**.

* If they say yes, ask why.
* Officers must have reasonable suspicion you were involved in a crime in order to detain you. Once detained, you DO have to show your ID and answer basic identifying questions, but do NOT answer any other questions or give consent to a search. Instead, verbally say “I do not give consent to search.”
* Officers may zip tie your wrists or take other actions to keep you restrained while you are being detained.
* Officers can also frisk you to check for weapons – this is a pat-down of the outside of your body with their hands. They cannot reach into your pockets or squeeze things they feel, unless it feels like a weapon or something clearly illegal.
* The officers may stop detaining you, in which case you are free to leave. Or, they may arrest you.

1. If you are **arrested**, physically cooperate but do not answer the officer’s questions.

* Many charges against a protestor come during the arrest, even if the underlying arrest was not valid. To potentially prevent a charge like resisting arrest or assault, you could go limp and verbally repeat “I am not resisting.”
* Say that you want a lawyer, and do not answer any questions. Officers might not read your Miranda Rights before they start asking questions – some departments interpret the requirement to mean they must only read your Miranda rights before they begin a formal interrogation.
  + Just saying “I won’t answer any questions” does not prevent them from trying again. Specifically say that you want a lawyer.
* When you call your attorney, do not give details about the event – just tell them you were arrested and where you are.
* Do not talk to people in a holding cell about what happened – the police may be recording.
* If you need medical attention, say so. But give only the information needed to get your care.
* Inform them of any dietary restrictions or transgender safety needs. Make sure your attorney knows your preference too so they can advocate on your behalf.
* REFUSING TO ANSWER QUESTIONS PROTECTS NOT ONLY YOU BUT YOUR FELLOW ACTIVISTS AS WELL.

## After Arrest

The information below is just a brief summary of the arrest process in DC - activists should thoroughly familiarize themselves with the information provided by the ACLU and NLG, such as [this brochure](http://www.acludc.org/sites/default/files/wysiwyg/aclu_8.5_x_11_trifold_v21.pdf) and the other documents in the “Resources” section below.[[106]](#footnote-105)

Once you are arrested, you will be booked in a local precinct, where they may look in your bags, do a full body search, take your mugshot, fingerprint you, and look for active warrants. You will then likely be put in a holding cell with other people. Do not talk to those other people about your action or why you were arrested. According to the ACLU, you will only get a phone call if you are held overnight.[[107]](#footnote-106) Additionally, the ACLU describes three situations that can happen once you are booked[[108]](#footnote-107):

1. You will be allowed to “post and forfeit” which means you will pay money and the case will be dropped. You will have an arrest on your record, but no conviction. For protests, this amount is usually $25-$100.
2. You will receive a citation and be released. A citation is a document with a future court date.
3. You will be detained until you are brought to court, usually the next business day. If this happens, it will likely be in the Central Block Cell, 300 Indiana Ave NW.
   * If you are detained, you will be interviewed by D.C. Pretrial Services Agency or Court Social Services. Do not tell them details about the incident, but you can answer their questions about yourself – the judge will use the information they gather to decide how soon to release you.
   * You will be detained until your “arraignment,” which is when you go before the judge to hear the charges against you and whether you’ll be released until then.
   * Sometimes you will have to pay bail to be released – this is money you give the court that you will get back if you return on your court date. It is intended to keep people from fleeing. Bail is not always required to be released.
   * Prosecutors might decide to “no-paper” you instead of charging you. If you are “no-papered,” your charges are dropped and you are free to go.

Public Defenders are only assigned to certain people and certain cases. You are NOT eligible for a public defender if you are charged with something that is punishable by a term of 6 months or less.[[109]](#footnote-108) Even multiple charges that add up to over 6 months does not give you a right to a public defender. They do make exceptions on occasion, however, so you can reach out to them to ask about your specific case.[[110]](#footnote-109) Additionally, only people with financial need are eligible. Members of the PDS team will interview you to determine if you qualify.

## Police complaints

There may be serious consequences to arguing with an officer during a demonstration or arrest – both physically and legally. Instead, activists may want to comply in the moment, then file a legal complaint afterwards. While engaging with the officer, try to memorize their name and badge number. A video recording can be helpful too, but remember they can force you to stop recording if you are actually interfering in their work.

You can make a complaint about a police officer to the Office of Police Complaints (OPC). Some things to keep in mind:

* Typically used for things like harassment, inappropriate conduct, excessive force, or if an officer refuses to identify themselves by name and badge number when requested.
* Fill out the form available on the OPC website.[[111]](#footnote-110) Complaints must be received within 90 days of the incident.
* The complaint can be filled out by anyone who witnessed the incident.
* For any questions, call 202-727-3838. I called and was connected with a live person immediately.

You can make a complaint about a special police officer (SPO) to the Metro Special Police Department directly:

* Typically used for the same type of conduct – harassment, excessive force, conduct unbecoming of an officer, and failing to identify themselves when requested and appropriate.
* Fill out the form on their website, listing your personal information and an explanation of the incident.[[112]](#footnote-111) There is an option to attach pictures or videos.

## Tracking your case

Most criminal and civil case information is available electronically. This includes the case “docket,” which is essentially a listing of all important dates and what happened – you will be able to see things such as your next court date and location, the charges against you, the other side’s lawyer’s information if it’s a civil case, and any fees you currently owe.

Many cases will be handled by the local DC Court. You can find information about both your civil and criminal cases in DC on their Case Search website, available at: <https://www.dccourts.gov/superior-court/cases-online>. Additionally, you can go to the courthouse to request your file, though there will likely be a fee. The address is:

Superior Court of the District of Columbia, Moultrie Courthouse

500 Indiana Ave NW

Washington, DC

Cases with more serious charges may be handled by the federal government instead. They use a system called PACER, which is available at: <https://www.uscourts.gov/court-records/find-case-pacer>.

# Additional Resources

DC animal activists could benefit from some of the following publicly available resources:

* [ACLU: Free Speech](https://www.aclu.org/documents/speech-campus#:~:text=A%3A%20The%20Supreme%20Court%20ruled,to%20provoke%20a%20violent%20reaction)
* [ACLU: Photographing in Public](https://www.acludc.org/en/know-your-rights/if-stopped-photographing-public)
* [ACLU: Stop and Frisk](https://www.acludc.org/en/know-your-rights/stop-and-frisk)
* [ACLU DC: Demonstrations in DC – Know Your Rights Brochure](about:blank)
* [NLG: Know Your Rights – A Guide for Protestors](https://www.nlg.org/know-your-rights/)
* [NLG: DC’s Criminal Court Process](https://www.dcnlg.org/resources/demonstrating-in-dc/criminal-court-procedure)

# One-Pagers

1. 1A [↑](#footnote-ref-0)
2. 1A [↑](#footnote-ref-1)
3. Chaplinsky v New Hampshire [↑](#footnote-ref-2)
4. Brandenburg v Ohio, emphasis added [↑](#footnote-ref-3)
5. Virginia v Black [↑](#footnote-ref-4)
6. Clark v Community for Creative Non-Violence; DC 5-331.04 [↑](#footnote-ref-5)
7. Snyder v Phelps: SC struck down damages against Westboro Church whose members held signs outside dead soldier’s funeral, finding “the political and moral conduct of the US and its citizens, the fate of our nation….and scandals….” Were matters of public concern and thus entitled to special protection. [↑](#footnote-ref-6)
8. 36 CFR 7.96(g) [↑](#footnote-ref-7)
9. 36 CFR 7.96(g)(2) [↑](#footnote-ref-8)
10. DC Mun Code 24-705.9 [↑](#footnote-ref-9)
11. DC Mun Code 24-705.10 [↑](#footnote-ref-10)
12. DC Mun Code 24-706 [↑](#footnote-ref-11)
13. DC Mun Code 24-700 [↑](#footnote-ref-12)
14. This is according to MPD. 22-2752 is phrased in an unclear way. For example, the [ACLU](https://www.acludc.org/en/know-your-rights/know-your-rights-demonstrations-dc#:~:text=You%20can%20only%20demonstrate%20on,from%20speaking%20on%20private%20property.) interprets the statute to mean that it is illegal to protest between 10pm-7am if you have not first notified MPD or if you are wearing masks. The way the rule is listed here is based on an email exchange with MPD in which I asked for clarity. Their interpretation is not necessarily how a court would interpret the statute, however. [↑](#footnote-ref-13)
15. 22-2752; 22-1321 [↑](#footnote-ref-14)
16. D.C. Code, unless otherwise stated [↑](#footnote-ref-15)
17. Agnew v Govt of DC [↑](#footnote-ref-16)
18. In Solon v US, Court found no disorderly conduct for a counter-protestor who got in the faces of protestors, rammed their linked arms, yelled, and waved a Trump sign because the protestors laughed and police were present, so there was no actual fear [↑](#footnote-ref-17)
19. Carr v DC [↑](#footnote-ref-18)
20. See footnote 14 for explanation [↑](#footnote-ref-19)
21. Mahoney v DC (police officer was permitted to confiscate chalk when plaintiffs continued chalking after being told they could not). [↑](#footnote-ref-20)
22. 22-3312.05(4) and (5) [↑](#footnote-ref-21)
23. 22-3312.05(9) [↑](#footnote-ref-22)
24. Mahoney, 88 [↑](#footnote-ref-23)
25. 22-3312.05(5) [↑](#footnote-ref-24)
26. Wheelock and O’Brien for proper cites [↑](#footnote-ref-25)
27. Safeway Stores, Inc v Kelly [↑](#footnote-ref-26)
28. https://www.wmata.com/business/real-estate/upload/Property\_Use\_Regulations.pdf [↑](#footnote-ref-27)
29. NAACP v Claiborne Hardware Co., 458 U.S. 886 (1982) [↑](#footnote-ref-28)
30. Id. at 904 [↑](#footnote-ref-29)
31. 903-904 [↑](#footnote-ref-30)
32. 906 [↑](#footnote-ref-31)
33. 889 [↑](#footnote-ref-32)
34. 895 [↑](#footnote-ref-33)
35. 920 [↑](#footnote-ref-34)
36. 1A [↑](#footnote-ref-35)
37. 909 (cite other). [↑](#footnote-ref-36)
38. 908 (cite De Jonge v Oregon) [↑](#footnote-ref-37)
39. 910-11 (cite other) [↑](#footnote-ref-38)
40. 910 – and see actions instead of speech – “there is nothing unlawful in standing outside a store and recording names” (925) [↑](#footnote-ref-39)
41. 927 (cite Chaplinsky and Schenck) [↑](#footnote-ref-40)
42. 927; citing Brandenburg v Ohio: “the constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.” [↑](#footnote-ref-41)
43. 928 [↑](#footnote-ref-42)
44. 920 [↑](#footnote-ref-43)
45. 921 [↑](#footnote-ref-44)
46. Claiborne 927 [↑](#footnote-ref-45)
47. Doe v McKessen [↑](#footnote-ref-46)
48. Note: The Right to Protest for RIght [↑](#footnote-ref-47)
49. <https://plus.lexis.com/document/midlinetitle/?pdmfid=1530671&crid=466cb85d-36dd-4c4a-81a7-c7a0138885e5&docfullpath=%2Fshared%2Fdocument%2Fcases%2Furn%3AcontentItem%3A6BT7-R8C3-RT5R-82H5-00000-00&componentid=6443&prid=1ece9320-3134-4abe-9deb-02bf83c78361&ecomp=sy7g&earg=sr19> [↑](#footnote-ref-48)
50. DC Code 22-1805 [↑](#footnote-ref-49)
51. McCoy v. United States, 890 A.2d 204, 211 [↑](#footnote-ref-50)
52. (SC one); DC 5-331.03(1) (…groups have a right to organize and participate in peaceful First Amendment assemblies on…sidewalks….) [↑](#footnote-ref-51)
53. United States v Grace [↑](#footnote-ref-52)
54. US v Grace [↑](#footnote-ref-53)
55. US v Grace [↑](#footnote-ref-54)
56. DC Mun Code 24-705.3 [↑](#footnote-ref-55)
57. 5-331.03(1) (emphasis added) [↑](#footnote-ref-56)
58. 22-1307; Agnew v Govt of DC [↑](#footnote-ref-57)
59. 22-1307 [↑](#footnote-ref-58)
60. US v Grace [↑](#footnote-ref-59)
61. Salem [↑](#footnote-ref-60)
62. Phila. Newspapers v. Hepps, 475 U.S. 767 [↑](#footnote-ref-61)
63. Armstrong v Thompson, 80 A.3d 177, 184 [↑](#footnote-ref-62)
64. Raboya v Shrybman & Assoc., 777 F. Supp. 58 [↑](#footnote-ref-63)
65. NY Times v Sullivan [↑](#footnote-ref-64)
66. Sullivan 279-280, emphasis added [↑](#footnote-ref-65)
67. Salem [↑](#footnote-ref-66)
68. Salem citing SC case Gertz v Robert Welch [↑](#footnote-ref-67)
69. Salem [↑](#footnote-ref-68)
70. Beeton v DC [↑](#footnote-ref-69)
71. Fells v SEIU 583 [↑](#footnote-ref-70)
72. Doe No. 1 v Burke [↑](#footnote-ref-71)
73. Salem 25 [↑](#footnote-ref-72)
74. Salem 25 [↑](#footnote-ref-73)
75. Shive-Ayala [↑](#footnote-ref-74)
76. Shive-Ayala 10 [↑](#footnote-ref-75)
77. Shive-Ayala 11-12 [↑](#footnote-ref-76)
78. Salem 28-30 [↑](#footnote-ref-77)
79. Kendrick 821 [↑](#footnote-ref-78)
80. Fells 586 [↑](#footnote-ref-79)
81. Fells 586 [↑](#footnote-ref-80)
82. Fells 587, citing Phipps v Clark Oil & Refining Corp [↑](#footnote-ref-81)
83. DC Code 12-301(4) [↑](#footnote-ref-82)
84. See Gibson’s Bakery v Oberlin College [↑](#footnote-ref-83)
85. Afro-American Publishing Co. v. Jaffe, 366 F.2d 649 [↑](#footnote-ref-84)
86. CDCR 20-2799.1 [↑](#footnote-ref-85)
87. CDCR 20-2799.1 [↑](#footnote-ref-86)
88. CDCR 2800.3 [↑](#footnote-ref-87)
89. Outside of the exception for noncommercial public speaking and permitted demonstrations, it is unclear what the actual decibel limit is for megaphones. Under CDCR 20-2700.3, they are subject to the noise disturbance standard rather than general decibel limits, though the CDCR does not list what the noise disturbance standard limits are. The Noise Regulation Handbook enumerates maximum decibels, but there seems to be a typo, as “unamplified voices” is listed twice, but “amplified voices” is not listed at all. I contacted multiple government agencies to gain clarity but received no meaningful response. [↑](#footnote-ref-88)
90. CDCR 20-2902.1 and .2 [↑](#footnote-ref-89)
91. CDCR 20-2713.2 [↑](#footnote-ref-90)
92. CDCR 2713.3 [↑](#footnote-ref-91)
93. Riley v California 573 U.S. 373, 442; 445 [↑](#footnote-ref-92)
94. 4A; Olmstead “the principal object of the 4A is the protection of privacy rather than property"; Katz 2 part test for subjective expectation + legitimate expectation that society finds reasonable [↑](#footnote-ref-93)
95. DC 23-542(b)(2) [↑](#footnote-ref-94)
96. Democracy Partners III, 453 F. Supp. 3d at 286 (citing CAIR v. Gaubatz, 31 F. Supp. 3d 237, 255 (D.D.C. 2014) [↑](#footnote-ref-95)
97. Doe v. Bernabei & Wachtel, PLLC, 116 A.3d 1262, 1268 [↑](#footnote-ref-96)
98. https://www.dcnlg.org/legal-support [↑](#footnote-ref-97)
99. https://www.acludc.org/sites/default/files/wysiwyg/aclu\_8.5\_x\_11\_trifold\_v21.pdf [↑](#footnote-ref-98)
100. For further description of the many forces in DC, see the Washington Peace Center’s description: <https://washingtonpeacecenter.net/dccops/> [↑](#footnote-ref-99)
101. https://metrospd.org/ [↑](#footnote-ref-100)
102. https://mpdc.dc.gov/page/security-personnel-resource-guide-faqs [↑](#footnote-ref-101)
103. CDCR 17-210.1(g) [↑](#footnote-ref-102)
104. https://www.acludc.org/en/know-your-rights/stop-and-frisk [↑](#footnote-ref-103)
105. https://www.nlg.org/know-your-rights/ [↑](#footnote-ref-104)
106. https://www.acludc.org/sites/default/files/wysiwyg/aclu\_8.5\_x\_11\_trifold\_v21.pdf [↑](#footnote-ref-105)
107. https://www.acludc.org/sites/default/files/wysiwyg/aclu\_8.5\_x\_11\_trifold\_v21.pdf [↑](#footnote-ref-106)
108. https://www.acludc.org/sites/default/files/wysiwyg/aclu\_8.5\_x\_11\_trifold\_v21.pdf [↑](#footnote-ref-107)
109. 2-1602 [↑](#footnote-ref-108)
110. <https://www.pdsdc.org/services/faqs-for-clients> [↑](#footnote-ref-109)
111. <https://policecomplaints.dc.gov/node/161132> [↑](#footnote-ref-110)
112. <https://metrospd.org/officer-complaints> [↑](#footnote-ref-111)