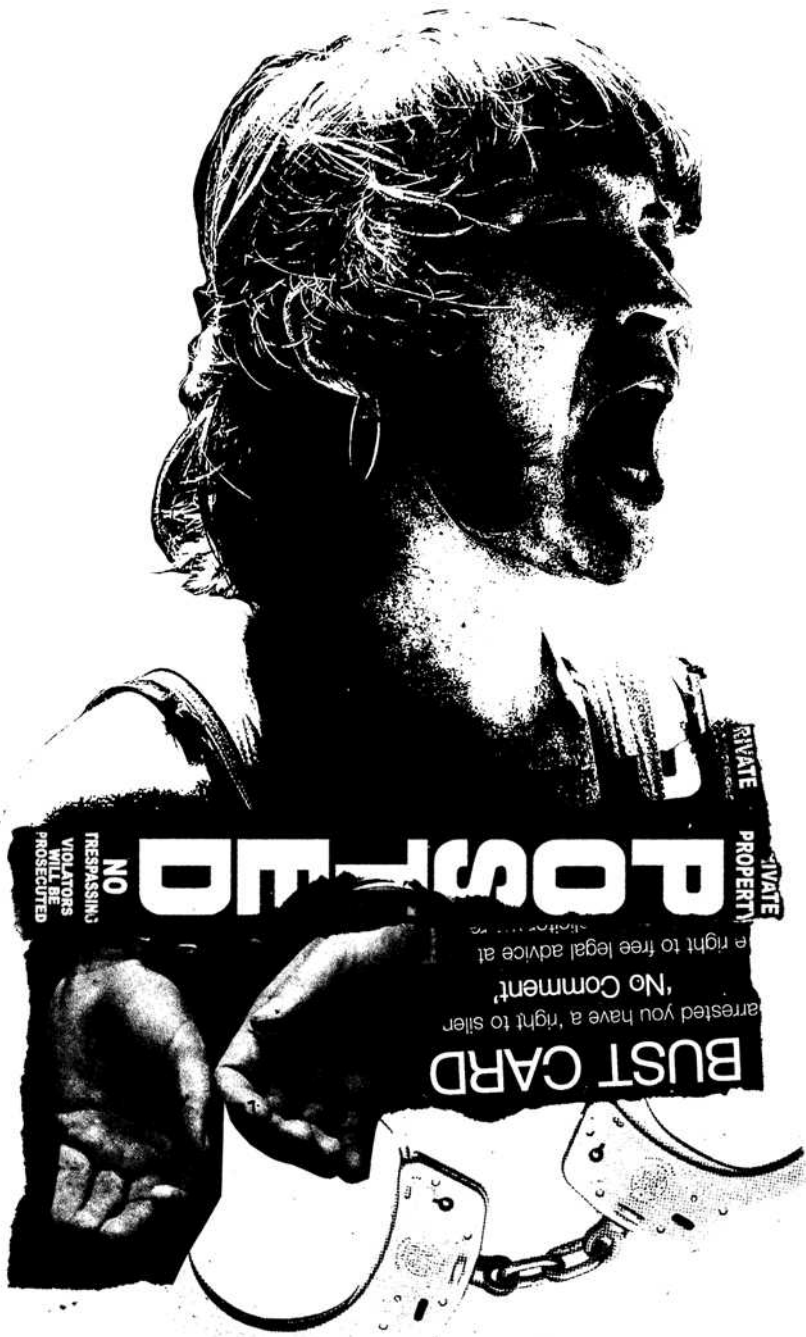


KNOW YOUR RIGHTS

an excerpt from
**“Resist! How to be An Activist
in the Age of Defiance”**

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INTRODUCTION

Organizing collectively and taking action as a movement can be a life-changing experience. It will give you a sense of empowerment and hope that enters your bloodstream and will run through your veins for a long time to come. Change, however, isn't always welcomed by those in charge. If you encounter repression and violence, you won't just be left with physical scars; make a wrong move and your newfound strength will be ripped from your hands. That's why it's crucial to be prepared and know your legal rights.

Our rights are everything

The Bill of Rights (the first ten amendments to the US Constitution) enshrined our right to protest in law, and people in the United States have, throughout its history, stood up for these freedoms. Supreme Court cases, such as Texas v. Johnson have since further cemented our right to free speech and assembly, although over time the state has introduced laws and regulations to restrict us. That said, if you understand your rights and know where to find support, exercising these freedoms can be easy.

DISCLAIMER
THE LAW
IS A COMPLICATED
BEAST
ALWAYS CONSULT
AN ATTORNEY
WHEN YOU NEED
LEGAL ADVICE

Understand the lay of the land

When it comes to where your right to protest can be exercised, knowing who owns the land you stand on is essential. Most land owned by the government, including public highways, should be accessible for protests and marches. If the element of surprise is not important, it might be worth speaking to the authorities in charge beforehand, just in case there are local ordinances or procedures you are required to follow that may restrict your access. In practice, though, public land is normally ours to meet on. It's not always obvious if land is privately owned.

Think of this as someone else's back garden: we have few rights to protest on land owned by corporations or individuals, so if you're looking to hold a rally or a march from A to B, make sure you find out who owns what by contacting your local city hall or municipal center.

Laws at both state and federal levels make it an offense to damage or destroy someone else's property, so think carefully before partaking in any activity that leads to this as a result. Some courts have found that using chalk to draw on a sidewalk, even while water-soluble, can be considered an offense. Maximum punishments depend on the severity of the damage.

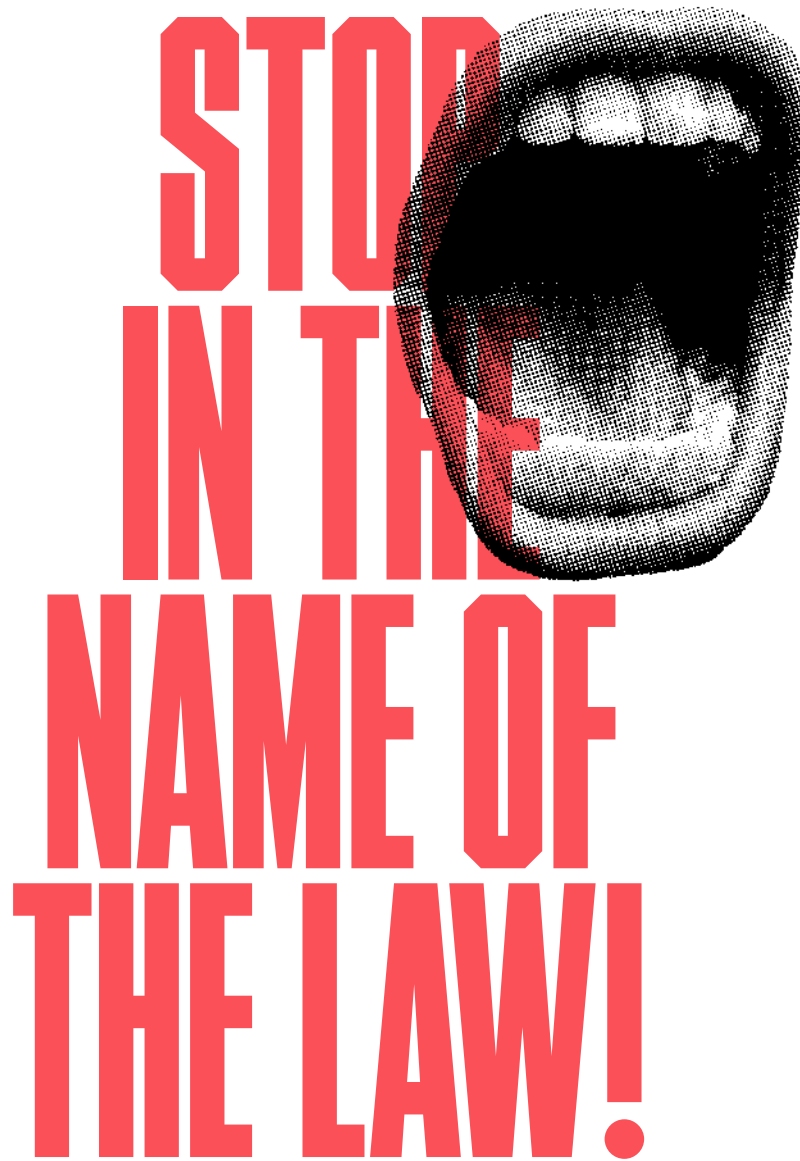
To trespass or not to trespass?

A superstore gives you permission to walk down their aisles to grab your groceries, but that doesn't give you license under the law to do whatever you want while inside. However, taking action on private land might be the tactic you opt for, especially if you're targeting a corporation and you want your campaign to be seen. A landowner can quickly withdraw permission granted to you to be on their land—and if they do, you will be trespassing. For example, a superstore manager could ask you to leave if you were to stage a protest in their store. Although trespass is not always a criminal offence, landowners have a right to forcibly remove trespassers and, in some cases, demand damages in court.

Generally, though, should you refuse to leave when asked, they will just call the police. If you fail to comply with an officer's orders, you may then be arrested.

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Activists have long used occupations as a tactic for reclaiming space, grabbing attention and creating a base for their cause. Legally speaking, these are a whole different ball game, so do your homework and check out the reading list in this book before setting up camp.



Stop and identify

In certain jurisdictions, there is a statutory power authorizing police to stop someone and legally obtain their identification without needing to have reasonable suspicion of a crime having been committed. Even in "stop and identify" states, there is no legal obligation for the person that has been stopped to provide identification if there is no reasonable suspicion of a crime having been committed.

If the police officer does have reasonable suspicion, and the state has "stop and identify" laws, it is an offense not to identify yourself. The suspicion of a crime having been committed, or about to be committed, must be reasonable and clearly articulable.

At any time a police officer may approach someone on the street and question them, even if there are not grounds for detention or arrest. Often this is with the intention of getting enough information to formulate the reasonable suspicion element of a detention or arrest. A police officer is often not required to notify the person stopped that they don't have to answer any questions, but this can be ascertained by asking, "Am I free to go?" If the answer is affirmative, you are within your rights to leave.

Make sure to ascertain the legal situation in your state.

Stop and frisk

Also known as a Terry Frisk, a name derived from a US Supreme Court case, “Terry” rules allow an officer to briefly detain you if they have reasonable and clearly articulable grounds to suspect you have engaged in, or are about to engage in, criminal activity. These grounds need to be “reasonable” on the basis of a “reasonable police officer”, and determined on the “totality” of the facts.

If you are stopped for a Terry frisk, an officer may conduct a “pat down” of your outer garments and confiscate any contraband in line with the “plain view doctrine.” This means an officer may confiscate any contraband, but only if its presence is immediately apparent.

Keep your cool

If you are stopped and searched under any of these powers, get someone else to record your interaction with the police, if possible. The American Civil Liberties Union (ACLU) provides the following advice to follow if you are stopped for questioning by an officer:

Stay calm. Don’t run. Don’t argue, resist, or obstruct the police, even if you are innocent or the police are violating your rights. Keep your hands where police can see them.

Ask if you are free to leave. If the officer says yes, calmly and silently walk away. If you are under arrest, you have a right to know why.

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 some states, you must give your name if asked to identify yourself.

You do not have to consent to a search of yourself or your belongings, but police may “pat down” your clothing if they suspect a weapon. 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.

Face coverings

For many reasons, activists will sometimes wish to hide their identity. The Constitution guarantees the right to wear masks and face coverings as a “symbolic form of speech” under the First Amendment. In recent years, some states have attempted to restrict the right of protesters to wear face coverings. One such example can be seen in North Dakota, as a response to the Dakota Access Pipeline protests. Such laws are yet to be challenged at the Supreme Court.

Legal helplines

It's impossible to predict whether the police will use their powers at a protest, so preparing yourself and your fellow activists is vital. Create a legal helpline on the day of any action, so that you can keep track of police actions and arrests. Buy a new pay-as-you-go SIM and put it into a phone. Ask someone behind the scenes to monitor it and make notes during a march or action, as witnesses might call in to report incidents on the ground. Make sure this phone number is circulated around. These reports will provide a valuable resource should cases end up in court.

Miranda Rights

In 1966, the US Supreme Court decided the historic case of *Miranda v. Arizona*. In this ruling, it was declared that whenever a person is taken into police custody, he or she must be explicitly told about their Fifth Amendment right not to make any self-incriminating statements.

As a result of this case, anyone in police custody must be told four things before being questioned:

1 | You have the right to remain silent.

2 | Anything you say can and will be used against you in a court of law.

3 | You have the right to an attorney.

4 | If you cannot afford an attorney, one will be appointed for you.

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Your Miranda Rights must be read to you, in full, before you are questioned by the police or an investigator. If you answer questions before these rights are read to you, your statements might be thrown out by a judge in court.

Crowd control

Kettling, or containment, is a technique used by the police to bring large crowds under their control. Kettles can be imposed for long periods of time, so if you're heading to a protest where a kettle might occur, take water, supplies, warm clothes, and your phone.

Some states have laws which allow for protesters to be arrested en masse if they refuse to comply with orders to disperse. If you are ordered to disperse but believe the order may be unlawful, you may be able to challenge the legality of the order at a later date.

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KETTLE

Sometimes referred to as a kettle, containment is a tactic employed by the police to seal off protesters in a given space for a period of time, if they believe it is necessary to prevent disorder or protect public safety.

Facing arrest

Facing arrest is stressful and unpleasant, even if you know you're having your liberty taken away for a cause. In some situations, activists engage in civil disobedience with the expectation of being put in handcuffs. At other times, the police might arrest you before you've even had a chance to pause for thought.

The National Lawyers Guild (NLG) is a grassroots network of lawyers who support people facing legal action for their involvement in protest, and it's worth consulting their advice pages and local chapters for state-specific information.

Here are five tips worth remembering should you find yourself facing arrest, in line with advice from the NLG:

1 | Remain silent—The Fifth Amendment of the Constitution provides you with the right to remain silent. Tell an officer you wish to do this, and seek an attorney immediately. Don't say anything, sign anything, or make any decisions without an attorney.

2 | Personal details—In some states you can be detained or arrested for merely refusing to give your name under 'stop and identify' statutes, if officers have reasonable suspicion that you may have committed a crime. Providing a false name could in some circumstances be a crime.

3 | Find a good attorney—Identify which legal firms in your area, or in the vicinity of the protest, specialize in protest and activism cases. Write their phone number on your arm in case you are arrested, as your belongings may be confiscated. When you are offered the right to legal representation, call them.

4 | What power?—The police often rely on activists not knowing the law or their rights. Always ask under what powers officers are asking you to do something; likewise if they arrest you. The police have a duty to keep you informed. Make a note of who they are and what they say as soon as possible.


5 | Under 18—If you're a minor, you also have the right to remain silent. You cannot be arrested for refusing to talk to the police, although in some states you may have to give your name if you have been detained. If you're detained in a juvenile hall following arrest, normally you must be released to a parent or guardian.



Hold the police to account

Sometimes officers will act wrongly, but even the police aren't above the law of the land. Legal procedures can be tricky to navigate, so if you feel you've been treated unfairly, consult a attorney with experience to look into your case.


You may be able to make a claim against the police if you've been assaulted or mistreated, wrongly arrested, or prosecuted for something you didn't do. Your attorney will be best placed to advise you. This could result in an apology, damages being awarded, or an admission of wrongdoing by the police.



As soon as possible, note down every detail you remember from the incident, including officers' patrol car and badge numbers, which agency the officers were from, and any other details.

Get contact information for any witnesses. Take photographs of any injuries you have incurred.

With this information, you will be able to file a written complaint with the agency's internal affairs division or civilian complaint board. In some cases, you may be able to file a complaint anonymously. This may also result in you taking the police to court.



AND REMEMBER...

PREPARE FOR ALL EVENTUALITIES

Staying on the right side of unjust laws isn't always easy, and even if you do, there is no guarantee you won't end up intimidated, arrested, or under attack. Keeping yourself informed of your legal rights is the best way to ensure you're ready for whatever is thrown at you. Whatever happens, though, remember to stick together: support and solidarity are invaluable if you're facing the full force of the law.



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Find out more about the book here:
<https://smarturl.it/oa-resist>