

# PROTESTERS : KNOW YOUR RIGHTS !



Canadian Civil  
Liberties Association

## Your Right to Peaceful Protest

\*\*During the G20 Summit, the Toronto Police have been granted extraordinary powers within the fenced security perimeter in downtown Toronto and possibly an area extending 5m around it. The police purport that these powers permit them to detain, demand ID and search any person "attempting to enter" the red zone. Failure to comply with a police order can result in an arrest, a \$500 fine or two months imprisonment. **These powers substantially alter the legal information provided below – this information is intended for those OUTSIDE the immediate vicinity of the G20 security fence.\*\***

### ***What is protected?***

The *Canadian Charter* protects the right to peaceful assembly, and almost all kinds of expression, including speaking, marching,

picketing, leafleting, chanting, drumming, wearing t-shirts with messages, etc.

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

Yes. The government can limit expression protected under the *Charter* as long as the limits are justifiable in a free and democratic society. Some of the most important *Criminal Code* offences include a prohibition on inciting others to commit crimes, or inciting hatred against any identifiable group in a way that will likely to lead to a breach of the peace. It is also a crime to publicly and willfully promote hatred against any identifiable group.

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

No, violence towards people or property is not a protected form of expression or protest.

### ***Where can I protest or express myself?***

You can protest on private property with the owner's permission. The *Charter* will protect your expression in some public places like sidewalks, streets and outside some government buildings. Depending on what you are doing where, it may also protect your expression inside some government-owned buildings. This is a difficult area of law, so if you are unsure you should ask a lawyer. It is also important to remember that even if the *Charter* applies, there may be other justifiable restrictions on your right to protest. One common limit is the level of noise you can make, or whether you can

block pedestrians and traffic. If the police have set up a 'designated protest zone', which they sometimes do during large events, you can certainly protest there.

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

As long as you are not obstructing people or traffic, you should not need a permit. There may also be some bylaws that prevent you from using a megaphone or protesting in a park without a permit. If your protest will be big or controversial it is probably a good idea to apply for a permit and notify the police beforehand.  
people.

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

If you are blocking traffic or people without a legal permit, you should consider moving in an orderly manner. If you think your rights are being violated, politely tell the police that you have a right to be there. If they insist, remember that refusing to move could result in you being charged with an offence. Usually the best time to complain about a rights violation is after it happens, not while it's happening.

### ***What about civil disobedience?***

When individuals break the law in a non-violent way in order to draw attention to injustice, they engage in civil disobedience. Non-violent civil disobedience can be an important democratic tool for change. It is also, by definition, illegal conduct, and you can be arrested and charged.

## **Interactions with Law Enforcement**

### ***Do I have to show ID if the police ask for it?***

Unless you are a driver in a car, you only have to identify yourself when you are under arrest, or are being ticketed for some offence. Even then, you only have to give your name and address. If you are under arrest and don't show the police formal identification, however, they may take you to a holding cell you to make sure they have correctly identified you.

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

The police cannot search you or your belongings for no reason. They can search you if you consent, if you are being formally detained, if you are being arrested, if they have a warrant, or if there are reasonable grounds to believe you have evidence, and there are 'exigent circumstances' that would make it impracticable to get a warrant. If you are being formally detained, they can do a pat-down search for safety and, depending on the circumstances, may be able to look inside your bags. If you are being arrested they can do a fuller search for evidence. If you are entering a secure area, they may refuse to let you enter if you refuse to be searched.

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

Yes, and they can go to planning meetings as well. It may be considered an offence to publicly reveal the identity an undercover police officer.

### ***Can police confiscate property?***

The police can confiscate weapons and evidence of a crime – including film or video footage. If the property is lawfully yours, a court should make sure it is returned to you when it is no longer needed as evidence. Make sure you get all the details about the officer that confiscated the property. If you are having trouble getting your property back, contact a lawyer. Keep in mind that if you have been charged with an offence, it will take a long time to get your property back because the police can hold it as evidence until trial, which could be a year or more away.

### ***If you are stopped or questioned by police***

Stay calm and in control. In tense situations, swearing or insulting doesn't help. Keep your hands where they can be seen, and don't make any sudden moves.

Ask if you are free to leave. If the police say no, ask why not. If you are not under arrest or being detained, you can and should walk away.

Calmly refuse any requests to search you, and make it clear you do not consent to being searched. If the police insist, do not resist. The police are allowed to do a pat down search for weapons if they are detaining you. If you are under arrest, they can do a full search for evidence.

If you are not under arrest, you do not have to answer any questions. Do not lie – if you do you could be charged with obstruction.

If you think your rights are being violated, or that the police have engaged in misconduct, do not physically struggle. Deal with the misconduct later.

To help you make a complaint later, be sure to:

- Ask for and remember officers' names, badge numbers, car numbers and/or divisions
- Write down everything that happened as soon as possible
- Try to find witnesses, and get their names and numbers
- If you are injured get medical help, and then take photos

### ***If you are arrested***

If you are arrested you have the right to know why, and to phone a lawyer. Except for telling your name and address, you have the right to remain silent. You do not have to show formal ID, but if you don't you might be held because the police are unsure of your identity.

### ***Things to keep in mind***

- Think and plan things through in advance
- Write important phone numbers on your body in permanent marker
- Do not carry illegal drugs or weapons, even a pocketknife
- If you have an outstanding warrant or problems with immigration status, you may not want to go to the protest