



## Know your rights when covering a protest



*George Floyd Rally at North Park in Burlington, North Carolina in May 2020. Photo by: Anthony Crider (Flickr / CC by 2.0)*

May 29, 2020 Student Press Law Center

Share this:



### Jump to:

- [Twenty tips for staying safe while covering protests](#)
- [Communicating to police that you're a journalist](#)
- [Advice and resources for reporters covering protests](#)
- [Overview of student journalists' right to report on protests](#)
- [SPLC tipsheets and legal resources](#)
- [News stories about student journalists covering protests](#)

The Student Press Law Center firmly believes in the importance of a free press and staunchly defends the right of students to cover protests in their communities.

### Twenty tips for staying safe while covering protests

- 1. Make sure people know where you are going and what you are covering before you go.** Ensure that someone is standing by in the event that you need help. Develop an emergency back up plan and share it in the event that you are arrested or injured (e.g., decide who you will call for legal assistance, identify where the hospital nearest to the protest site is.) Also, inventory what you bring with you in advance and leave a list with a friend (e.g., cellphone, camera, audio recorder.) You'll need as much detail as possible if you are trying to reclaim an item at the jail that's been taken from you.
- 2. Identify an Emergency Contact in advance and call them if needed.** Memorize or write their number in Sharpie on your arm. The Emergency Contact might be an editor, adviser, parent, or spouse. Work out a plan in advance of what they will do in the event you are arrested or injured. Call and text them the moment that it appears things are escalating, because it may be hours before you can get access to a

- phone if you're jailed (and this provides a written record – with time stamp – of what is happening). Carry quarters in case the jail provides only a payphone. Use Twitter and other publicly accessible channels to get the word out widely so people will know where to look for you.
3. **Make sure you bring key safety equipment.** This includes a mask (at least one which will protect against coronavirus), a helmet, goggles, and a bottle of water or milk. You may also want to bring high-protein snacks, a portable phone charger and a small first aid kit.
  4. **If you have specific health conditions which require medication or special care, be sure that it is listed and on your person.** If you are injured, EMTs need to know. Bring back up medication with you.
  5. **Turn off your phone's fingerprint scanner and facial recognition.** You have the legal right not to give your password and police cannot compel you to open the phone with a fingerprint or facial scanner.
  6. **Always work with a "buddy."** Although working alone might draw less attention to yourself as press, it is dangerous to attend a protest solo. Go with a fellow journalist so that you can watch out for each other.
  7. **Wear conspicuous press credentials.** Create a credential for your publication (such as a laminated tag that has your picture, the name of the publication and "PRESS" in big, clear, visible letters.) Carry a photocopy of your press credentials and personal ID with you as well.
  8. **Remember that you are a neutral observer.** Do not participate in the protest activities (including chanting). Wear clothes that will not confuse you with a protester (be sure your shirt doesn't have a slogan or signals membership in any group). Make sure that law enforcement can identify you as a journalist and not confuse you or claim that you were a participating protester.
  9. **Upload photos regularly and back up (or wipe) your data.** There are a number of stories of officials demanding or even physically confiscating reporters' notes, camera equipment or other work products. This is an extremely serious act and, as discussed below, there are important legal protections that may be available to you. In fact, you should rarely, if ever, voluntarily provide your work product to law enforcement or other officials. That's what things like subpoenas are for and there are means for legally contesting such demands. That said, if you are ordered to do so, be sure that you very clearly state your objections, letting the official know that you believe their order is unlawful and that your compliance is involuntary. That said, your cameras will be seized if you are arrested, and even if the memory cards are returned, images may have been (unlawfully) deleted. For all of these reasons, it is a good practice to send photos back to your newsroom (or Cloud) as you can when covering a volatile news event. Back-up your device before you go.
  10. **Practice situational awareness.** Scan your surroundings constantly to monitor what's happening around you. Pay attention to not only the protesters and law enforcement officers in your immediate vicinity but also how crowds are moving. Keep an eye out for potential threats and always consider your escape route. Violence can break out easily in a protest. If a situation becomes dangerous, remember that your safety comes first and the story comes second.
  11. **Never escalate a confrontation** by touching a police officer or directly disobeying a lawful order. Stay as calm and polite as possible.
  12. **Immediately identify yourself as "press" in any interaction with law enforcement.** Identify yourself verbally and show your press credential. Attempt to deescalate any possible confrontation.
  13. **Record any police encounter and go "live"** if your camera is wireless-enabled. Police often provide contradictory narratives of their encounters with reporters and having video evidence of any confrontation with police can make all the difference in holding law enforcement (as well as you) accountable. Use your available tech to record and broadcast encounters with police and ask others nearby to do the same.
  14. **If you are stopped by law enforcement, ask immediately if you are under arrest.** If they do not say yes, then you are free to walk away. Do not provoke an unnecessary confrontation.
  15. **Gather all the information you can about your arrest, assault or encounter (harassment)** — record or videotape the arrest if you can, make sure you know which police agency made the arrest and, if possible, get the names and badge numbers of all officers involved and of any witnesses. Write down the exact location and time of any encounter.
  16. **If you are a minor (under 18) who has been taken to an adult jail, inform officials of your age immediately.** Juveniles may not legally be detained in adult facilities.
  17. **Immediately ask for legal representation** once you are arrested. Do not respond to any questions (even if they seem benign) without an attorney present.

18. **Read the fine print** of anything you are asked to sign — and think very carefully before you sign a “post and forfeit” bond, because that means you are agreeing to admit what you’re charged with and waive a court appearance. Review anything with your attorney.
19. **Demand a court appearance** if you have been held for more than 24 hours without being taken before a judge or magistrate.
20. **When you are safe, contact the SPLC** to inform us of the incident and to strategize about potential next steps.

Download a PDF version of SPLC’s tips to avoid confrontations while covering protests [here](#).

#### Other helpful links:

- The Poynter Institute released [23 guidelines for journalists to safely cover protests](#). Their final point is perhaps the most important: **Safety first, story second**.
- The Reporters Committee for Freedom of the Press has an in-depth legal [guide to covering protests](#) and a quick, accessible [tip sheet](#).
- National Association of Black Journalists made a video message “[Journalism is not a crime](#)”
- The National Press Photographers Association’s General Counsel, Mickey H. Osterreicher, wrote a great piece with lots of [practical advice about covering high conflict news stories](#).
  - NPPA also has a [Safety Help Sheet](#) with advice for journalists in the aftermath of a “critical incident” (including violent or traumatic encounters)
- The Radio Television Digital News Association has issued [Guidelines for Covering Civil Unrest](#).
- Columbia Journalism Review gave advice for what a news outlet should do [when a journalist is arrested covering a protest?](#)
- Muck Rack has a [guide for journalists covering protests](#)
- The National Lawyers Guild [Legal Observer](#) program is geared toward protestors, but you can station yourself near one or ask to be accompanied by an observer.

#### How to communicate to police that you’re a journalist while covering a protest

---

Law enforcement may not be familiar with the student press. They may see you only as students, and not know or understand the essential role of student journalists in covering public events such as protests. This letter and accompanying tips may be helpful in providing law enforcement with evidence of your claims.

[See more](#)

#### Advice and resources for reporters covering protests

---

Student journalists have demonstrated their brave reporting throughout the spread of the coronavirus pandemic and they continue to report bravely at this time of unrest in cities and towns across the country.

That said, **we must stress the importance of safety**. As protests escalate, student journalists face real threats of violence and arrest, not to mention the risk of contracting the coronavirus when social distancing protocols are not observed.

The [U.S Press Freedom Tracker](#) (of which the Student Press Law Center is a member), has documented 26 attacks on journalists in 2020, most of which have taken place between May 26 and June 1. Linda Tirado, a freelance writer and photographer, was blinded in her left eye while covering a protest in Minneapolis. [Julia Lerner](#), a student journalist at the University of Maryland, was chased by police and maced three times while covering protests in Columbus, Ohio, in the early hours of May 30.

Along with the physical attacks, there have been at least a dozen incidents in which equipment was damaged or destroyed. Like all journalists, student journalists need to be extremely judicious in deciding how and whether to cover these protests; commercial news organizations that have hired security details to

accompany crews have not been immune from attack. In general, confrontations have escalated at night and after curfews that have been imposed by government officials.

If you decide that it is not safe to cover a protest, there are other ways to get information, including making contact with student protestors for comment and getting permission to use their photos and video in the context of a news story.

If you do decide to report a protest, you should not go alone and you should maintain situational awareness at all times. Someone needs to be watching out for you and documenting your work as you cover high conflict protests.

Finally, **do your homework and be prepared**. Make sure you have researched and know your rights (the important resources below are excellent compilations); be sure you have key protective and reporting equipment with you; make sure someone knows where you are and where you intend to go; have a back-up plan in case anything happens to you. Stay safe. Report the story, but your safety comes first.

## Overview of student journalists' right to report on protests

---

College campuses and their surrounding neighborhoods regularly are the scene of mass public gatherings, some celebratory and some enraged, some planned and some spontaneous. And in the wake of March for Our Lives, high school students are increasingly staging school walkouts and joining community protests. When police engage in crowd control, journalists – especially students, who may be unrecognized by police officers – often find themselves rounded up and jailed along with the participants they're covering.

It happened to student videographer [Cameron Burns](#) when police swept him up along with protesters marching in opposition to California tuition increases, it happened to college journalists [Judy Kim and Alisen Redmond](#) as they photographed "Occupy Atlanta" demonstrators in 2011, and it happened to student photojournalists [Desiree Mathurin](#) and [Sam Bearzi](#) while covering citizen protests against police violence in New York City. In each case, the journalists endured an uncomfortably long jail stay and had to fight criminal charges just for getting close to the action they were covering – as journalists are trained to do.

At the University of Missouri, student videographers Tim Tai and Mark Schierbecker found themselves unexpectedly at the center of a national news story when [demonstrators demanded that they stop recording](#) in a publicly viewable location on the campus quad – and university employees supporting the protesters escalated the confrontation nearly to the point of violence.

Knowing the law – and how to assert it diplomatically – can help photojournalists and videographers stay out of trouble with law enforcement, or at least minimize the harm if a confrontation occurs.

Your rights can vary depending on where you are standing. If you are standing on a sidewalk, the lawn of a park or a comparable piece of public property that is open to foot traffic, then you have a right to photograph and videotape anything you can see from that vantage point. You cannot be charged with an offense as long as you are not unduly obstructing other pedestrians. But being a journalist is not a license to jaywalk, trespass on private property, block automobile traffic or otherwise violate laws that apply to everyone else.

There is no "right not to be photographed" in a space that is visible to public foot traffic, even in the event of a medical emergency. That includes minors; children do not have any heightened privacy rights in their outward appearance in a publicly viewable space. Even if an "invasion of privacy" does occur, that's not a crime enforced by police that can result in arrest; it is a civil claim that can be brought by way of a lawsuit.

Police never have authority to destroy images or order a photojournalist to do so. Photos are personal property (or property of the employer), and destroying them can lead to both criminal prosecution and financial liability – law enforcement officers [have been successfully sued](#) for wrongful destruction of property for erasing memory cards. If police believe that images were taken in a place where the journalist

should not have been standing, the lawful response is to issue a citation for trespassing, not to destroy the pictures.

The fact that a piece of property is privately owned does not automatically mean no photography is allowed, or that taking photos is an invasion of the subjects' privacy. The lobby of a convention hotel is a privately owned space, but there is no "reasonable expectation of privacy" there, and a person photographed against his will has no claim for invasion of privacy. A photographer who is asked to stop shooting, or to leave the premises, by an employee of the business should comply, but a customer cannot "order" a journalist to stop recording.

The [Privacy Protection Act](#) 42 U.S. Code § 2000aa, is a federal statute that prohibits police from searching private spaces where journalists store their work. Under the PPA, an officer who wants to look into a journalist's car trunk, briefcase or other storage area to inspect the journalist's work product must get a court order after a hearing at which the journalist is represented. While the law was enacted specifically to prevent searches of newsrooms, its wording is broad enough to apply to any space where unpublished work is kept, including the hard drive of a laptop or the memory of a camera.

The Fourth Amendment also provides all citizens, including journalists, with protection against excessively invasive searches of their cellphones when stopped by police. Police cannot "go fishing" for speculative evidence of crimes in the memory of a cellphone, which might contain a journalist's notes or messages from confidential sources. As the Supreme Court [observed in a recent Fourth Amendment case](#) involving the search of a phone: "One of the most notable distinguishing features of modern cell phones is their immense storage capacity. Before cell phones, a search of a person was limited by physical realities and tended as a general matter to constitute only a narrow intrusion on privacy." Journalists who believe their cameras or phones are about to be searched should clearly identify themselves as working members of the news media and invoke both the PPA and the Fourth Amendment.

A handful of states have outdated "wiretapping" statutes that can apply to recorded face-to-face conversations (as opposed to intercepted phone calls, what most people think of as "wiretapping"). But those statutes cannot be applied to criminalize recording a public event where there is no "expectation of privacy." In recent years, two federal appeals courts – in [Illinois](#) and [Massachusetts](#)– have said there is a constitutionally protected right to videotape police doing official business in public.

There is no law against shooting images of the exterior of police stations, courthouses or jails. In fact, the Department of Homeland Security [issued a bulletin](#) to its employees in 2010 telling them to stop hassling photographers who were merely filming outside of quote-unquote "sensitive" federal buildings. Anything visible from the naked eye from a public vantage point – even the headquarters of the FBI – is fair game to photograph.

### SPLC tipsheets and legal resources:

---

- [How to communicate to police that you're a journalist while covering a protest](#)
- [Guide to Covering School Walkouts, Protests and Teacher Strikes](#)
- How to [respond to censorship](#)
- The first section of SPLC's [guide to information gathering](#) is all about student journalists access to places, and dealing with police and first responders
- Student Press Law Center [condemns arrest of CNN crew in Minneapolis](#) as an affront to U.S. democracy and example of racial bias

### Related SPLC News Stories

---

- [Student coverage of racial justice protests](#) (June 4, 2020)
- [Syracuse paper struggles to cover racist, anti-Semitic incidents and student protests when students, admin won't talk](#) (March 3, 2020)
- [Student journalists nationwide cover March for Our Lives rallies](#) (March 24, 2018)