



# Civil Disobedience and Protest

Activists often choose to engage in “civil disobedience.” Civil disobedience is a form of protest that involves breaking the law. What makes civil disobedience different from simple disobedience is that it is breaking the law in order to:

- convince the government or a third party to do or stop doing something;
- demonstrate the seriousness of the issue at hand for the protesters; or
- draw attention to an issue or cause.

Civil disobedience is, by definition, non-violent towards people or property. Activists accept the consequences of breaking the law in order to increase public awareness of an issue. There are many different legal issues to think about when you are participating in civil disobedience, considerations that are not present for regular arrests.

## Planning

It is helpful to make contact with the police and establish a relationship before any major protest action. If you plan civil disobedience, or if people are arrested, your police contact can be a useful source of information before, during and after the event.

The police tend to trade information tactically, which means you should decide before the action what information you want to release. A group spokesperson should be appointed and given a cell phone for the event to encourage communication with the police.

Organizers should ensure activists doing civil disobedience are prepared and trained for potential consequences, including tear gas, pepper spray, and time in jail. Although civil disobedience may result in an *absolute* or *conditional discharge* (s. 730 and 731), activists should also be adequately prepared for the social consequences of a criminal record.

Contacting a lawyer before the demonstration who will agree to represent arrested activists is very helpful. Activists can write the lawyer's number, or an emergency contact number, on their arms in permanent marker to ensure they keep the number after arrest. Make sure your lawyer understands the intent and purpose of civil disobedience and jail solidarity plans that will be practised.

## Common Charges

Knowing common criminal charges can help you prepare for arrest.

Frequently, activists face Mischief (s. 430) charges in conjunction with protests. If police wish, they can enact the "riot act," a part of the *Criminal Code* (s. 67 and 68) that requires people to clear the streets within half an hour of special words being read aloud by police, or risk arrest.

There is significant risk of activists being arrested under *Breach of the Peace* (s. 31) (see page 15 for details). Police may choose to use Breach of the Peace to arrest activists in anticipation of what they believe may be physical violence against people or property.

In addition to regular criminal charges, restitution orders (an order by a Judge to pay for damage caused) have been issued where activists have damaged property.

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CRIMCODE 730, 731, 430, 67, 68, 31

## Recording Information

For demonstrations, it is often helpful to have a video record of police and protester actions. Use caution: any film not belonging to members of the established media is at greater risk of being taken by police as an item that could give evidence of a criminal act. Film can be taken even while it is still in a camera (which means the camera would be taken too).

Badge numbers or names of police officers involved in questionable conduct should be recorded. According to their own internal policies, police must identify themselves if you request that information. If they don't, you may wish to file a police complaint.

## Police Photography and Video

Police often use video cameras at protests. If you make a written request, the police may let you view the evidence they have collected. If you are charged with an offence, you will have the right to see the video and photographs of you taken by the police.

If the police don't let you view the tapes and photos, you may be able to force them to give you copies of images collected by municipal police officers through a request under the B.C. *Freedom of Information and*

*Protection of Privacy Act* (provincial law). Visit [www.oipcbc.org](http://www.oipcbc.org) or call 250-387-5629 for further information (or call Enquiry B.C. for toll-free access).

Images collected by the RCMP can be accessed through the *Privacy Act* (federal law). To request information using this law,

use the forms available on the Federal Privacy Commissioner's (FPC) website ([www.privcom.gc.ca](http://www.privcom.gc.ca)). Call the FPC's office for details at 1-800-282-1376.



### Avoiding Film Seizure by Police

To avoid seizure of film by police, people photographing demonstrations often address and stamp envelopes in advance and drop completed film into mailboxes.

## Jail Solidarity

When a large number of people have been arrested, people engaging in civil disobedience may choose to engage in “jail solidarity.” While this booklet is not the forum for discussing such activities, here are a few important tips.

- Going limp while being arrested is not considered “resisting arrest.”
- Refusal to give names or addresses is often done during jail solidarity. By refusing to self identify after arrest, you risk further charges or increased time spent in jail while police attempt to identify you or negotiate with spokespeople.
- Jailed activists should watch out for potentially vulnerable fellow arrestees who stand out: gay/lesbian/bisexual/transgendered activists, people of colour, youth under 18, immigrants and anyone who might face greater scrutiny or harassment by guards or police once behind bars.
- People should avoid talking about why they were arrested and their guilt or innocence in jail. Police routinely have informants placed in jail populations in these situations.

### Civil Disobedience Handbook

The Environmental Law Centre at the University of Victoria has published a helpful handbook on civil disobedience. To order a copy, call 250-721-8188 or e-mail [elc@uvic.ca](mailto:elc@uvic.ca). The handbook is also available at <http://www.elc.uvic.ca>.



Also see *Protesters' Guide to the Law and Civil Disobedience in B.C.* by Leo McGrady, Q.C. at [www.cupe.bc.ca/pdfs/020308c.pdf](http://www.cupe.bc.ca/pdfs/020308c.pdf)