

Tips on Dealing with Store Employees and the Police

During your demonstration you may encounter employees of either the store your protesting, the property owners (if it's in a mall) or the police. The following will give you some advice on how best to deal with these people. However, this is not legal advice and should not be construed as such. Every situation will be different. If you are concerned about your legal rights or about getting arrested, consult a lawyer. You may be able to find a lawyer who will give you advice *pro bono* (free) by contacting Lawyers in the Public Interest, a network of lawyers who deal with cases involving protests, often *pro bono*.

Your Right to Protest

Protesting within the United States is a right granted by the U.S. constitution — that is, you have the right to free speech. While free speech has its limits, the Supreme Court has upheld the ability of citizens to voice their opinions in many ways. One of those ways is to gather in groups and speak one's mind in public. This does not include private property except in some cases where the owner regularly invites the public onto the property. Some states have upheld the right to protest on mall property, stating that the mall has become, in effect, the new “town square” and should thus be open to free speech. Other states have not agreed and this issue will most likely go to the Supreme Court for a decision that will cover the entire country. But that has not yet occurred, so each state's decision must be followed within that state.

With that said, it has also been declared by the Supreme Court that those practicing free speech must be allowed to have access to their audience (within reason).

There are some things you cannot do. You are not allowed to damage private property belonging to someone else and you are not allowed to impede either people entering or exiting the store or passersby in any way. They must voluntarily decide to stop and listen or to take your information.

So, what does all that mean?

One possible scenario

You and a few friends go to the front of a Target store in New Jersey, which is near a highway within a shopping plaza. You position yourselves to the right and left of the entrance doors and begin to hand out flyers. You are polite and respectful (but not necessarily quiet) and people gladly take your information. You tell them that Target is helping to destroy rainforests and the orangutans that live in them by selling furniture from the endangered rainforests of Indonesia, where illegal logging is rampant and where the forests are estimated to be destroyed by 2010.

Because you have thought about this ahead of time, you have agreed to appoint someone to interact with the store manager and/or the police. Larger actions usually have an appointed police liaison. However, if it's just three of you with a sign and flyers, choose which of you will be the point person with the manager and/or police or have all of you read over all of this and understand it ahead of time.

Within a few minutes an employee comes out and says you're not allowed to be there. You listen to the employee and tell him that you are expressing your right to free speech and that you'd need to talk to a manager. He goes inside and you continue to flyer and chant.

In a minute the store manager comes out and says that this is private property and that you have to leave. You respectfully tell her that you are exercising your right to free speech and simply giving

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information to the public, who Target has invited onto the property, information to which you believe they do not otherwise have access.

The manager argues that you are trespassing and will need to leave. You again state that to the best of your knowledge you are allowed to be there and exercise your right to free speech. The manager goes inside.

At this point the manager may be doing any number of things. First, she will probably contact Target headquarters and discuss the situation. If she is the first manager from whom they are hearing, then it may take some time for them to figure out what they want to do. If, on the other hand, they have already made that decision, then they will immediately inform the manager what to do next. That could be to do nothing or it could be to call the police. The manager will not take steps to have you physically removed.

So, depending on the decision of the home office (or possibly of the individual manager) the police may arrive in a few minutes. They will most likely talk with the manager first but may have a few words with you on the way into the store, asking you who's in charge and what your intentions are.

*When dealing with the police, unless you are expecting to be arrested, you should be polite, interested, sure and respectful. If you disagree with them you can politely say so but, unless you want to be arrested, in all states, **you must comply with the orders of a police officer.** To not do so is a misdemeanor and can lead to your arrest and other charges. That said, you can often negotiate with them if you know your rights.*

The police may tell you to leave or, if you are already on public property already, they may tell the manager that you can remain and they may stay to assure that things don't escalate.

If you are on private property, they may tell you that you have to leave. They may do this with the manager reciting an official request for you to leave and that if you don't you will be considered trespassers. **At this point, unless you *want* to be arrested, you must leave.**

You can then suggest that you continue the protest in the street by the entrance or along the highway or another place where you think you'll have access to people entering the parking lot or passersby (remember, you can let them know that you understand your right to have access to your target audience). *Continuing the demonstration is important as the main idea is to have Target (or another retailer) know that we are damaging their image with the public. Also, it's important that they know that we're smart and that we won't go away just by them calling the police.*

Key points:

No employee of the retailer can arrest you. Only the police can do that.

The public is being invited onto private property and you can assume that you can exercise your right to free speech there unless told otherwise by the police or other law enforcement agent (not including store guards, unless they happen to also be police officers).

By refusing to leave when told by a store employee without the presence of the police, you are not yet trespassing since you are assuming in good faith that you have the right to be there.

Do not engage any customers, employees or police in a violent way (even screaming profanities can be considered as a unlawful behavior). Try to always remain polite and respectful as you state your case forcefully.

Make sure the manager (and the police, if they want it) gets a copy of the flyer, the articles and the **Responses** handout. Building understanding of the problem within the company's own ranks is important. Call us if you have any problems or want to know more about our past experiences.