

UPDATE

**Our privacy statement is changing. Changes will be in effect July 31, 2025.**



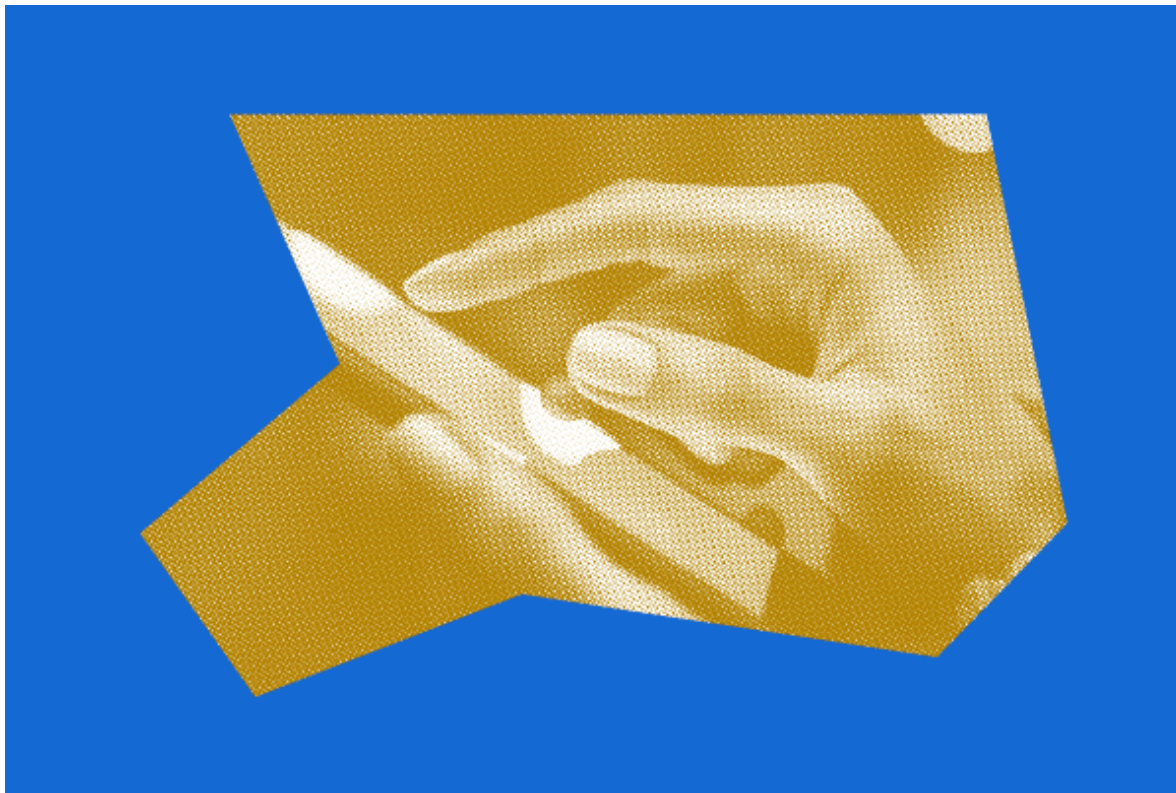
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**KNOW YOUR RIGHTS**

## **Talking to People About Their Rights**

You have the right to share truthful, lawfully obtained information about law enforcement and tell people about their legal rights—even if they’re in trouble. You can also advocate for changes to laws without fear, as long as you’re not directly inciting or aiding and abetting illegal activity. Understanding these protections can help you navigate conversations about our constitutional rights with confidence.

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## **I want to share or document information about law enforcement activity.**

- You have the right to talk about and publicize truthful information you obtain lawfully, including about what officers are doing and where they are doing it.
- Even if the person who initially gathered the information broke the law in getting it, you have the right to communicate the information so long as *you* aren't breaking any laws in getting or communicating it—such as by trespassing or wiretapping.
- When you are lawfully present in any public space, you have the right to photograph anything in plain view, including government buildings and law enforcement. (On private property, the owner may set rules about photography or video.)

- If you are videotaping, be aware that there is an important legal distinction between a visual image (fully protected) and the audio portion of a videotape, which some states regulate under state wiretapping laws.
- Law enforcement officers may not confiscate or demand to see your photographs or video without a warrant, nor may they delete data under any circumstances. However, they may order you to cease activities that are truly interfering with legitimate law enforcement—if you are, for example, physically obstructing their work (and not simply criticizing officers, or sharing publicly-available information).

## **I want to support people who fear enforcement of the law against them, and inform them of their legal rights.**

- You have the right to tell people their legal rights. Much like exercising your rights does not violate the law, explaining to other people what their rights are or how to invoke them does not either.
- You have the right to tell people their legal rights even when the person has broken, or is breaking, a law. Even people who have broken, or are breaking, a law retain legal rights, which can include protections against unreasonable search and seizure and due process rights. And you have the right to inform them of those rights.
- Telling people about their legal rights includes identifying people's rights and explaining them, offering practical advice about one's demeanor when interacting with law enforcement, and suggesting specific words one can say to invoke one's rights or to understand whether one is under arrest.

## **I want to advocate for the law to change.**

- Political speech about what the law ought to be, debate about the law as it stands, and advocacy for change lie at the heart of First Amendment protection. You can say that you think current policy is unjust, you can advocate for specific alternatives, and you can talk about the impacts you are seeing on the people and communities around you.

- You can talk about illegal activity. For example, you can say, “I think this is a bad law and that people shouldn’t be punished for violating it.” That is true even if the government believes you are thereby encouraging or advocating for illegal activity—as long as you are not inciting, soliciting, or aiding and abetting unlawful conduct.

## What are incitement, solicitation, and aiding and abetting?

- The First Amendment does *not* protect incitement or “speech integral to criminal conduct,” including soliciting (asking for) or aiding and abetting (helping) a crime.
- Incitement requires intent, imminence, and likelihood: You must *intend* to provoke another person to *immediately* break the law, and your speech has to be *likely* to do so.
- When it comes to speech, solicitation, aiding and abetting, and other prohibitions on “speech integral to criminal conduct” require intent, specificity, and connection to an actual crime. You cannot be punished for speech under this exception unless you *intend* for someone else to commit a *specific crime*, and your speech *relates in some specific way* to the crime.
  - The Supreme Court explored these requirements in *United States v. Williams*, a case about child sexual abuse material. It explained that saying “I believe that child pornography should be legal” or “I encourage you to obtain child pornography” is protected by the First Amendment, while speech recommending a specific piece of child pornography, with the intent of initiating a transfer, is not. 553 U.S. 285 (2008).
  - In *United States v. Hansen*, the Supreme Court considered a federal law that makes it a crime to “encourage or induce” a person to come to or stay in the United States “in violation of law.” The Court held that the statute only barred *intentional* solicitation or aiding and abetting. In doing so, the Court explained that the statute would not “punish the author of an op-ed criticizing the immigration system, a minister who welcomes undocumented people into the congregation and expresses the community's love and support, [or] a government official who instructs undocumented members of the community to shelter in place during a natural disaster.” 599 U.S. 762, 782 (2023) (cleaned up). And in argument before the Court, the government “represented that it did not believe it could validly prosecute a son who reassures his noncitizen mother (who lives unlawfully in the United States with him and his

family) that she is not a burden on them and that his children love having their grandmother around.” 599 U.S. 762, 808 n.8 (2023) (Jackson, J., dissenting).

- In *Rice v. Paladin Enterprises*, 128 F.3d 233 (4th Cir. 1997), a federal appeals court considered whether the publisher of a technical manual for contract killers could be held liable for aiding and abetting a murderer. The court held that the First Amendment did not shield the publisher because it provided assistance “with *both* the knowledge *and* the intent that the book would . . . be used . . . in the solicitation, planning, and commission of murder and murder for hire.” *Id.* at 248. The court highlighted that the manual included “step-by-step instructions for murder (replete with photographs, diagrams, and narration),” rather than “theoretical advocacy . . . divorced from action.” *Id.* at 249. It concluded that “this detailed, focused instructional assistance to those contemplating or in the throes of planning murder is the antithesis of speech protected” under the First Amendment. *Id.*
- The rules for *conduct* that constitutes solicitation or aiding and abetting may be different than for speech.

## **How can I decrease my risks when telling people about their rights, talking about illegal activity, or reporting on law enforcement activity?**

- As noted above, you have the right to share truthful, lawfully-obtained information about law enforcement activity, photograph law enforcement activity in public view in a public space, and tell people their rights. Your risks are lowest in these categories. Your risks increase and your speech may not be protected by the First Amendment as you move closer to discussing specific illegal activity.
- When you are talking about illegal activity, no one can guarantee that you will not face a prosecution, even if unwarranted, but you are at lowest risk when:
  - you are speaking to the public in general, rather than a specific person;
  - your intent is not to cause someone else to break the law; and
  - you engage in advocacy or provide general information, not specific requests or instructions.

These guidelines don’t mean your speech is *not* protected if you speak to a specific person or offer specific instructions—it may well be; these are simply principles to help lower your risk.

- For the government to argue that your speech is not protected, it must generally establish that you intended a specific listener to engage in specific unlawful activity. Depending on the government's theory, it may also have to show that your speech was very close in time to the illegal activity, that the listener was likely to break the law because of your speech, and/or that your speech in fact helped the person break the law.
  - It is an open question whether solicitation or aiding and abetting civil violations of the law can be punished to the same extent as for crimes. It is safest to assume the same limits divide constitutionally protected speech from constitutionally unprotected speech.
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