



Legal Resources for Managing Security at Private Residences



Table of Contents

Introduction

Page 3

Targeted Picketing Laws

Page 4

Mask Laws

Page 6

Noise Control Ordinances

Page 8

Permit Requirements

Page 10

Signage Restrictions

Page 12

Chalking Restrictions

Page 13

Harassment and Stalking Laws

Page 14

Animal Enterprise Terrorism Act (AETA)

Page 16

Introduction

With the goal of ending the responsible use of animals in research, animal rights activists engage in a broad array of illegal and legal activities which have the potential to negatively affect targeted individuals on both a personal and professional level. As security at research facilities has improved over time, some activists have increasingly shifted their focus from research labs to the private homes of research scientists. Due to the unique nature of private residences, many states and municipalities have enacted laws intended to ensure protests stay within proscribed boundaries.

Protests by animal rights activists at private residences differ from other protests in several regards:

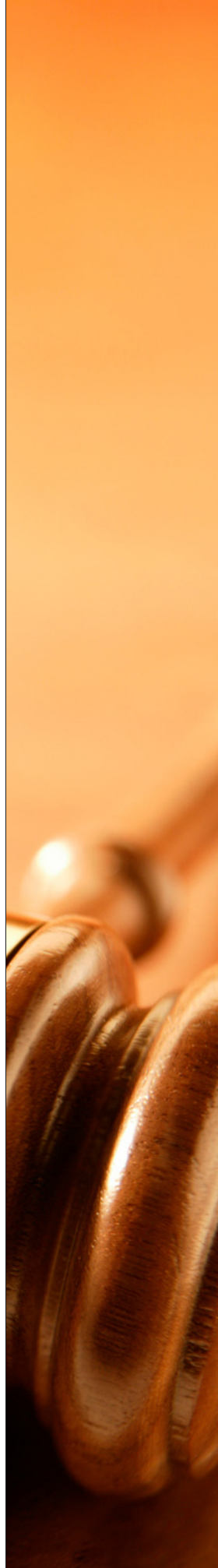
- They tend to take place in residential neighborhoods directly outside a targeted individual's home;
- They target individuals who are private citizens – not public figures;
- They use “guerilla-style” tactics – sudden, aggressive and quick to disperse once the police arrive;
- The protestors often wear masks to intimidate targeted individuals and avoid identification;
- They often take place in the evening – or even in the middle of the night;
- The protests are often extremely loud with activists using sound amplification devices as a means to annoy both the target and neighbors; and
- The protestors return to target the same residences multiple times over a period of weeks or months.

These differences make it essential that police and legal counsel familiarize themselves with state and local laws that can be utilized to properly manage security and minimize the threatening and harassing nature of such activities.

This document is intended to provide an overview of the types of applicable laws that are currently in place in many states and municipalities. It serves as an introductory reference document that researchers, research administrators, legal counsel and law enforcement can use to develop security procedures for residential protests by animal rights activists.

About NABR

Founded in 1979, the National Association for Biomedical Research (NABR) provides the unified voice for the scientific community on legislative and regulatory matters affecting laboratory animal research. NABR works to safeguard the future of biomedical research on behalf of its more than 340 public and private universities, medical and veterinary schools, teaching hospitals, voluntary health agencies, professional societies, pharmaceutical and biotechnology companies, contract research organizations and other animal research-related firms.



Targeted Picketing Laws

Many municipalities, the District of Columbia and at least two states have placed restrictions on or prohibited targeted residential picketing. These jurisdictions recognize that protecting the home is of the highest importance and the practice of targeted picketing in residential areas disturbs residents and has the potential to cause emotional distress, breaches of the peace and other negative effects on the targeted residents and the community at large.



In recent years, animal rights activists have increasingly turned to targeted residential picketing as a means to intimidate researchers using animals. Laws restricting targeted residential picketing may offer some relief as they provide a buffer zone to mitigate some of the negative impacts of such picketing.

Courts that have considered the constitutionality of such laws have generally upheld them when they are content-neutral, narrowly tailored to advance a significant government interest and leave open ample alternative channels of communication. In *Frisby v. Schultz*, the Supreme Court of the United States upheld a targeted residential picketing law and noted that protection of the home is a significant government interest, stating:

The State's interest in protecting the well-being, tranquility, and privacy of the home is certainly of the highest order in a free and civilized society. Our prior decisions have often remarked on the unique nature of the home, the last citadel of the tired, the weary, and the sick, and have recognized that preserving the sanctity of the home, the one retreat to which men and women can repair to escape from the tribulations of their daily pursuits, is surely an important value. [quotation marks and citations omitted]

The *Frisby* court also noted that “One important aspect of residential privacy is protection of the unwilling listener,” and stated that “The First Amendment permits the government to prohibit offensive speech as intrusive when the ‘captive’ audience cannot avoid the objectionable speech.” Animal rights protests at residences often fall into this category, especially when they occur late at night and involve the use of sound amplification devices, such as bullhorns.

Most targeted residential picketing statutes and ordinances regulate the time, place and manner of picketing activity rather than prohibiting such activity entirely. For example, the District of Columbia’s Residential Tranquility Act prohibits targeted residential picketing by three or more persons between the hours of 10:00 p.m. and 7:00 a.m. and requires demonstrators to provide the Chief of Police with notice of the demonstration at least two hours before it is scheduled to begin. These types of restrictions help deter unexpected late night protests.

While targeted residential picketing laws in different jurisdictions use slightly different

Targeted Picketing Laws Cont.

language, most contain three common elements. First, they define terms used, including targeted picketing and residential dwelling. Next they prohibit targeted residential picketing within a certain distance from a targeted dwelling or between certain hours. Finally, they provide penalties for violations and in some cases give police the explicit authority to arrest a person violating the statute.

Below is an example of a targeting picketing law in Riverside, California:

TARGETED RESIDENTIAL PICKETING PROHIBITED

Section 9.54.020 Definitions.

For the purposes of this Chapter, the following meanings shall apply:

- A. The term, “residential dwelling” means any permanent building being used by its occupants solely for non-transient residential uses.
- B. The term “targeted” picketing means picketing activity that is targeted at a particular residential dwelling and proceeds on a definite course or route in front of or around that particular residential dwelling.

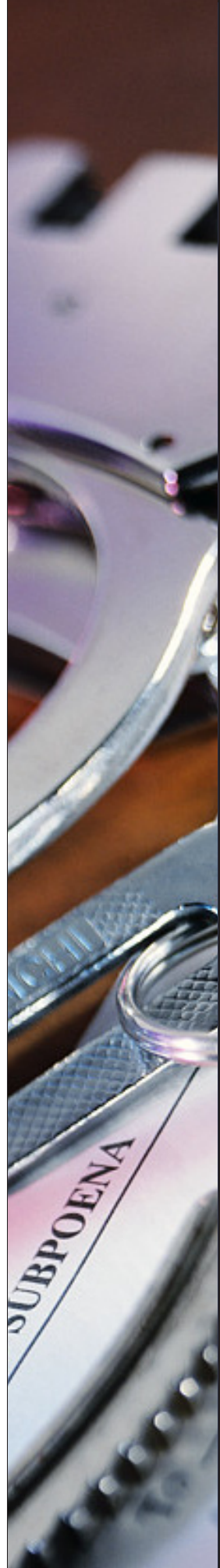
Section 9.54.030 Prohibition on targeted residential picketing.

- A. No person shall engage in picketing activity that is targeted at and is within three hundred feet of a residential dwelling.
- B. This chapter does not and shall not be interpreted to preclude picketing in a residential area that is not targeted at a particular residential dwelling.

Section 9.54.040 Penalty.

Any person violating the provisions of this Chapter shall be guilty of a misdemeanor, punishable as set forth in Riverside Municipal Code Section 1.01.110 thereof.

Targeted residential picketing statutes and ordinances can be a powerful tool in managing security at private residences. When effectively enforced, such laws can insulate researchers and other targeted individuals from direct contact with loud, aggressive protestors.

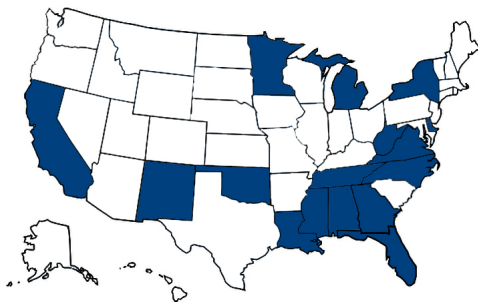


Mask Laws

Over the years, many states and municipalities have enacted laws regarding the wearing of masks, hoods and other devices used to conceal a person's identity in public. State "mask laws" have been in existence in the U.S. since at least 1845. These laws have been enacted for various purposes, including discouraging insurrections and protecting citizens from intimidation by unknown masked individuals. Animal rights activists often conceal their identity by wearing masks and bandanas while engaging in targeted residential demonstrations at the homes of biomedical researchers.



In addition to providing anonymity, masks are worn to intimidate the targeted researcher. Loud, aggressive demonstrations by masked protestors often cause the targeted individual to feel reasonable apprehension from threats or violence. Effective enforcement of mask laws permits law enforcement officers and others on the scene to identify the demonstrators and pursue charges in the case of unlawful actions. Enforcement can also reduce the distress experienced by the targeted individuals and their neighbors.



States with laws regarding the wearing of masks include: Alabama, California, Delaware, District of Columbia, Florida, Georgia, Louisiana, Michigan, Minnesota, New Mexico, New York, North Carolina, Oklahoma, Tennessee, Virginia, and West Virginia. A violation of a mask law is usually a misdemeanor.

Statutes prohibiting the wearing of masks have been challenged on constitutional grounds in several states.

As the statutes in each state vary substantially, the results of these constitutional challenges have been mixed and have depended on the specific language of the statutes. In general, if the mask law is content-neutral, meaning its application does not depend on the speaker's message, it has a greater chance of being upheld as a content-neutral ordinance and is valid "if it is within the constitutional power of the government; if it furthers an important or substantial governmental interest; if the governmental interest is unrelated to the suppression of free expression; and if the incidental restriction on alleged First Amendment freedoms is no greater than is essential to the furtherance of that interest."

Two cases in New York have held that the state's mask law furthers the important governmental interests of deterring violence and facilitating the apprehension of wrongdoers who seek to hide their identity. Since 2001, both the New York City Criminal Court and the Second Circuit Court of Appeals have held that New York's mask law is not overly broad or facially unconstitutional. Moreover, both courts have rejected case-specific challenges that the law was unconstitutional "as applied." The New York statute is part of the state's loitering law and provides that when 3 or more persons with concealed faces gather there is an offense. The statute also provides exceptions for certain circumstances including a "masquerade party or like entertainment." The statute does not, however,

Mask Laws Cont.

require the government to prove the mask wearing is involved with any other criminal behavior.

However, other courts have found mask laws unconstitutional. For example, in 1992 a U.S. District Court in Tennessee held that an ordinance prohibiting parade participants and individuals disseminating literature from wearing masks or disguises, disturbing peace or alarming citizens was unconstitutionally overbroad, where it stifled symbolic political expression protected by First Amendment. The court found that the ordinance was not content-neutral and therefore held it to a more exacting standard of review.

While mask laws in different jurisdictions differ in the language used, most prohibit the wearing of masks in public places and carve out exceptions to avoid constitutional concerns.

The following is an example of a mask law in Georgia:

§ 16-11-38. Wearing masks, hoods, etc.

(a) A person is guilty of a misdemeanor when he wears a mask, hood, or device by which any portion of the face is so hidden, concealed, or covered as to conceal the identity of the wearer and is upon any public way or public property or upon the private property of another without the written permission of the owner or occupier of the property to do so.

(b) This Code section shall not apply to:

- (1) A person wearing a traditional holiday costume on the occasion of the holiday;
- (2) A person lawfully engaged in trade and employment or in a sporting activity where a mask is worn for the purpose of ensuring the physical safety of the wearer, or because of the nature of the occupation, trade, or profession, or sporting activity;
- (3) A person using a mask in a theatrical production including use in Mardi Gras celebrations and masquerade balls; or
- (4) A person wearing a gas mask prescribed in emergency management drills and exercises or emergencies.

Mask laws can be useful in managing security at private residences as they minimize fear caused by masked protestors and allow police officers to identify any person violating laws. In some cases, the absence of masks at residential protests can change the demeanor of the protests. When protestors know they can be identified, they may be less likely to engage in illegal, threatening and harassing behavior for which they know they can later be held accountable in court.





Noise Control Ordinances

Noise control ordinances and public disturbance laws regulate unwanted or disturbing noise that interferes with normal activities such as sleeping and conversation or disrupts or diminishes a person's quality of life. Unwanted noise can lead to stress related illnesses, high blood pressure, speech interference, hearing loss, sleep disruption, and lost productivity. While Congress has enacted several laws relating to noise control including the Noise Control Act of 1972, the Quiet Communities Act of 1978 and provisions in the Clean Air Act, the primary responsibility for addressing noise issues in residential neighborhoods lies with state and local governments.



Most states, local governments and the District of Columbia have statutes prohibiting excessive noise in residential areas and some laws specifically prohibit the use of a bullhorn or other sound amplification devices while on a public street, sidewalk or other public place. Animal rights activists commonly use bullhorns and other sound amplification devices when picketing at the homes of biomedical researchers. When used in residential neighborhoods, these devices, in conjunction with shouting, allow protestors to interfere with the peace, comfort, safety and/or well-being of both the targeted individual and neighbors.

State and local statutes and ordinances typically prohibit sound above a threshold intensity at night, typically between 9 p.m. and 6 a.m., and during the day, restrict it to a higher sound level. However, enforcement is uneven from one community to another. Many municipalities have limited resources available for following up on complaints and enforcement is complicated by the ease at which a violator can adjust noise levels as police arrive. Even where a municipality has an enforcement office, it may only be willing to issue warnings, since taking offenders to court is expensive and time-consuming.

Despite possible enforcement difficulties, laws restricting noise levels, and specifically the use of sound amplification devices in residential neighborhoods, provide law enforcement officers with additional tools to manage security during residential protests. These laws may help prevent targeted researchers and their neighbors from becoming a "captive audience" for animal rights activists.

Noise Control Ordinances Cont.

The following is an example of a noise control ordinance in Boston, Massachusetts that prohibits the use of sound amplification devices and also prohibits sound levels above specified thresholds:

§ 16-26.6 Disturbing the Peace.

It shall be unlawful for any person or persons in a residential area within the city of Boston to disturb the Peace by causing or allowing to be made any unreasonable or excessive noise, including but not limited to such noise resulting from the operation of any radio, phonograph or sound related producing device or instrument, or from the Playing of any band or orchestra, or from the use of any device to amplify the aforesaid noise, or from the making of excessive outcries, exclamations, or loud singing or any other excessive noise by a person or group of Persons, or from the use of any device to amplify such noise provided, however, that any performance, concert, establishment, band, group or person who has received and maintains a valid license or permit from any department, board or commission of the city of Boston authorized to issue such license or permit shall be exempt from the provisions of this section. Unreasonable or excessive noise shall be defined as noise measured in excess of 50 dBa between the hours of 11:00 p.m. and 7:00 a.m. or in excess of 70 dBa at all other hours when measured not closer than the lot line of a residential lot or from the nearest affected dwelling unit. The term dBa shall mean the A-weighted sound level in decibels, as measured by a general purpose sound level meter complying with the provisions of the American National Standards Institute, "Specifications for Sound Level Meters (ANSI SIR 19711)" properly calibrated, and operated in the "A" weighting network. Any person aggrieved by such disturbance of the peace may complain to the Police about such unreasonable or excessive noise. The police, in response to each complaint, shall verify by use of the sound level meter described herein that the noise complained of does exceed the limit described herein and if so, may thereupon arrest and/or make application in the appropriate court for issuance of a criminal complaint for violation of M.G.L. c. 272, S. 53, which sets forth the penalties for disturbing the peace.



Permit Requirements

Many local governments have enacted laws requiring protesters to obtain permits prior to holding a protest, march or rally on a public street or sidewalk. These laws may be useful in preventing “surprise” protests by large numbers of animal rights activists. These laws may also help ensure that police will be present during the protest to minimize the possibility that the protesters will engage in illegal or violent activity.

Permit requirements vary significantly from one jurisdiction to another. While most local governments require permits to hold a protest that requires the closure of a street, some also require protestors to pay a fee for the permit, obtain liability insurance policies and provide up to 30 days advance notice of the protest. When challenged in court, permit requirements have generally been upheld when the scheme is content-neutral, narrowly tailored to serve a significant governmental interest and leaves open ample alternatives for communication. The Supreme Court has held that any permit regulation that allows arbitrary application is “...inherently inconsistent with a valid time, place, and manner regulation because such discretion has the potential for becoming a means of suppressing a particular point of view.” The Supreme Court has ruled unconstitutional permit schemes that vest government decision-makers with uncontrolled discretion in deciding whether to issue a particular permit.

The U.S. Court of Appeals for the District of Columbia stated in *Christian Knights of KKK v. District of Columbia* that when using a public forum, “...speakers do not have a constitutional right to convey their message whenever, wherever and however they please.” Accordingly, the government may regulate a marcher’s use of the streets based on legitimate interests, such as: (1) accommodating conflicting demands by potential users for the same place; (2) protecting those who are not interested onlookers, like a “captive audience” in a residential neighborhood, from the adverse collateral effects of the speech; and (3) protecting public order.

All of these concerns apply to protests in residential areas by animal rights activists, as such protests often cause a disruption in normal ingress and egress from residences and the targets of the protests are quintessential captive audiences.

While some First Amendment concerns have been raised regarding charging fees for protest permits, fee structures are generally upheld when the fees are justified by the administrative and security costs imposed on the city by the protest. While the majority opinion in the

SALT LAKE CITY CORPORATION
DEPARTMENT OF PUBLIC WORKS
DALLAN & EVANS DIVISION

FREE EXPRESSION ACTIVITY
Permit #FREX10-126

Thank you for your application to hold the following activity:

Event Title: Silent Protest

Location: South West Corner of State Street & North Temple / SIDEWALKS ONLY

Event	Date(s)	Start time	End time
Event	October 7, 2010	7:00 PM	8:30 PM
Set-up	October 7, 2010	6:00 PM	7:00 PM
Strike	October 7, 2010	8:30 PM	9:00 PM

As of 10/6/2010 your request has been granted a permit subject to the following stipulations and understandings:

- Please adhere to the following general and event specific conditions for holding an event in SLC.
- The City reserves the right to amend permits.

GENERAL CONDITIONS FOR FREE EXPRESSION ACTIVITIES IN SLC

The permission granted extends only to public property. You are totally responsible for obtaining the cooperation of the owners or residents of adjacent properties. Interference with movement or activities of these owners or residents should be as minimal as possible. You must notify these business owners and residents of the activities as soon as possible prior to the event.

***Permission granted for SIDEWALKS ONLY. Do not spread this event onto State Street.**

A Free Expression permit does not allow the participants to violate the noise ordinance or regulations of either Salt Lake City or Salt Lake County. Please conduct your activity within the confines of the noise ordinances of both governments.

****Noise control generated by a special event and free activity is governed by Health Regulation #21 Noise Control of the Salt Lake Valley Health Department, adopted as law by Salt Lake City Ordinance 2002-010 SLC Code. Please note the Salt Lake Valley Health Department's Noise Control Regulation #2126A-121 prohibits certain noise between the hours of 10 pm and 7 am (City's Noise Control Ordinance states 9 pm to 7 am). You may contact the Salt Lake Valley Health Department at 801-315-6666 for directions concerning**

LOCATION: 338 SOUTH MAIN STREET, SALT LAKE CITY, UTAH 84111-0202
MAILING ADDRESS: PO BOX 14550, SALT LAKE CITY, UTAH 84114-0502
TELEPHONE: 801-330-4110 FAX: 801-330-1271
WWW.SLC.GOV

Permit Requirements Cont.

Supreme Court's *Forsyth County* ruling did not decide whether only nominal charges are constitutionally permissible, four Justices agreed in a dissenting opinion that the Constitution does not limit a parade permit fee to a nominal amount and permits a sliding fee to account for administrative and security costs. In that regard, lower courts have generally upheld the practice of assessing permit fees in accordance with projected police expenses.

Many permit requirements are applicable to animal rights protests. The extent of the requirements to protest vary among jurisdictions with some requiring a waiting time to obtain a permit protest and others simply requiring that the police or city be notified that a protest will be occurring.

For example, Salt Lake County, Utah ordinances provide:

It is unlawful for any person, corporation, partnership, association or other entity, public or private, to organize and hold a special event without first obtaining a special event permit and paying the fees as required in this chapter.

“Special event” means any athletic event, entertainment event, political event, or other organized event whether held for profit, nonprofit or charitable purposes.

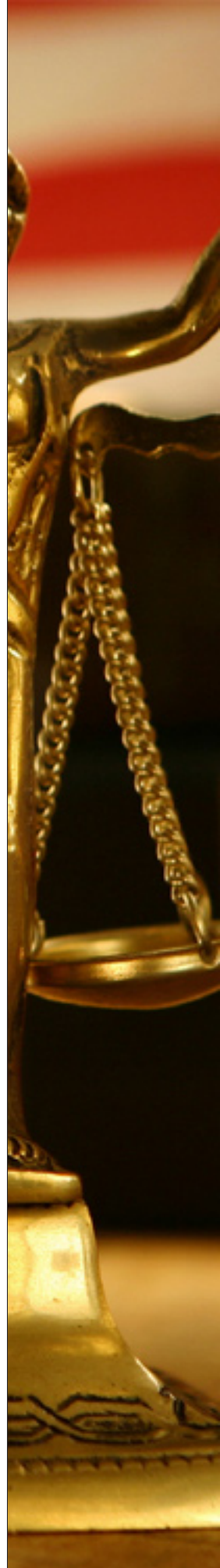
In 2010, the District of Columbia enacted an ordinance that requires a person seeking to engage in a residential protest to provide the police department with notification of the location and time of the protest. It states:

Sec. 3. Engaging in an unlawful protest targeting a residence.

(a)(1) It is unlawful for a person, as part of a group of 3 or more persons, to target a residence for purposes of a demonstration:

- (A) Between 10:00 p.m. and 7:00 a.m.;
- (B) While wearing a mask; or
- (C) Without having provided the Metropolitan Police Department notification of the location and approximate time of the demonstration.

(2) The notification required by paragraph (1)(C) of this subsection shall be provided in writing to the operational unit designated for such purpose by the Chief of Police not less than 2 hours before the demonstration begins. The Metropolitan Police Department shall post on its website the e-mail and facsimile number by which the operational unit may be notified 24 hours a day, and the address to which notification may be hand delivered, as an alternative, during business hours.



Signage Restrictions

Some local governments have enacted restrictions on the size and number of signs a person can carry during a protest, march or rally. A city's authority to regulate signs comes from its police power. However, since signs are a form of communication, that authority is limited by free speech provisions of state constitutions and the First Amendment.



Animal rights activists commonly carry and wave signs at residential protests. In some cases protestors have brought large signs that increase the intimidating nature of the protest. While sign size and number limitations are intended to keep sidewalks clear, ensure traffic safety and prevent visual clutter, these limitations may also help decrease intimidation during protests. As the U.S. Circuit Court of Appeals for the Ninth Circuit noted in *Foti v. City of Menlo Park*, "A fifteen square foot sign carried by a protester on a public sidewalk, when compared to a three square foot sign, may block drivers' views of road signs and traffic conditions, intimidate pedestrians, and obstruct the safe and convenient circulation of pedestrians on the sidewalk. Numerous signs propped against a bus stop or carried by one person on the sidewalk may impede pedestrian flow or create a safety hazard."

In general, courts have upheld reasonable, narrowly tailored and content-neutral restrictions on the size and number of signs permitted to be carried during a protest. Despite the objectionable and misrepresentative nature of some activists' signs, content restrictions will generally not be upheld if such restrictions are challenged. While jurisdictions vary on the permissible size of signs permitted, the Menlo Park, California ordinance below is instructive.

§ 8.44.030 Restrictions.

(a) Except as otherwise permitted by this chapter, no sign may be posted, attached, painted, marked, or written on, or otherwise affixed to or placed upon public property or displayed in the public right-of-way. As used herein, "public property" includes, but is not limited to: highways, streets, roadways, crosswalks, curbs, curbstones, sidewalks, utility poles or boxes, hydrants, street lights, public buildings and structures, parks, recreation areas or other landscaped grounds owned or maintained by a public agency...

8.44.020 Scope.

...

(c) Nothing in this chapter shall apply to:

...

(5) Signs carried by an otherwise lawfully present person; provided however, that a person located upon a public street, sidewalk or walkway may only carry a single sign which does not exceed three (3) square feet in area;

Chalking Restrictions



In a recent D.C. Circuit Court of Appeals decision, the Court upheld a District of Columbia law that prohibits the chalking of a public sidewalk. Sidewalk and street chalking often occurs during animal rights protests when activists - sometimes dressed in all black clothing and wearing bandanas to hide their faces - write defamatory messages in front of targeted residences.

While street and sidewalk chalking is expressive conduct and sidewalks are traditional public forums, anti-defacement laws such as the one in the District of Columbia are generally content-neutral and prohibit writing, marking, drawing, or painting without reference to message. Such laws are also narrowly tailored to control the esthetic appearance of public streets and sidewalks and leave open ample alternatives for activists to communicate their messages. As the D.C. Court stated in its recent decision: “In sum, the Defacement Statute is content neutral, and substantially justified by the District’s esthetic interest in combating the very problem Mahoney’s proposed chalking entails—the defacement of public property.”

Below is the text of the chalking restriction in the District of Columbia:

§ 22-3312.01. Defacing public or private property.

It shall be unlawful for any person or persons willfully and wantonly to disfigure, cut, chip, or cover, rub with, or otherwise place filth or excrement of any kind; to write, mark, or print obscene or indecent figures representing obscene or objects upon; to write, mark, draw, or paint, without the consent of the owner or proprietor thereof, or, in the case of public property, of the person having charge, custody, or control thereof, any word, sign, or figure upon:

- (1) Any property, public or private, building, statue, monument, office, public passenger vehicle, mass transit equipment or facility, dwelling or structure of any kind including those in the course of erection; or
- (2) The doors, windows, steps, railing, fencing, balconies, balustrades, stairs, porches, halls, walls, sides of any enclosure thereof, or any movable property.

In recent years, writing defamatory messages in chalk in front of researchers’ homes has become common during animal rights protests. Researchers and legal counsel should ensure they are familiar with the contours of their local ordinances, as local police may not be aware of the existence or scope of laws prohibiting such activity.



Harassment and Stalking Laws

Over the years, animal rights extremists have engaged in a variety of activities at researchers' homes that cross the line from legal activism to illegal activity. Depending on the actions of the extremists involved, some activities may fall within the scope of state or federal harassment and stalking laws.

Every state and the District of Columbia has a law prohibiting harassment and stalking.

Harassment and stalking

have varying definitions depending on the state and law addressing them, but generally harassment includes attempts to impose unwanted communication and/or contact upon a victim, or any conduct which would cause alarm, intimidation, or reasonable fear of bodily injury or death. Stalking is often used to define a particular type of harassment which occurs persistently or repeatedly, and includes attempts to establish direct contact with the victim and indirect contact through family or friends.

A relatively new but quickly growing field of concern for many researchers is that of cyberharassment. At least 46 states have enacted "cyberstalking" or "cyberharassment" laws, or explicitly include electronic forms of communication within traditional stalking or harassment laws. In several recent cases, researchers have been harassed and stalked online by animal rights extremists prior to becoming the target of physical harassment at their homes.

Animal rights activists often claim that their activities and statements are protected by the First Amendment. However, the First Amendment does not inhibit a state's ability to prohibit "true threats" to commit an act of unlawful violence against an individual. The Supreme Court has held that a "true threat" is one where the speaker "should have reasonably foreseen that the statement he uttered would be taken as a threat by those to whom it is made." In accordance with this standard, harassment laws generally prohibit true threats.

Remedies for harassment and stalking generally include criminal charges against the perpetrator as well as restraining orders to protect the victim. Restraining orders and criminal charges have proven effective against animal rights extremists who repeatedly harass and stalk individual researchers. In several cases, animal rights extremists have received significant sentences for this type of activity.



Harassment and Stalking Laws Cont.

In addition to state harassment and stalking laws, the Federal Interstate Stalking Act provides additional protection to victims of this type of activity. This law, in conjunction with the federal Animal Enterprise Protection Act (now the Animal Enterprise Terrorism Act), was integral to the prosecution of the animal rights extremist organization Stop Huntingdon Animal Cruelty (SHAC) and several members of the organization.

The Federal Interstate Stalking Act provides:

18 USC § 2261A - Stalking

Whoever—

(1) travels in interstate or foreign commerce or within the special maritime and territorial jurisdiction of the United States, or enters or leaves Indian country, with the intent to kill, injure, harass, or place under surveillance with intent to kill, injure, harass, or intimidate another person, and in the course of, or as a result of, such travel places that person in reasonable fear of the death of, or serious bodily injury to, or causes substantial emotional distress to that person, a member of the immediate family (as defined in section 115) of that person, or the spouse or intimate partner of that person; or

(2) with the intent—

(A) to kill, injure, harass, or place under surveillance with intent to kill, injure, harass, or intimidate, or cause substantial emotional distress to a person in another State or tribal jurisdiction or within the special maritime and territorial jurisdiction of the United States; or

(B) to place a person in another State or tribal jurisdiction, or within the special maritime and territorial jurisdiction of the United States, in reasonable fear of the death of, or serious bodily injury to—

- (i) that person;
- (ii) a member of the immediate family (as defined in section 115 [1] of that person; or
- (iii) a spouse or intimate partner of that person;

uses the mail, any interactive computer service, or any facility of interstate or foreign commerce to engage in a course of conduct that causes substantial emotional distress to that person or places that person in reasonable fear of the death of, or serious bodily injury to, any of the persons described in clauses (i) through (iii) of subparagraph (B); [2] shall be punished as provided in section 2261 (b) of this title.

Effective enforcement of harassment and stalking laws should be integral to assuring the protection of private residences. Legal counsel, researchers and law enforcement should be familiar with their state's laws and remedies in the event a researcher becomes the target of harassment or stalking by an animal rights extremist.



Federal Animal Enterprise Terrorism Act

In response to threats and violence towards research facilities and individuals, Congress enacted the federal Animal Enterprise Terrorism Act (AETA) in November 2006. The legislation, which received broad bipartisan support in both the House and Senate, strengthened the Animal Enterprise Protection Act of 1992 by expanding the coverage of the law to include individuals and their families, and increased the penalties for violations.



The AETA is a critical tool for managing security at private residences as it is the only federal law specifically designed to protect individuals involved in research from threats, acts of vandalism, property damage, criminal trespass, harassment and intimidation that place them in reasonable fear of death or serious bodily injury. The AETA has proven to be a powerful deterrent of illegal actions towards individuals involved in research. Since its enactment in 2006, the frequency and severity of illegal actions in the U.S. has decreased significantly.

Animals rights activists have alleged that the AETA prohibits First Amendment-protected activities and speech. However, the AETA includes specific language ensuring First Amendment-protected activities are not prohibited. A California federal court that addressed the issue upheld the AETA stating, “A true threat is what the AETA describes...the AETA is aimed at holding accountable individuals intending to damage or interfere with the operation of animal enterprises from intentionally placing people in fear of death or serious injury.”

In December 2011, five animal rights activists filed a lawsuit challenging the constitutionality of the Animal Enterprise Terrorism Act (AETA) in the Massachusetts Federal District Court. NABR, joined by eleven other organizations, filed an amicus brief arguing for dismissal of the case and urging the court to find the AETA constitutional. The brief argues the law is a measured and important response to threats, harassment, intimidation and other illegal actions committed by animal rights extremists against research facilities and scientists who conduct life-saving research with laboratory animals. The court dismissed the case in March 2013 after determining that lawful advocacy is not prohibited by the AETA and finding that the activists had no standing to challenge the constitutionality of the law, since they failed to allege an “intention to engage in any activity ‘that could reasonably be construed’ to fall within the statute.”

AETA Cont.

The key provisions of the federal AETA provide:

18 USC § 43 - Force, violence, and threats involving animal enterprises

(a) Offense.— Whoever travels in interstate or foreign commerce, or uses or causes to be used the mail or any facility of interstate or foreign commerce—

(1) for the purpose of damaging or interfering with the operations of an animal enterprise; and

(2) in connection with such purpose—

(A) intentionally damages or causes the loss of any real or personal property (including animals or records) used by an animal enterprise, or any real or personal property of a person or entity having a connection to, relationship with, or transactions with an animal enterprise;

(B) intentionally places a person in reasonable fear of the death of, or serious bodily injury to that person, a member of the immediate family (as defined in section 115) of that person, or a spouse or intimate partner of that person by a course of conduct involving threats, acts of vandalism, property damage, criminal trespass, harassment, or intimidation; or

(C) conspires or attempts to do so;

shall be punished as provided for in subsection (b).

...

(e) Rules of Construction.— Nothing in this section shall be construed—

(1) to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the First Amendment to the Constitution;

Today, the AETA provides greater protection for the biomedical research community and their families against intimidation and harassment, and addresses for the first time in federal law, campaigns of secondary and tertiary targeting that cause economic damage to research enterprises and threaten individuals involved in research.

DISCLAIMER:

This document is intended to provide general information about the laws that may be useful for managing security at private residences. It does not provide legal advice, nor is the information it provides a substitute for legal advice. You should contact an attorney for legal advice and other legal services.





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