

Legal Observer Guide

Legal observers watch and record the actions of all law enforcement officers*. The presence of legal observers helps keep people safe by discouraging police attacks. The information you collect can also be useful in criminal defense of protesters or in suing police or other government agencies. This guide is geared for legal observing at demonstrations, but it is also important to watch police outside of protest situations. Whenever you see police making an arrest or acting inappropriately, stop and take notes.

The cops are at demonstrations to observe and deter actions of the protesters. As a legal observer, you are there to observe and deter the cops. Even though protesters are usually more interesting to watch, make sure you're paying attention to the cops at all times. Also, be careful to represent yourself to the police and media as an observer, not as a spokesperson for other activists.

Work in pairs to corroborate each other's testimony and to keep each other safe. If one person is using a still camera or video camera, their partner should be taking written notes. And since people using cameras often get "tunnel vision," their partner should be keeping an eye out for danger or activity.

Preparation

Knowing what type of demonstration you will be observing (mass permitted rally, small direct action, etc.) will help you prepare yourself appropriately. If you're unfamiliar with the area where you'll be observing, spend some time learning key street names and landmarks as well as orienting yourself by compass directions. Also, make sure you have any phone numbers you'll need handy: the National Lawyer's Guild, organizers of the protest, Legal Observer Coordinator, legal team, legal support person, medical team, etc.

Practice

Television culture makes people very passive observers. To hone your active observation skills, practice by taking notes or making a running commentary of everyday events. You can improve your ability to estimate distances by marking off increments on the sidewalk and memorizing them, or by estimating distances and checking with a tape measure.

Equipment

- Notebook(s)
- Pens (waterproof ink – it could rain water or pepper spray)
- Watch
- Legal Observer Hat/T-shirt/Armband
- Extra water
- Optional
 - Tape recorder (& extra battery & extra tapes)
 - Still camera (& extra film)
 - Video camera (see the attached Video Observing guide)
 - Cell phone, radio, or pager

At large demonstrations, it's good to have a cell phone, radio, or pager so you can quickly communicate when someone gets arrested, to verify/debunk rumors, etc. If you don't have one, try to team up with someone

* We use the terms "police" and "cops," but this info is true for all law enforcement officers of all jurisdictions.

who does. If there is a Legal Observer coordinator, make sure they have your number.

In some states, you must give people notice that you are recording them with video cameras, tape recorders, etc. However, you don't have to announce it – having the device in plain view is notice enough. Be careful: ***Having a tape recorder and especially a video camera makes you a cop magnet.***

In order to keep your notes, tapes, and film safe from the elements and from overzealous cops, you can periodically mail them to yourself or to the legal team, or have a runner who can take sensitive footage (or your whole camera) and run away with it.

Taking Notes

It sounds easy, but taking real-time notes when events are unfolding quickly is a skill that takes some practice. The information you collect could mean the difference between conviction and dropped charges for activists (and cops). The easiest way to make your notes useful for the legal team is to transfer them to a police misconduct report or copy them in an organized, legible format. Do this as soon as possible after the action, before your memory fades.

Number and date each page you take notes on and write “Attorney Work Product – Privileged and Confidential” on top of each sheet. Do this *before* the demonstration. By each entry, write the exact time. If you are taking pictures, write the roll number and shot number by the entry to give it context.

Some things to note:

- Name, rank, badge number, agency, and description of each officer present, and of the commanding officer (note if officers refuse to give this information)
- Name or nickname of arrestees and victim(s) of misconduct
- Names and contact information of any witnesses, including media (corporate or independent)
- ***Any*** force used by cops – pushing, shoving, blocking protestors with their bodies, grabbing arms, tripping, striking people, etc.
- Detailed description of arrests and anything the cops do that seems messed up
- Which weapons police used and how (e.g. Protesters drenched with pepper spray, tear gas canisters fired directly at someone, horses used to run into people, etc.)
- Police equipment and weapons (body armor, shields, pepper spray, tasers, etc.)
- License plate and ID # of official vehicles, or private cars moving through the demonstration
- Police actions and demeanor (e.g. marching around rhythmically thumping their leg armor with their batons, putting on or taking off gas masks etc.)
- Any inappropriate language, including swear words, identity-based insults (racist/sexist/homophobic, etc.), and rude language (“You idiots,” “Moron,” etc.)
- Not warning people to disperse before arresting them, refusing to let them disperse, etc.
- Warnings not audible and/or intelligible
- Exact date, time and location – update this throughout the demonstration
 - Include street names, address #s, landmarks, what side of the street you're on, etc.
- Statements made by police and other officials

- If bystanders are taking leaflets, talking with protestors, and other 1st Amendment activities
- If the *cops* are blocking traffic – with their vehicles, hand motions, etc.

Video Observing

Video of police misconduct has been crucial to winning cases against the cops. Video can show a whole scene from beginning to end. It's a lot harder for the police to make excuses for footage of sustained aggression and violence than it is for them to excuse a single photo. And the media loves video of police brutality. Here are some tips to help you make the most of videotaping the cops.

Battery Care:

Charge your battery before the action and bring a fully charged spare. When you take the battery out of your camera, it may disrupt the date and time stamp, so you may have to reset that information. Remove the battery when storing the camera to prolong battery life.

Date/Time Stamping:

Setting your camera clock is extremely important. If other people haven't set their camera clocks properly (very likely!), your tape may provide the timeline to which all other tapes of an incident can be synchronized. Make sure your camera's date/time stamp is set accurately before you go to the action. Setting the clock to your cell phone is a good idea.

If you're using mini-DV tapes, you don't have to make it visible in the video, because it's embedded in the tape. Making the time stamp visible makes it potentially easier to use as evidence later on in court; making it invisible will prevent the time stamp from visually covering up something you want to video. If you're using a camera without date/time stamping, narrate the information at the beginning and end of each segment: "It's now 9:30am on September 3, 2007. . ."

Lead Time:

The tape at the very beginning and end of your cassette will have more imperfections and sound/color irregularities. Allow one minute to run at the beginning of a new tape before you start recording. If you're near the end of your tape and like what you're recording, insert a new tape.

Frame and Establish:

Before (or after) shooting each event, pan in (or out) from street signs, building addresses or other landmarks to prove your location. Shoot long (10 or more seconds) shots for important scenes. Also consider shooting from better vantage points, like a second-story window. It helps if you've scouted out the location beforehand.

Audio:

Even without a good shot, the audio portion of your video tape may provide evidence needed to win a case. Don't stop recording just because you can't see well, or cops tell you to stop pointing the camera at them.

Focus: If a drop of water gets on the lens, the camera may focus on that drop instead of on the action. Carry lens paper and clean your lens frequently. With experience, practice using manual focusing. That way, if someone walks in front of the lens for a second, the camera will stay focused on the action.

Content:

Remember that the State will be able to use all the footage on your video tape in court. So if you're recording police misconduct, replace your tape when you're finished filming the scene. If possible, NEVER film protesters doing things that seem illegal or dangerous; if footage of police brutality is on the same tape as protesters doing something that could be considered aggressive, the cops can claim they were using reasonable force. Besides, the police will already be videotaping anything they think is suspect. Also, announce to activists you're recording and ask if it's okay. Don't take it personally if people are suspicious or seem hostile.

Labeling:

Label your tape cassettes or film cartridges before you go out. Include your name, date, time and location. Number tapes consecutively. Make a few labels in case you record multiple tapes.

Keeping Footage Safe at the Action:

People with video cameras are often targeted by cops for arrest or abuse — cops often want to destroy your footage. Try to video observe with a partner who does not have a camera – that way your partner can look out for you and spot things for you to record. If you're going to be in high-risk situations, you may want to bring self-addressed, stamped, padded envelopes with you so that you can drop completed tapes in the mail to yourself (or the legal team).

Storage:

Digital video tape is like tiny flakes of rust glued to a spool of saran wrap. *It's very fragile.* Store all tapes in a cool, dry place. Heat and humidity are especially bad for video tapes, so keep them out of car trunks or damp basements. Never re-use old tapes for video observing; bits of old footage on your tape could make your recording worthless in court.

Lawyers:

For various legal reasons, lawyers may not want to watch your tapes right away. *Hold on to them.* It's not uncommon for lawyers to ask for evidence months or even years later. Even if it doesn't seem important, keep your tapes for at least three years after the action.

*Much of this info came from Eileen Clancy at I-Witness Video (iwitnessvideo.info)
and Whispered Media (whisperedmedia.org)*