



# Defending Protesters Facing Criminal Charges – An Overview

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I WILL NOT  
GO QUIETLY  
BACK TO THE  
1950s.

WE  
THE  
PEOPLE  
ACLU

YOU ARE  
NOT  
POWERLESS

CHANGE  
the  
POLITICS  
not the  
CLIMATE

THE RISE  
OF WOMEN  
THE RISE  
OF A NATION

TRUMP'S PUPPET

PRESIDENT!

WHAT  
SHE SAID

WOMEN  
MARCH

WOMEN  
MARCH



MY



# Protesting as Informed Choice

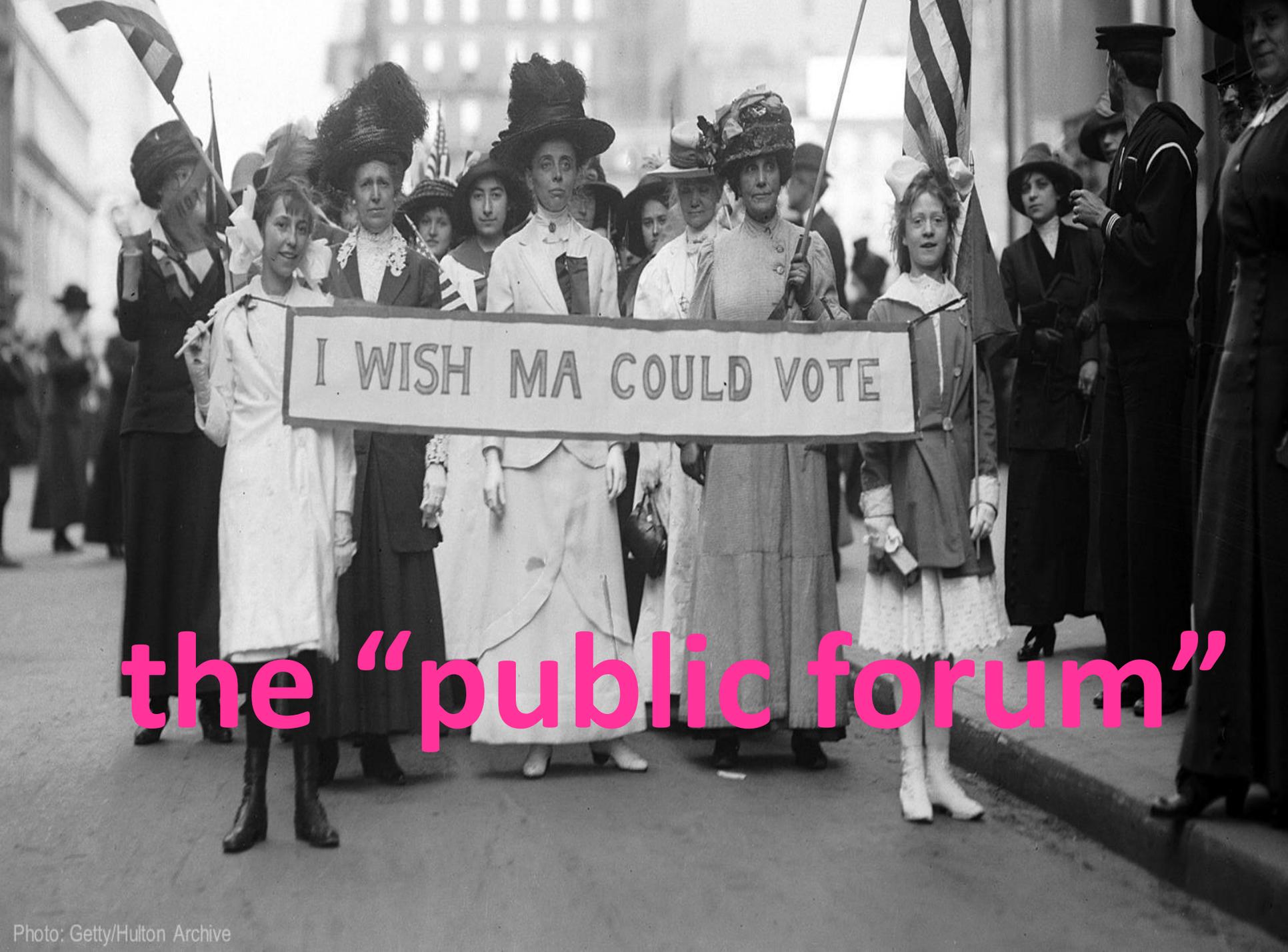
- **Before protest:**
  - Assess client's tolerance (or desire!) for arrest
  - Civil disobedience or constitutionally-protected protest?
- **After arrest:**
  - Plead or fight the charges?
  - Constitutional claims
  - *Alford* pleas



**Protest Rights**

**are**

**Property Rights.**



I WISH MA COULD VOTE

the “public forum”

“ streets and parks...have immemorially been held in trust for the use of the public and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions.”

**—*Hague v. C.I.O.***  
Supreme Court, 1939





TRUMP TOWER

TRUMP  
HILL  
TRUMP  
Cafe  
Trump  
the GREAT  
Taste  
The  
TRUMP  
Club

725

OTOMIXI

sidewalks

THIS  
PUSSY  
VOTES

PUSSIES

TRUMP  
HANDS OFF  
MY BODDY

#TRUMP  
ALL

TRUMP  
PAPS

MY LOVE  
MY CH



parks

WALKING  
WHILE  
BLACK:  
PUNISHABLE  
BY DEATH  
WITHOUT  
TRIAL

Black  
Lives  
Matter

Black Skin  
is not a  
WEAPON

I  
CAN'T  
BREATHE

JU  
FOR

**...and other  
government  
properties**



# airports



SOLIDARITY  
EQUITY

1. The human body has a natural ability to regulate its temperature. It is not a machine. It is a living organism. It is not a machine. It is a living organism. It is not a machine. It is a living organism.
2. Transgender people are not a threat to public safety. They are not a threat to public safety. They are not a threat to public safety.

WOMEN'S RIGHTS ARE HUMAN RIGHTS

WOMEN'S RIGHTS ARE HUMAN RIGHTS

WELCOME

PATRIOTIC

OUR JEWISH FAMILY  
STANDS WITH  
MUSLIM REFUGEES  
AND  
MUSLIM AMERICANS

courts





# gov't meetings

Photo: Nicki Kohl-Telegraph Herald via AP

**Protest Rights**

**are**

**Property Rights!**

**When in public spaces where  
you are lawfully present  
you have the right to photograph  
anything that is in plain view.**

# constitutional issue spotting



# constitutional issue spotting:

- First Amendment violations
  - Facial (ACLU)
  - As applied (defense counsel)
- Due Process violations
  - Actual notice and opportunity (failure to disperse)
  - Individual proof/mens rea (rioting, property damage)
  - Vagueness
- Fourth Amendment violations
  - Seizure of video or cell phone evidence without warrant
- Excessive Force



ACLU  
WE  
THE  
PEOPLE

ACLU  
DISSENT IS  
PATRIOTIC

NO BAN



BECAUSE FREEDOM CAN'T PROTECT ITSELF

[aclu.org](https://www.aclu.org)