



ACLU – PA LEGAL OBSERVING PROGRAM OVERVIEW

Legal observing programs are at least 30 years old. Their purpose is to help people exercise their rights to speak, assemble, and petition the government for redress of grievances. There are instances where police, protesters (or counter demonstrators) engage in disruptive behavior. Legal observers are on the scene to record what happens. Often the presence of observers can have a calming influence on the situation, as some police and protesters are reluctant to be observed engaging in disruption. However, observers are not peace-keepers.

The ACLU of Pennsylvania's legal observing program builds on the experience and resources of The National Lawyers Guild, which has organized observing programs in major metropolitan cities for many years. In Pennsylvania, our focus is on expanding the program to areas not covered by the NLG. We are working with ACLU chapters and members to build observing teams throughout the state.

This memo provides a general overview of a legal observing program. It does not address how to handle all situations; neither is it a substitute for a training session.

LEGAL OBSERVER BASICS

- What is a Legal Observer? A legal observer's job is to be a *neutral* observer and to document, as thoroughly as possible, any incidents, arrests, or official misconduct during a protest. Legal observers normally work in teams.
- What is a Legal Observer Coordinator? The legal observer coordinator is the on-site leader for each team of legal observers and serves as the liaison between police, protesters, and the ACLU. As such, the coordinator will introduce him/herself to both the police and the protest organizers to let them know that a team of people will be observing and to find out whether they need to be aware of any particular issues. If there are peacekeepers (people who the protest organizers have designated to address problems with counter-demonstrators or the police), the coordinator will meet with them as well. The coordinator will be available to assist legal observers throughout the protest and will collect legal observer report forms and hats when the protest is finished.

WHO CAN BE A LEGAL OBSERVER

- You need not be an attorney to be a legal observer.
- You must be willing to be outside for a couple of hours at a time, pay careful attention to events, and carefully document occurrences in detail.
- You must also be willing to testify as a witness should the activities you observe lead to legal proceedings. A main purpose of having legal observers is to create credible, impartial witnesses in the event an incident becomes the subject of a legal proceeding.
- If you intend to participate in acts of civil disobedience on other occasions that are likely to subject you to arrest, you should not serve as a legal observer. If you are called to testify as a witness, such activities could call into question your credibility and/or impartiality.

- If you have any outstanding traffic tickets, warrants, immigration issues, etc. you should not serve as a legal observer. If you are called to testify as a witness, you may be arrested for any previous violations upon entering the courthouse.

LEGAL OBSERVING PROCEDURES

- Have the right supplies, including:
 - 1) Pen and paper, as well as ACLU Legal Observer Report Forms
 - 2) Your legal observer team coordinator's cell phone number
 - 3) Your Legal Observer hat
 - 4) A cell phone
 - 5) A camera or video camera, if possible. If you do not have a cell phone, make sure you bring a fair amount of change and locate the payphone nearest the demonstration site. Also make sure any personal cameras or video cameras used are covered on your home/rental insurance in case they are seized.
- Introduce yourself to the other legal observers, and work together to make sure that as much of the demonstration is being observed as possible. Stay in contact with one another throughout the protest so that you can alert each other to potential problems.
- Separate yourself from the protest, but stand close enough that you can hear and see what is happening.
- Again your job is to document, as thoroughly as possible, any incidents, arrests, or misconduct (by police or protesters) that take place. Document everything the police and protesters do as thoroughly as possible. The ACLU of Pennsylvania considers any notes, photos, or videos taken at protests to be confidential and privileged. Inform the police of this if they attempt to seize your notes or camera. If a policeman takes your property, write down the officer's badge number and contact your coordinator.
- Stay vigilant at all times. Look for signs of potential trouble such as protesters wearing masks, policeman wearing atypical uniforms or covering their badges, or the presence of other state/federal agents (such as the FBI or immigration authorities). Be watchful for counter-demonstrators who may instigate violence. If such an incident occurs, be sure to record it with as much detail as possible.
- When an incident occurs, be sure to document everything. If possible, take photos of each incident, and jot down notes as the incident is occurring. Note how the incident started. Who did or said what? Try to identify the individuals involved. Note who else is watching the incident and whether anyone intervenes or interferes. After the incident, try to collect the names of a few other individuals who witnessed it—onlookers if possible, but demonstrators if not.
- In particular, document what the police do: Do the police offer a warning? An alternative to being arrested? Do they quote the law? If so, what exactly do they say the law is? If it is an incident between demonstrators, do they attempt to break it up? Do they only arrest one side? Also, record what the protesters are doing immediately before and during an arrest, i.e. calmly sitting down, chanting, or throwing things, etc. Do they resist arrest?
- If people are arrested, try to get their names, the arresting authority (and names of the arresting officers if possible), and find out where they are being taken. Report this information to the legal observer coordinator as soon as possible.
- If you know that some protesters are planning civil disobedience, you may want to focus on those protesters. These incidents should be carefully documented after the protest.
- Fill out your Legal Observer Report form completely and return it to your legal observer coordinator as soon as the protest is over. Do not take them home. Also, please write separate incident reports for each incident. If you are reporting that a demonstration occurred without incident, use one form for the demonstration. The Reports may be used in a later court proceeding challenging police practices.

- If anything happens that you feel needs immediate attention, call your legal observer coordinator.
- Immediately after the incident/demonstration is over, review your notes, and clarify them. Be as accurate as possible--make sure the time and date is correct. Return your Legal Observer Report form(s) and your Legal Observer hat to your legal observer coordinator after the protest is over.
- **DO NOT TALK TO THE PRESS** –You must focus on observing the protest and should not be distracted by speaking with the press. Press coverage should be focused on the event, not the observing. You should refer reporters to the legal observer coordinator. The press can run a separate story on the observing program at some other point.

INTERACTION WITH POLICE AND PROTESTERS

- Make sure you are readily identifiable as a legal observer, and introduce yourself as a legal observer to the police and organizers of the protest. Make it clear that you are there only to observe, not to participate.
- Legal observers should generally observe the police and protestor activity and should not act as an intermediary between the police and the protestors. If, however, there are minor disputes which you can resolve with common sense/courtesy rather than legal advice, you may attempt to do so.
- It is important that you are not arrested. What you observe will not do anyone any good if you are in jail – it will also impact negatively on your credibility as a witness.
- Do not interfere with an arrest. You can and will be arrested for interfering.
- Disperse when asked. Do NOT argue with police. Choose an alternative location where you can still see. If you can't find one, call your coordinator.
- Do not be afraid to ask for help. You are in the field to observe. If you become uncomfortable for any reason, call your coordinator immediately.

For more information about the legal observing program of the ACLU of PA, contact Erin Gill, Community Organizer, ACLU - Pennsylvania, 313 Atwood Street, Pittsburgh, PA 15213, egill@aclupa.org, 412-681-7864 x22 or visit our website at: www.aclupa.org