2016 Republican National Convention

A CONSTITUTIONAL PLAYBOOK
WHAT IS A NATIONAL SPECIAL SECURITY EVENT?

The 2016 Republican National Convention (RNC) is a National Special Security Event (NSSE). This means that security will be coordinated by a number of federal agencies, rather than the Cleveland Police alone. The U.S. Secret Service Major Events Division will design and direct a master security plan in partnership with local law enforcement. Additionally, partner federal agencies will likely be involved in planning and overseeing the event, including the Department of Homeland Security, the Federal Bureau of Investigation, the Federal Emergency Management Agency, the Department of Justice, and the Department of Defense. For example, the Federal Aviation Administration will oversee air control, and likely institute strict airspace regulations. Additionally, Cleveland will contract with other agencies for security purposes.

The NSSE designation comes with $50 million to pay for heightened security measures, including expanded law enforcement and surveillance. Measures used in the past include:

- Less-lethal ammunition. Weapons are named “less-lethal” when the government does not consider them deadly (e.g., guns, bombs), even though they can cause death. These weapons include rubber or wooden bullets, Tasers, tear gas, sound amplifiers, bean bags, sting ball grenades, pepper spray, physical or hand-to-hand force, and other devices. Less-lethal weapons are commonly used at these events.

- Free speech zones. Security plans often include zones or pens to contain protestors. These tend to be small enclosures where law enforcement can monitor demonstrations and control their volume and size. Constitutionally, a designated speech area should, at minimum, allow the protestors’ messages to reach the target audience.

- Security perimeters around the event. Generally, there are two levels of security perimeter, one restricted to the NSSE attendees, and the other open to individuals employed within the perimeter but not the public.

These large security grants from the federal government also allow cities to purchase military grade equipment of questionable value in policing municipalities, referred to as militarization. An over-reliance on high performance weaponry means less effort is made to provide speech venues and employ tactics that avoid confrontations.

PROTEST RIGHTS

Protesting WITHOUT a permit

1. Everyone has the right to peacefully protest on public property, including parks and sidewalks.
2. No one has a right to protest on private property (for example, a business or private residence) unless the owner gives permission.
3. Protest activities protected by the Constitution include: handing out literature, chanting, sign-holding, and engaging in verbal debate.

The following activities are not protected: endangering or harming others; blocking building entrances, traffic, or pedestrians on the sidewalk; and disobeying laws. Civil disobedience (violating the law to make a political statement) is not protected speech and can lead to arrest.

Protesting WITH a permit

1. A permit is required to walk in the street, block traffic, or take up a lot of sidewalk space.
2. In Cleveland, impromptu demonstrations that would otherwise require a permit are allowed without one, if police are notified of the demonstration eight hours in advance.
3. For more information about Cleveland’s parade permit process, visit [http://www.acluohio.org/ClevelandProtest](http://www.acluohio.org/ClevelandProtest).

Q&A

Specific protest activities

1. Can a demonstrator carry signs?
   Yes. Sign holding is almost always protected. But posting signs on public property, including over highways, is illegal except by permit.

2. Can a demonstrator distribute literature?
   Yes. Distributing literature, in public places is legal without a permit. But littering of these documents, including leaving them on cars, is illegal.
Demonstrators and others should be aware that police may or can:

- track and infiltrate activist groups.
- infiltrate organizations, secretly film or photograph individuals, or keep records of activities. When in public, assume that police are monitoring all activities.
- track protest planning on social media, including Facebook and Twitter.
- track individuals using their cell phone location.
- collect information about a person’s identity, including fingerprints and criminal history.
- briefly stop and question a person in public, if the police have reason to believe that person committed a crime.
- search someone’s belongings, home or other location, but generally must obtain consent or a warrant from a judge.

**Q&A** Privacy protection

1. **Can police lie to infiltrate an organization?**
   Yes. No law prohibits police from lying, including posing as civilians in person or on social media.

2. **Can police search an organization’s meeting place?**
   Generally, not without a warrant. However, government agents may try to enter a place based on health, housing or other government regulations to spy on a group’s activities. Police cannot search an area to retaliate against a person’s or group’s political views.

3. **Can police collect fingerprints for identification?**
   Police have fingerprints on file for everyone who has ever been charged with a crime. Unless someone demands that their fingerprints be destroyed, they may still be on file, even if their record was sealed. Police usually do not collect fingerprints for minor or misdemeanor crimes, except first degree misdemeanors.

4. **Can police make a demonstrator unlock their cell phone?**
   No. Cell phones are protected by the Fourth Amendment, and police cannot look at phone data without a search warrant.

5. **Can police arrest a demonstrator for using a cell phone?**
   Under the City’s flash mob laws, which prohibit groups from organizing spontaneous gatherings via social media or text to commit a crime, cell phones and other devices are categorized as “criminal tools.” This means that police may arrest someone for using their phone if police reasonably believe that the phone is being used to commit a crime.

6. **Can police track a person’s location?**
   Yes. Federal and some local law enforcement have been known to use devices to track individuals using their cell phones. These devices can acquire cell phone numbers, locations, and metadata. When combined with unauthorized software, it can also collect message content.
Everyone has the right to photograph, video and audio record the police.

**Q&A** Mass arrests and dispersal orders

1. **Must police warn protestors before making arrests?**
   Yes. Before arresting protestors taking part in mass demonstrations, police regulations require officers to warn protestors to leave the area or face arrest. This warning must be loud enough to be heard by everyone and provide clear instructions about where the protestors should go.

2. **If a demonstrator “goes limp” in police custody, is that resisting arrest?**
   Yes. State law prohibits “going limp.”

3. **Can police use force to disperse a protest?**
   Probably. At large demonstrations, police have used “less-lethal” force against protestors, including sound amplifiers, Tasers, pepper spray, wooden or rubber bullets, and physical violence.

4. **Can demonstrators advise others of their rights during arrest?**
   Yes. If a person is being arrested, another individual can inform that person of their rights. This is protected speech, so long as what the person is saying is true and there is no direct interference with police conduct.

**Q&A** Police searches and identification

1. **Can police require individuals to identify themselves?**
   Yes. If the police suspect that a person has been involved in or witnessed a crime, the police can require that person to provide their name, address, and date of birth. However, they do not need to show identification.

2. **Can the police search a person or their belongings?**
   Not without consent or a search warrant. But if an individual is under arrest, or there are dangerous circumstances, the police may pat down a person or look through their vehicle to search for a weapon.

3. **When can the police stop or “detain” someone?**
   A person is stopped or “detained” when an officer uses enough force that an individual does not feel free to leave. To detain a person, the police must reasonably believe that person committed a crime.