

**“Trucker Convoys” or Other Vehicular Demonstrations:  
Law Enforcement Guidance on Constitutional Principles**

Trucker convoys and other vehicular demonstrations have sometimes brought disorder to city streets and blocked access to airports and public venues. This guidance outlines legal principles and best practices for law enforcement to respond to vehicular demonstrations that threaten public safety.

**Governments May Impose Content-Neutral Time, Place, and Manner Restrictions on Speech and Assembly in Public Forums.**

The First Amendment protects Americans’ right to assemble and express their views through peaceful protest. Although the First Amendment limits the government’s ability to regulate speech in public forums, it does not guarantee a right to express oneself “at all times and places or in any manner that may be desired.”<sup>11</sup> Well-settled First Amendment principles permit governments to act in ways that burden expressive freedoms if it can demonstrate an adequate justification for doing so.

So long as the government’s regulation of speech is “content neutral”—such that it regulates only the time, place, or manner in which speech can occur, but not the substance of the speech itself—then it need only: (1) be “narrowly tailored to serve a significant governmental interest” and (2) “leave open ample alternative channels for communication of the information.”<sup>22</sup> As relevant to truck convoys and vehicular demonstrations, the Supreme Court has held that the government has a “substantial” interest in maintaining public property in a clean and usable condition, ensuring that streets and sidewalks remain safe and accessible, and protecting against threats to human safety.<sup>33</sup> To the extent these demonstrations threaten these government interests, law enforcement intervention would likely be justified so long as it is not “substantially broader than necessary to achieve the government’s interest.”<sup>44</sup>

**There is No Political Activity Exception to Public Safety Laws.**

Public safety is a legitimate and compelling governmental interest that can justify certain restrictions on speech and assembly. The government has a compelling interest in protecting public safety by ensuring the free flow of traffic, keeping open access for emergency vehicles, and protecting pedestrians. Enforcing traffic laws applicable to the general public, without regard to viewpoint, is a clear example of a reasonable time, place, and manner regulation.

**The First Amendment Does Not Protect Unlawful Conduct or Incitement to Imminent Lawless Activity.**

Although the First Amendment protects speech no matter how hateful, racist, or offensive, it does not protect violent or unlawful conduct, even if the person engaging in it intends to express an idea. Nor does the First Amendment protect speech that is “directed to inciting or producing imminent lawless action and is likely to produce such action.”<sup>55</sup> Therefore, if participants in the vehicular demonstration are violating traffic or other public safety laws, or inciting others to do the same imminently, that conduct would not be protected as expressive activity under the First Amendment.

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<sup>1</sup> *Heffron v. Int’l Soc’y for Krishna Consciousness, Inc.*, 452 U.S. 640, 647 (1981).

<sup>2</sup> *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989) (quoting *Clark v. Cmty. for Creative Non-Violence*, 468 U.S. 288, 293 (1984)).

<sup>3</sup> See, e.g., *Thomas v. Chicago Park Dist.*, 534 U.S. 316, 322 (2002); *Madsen v. Women’s Health Ctr., Inc.*, 512 U.S. 753, 768 (1994); *Heffron*, 452 U.S. at 651.

<sup>4</sup> *Madsen*, 512 U.S. at 800.

<sup>5</sup> *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969).

## Best Practices for Responding to Vehicular Demonstrations

There are two broad categories within which the vehicular demonstrations could fall. Law enforcement should assess the nature of the underlying conduct to evaluate whether intervention is appropriate.

1. **Drivers involved in peaceful and lawful demonstration.** If drivers are participating in a political demonstration—e.g., in a procession displaying political insignia, flags, etc.—and they are not violating state or local laws or threatening public safety, the activity is likely protected by the Constitution. Law enforcement may ensure that traffic keeps flowing safely, including by directing traffic at intersections and helping pedestrians to safely cross streets, for example. Law enforcement should endeavor to foster the protected activity while protecting public safety.
2. **Drivers demonstrating but obstructing traffic or breaking laws.** If drivers are participating in a political demonstration but are obstructing traffic, police may issue directions to restore the free flow of traffic. Where drivers are violating traffic or other laws, law enforcement may issue citations or make arrests depending on the laws being violated and the severity of the situation. Law enforcement should not discriminate in the enforcement of traffic or other laws based on the viewpoint of the demonstrators.

*This guidance was prepared by the Institute for Constitutional Advocacy and Protection (ICAP) at Georgetown University Law Center. ICAP's mission is to use strategic legal advocacy to defend constitutional rights and values while working to restore confidence in the integrity of governmental institutions. Connect with ICAP at [www.law.georgetown.edu/icap/](http://www.law.georgetown.edu/icap/), [reachICAP@georgetown.edu](mailto:reachICAP@georgetown.edu), or [@GeorgetownICAP](https://twitter.com/GeorgetownICAP).*