

Protesters Have the Right to Protest ... and to Resist Unlawful Arrest

Top Military Commander and Courts Support Right to Protest

By [Washington's Blog](#)

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In response to comments from those supporting the police crackdowns on peaceful protesters exercising their constitutional rights but [violating local ordinances](#) (see comments [here](#)), reader Purplemuse writes:

The Constitution supersedes local ordinances that are being used to OBSTRUCT 1st Amendment Rights. The camping ITSELF is in order to MAKE A STATEMENT – a First Amendment Right. Protesters are not camping because it is fun to expose yourself to the elements and hardship and you want to roast wienies and marshmallows and drink beer while swapping ghost stories.

Would you listen to Colin Powell, retired four-star general in the United States Army, Powell also served as National Security Advisor (1987-1989), as Commander of the U.S. Army Forces Command (1989) and as Chairman of the Joint Chiefs of Staff (1989-1993) when he says, “It isn’t enough just to scream at the Occupy Wall Street demonstrations. We need our political system to start reflecting this anger back into, ‘How do we fix it? How do we get the economy going again?’” He also states that the Occupy Wall Street Protests are “As American as Apple Pie.”

Does he go on to qualify his statement by saying, “as long as they obey local (misdemeanor) ordinances. No, he does not. He actually goes on to say that he “gets” it.

If a man, well above your rank, that you’d likely drop everything to stand up in a room to honor, “gets” that peaceful protests, by design (that’s why they are referred to as ‘civil disobedience’) infringe on ordinances and make the public uncomfortable in order to be heard, are as American as Apple Pie; do you think you could set your fear of disobedience aside long enough to defend those protesters against physical harm for exercising those American as Apple Pie Rights? If you can’t than I think you need to join the ranks of officers who simply “do as they are told” and jab petite women in the spleen with billy clubs (as in Berkeley) in order to incite a riot. (BTW: They did not succeed, Berkeley stood firm in determined peace).

(Watch Powell’s statement [here](#)).

Of course, it’s not just Powell. Veterans [from every branch of the military – and across 3 generations – are coming out to support the “occupy” protests](#).

And in response to the [Berkeley police saying that linking arms and resisting attempts to](#)

[clear a space is an act of “violence”](#), reader David writes:

It is every citizen’s duty to resist false arrest

There is no such crime as “resisting arrest.” This is a fictitious crime dreamed up by law enforcement to accuse a citizen of a crime when they refuse to surrender to the illegal demands of the police.

The U.S. Supreme Court has ruled on numerous occasions that resisting a false arrest is not merely a citizen’s right, but his duty! In fact, the Supreme Court has gone so far as to rule that if a law enforcement officer is killed as a result of actions stemming from a citizen’s attempts to defend themselves against a false arrest, it is the fault of the officer, not the citizen.

Here’s a short collection of relevant court rulings on false arrest and resisting arrest:

“When a person, being without fault, is in a place where he has a right to be, is violently assaulted, he may, without retreating, repel by force, and if, in the reasonable exercise of his right of self defense, his assailant is killed, he is justified.” Runyan v. State, 57 Ind. 80; Miller v. State, 74 Ind. 1.

“These principles apply as well to an officer attempting to make an arrest, who abuses his authority and transcends the bounds thereof by the use of unnecessary force and violence, as they do to a private individual who unlawfully uses such force and violence.” Jones v. State, 26 Tex. App. 1; Beaverts v. State, 4 Tex. App. 1 75; Skidmore v. State, 43 Tex. 93, 903.

“An illegal arrest is an assault and battery. The person so attempted to be restrained of his liberty has the same right to use force in defending himself as he would in repelling any other assault and battery.” (State v. Robinson, 145 ME. 77, 72 ATL. 260).

“Each person has the right to resist an unlawful arrest. In such a case, the person attempting the arrest stands in the position of a wrongdoer and may be resisted by the use of force, as in self- defense.” (State v. Mobley, 240 N.C. 476, 83 S.E. 2d 100).

Do individuals have the right to come to the aid of another citizens being falsely arrested? You bet they do. As another court case ruled:

“One may come to the aid of another being unlawfully arrested, just as he may where one is being assaulted, molested, raped or kidnapped. Thus it is not an offense to liberate one from the unlawful custody of an officer, even though he may have submitted to such custody, without resistance.” (Adams v. State, 121 Ga. 16, 48 S.E. 910).

And on the issue of actually killing an arresting officer in self defense:

“Citizens may resist unlawful arrest to the point of taking an arresting officer’s life if necessary.” Plummer v. State, 136 Ind. 306. This premise was upheld by the Supreme Court of the United States in the case: John Bad Elk v. U.S., 177 U.S. 529.

I believe that [violence discredits the entire protest movement](#). I therefore hope that the protesters remain peaceful, even when confronted with unlawful arrests. However, as David points out, the police have no right to make unlawful arrests in the first place.

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