

# THE ASSEMBLY ASSESSMENT

Can the government close public spaces? Are permits to protest appropriate? The right to assemble is not limitless--in fact, none of our First Amendment rights are absolute. But when a government restricts the right to assembly, it can be hard to decide whether the government's decision is appropriate or unconstitutional. Grab a First Amendment ruler to gauge limits on gatherings.

The following measurements are a helpful starting point when exploring the right to peaceably assemble.



1

## TIME, PLACE AND MANNER

The government can't ban an assembly to censor ideas but it can place reasonable **time place and manner** restrictions and require a permit for assemblies. Consider:

- *Why would a march to protest a government policy be ok at 1:00 in the afternoon in a public park be ok but a march at 1:00 in the morning be a problem?*
- *Where is the gathering held? Is marching on the sidewalk different than the middle of the road?*
- *Should we stand shoulder-to-shoulder during a health pandemic or is more space between us a safer manner to gather in?*

2

## CLEAR AND PRESENT DANGER

The government can't restrict assembly out of a concern that it *might* be harmful. However, assembly can be limited in cases immediate danger. Consider:

- *Is the proposed limit in response to an actual crisis?*
- *Is there a proven risk of riot or disorder?*
- *Will the assembly interfere with traffic or infringe the rights of others?*
- *Is there a threat to public safety or order?*

3

## EXHAUSTED ALL THE ALTERNATIVES

The government should explore all less restrictive means before banning an assembly entirely. Consider:

- *If there is a time limit on when assembly is allowed is it equal to the duration of the danger or immediate risk of harm?*
- *Are the requirements to gaining a permit and regulations reasonable? For example, the permit fee is affordable and the restrictions are content neutral.*



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