

THOMAS MORE SOCIETY

A National Public Interest Law Firm

February 10, 2011

David Bereit

“Expose Planned Parenthood” coalition

Re: February 14, 2011 – “Vigils for Victims” of Human Sex Trafficking

Dear David:

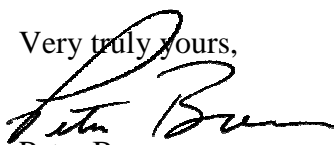
On behalf of the “Expose Planned Parenthood” coalition, you asked us to set forth some general principles and guidelines with respect to the constitutional rights of individuals to engage in public demonstrations and distribution of handbills and leaflets during spontaneous “Vigils for Victims” that may be occurring in municipalities all over the United States this coming Monday, February 14, 2011. You have told us that vigil participants typically would tend to use public sidewalks and rights of way for dual purposes: (1) raising public awareness about the tragedy of sex trafficking of underage girls in America; and (2) expressing moral and political revulsion provoked by recent disclosures that Planned Parenthood is actively engaged in aiding and abetting such sex traffickers.

The U.S. Supreme Court has ruled it a bedrock principle of our constitutional order that the streets and parks in our towns, villages and cities represent “traditional,” indeed “quintessential” public *fora* for exercise of First Amendment rights. Such venues “immemorially have been held in trust for the use of the public and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions” (*Hague v. CIO*, 307 U.S. 496, 515 (1939)). That principle, intact for decades, ought to protect Vigil participants against unjustified interference on the part of police or other municipal authorities, against whom Vigil participants may well have legal recourse should they suffer any trampling of these basic rights. While local governments have some leeway in purporting to require advance permits for planned demonstrations, such permit requirements are almost always held void if applied and enforced against spontaneous demonstrators who, like those participating in Vigils for Victims, are responding to current events – in this case, recent disclosures about Planned Parenthood’s involvement with, and support of, commercial sex trafficking as shown on a series of Live Action “undercover” videotapes during the last week and a half.

The U.S. Supreme Court held in *Watchtower Bible and Tract Society of New York v. Village of Stratton*, 536 U.S. 150 (2002), that a municipal regulation requiring that door to door distributors of political or religious leaflets or anybody promoting a “cause” secure a city permit was unconstitutional and void in violation of the First Amendment. In their opinion striking down the permit requirement, the Justices underscored the historical importance of pamphleteering as a vital means to disseminate ideas.

Having won two U.S. Supreme Court cases in defense of political protesters (2003, 8-1; 2006, 8-0), please know that the Thomas More Society stands ready and will be honored to provide legal support to Vigil participants to assure full protection of their First Amendment rights.

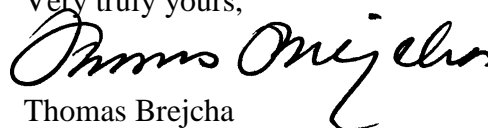
Very truly yours,



Peter Breen

Executive Director & Legal Counsel

Very truly yours,



Thomas Brejcha

President & Chief Counsel

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“Injustice anywhere is a threat to justice everywhere.” – Rev. Dr. Martin Luther King

Some General Guidelines for Demonstrating on Public Rights of Way (Preferably Sidewalks) During “Vigils for Victims” on February 14, 2011

Your Rights on the Public Sidewalk and in the “Public Right of Way”

- Generally, you have the right to stand and/or walk back and forth on a public sidewalk or right of way, with or without a sign, so long as you don’t obstruct passers-by or block access to doors or driveways.
- Generally, you have the right to distribute handbills & leaflets to others in the public right of way.
- Generally, you have the right to use your unaided voice in the public right of way.

Exception: A handful of jurisdictions have adopted “buffer zone laws,” which bar demonstrators from standing within a certain number of feet from a health care facility’s door (e.g., Massachusetts has a 35-foot buffer). In these jurisdictions, the boundaries of the buffer zone at a particular location may be indicated on a nearby sign or pavement marking. It’s best to check ahead with local counsel or police.

Exception: A handful of jurisdictions have adopted “bubble zone laws,” which bar demonstrators from “approaching” clinic patrons or passers-by to deliver a handbill/leaflet, verbal message, or sign. In these locales (e.g., Colorado), you should generally stand still (remain stationary) when demonstrating.

“Obey Now, Grieve Later”: Always obey local law enforcers, but in those cases where you believe that your constitutional or other legal rights are being violated, politely ask for the citation to whatever law or ordinance the officer invokes, and for his or her name and badge number. Some police officers mistakenly equate standing with “obstructing” and some laws purport to limit the size and/or placement of signs. Laws or police orders aimed at suppressing the content of signs or handbills are *very often* serious First Amendment violations and void. Again, obey the officer and immediately contact your local counsel and/or the Thomas More Society for assistance.

Finding the “Public Right of Way” – Universally Deemed a “Traditional Public Forum” for Protest

- The “public right of way” is an area that the public may use for passage – and protest – that extends some feet (e.g., 6 feet, 12 feet, etc.) away from the curb of a public road onto the parkway or otherwise private property adjacent to the public road.
- Look for public sidewalks. Public sidewalks are always part of the public way – and any area between the sidewalk and the curb, called “parkways” – are usually part of the public right of way. When in doubt, check with local counsel or local police officials as to where you can protest.

Our General Guidelines for Demonstrating

- Remain courteous, calm, and composed. Keep interactions with all others peaceful and prayerful.
- In the rare instance that you feel threatened or in danger, call 911 immediately.
- Obey the instructions of law enforcement officials during the demonstration.
- Don’t hesitate to contact the Thomas More Society with any questions or concerns that you may have either before, during, or after the vigil. We are here to assist you.

**THOMAS MORE SOCIETY ATTORNEYS WILL BE SPECIALLY STANDING BY TO ASSIST YOU
DURING THE NATIONAL “VIGILS FOR VICTIMS” – JUST CALL 312-782-1680.**

These general guidelines do not constitute legal advice, nor are they tailored to your particular city or state or municipality or to your particular circumstances. Please contact the Thomas More Society and/or your local counsel if you need specific legal assistance.