

First Amendment topics >



The First Amendment to the U.S. Constitution Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances. ABOUT THE FIRST AMENDMENT >

SEARCH [HELP](#)

News Story

Controversy flares as peace activists use U.S. flags to convey message

By The Associated Press, First Amendment Center Online staff 04.15.03

The recent use — and some would contend misuse — of American flags has sparked trouble for peace activists in three states.

In Oregon, two men who burned an American flag at a weekend peace rally were arrested by Ashland police who said the fire posed a danger to other protesters and people nearby. In Park City, Utah, police came calling on a woman who had a U.S. flag with a peace symbol printed on it hanging on her front door. And in Indiana, a 17-year-old girl who displayed a U.S. flag with a painted-on peace symbol is challenging the constitutionality of that state's flag-desecration law.

The Oregon arrests on April 12 prompted an angry response from the crowd about freedom of expression, but police said it was an issue of public safety.

"In the crowd and with the wind, there was potential for people to get burned," Ashland police Sgt. Kirk Cromwell said.

To keep the fire blazing, two men kicked the flag, sending it toward a woman and child sitting on a bench, Cromwell said. The fire also scorched the sidewalk.

The protesters, Alyosha Israel Witness, 35, of Massachusetts and a man who refused to give his name or age, were charged with disorderly conduct, endangering other people, reckless burning and criminal mischief.

Paul Copeland, an Ashland resident at the rally, said he was standing about 50 feet away from the burning flag, which he described as fairly small and not dangerous. "It seemed like police were trying to suppress constitutionally protected speech," he said. "It appeared that they were reacting to a symbol, not making a legitimate arrest."

The men lit the flag at a rally attended by 150 or so people opposed to the war in Iraq.

In Utah, a woman faced off against Utah's flag-desecration law and won.

Beth Fratkin hung a U.S. flag, with a big, black peace symbol printed on it, from her front door. It was her way of protesting the U.S. invasion of Iraq.

A short time later, two Park City police officers knocked on her door, told her a complaint had been filed. They said she could be prosecuted under the state's "abuse of a flag" statute if she didn't take the banner down.

Fratkin didn't back down and challenged the officers to toss her in jail. They didn't, but they warned her that if prosecutors chose, a warrant could be issued for her arrest on the misdemeanor charge.

- About this site
About the First Amendment
About the First Amendment Center
First Amendment programs
State of the First Amendment reports
Experts
Columnists
'Speaking Freely' TV show
Freedom Sings™
First Amendment publications
Glossary
Events
First Amendment Schools
Congressional Research Service reports
Guest editorials
FOI material
The First Amendment Library
Lesson plans
freedomforum.org
Newseum
Contact us

The woman said the officers were polite, but the visit was unsettling.

"Anytime two men in uniforms, armed with guns and nightsticks, tell you to do something, some people might be intimidated by their mere presence," she said.

But Fratkin knows a thing or two about the U.S. Constitution.

"They didn't know she teaches law and press," said her co-worker, University of Utah communication professor Jim Fisher.

"I teach a class in free expression. I have a responsibility to my students to put my money where my mouth is, wouldn't you say?" said Fratkin, a doctoral student at the University of Utah. "People should not be afraid to speak out. Our democracy depends on citizen participation."

Fratkin says Utah's flag-abuse law is invalidated by the 1989 U.S. Supreme Court ruling in the *Texas v. Johnson* flag-burning case.

Prosecutors in the ski-resort town are now agreeing with her.

City Attorney Mark Harrington reviewed the situation and decided against pursuing the case. The state statute, he said, would have to be consistent with the Supreme Court ruling.

"I advised them that this would be protected speech, so there will be no further action," Harrington said. "Generally, we wouldn't be prosecuting any expression involved with a flag."

Meanwhile, Megan Lawson, a 17-year-old who owns an American flag with a peace symbol painted on it is challenging the constitutionality of Indiana's flag-desecration law.

Students displayed Megan Lawson's flag last month during an anti-war rally at the Elkhart County Courthouse in Goshen.

County Commissioner Phil Stiver later said he wanted a police investigation into who painted the symbol on the flag and said he hoped those responsible would be arrested.

Under Indiana law, it is a misdemeanor to intentionally deface or burn a U.S. flag. Violators may be fined \$5,000 and sentenced to as much as a year in prison.

The Indiana Civil Liberties Union will represent Lawson, claiming the state law violates her right to free speech.

Lawson, a high school junior, has not been arrested or charged, but "has a reasonable fear that she may be prosecuted," according to a complaint sent to U.S. District Court in South Bend last week.

"(Lawson) strongly believes that the American flag with a peace sign painted on it sends a strong message condemning America's involvement in the war in Iraq, and she wishes to send that message" again at the earliest opportunity, according to the complaint.

Related

Lawsuit attacks Iowa flag-desecration law

Federal court asked to declare state statute unconstitutional after police told students they couldn't fly flag upside down. 12.03.02

Colorado city, ACLU resolve dispute over flag display

Group had been prepared to sue on behalf of store owner who was threatened with arrest for flying an upside-down American flag. 04.16.03

Privacy statement

Related links

Challenge to Indiana's flag-desecration law tossed

Federal judge dismisses suit, saying prosecutor hasn't threatened to charge high school student with violating statute. 09.06.03

County won't prosecute veteran for upside-down U.S. flag

Larry Lentz sought help from ACLU after sheriff — citing Nebraska law — removed flag from yard, had Vietnam-era veteran ticketed. 11.13.04

News summary page

View the latest news stories throughout the First Amendment Center Online.

[print this](#)

Last system update: Sunday, November 14, 2004 | 09:07:44