

REMEMBER PROFANITY ISN'T ALWAYS PROTECTED SPEECH

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The First Amendment often protects the profane word or phrase — but not always.

The First Amendment protects a great deal of offensive, obnoxious and repugnant speech. As Justice John Marshall Harlan wrote 40 years ago in [Cohen v. California](#), “one man’s vulgarity is another’s lyric.” In that decision, the Court ruled that an individual had a First Amendment right to wear a jacket bearing the words “Fuck the Draft.”

So a general law that prohibits all profanity will run into serious First Amendment hurdles, as recognized this week by the suburban Chicago city of Park Ridge, Ill. Perhaps in the spirit of the *Cohen* ruling, the city rid its books of a law that made it illegal to use profanity on streets, alleys and other public places. The police chief of the suburb told the Associated Press that free-speech concerns formed part of the reason for erasing the law.

Park Ridge’s move has much to commend it. But people shouldn’t mistakenly believe that the First Amendment always protects profanity. It doesn’t.

Certain categories of speech are not entitled to First Amendment protection, including fighting words, true threats and incitement to imminent lawless action. If a person engages in profane fighting words or utters a true threat with profanity, those words may not be protected speech.

Likewise, a speaker who uses profanity to stir up a crowd to immediate lawless action (like a riot) may have crossed the line from protected speech into unprotected incitement.

Furthermore, though you may have a right to curse on the street, don’t assume you have a right to curse at your public employer or at your public school. Context — as well as content — is important in First Amendment law. The government has greater power to regulate speech when it acts as employer or educator than it does when it acts as sovereign.

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