

Potential Charges (continued)

Mob action

Under this state statute (720 ILCS 5/25-1), “mob action” occurs when 2 or more people engage in the “knowing or reckless use of force or violence disturbing the public peace” OR when 2 or more people assemble with the “intent to commit or facilitate commission” of a crime. **Potential consequences:** Dismissal, supervision, community service, up to \$2,500 fine, and/or up to one year in jail, (may be charged as a felony if force or violence are involved).

Other Potential Consequences

Public School Students

Public School Students currently enrolled in CPS could face school discipline for engaging in in-school boycotts or walkouts. Peaceful political speech taking place at an off-campus event that is not sponsored by the school should not be the target of school disciplinary action. The restrictions on police searches are also weaker in schools, meaning that students (and their bags and lockers) can be searched without the same suspicions required on the street.

Residents of Public or Subsidized Housing

If you live in public housing or receive a voucher subsidy, please be aware that Chicago Housing Authority (CHA) has a blanket policy to move for eviction or termination if any household member is arrested—regardless of the criminal charge. If you participate in school closing actions and are arrested as a result, you may face eviction or voucher termination proceedings.

It is against HUD policy to evict tenants or terminate vouchers for non-violent, non-drug related offenses, and you may be able to beat your eviction case **if you get a lawyer**. If you qualify for free or subsidized housing, you may be able to obtain representation in your eviction or termination case. **If you are arrested and CHA moves to evict you or terminate your voucher, we recommend that you contact one of the following legal aid organizations that represent tenants as quickly as possible:**

Cabrini Green Legal Aid: 312-738-2452
Legal Assistance Foundation: 312-341-1070
Lawyers' Comm. for Better Housing: 312-347-7600
Legal Aid Society: 312-986-4200
Uptown People's Law Center: 773-769-1411

What to Expect if Arrested

The Chicago Police Department **can hold you in custody for up to 48 hours without charging you**. Typically, you will be released after 3-18 hours, though this period could be longer if you have an outstanding warrant, are charged with a serious crime, or if processing is delayed due to mass arrests.

You will not have access to your personal items—everything but the clothes you wear will be confiscated, and not returned until you are released.

You will not have your phone, so **write a contact number on your arm** so you have a number to call (phone calls are usually allowed only after many hours in custody).

You may not have access to medications or medical care—it's up to the police, and they may not be attentive to medical needs. **Tell the officers at the station if you are taking any medication.**

Trans* and queer folks may be jailed with people of their birth gender regardless of their gender identity or wishes, or isolated, though the Cook County Sheriff's policy is to consider gender identity in housing decisions.

You may be given something to eat, but usually only after many hours in custody.

CTU and NLG will monitor arrests and detentions, but cannot know everything, so it's best if a friend (not arrested) knows your name and whereabouts.

The **National Lawyers Guild (NLG)** was founded in 1937 as the nation's first racially integrated bar association. Dedicated to the proposition that “human rights shall be held more sacred than property interests,” it is the oldest and most extensive network of public interest lawyers, legal workers, law students, and jailhouse lawyers working within the legal system. The NLG's headquarters are in New York and it has active members in every state.



Vol. 1 April 2013

Photos by Sarah Jane Rhee - www.loveandstrugglephotos.com

NLG Chicago

MASS DEFENSE COMMITTEE

KNOW YOUR RIGHTS:

A GUIDE FOR ACTION AGAINST CPS SCHOOL CLOSINGS



It is important to know your rights so you can be well-informed and make strategic decisions about your actions. The police, however, can and do arrest folks even if the law doesn't support them. The time to make arguments and legal defenses is in the courtroom, after the arrest or citation.

The information in this brochure is not a substitute for legal advice from a licensed attorney.



www.nlgchicago.org

First Amendment Activity

Under the First Amendment, you have the right to participate in peaceable assemblies and to petition the government for a redress of grievances. However, under certain circumstances the government can restrict the way people exercise their First Amendment rights.

Know Your Rights During a Police Encounter

Police Encounters

Police have the discretion to arrest you or issue a citation. When dealing with the police, you may want to keep your hands in view and avoid sudden movements. You may also want to avoid passing behind them. If you touch the police or their equipment (vehicles, flashlights, animals, etc.), you may be charged with assault or battery and/or beat up. You cannot know for certain what you will be charged with until after you have been arrested. In felony cases, the prosecutor is the only person who can actually charge you.

Stopped on the Street

If you are stopped on the street, **you can and should ask if you are “free to go.”** If the answer is yes, consider just walking away. If the police say you are not under arrest, but are not free to go, then you are being detained (police are temporarily restricting your movement). The police can pat down the outside of your clothing if they have reason to suspect you might be armed and dangerous. If they search any more than this, **say clearly, “I do not consent to a search.”** They may keep searching anyway. If you resist, you might be charged with assault, battery or resisting arrest. You do not have to answer any questions. You do not have to open bags or any closed container. **Tell the officers you do not consent to a search of your bags or other property.**

Mandatory Information

When an officer stops you with reasonable suspicion, he can ask you for information about your identity. You should only give him **your name, date of birth, and address if asked.** Also, lying to officers is a crime. If you are going to hand an officer your ID, tell him that, and **do not reach into your pocket until you tell the officer what you’re doing.**

Police Interrogations & “Miranda” Warnings

If you are questioned by the police on the street or after you have been arrested, you may assert your Fifth Amendment right to remain silent by saying **“I am going to remain silent. I want to see a lawyer.”** (Note: You must affirmatively state that you will remain silent in order to properly assert your Fifth Amendment rights.) The police do not have to read you your rights (a “Miranda” warning). The

police regularly intentionally violate Miranda, and though your rights have been violated, what you say can be used against you. For this reason, it is better not to wait for the cops to tell you your rights. You can invoke them by saying **“I am going to remain silent. I want to see a lawyer.”**

Immigration Status Questions

Whether you are undocumented, out of status, a legal permanent resident (green card holder), or a citizen, **you do not have to answer any questions about your immigration history.**

Police Mistreatment

You have the right to ask for an officer’s name and badge number. If you are mistreated, try to obtain this information as well as contact information for witnesses. If you resist or fight back, you can be charged with assault or battery to an officer.



Recording Police Activity

Making audio recordings of on-duty police officers is a felony under state law (720 ILCS 5/14-1), but a federal court judge declared the law unconstitutional in April 2013 and has permanently enjoined Cook County from prosecuting anyone *openly* recording on-duty police officers in public. Despite the fact that you cannot be charged, filming or recording police may anger them and make you a target for other discretionary charges such as disorderly conduct.

Potential Charges

There are several possible charges that you may face from protest activity. Disorderly conduct is the most common charge protesters face. That and other potential charges are listed below, but this list is not exhaustive. Note that some charges are possible violations of both City of Chicago ordinances (only punishable by fine and/or community service) and Illinois state laws (punishable by jail, fine and/or community service). While we have listed all potential penalties below, **the most common resolution of the charges below is community service and/or supervision.** You may also be required to pay court costs.

Disorderly Conduct

Under the City of Chicago ordinance (8-4-010), a person commits disorderly conduct when she knowingly acts in an “unreasonable manner” such that she “provokes, makes, or aids in making a breach of the peace.” **Potential consequences:** Dismissal, or up to \$500 fine. Note: The ordinance’s “failure to disperse” section was declared void as unconstitutionally vague in 2012.

Under the state statute (720 ILCS 5/26-1), a person commits disorderly conduct when she knowingly “does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace.” **Potential consequences:** Dismissal, supervision, community service, up to \$1,500 fine, and/or up to 30 days in Cook County jail.

Criminal Trespass

Under the City of Chicago Ordinance (8-4-050), a person commits criminal trespass when she enters or remains on property after being notified that her presence is forbidden or after notice to leave, or “[w]illfully defaces...or destroys any building or part of any building.” **Potential consequences:** Dismissal or fine between \$100-\$500.

The same actions are punishable under state statute (720 ILCS 5/21-3). **Potential consequences:** Dismissal, supervision, community service, up to \$1,500 fine, and/or up to six months in jail.

If a person trespasses on land or in a building funded by state money, the criminal penalties increase. (720 ILCS 5/21-5) **Potential consequences:** Dismissal, supervision, community service, up to \$2,500 fine, and/or up to one year in jail.

Resisting Arrest

There is a City of Chicago Ordinance (2-84-300) that prohibits both passive and active resistance of a police officer. It prohibits anyone from knowingly “resist[ing] or obstruct[ing] the performance” of an officer. **Remember, you do not have the legal right to resist an unlawful arrest!** **Potential consequences:** Dismissal, or fine between \$25-\$500.

There is also a State Statute (720 ILCS 5/31-1) which prohibits active resistance of a police officer. **Potential consequences:** Dismissal, community service, up to \$2,500 fine, and/or up to one year in jail. You will not be eligible for a period of supervision.

Reckless Conduct

Under state law (720 ILCS 5/12-5), a person commits reckless conduct when he acts in a way that “cause[s] bodily harm” or “endanger[s] the safety of another person.” **Potential consequences:** Dismissal, supervision, community service, up to \$2,500 fine, and/or up to one year in jail.