

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 or are charged with a serious crime, or if processing is delayed for mass arrests.

You will not have access to your personal effects – 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 probably will not have access to medications or medical care --it's up to the police, and they are not generous with attention to medical needs. **Tell the officers at the station if you are taking any medication.**

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

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

The **National Lawyers Guild (NLG)** is an association dedicated to the need for basic change in the structure of our political and economic system. We seek to unite the lawyers, law students, legal workers, and jailhouse lawyers of America in an organization which shall function as an effective political and social force in the service of the people, to the end that human rights shall be regarded as more sacred than property interests.

A NOTE ON THIS GUIDE

It is important to know your rights so you can be well-informed. However, the police 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. Call the NLG Chicago Emergency Response Hotline in the event of an arrest to receive legal counsel.



KNOW YOUR RIGHTS!

A GUIDE FOR NATO



**National Lawyers
Guild of Chicago**
www.nlgchicago.org

**NLG Chicago Emergency
Response Hotline:**
312-913-0039

Know your rights on the streets

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, the US Supreme Court has held that in certain circumstances the government can restrict the way people exercise their First Amendment rights. Below is a list of City of Chicago ordinances that have recently been used to restrict the way individuals exercise their First Amendment rights. Please be advised that this is not an exhaustive list.

Storing supplies (10-28-070)

There is a City of Chicago ordinance that prohibits using a public way to store personal property, goods, boxes, crates, packages or other obstructions.

Potential consequence: between \$50-\$250 fine for each offense.

Tents (10-28-040)

There is a City of Chicago ordinance that prohibits erection of any structure or stationary object on the public way in the City of Chicago.

Potential consequence: between \$50-\$500 fine for each offense; each day that tent is erected is a separate offense; owner responsible for any costs involved in removing the item.

Hours of use of parks (Chi Park District Code Ch. 7, Sec. B, Part 2)

There is a section of the City of Chicago Park District Code Section that states individuals cannot stay in parks with gates after the closing of the gates at night. Additionally, it states that in parks without fences or gates, you cannot stay in the park between the hours of 11:00PM and 6:00AM.

Potential consequence: A \$500 maximum fine for each offense.

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 get beat up and/or charged with assault or battery. 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. Remember this the next time the cops start rattling off all the charges they're supposedly "going to give you."

Stopped on the street

If you are stopped on the street, you can **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 they ask. Also, **lying to officers is a crime.** If you are going to hand an officer your ID, tell him that. You may not want to reach in your pocket for an ID until you tell the officer what you're doing.

"Miranda Warnings"

The police do not have to read you your rights. Miranda applies when there is (a) an interrogation (b) by a police officer or other agent of law enforcement (c) while the suspect is in police custody (you do not have to be formally arrested to be "in custody"). Even when all these conditions are met, the police 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 Questions

If 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, obtain this information as well as contact information of witnesses. If you resist or fight back, you can be charged with assault or battery on an officer.

Police Interrogations

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.)

Recording Police Activity

This law requires "two-party consent", making it a crime to use an "eavesdropping device" to overhear or record a conversation without the consent of all parties to the conversation. The law

defines an "eavesdropping device" as "any device capable of being used to hear or record oral conversation." This may expose you to civil and criminal penalties. If possible, use a video recording device that does not record sound or that has the sound card removed.

Potential Charges

There are several possible charges you may face from protest activity. Most commonly, disorderly conduct is a charge protesters are faced with. Some other potential charges are listed below, although this list is not exhaustive.

Disorderly Conduct

→ **City of Chicago Ordinance (8-4-010)**

Under this ordinance, a person commits disorderly conduct when she: (1) knowingly acts in an "unreasonable manner" such that she "provokes, makes, or aids in making a breach of the peace." **OR** "Fails to obey a lawful order of dispersal by a person known by him to be a peace officer under circumstances where three or more persons are committing acts of disorderly conduct in the immediate vicinity, which acts are likely to cause substantial harm or serious inconvenience, annoyance or alarm"

Potential consequence: up to \$500 fine for each violation.

→ **Illinois Statute (720 ILCS 5/26-1)**

Under this statute, 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 consequence: between 30 and 120 hours community service; up to 30 days in Cook County 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 one who knowingly "resist[s] or obstruct[s] the performance" of an officer.

Potential consequence: Fine between \$25 - \$500.

There is also a State Statute (**720 ILCS 5/31-1**) which prohibits active resistance of a police officer.

Potential consequence: up to one year in jail, a \$2,500 fine, or both. The minimum sentence is a conviction - you are not eligible for a period of supervision.

Mob action (720 ILCS 5/25-1)

Under this statute, "Mob action" occurs when one engages in the "knowing or reckless use of force of violence disturbing the public peace by 2 or more people" **OR** the knowing assembly of 2 or more people with either (1) "intent to commit or facilitate commission of a crime" or (2) "for purpose of exercising correctional powers over any person by violence."

Potential consequence: minimum 30 hours community service, and up to 364 days in jail, with potential for felony consequences.