



NATIONAL LAWYERS GUILD - TAMPA 2012 LEGAL SUPPORT

Street Guide for the Republican National Convention Protests - August 2012



NLG RNC LEGAL HOTLINE: (813) 241-0101 (not staffed until Fri. 8/24)

NLG RNC WEBSITE: tampa.nlg.org

The Tampa 2012 Legal Support for the Republic National Convention (RNC) protests is made up of members of the National Lawyers Guild (NLG). Based on past experiences with mass defense in other cities, we are providing some basic information on what you might expect from law enforcement during the RNC protests in Tampa.

While this is intended to provide some information in response to frequently asked questions about potential law enforcement conduct toward demonstrators, it is by no means an indication that any potential application (or misapplication) of the law by the police as described herein would be proper. In fact, the temporary Tampa Ordinance raises significant constitutional questions. Quickly enacted pop-up ordinances, like the one for this event, have not been subject to judicial review and interpretation in advance and lack clarity as to application and the lawfulness of any application. The NLG recognizes that at National Special Security Event demonstrations federal and local law enforcement routinely commit mass civil rights violations, including selective enforcement and false arrest. The point of this informational leaflet is to assist people in the full exercise of your rights to demonstrate and protest.

Some actions taken by the police may be unlawful and, if you are arrested, you may have defenses. By providing this information, we are not suggesting that these arrest practices are lawful.

OUR HOTLINE: The NLG's legal hotline is a number for people to call in from jail when arrested, for reports from the street, and for information from friends and loved ones about people arrested. Anyone arrested should be prepared to have no or limited access to a phone while in jail prior to first appearance. If arrested, you may not have access to your property (cell phone, what's in your pockets). To make a call from jail, you need the number memorized or written on your body.

IMPORTANT DISCLAIMER: *This overview is not exhaustive and is not, in any way, an attempt to give or offer legal advice. For specific legal advice, you must consult an attorney.*

ARREST INFO

It is impossible to know what charges police will use when making arrests or to predict what release procedures the police will use. In some circumstances, individuals are arrested, taken to a police facility or jail, booked and released on a written promise to appear. Other times, people are arrested, booked and only released before their first court appearance by posting bail. In Tampa, we have heard that people charged with protest related misdemeanors and felonies will be held at the Hillsborough County Jail (Orient Road and N. Falkenburg Road) and that a first court appearance (where you enter a plea and any bond is set) may be done by video from the jail. Everything you say at first appearance may be recorded; these statements can be used against you. Talk to a lawyer before saying anything about your case. We will try to have someone from NLG legal support at first appearances. As more information becomes available about arrest procedures, we will post it to our website.

The NLG does not have resources to represent everyone arrested. We are working with the Hillsborough County Public Defender's Office to share information about any arrests and incidents witnessed by NLG Legal Observers.® If needed, we have information available about private attorneys who may represent activists for free or at some cost, but the NLG cannot guarantee private representation to anyone. You will have to arrange your own legal representation with any private attorneys. The NLG does not endorse any particular attorney. We have limited resources to visit people in jail to facilitate communication and information sharing with the Public Defenders. You should assert your views and wishes about your legal defense into that process.

SOME STATE AND LOCAL LAWS YOU SHOULD KNOW ABOUT

Based on a review of state law and Tampa local ordinances, law enforcement may attempt to use the following laws to prosecute protesters. **This list is not exhaustive, nor is the information provided about each possible offense comprehensive.**

Traffic Laws: Law enforcement may selectively enforce traffic and pedestrian laws against protesters. If you want to avoid citations, obey all traffic laws. Failing to do so gives the police an excuse to stop you, run your name for warrants, search your property, or issue you an expensive citation. This includes standing in the street while waiting to cross intersections and jaywalking. Riding your bike in a bike lane or walking it on the sidewalk when in heavy traffic areas might help you avoid problems.

Unlawful Assembly: Police may unlawfully use this charge to conduct arrests after giving a dispersal order or sometimes when no order or a defective order is given. Pay attention to dispersal orders; it can be helpful if you are falsely arrested.

Resisting Officer (Resisting Arrest): Non-cooperation with the arrest process may result in this charge. Generally, physical, rather than verbal, acts are considered resisting an officer. For example, struggling with police, or "going limp." Refusing to answer questions, in most cases, is not resisting. Refusing to obey lawful orders of law enforcement can also result in arrest for this offense. If police believe you have used force or threat of force to resist arrest, you could be charged with a felony (Resisting an Officer with Violence).

Assault or Battery on a Law Enforcement Officer: The battery charge is a felony and can involve more serious penalties if a weapon is involved. These charges might be used if you threaten a police officer or touch him/her or his/her things (cars, batons, bikes, horses, etc.).

Disorderly Conduct: If the "disorder" involves damage to people or property (especially involving police officers or their possessions) the charges may be enhanced from a misdemeanor vandalism, etc. to a felony.

Sidewalk Obstruction: In general, you have the right to be on the sidewalk so long as you are not blocking the free flow of traffic on it. A PUBLIC SIDEWALK CAN BE WITHIN THE AREA DEFINED AS AN UNLAWFUL ASSEMBLY AND PERSONS ON THE SIDEWALK MAY BE ORDERED TO DISPERSE. **Under the new temporary Tampa RNC ordinance, law enforcement may also subject people to citation or arrest on a sidewalk if you are carrying any of the listed prohibited materials (see below).**

Masks: Under the temporary Tampa RNC ordinance, it is unlawful for any person to "wear any mask, or device whereby any portion of the face is hidden, concealed or covered as to conceal the identity of the wearer in the Event Zone." This law allows "masks or devices" on the official parade route and the "public viewing area." See our posted map of the "Event Zone" which covers a large part of downtown Tampa. Generally, wearing a facial covering for the purpose of political expression, for example, expressing solidarity with a political group, such as the Zapatistas, is not illegal and is a form of political speech protected by the First Amendment. You have the right to protest anonymously; however, wearing a hood or mask to conceal your identity can be unlawful if you are wearing it to hide your identity with the intent to break the law. Bottom line: if you wear a mask in downtown Tampa, you could be ordered by police to remove it or risk arrest for a violation of the law (up to \$500 fine and/or up to 60 days in jail).

Sleeping and Camping in Public: Under local Tampa laws, you may be cited or arrested, for camping or sleeping on public sidewalks, in public parks and on public lands (including sleeping in a car parked in public) or on private parking lots (without the permission of the owner of the private property or roads). Camping is defined by Tampa laws as a "public nuisance" and the City may remove your temporary shelter, bedding or personal belongings. We believe that using a tent or similar structure as part of First Amendment political expression and not solely for shelter is protected under a recent court case by FL NLG attorneys; however, if an officer issues an order otherwise, your property may be taken and you may be risking arrest. Document these actions by police and report them to the NLG.

Photographing, Video Taping and Audiorecording: If you are lawfully present in a public space, you have a right to photograph things in plain view, including the police. However, a Florida law makes it illegal to audio record a conversation without all parties' consent. This law could be used by police to order you to stop audio recording (this includes video recording with audio). We believe that you have a right to observe and document police activity in public spaces, but if a police officer orders you to stop audio recording and you don't, you may be risking arrest. Document these actions by police and report them to the NLG.

Signs, Banners and Stick Supports: The temporary Tampa RNC ordinance restricting what size sign supports you can carry and what they can be made out **applies on public property owned, operated, managed or leased by the City of Tampa.**

If you have the intent to cause injury, harm or damage to any person or property, it is unlawful to:

- have any type of wood unless it is one-fourth (1/4) inch or less in thickness and two (2) inches or less in width or if the item is not generally rectangular in shape, it cannot be more than 3/4 inch at its thickest dimension. These items are ok to have if not filled with any material, liquid or gas and both ends are blunt (not pointed).
- have any hollow or solid metal, plastic or hard material that is greater than 3/4 inch thick and 1/8 inch wall thickness. These items are ok to have if not filled with any material, liquid or gas and both ends are blunt (not pointed).

In plain language: Signs supports, banner and puppet supports used in a lawful manner on Tampa public streets, sidewalks and parks = probably ok, but if law enforcement thinks you are using them unlawfully, you may be risking arrest or them taking your items

PROHIBITED ITEMS UNDER THE TEMPORARY RNC ORDINANCE

Under the temporary Tampa RNC ordinance, many items are prohibited in different places in the City (event zone, city wide or the "viewing area"). **Some things are banned from an area even if the person carrying it has no intent to cause any injury, harm or damage to person or property.** These prohibited items include (partial list):

- gas masks or similar breathing devices to protect respiratory tracts and/or face against irritating or noxious gases or materials (**not allowed in Event Zone**)
- any container or inflatable device filled with any liquid or solid with the intent to cause harm
- glass bottles or ceramic containers regardless of any intent to cause harm (**non-glass and non-ceramic containers filled with water are ok if there is no intent to cause harm**)
- lighting a campfire
- spray paint cans, water guns (with intent to cause harm to person or property)
- rope, chain, cable, wire, string, line, tape or any similar materials with tensile strength greater than 30 lbs. and longer than 6 feet
- locks – padlocks, chain locks or similar locks (**but locks attached to a bike should be allowed**)
- material designed, intended or readily adaptable for use as a portable shield, including umbrellas
- throwing, projecting or launching objects with intent to cause intimidation, injury, harm or damage to any person or property

"PUBLIC VIEWING AREA" - The following items are prohibited in an area created by the City for protesters near the RNC site.

- anything on the list above
- camping gear
- coolers and ice chests
- fireworks
- non-plastic containers, bottles, cans and thermoses
- sticks and poles that do not meet the requirements in the ordinance
- ladders, bipods, tripods

- umbrellas with metal tips
- “any other item that law enforcement determines to be a clear and present danger to the health, safety, welfare and good order of the persons in the public viewing area”

MEDICS: There is an exception if you are a **licensed medical professional performing your medical duties**, you can have certain items **in the event zone** including: containers filled with liquid or solids, glass bottles, ceramic vessels, breathing devices.

SEARCHES AND STOPS

Refer to our other Know Your Rights documents on the website for more detailed information about searches.

There may be police checkpoints set up around the protest areas, including the “public viewing area” to conduct searches. If a law enforcement officer demands to search your bag or person, ask first if you are suspected of criminal activity or under arrest and, if so, what is the criminal charge. If there is no suspected crime and no arrest, you may lawfully refuse to have your bags or person searched. Keep in mind, however, that the officer may still try to bar your entry into an area. This would not likely be lawful but, if you want to pass by the officer, you may have no choice but to give in to the unlawful demand. Be sure to state clearly **"I do not consent to this search."** If arrested, your bags can be searched incident to an arrest.

In general, avoid carrying:

- illegal drugs
- weapons (even pocket knives)
- personal items you don't want the cops to see (datebooks, phone contacts, etc.)

If you are stopped by the police:

- In Florida, police may stop and ask you for identification and to explain your presence if they have reasonable suspicion to stop you; in these circumstances, failure to identify yourself and what you are doing could result in arrest
- Ask if you are free to go. If you are not under arrest, you can walk away.
- Remember that cops are allowed to lie to you and they will. Talk to a lawyer before you sign anything or tell the police anything.
- If you are a non-citizen or a minor, see the important information below that can affect you.
- Memorize this sentence: **I am going to remain silent. I want to see a lawyer.** You can invoke your rights even if the cops don't tell you what they are.

SPECIAL CONSIDERATIONS FOR NON-CITIZENS

If you are not a citizen, even if you have a “green card” or a visa, being arrested in protest actions might have serious consequences in your life. You might have problems with immigration in the future or could face deportation from the U.S. **If arrested, immediately request an attorney.** Non-citizens who are arrested should not say anything about your immigration status, birth place, entry, departure or stay in the U.S. until you have talked to an attorney. The choices you make about plea bargains, trials, etc., could impact your immigration status, and your lawyer needs to know it.

Lawyers are always telling you to talk to a lawyer, but it is especially important here. **This short sheet can't possibly provide enough information on immigration law, which is extremely complex, and changes all the time. If you have questions, you should talk to a licensed immigration attorney.**

SPECIAL CONSIDERATIONS FOR MINORS

Minors involved in the RNC protests and those providing legal support to them should operate under the assumption that, if arrested, they will be released only to a parent or legal guardian. If minors refuse to provide identification or give their name and age when arrested, they could be processed as an adult and detained in the adult holding facilities. Those who are obviously minors will most likely be separated from adults upon arrest.

CHECK OUR WEBSITE FOR REGULAR UPDATES - tampa.nlg.org