

# LEGAL SYSTEM FLOWCHART

This chart divides the legal system into the steps a person goes through, what happens at each stage and the choices available. The arrows show the flow from one step to the next. We offer this as a tool to help empower people in an arrest situation. (Based on experience in Chicago. Will likely differ in other settings.)

<u>STEPS</u>	<u>CHOICES</u>	<u>WHAT HAPPENS</u>
Warning ▼	<ul style="list-style-type: none"> <li>Stay or leave</li> <li>Continue or stop doing intended actions</li> </ul>	<ul style="list-style-type: none"> <li>Officer may give warning to leave or command to stop doing something.</li> </ul>
Arrest ▼	<ul style="list-style-type: none"> <li>Walk with officer</li> <li>Go limp; be carried away</li> <li>Leave or return to action (if left unguarded)</li> </ul>	<ul style="list-style-type: none"> <li>Officer physically grabs you, takes you to paddy wagon or squad car; may inform you that you are under arrest; pat search, sometimes handcuffs; taken to holding area.</li> </ul>
Processing and Booking ▼	<ul style="list-style-type: none"> <li>Decide what, if any, information to give police (remain anonymous, give name, give symbolic name).</li> <li>Refuse to post bond or post bond</li> <li>Bail solidarity: demand no cash bonds or equal bonds for all.</li> </ul>	<ul style="list-style-type: none"> <li>Police question you for arrest reports (name, address, occupation, ss #); may try to get additional info for intelligence; possible photographing, fingerprinting; may take property, clothes; Bond set from \$0-\$100 in state misdemeanor cases; no cash bonds required for city ordinance or federal trespass violations.</li> </ul>
First Court Date ▼	<ul style="list-style-type: none"> <li>Use lawyers or go "Pro Se" (defend yourself)               <ul style="list-style-type: none"> <li>- Continuance</li> <li>- Plea Agreement</li> <li>- Bench Trial (before a judge)</li> <li>- Demand Jury Trial</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Appear in court alone, or most likely with other arrestees; Attempt to dispose of case by plea or trial or continue case for later bench or jury trial or plea negotiations; prosecutor not always ready for trial.</li> </ul>
Trial ▼	<ul style="list-style-type: none"> <li>Lawyer or Pro Se</li> <li>Bench or Jury</li> <li>Defense based on Necessity of Actions or non-commission of acts/technicalities</li> <li>Small or large resources of time &amp; money</li> </ul>	<ul style="list-style-type: none"> <li>Trial can vary from a few minute bench trial with or without a lawyer to a full jury trial with expert witnesses lasting a week or more, or anything in between.</li> </ul>
Verdict ▼	<ul style="list-style-type: none"> <li>Acquittal (Not Guilty)</li> <li>Guilty</li> </ul>	<ul style="list-style-type: none"> <li>Judge or jury decides</li> </ul>
Sentencing	<ul style="list-style-type: none"> <li>Make statement: opportunity to bring out political &amp; moral issues, show non-recalcitrance</li> <li>Remain silent</li> </ul>	<ul style="list-style-type: none"> <li>Hearing on appropriate sentence; can testify or call witnesses to why actions were justified, necessary, etc., and your background.</li> </ul>

Adapted From: "Organizing for Resistance: Historical and Theological Reflections and Organizing" by the Chicago Religious Task Force on Central America, 1985.

## POTENTIAL CHARGES

1. **Assault:** A person commits an assault when, without lawful authority, s/he engages in conduct which places another in reasonable apprehension of receiving a battery.
2. **Battery:** A person commits battery if s/he intentionally or knowingly without legal justification and by any means, (1) causes bodily harm to an individual or (2) makes physical contact of an insulting or provoking nature with an individual.
3. **Criminal Damage to Property:** A person commits criminal damage to property if s/he knowingly damages any property of another without her/his consent.
4. **Resisting or Obstructing a Peace Officer:** A person who knowingly resists or Obstructs the performance by one know to the person to be a peace officer of any authorized act within her/ his official capacity.
5. **Mob Action:** The use of force or violence of disturbing the public peace by two or more persons acting together and without authority of law or the assembly of two or more persons to do an unlawful act.

## POTENTIAL DEFENSES

1. **Self Defense:** A person is justified in the use of force against another when and to the extent that s/he reasonably believes that such conduct is necessary to defend herself or another against such other's imminent use of unlawful force.
2. **Necessity:** Conduct which would otherwise be an offense is justifiable by reason of necessity if the accused was without blame in occasioning or developing the situation and reasonably believed such conduct was necessary to avoid a public or private injury greater than the injury which might reasonably result from her own conduct.

## OPTIONS FOR PLEAS AND TRIALS

1. **Trial by Judge (Bench Trial):** This is where you would plead not guilty and have your case be heard only by a judge. The judge would presumably listen to the prosecution's witness: (i.e., the police officer) and then your lawyer would cross-examine (ask questions/try to trip up) that witness. Then if you wish or your witnesses could take the stand, tell your side of the story and then be subject to cross-examination. The judge decides if you're innocent or guilty.
2. **Trial by Jury:** This is where you would plead not guilty and have your case be heard by twelve people picked from the community who would listen to the prosecution's and your side of the story. The jury decides your innocence or guilt.

*In both trial by judge or jury the prosecution has the burden of proving you guilty. In both trial by judge or jury, if you're found guilty the judge decides your sentence.*

3. **Pleading Guilty:** This is where you admit to the "crime." You give up your constitutional right to a trial, give up your right to remain silent, give up your right to make the state prove that you are guilty, and give up your right to cross-examine any of the states' witnesses. Presumably, the state gives you a better deal/ sentence than if you were found guilty after a trial (either by judge or jury trial).

## POTENTIAL SENTENCES

Most first-time "offenders" will be offered a period of **supervision**. Supervision is not a conviction. It is completely erasable from your record (that means you can make the cops send back your fingerprints and mug shot) if you complete the supervision successfully and wait two years. Supervision basically means that if you don't get arrested during the period of time (one year, six months, three months, etc) the case is dropped against you. If you do get arrested, for anything except traffic offenses, you could be in violation of your supervision and be resentenced for this charge (plus have your new charge to contend with). As a practical matter few people are violated on supervision, but it is possible.

The range of sentences for misdemeanors include (1) community service, which is not a conviction; you must fulfill a certain number of hours doing community work and must report to a probation officer; (2) conditional discharge, which is a conviction, no reporting; (3) probation – a conviction, and you must report; (4) home confinement – a conviction, stay in your house and be subject to random check-in; (5) jail time – a conviction, stay in jail; (6) pay a fine, a conviction. Any combination of these sentences may be imposed.

### State Level

Class A misdemeanor: up to 1-year in jail and up to a \$2500 fine.

Class B misdemeanor: up to 6-months in jail and up to a \$1500 fine.

### Federal Level

Class B misdemeanor: up to 6-months in jail and up to a \$5000 fine.