

RNC Legal 2004
or
How to survive a police riot in NYC
August 10, 2004

Intro

So you're planning to go to the RNC, and you want to know what legal risks you face, what the cops might do to protesters, and what legal support will be available? This document summarizes as much of that information as we have available, as of the draft date. For more current information, see the resources list at the end of the document.

Hotline Numbers

The legal hotline number for folks who get arrested or are trying to find their friends who were hauled away, will be activated August 26th. That number is 212-679-6018.

A number has been set up for folks who are managing convergence spaces and need legal help; call 917-861-0106.

The NYCLU will be collecting information about police misconduct. They have a storefront set up at 520 8th Avenue (between 36th and 37th Streets) and the phone number there is 212-629-3011.

General Info

We've been given a few guidelines by the NYC People's Law Collective and others. They include:

Don't buy drugs on the street in NYC. It's probably a setup OR there are cops watching, and you want to be out in the streets during the RNC, not in jail on a drug charge.

Shoplifting is not recommended. If the cops show up they'll book you and keep you at least overnight, and that will also interfere with your protest plans.

Turnstile-hopping is also not recommended; there are many cops watching for this and there will be thousands of cops in the subways during the RNC.

There are many many surveillance cameras in NYC, especially in Midtown (last recorded count, just from 45th through 69th Streets: 284 cameras!) Remember this when planning any high risk activity.

Mayor Giuliani and Mayor Bloomberg after him have both aggressively pushed a "quality of life" campaign that includes cracking down on the following: public urination, drinking or smoking pot in public, drug dealing, aggressive panhandling, and homelessness. A new NYC "cleanup" was recently announced, including sweeps of Central Park and Times

Square. At other times, protesters have been selectively prosecuted for drinking in public while other gatherings were undisturbed.

Tickets for taking up more than one space on a subway or bench on a subway platform, trespassing, misuse of parks property for sleeping on a park bench or having a bag on a park bench, and public urination have been common violations during this campaign, so if you are thinking of sleeping in a public space, **don't**. Keep track of where public restrooms are (or where your friends live) since shops and restaurants are often choosy about who they let use their facilities.

Key Locations

Madison Square Garden is at 7th Avenue (filling the block to 8th Avenue) between 31st and 33rd Streets.

The media center will be just across 8th Street at the James A. Farley Post Office Building. A temporary bridge is being constructed to connect the two buildings.

Penn Station is directly underneath MSqG (entrance on 33rd Street). The subway lines A, C, E, 1, 2, 3 and 9 pass through there, in addition to Amtrak, the Long Island Rail Road and New Jersey Transit.

Hotels in which the delegates are staying are scattered all over, from the Upper East and West Sides to around Battery Park. However, most are in Midtown, a mile or less from the convention.

Broadway shows, which every delegate gets to see as a treat, are on or around Broadway between 42nd and 47th Streets.

The legal office is not too far from the convention; the exact location is not being publicized because it's a small office and will already be overflowing with folks working there. But **if you volunteer** we will be more than happy to tell you where it is :-)

The legal evidence drop and jail outtake area recently opened at 520 8th Ave at 36th St; the NYCLU is running the office and it will be open from 10am – 6 pm until August 26, when it will be open from 8 am to 10 pm through the convention.

Law enforcement agencies involved

The NYPD will be on the scene. They have about 39,000 officers, the largest police department in the country. Another 1000 officers just graduated the academy and have been specially trained for the convention.

The Department of Homeland Security designated the RNC as a National Special Security Event, which means that the Secret Service is the lead Federal agency, coordinating with state and local agencies on the security plan and on deployment of Federal personnel. FEMA, the Department of Homeland Security, and the FBI will also be involved in security plans.

There are 400 Immigration and Customs Enforcement agents available for the RNC but they'll probably be focused on airplane flights.

Elected officials within state delegations are planning to bring their own contingents of security personnel.

Previous National Security Events have had as many as 5000 uniformed U.S. Troops brought in, but current word on the street is that a large troop presence is unlikely for NYC. Since 2001, National Guard troops have patrolled at key transportation areas, and the Guard will patrol bridges, tunnels and train stations during the convention. The Secret Service expects a significant increase in troops at Penn Station.

There will be a very small (one 12-member team) Special Forces presence, probably around MsqG.

Some Capitol Police will be deployed to the RNC.

Some private security personnel may be used at hotels and party locations.

Security budget

Police Commissioner Ray Kelley estimated the costs at around \$76 million, with \$59 million of that for police overtime alone. \$50 million of the tab will be picked up by the feds, and the rest by the city.

The Host Committee for the RNC has taken out insurance but their press person won't give specifics. Boston took out coverage for \$100 million, so expect NYC to have at least that much. (As you may recall, this was a big issue for R2K.)

Permit situation

So far, nineteen groups have been granted permits for marches or rallies.

UfPJ requested a permit for march to Central Park and a rally there, for 250,000 folks. Every newspaper in NYC has come out in favor of a permit; the NYPD and the Parks Department denied it. The city gave them a "final offer" of the West Side Highway, which UfPJ reluctantly took, but they have since reopened their demand for a permit in Central Park. Stay tuned...

Security prep – street closures, detours

From the mayor's press release:

Street closures in the immediate vicinity of Madison Square Garden will begin on Sunday, August 29th and are as follows:

- West 31st to West 33rd Streets from 6th to 9th Avenues will be closed to vehicle traffic. Between 7th and 9th Avenues, pedestrians will need to have a business-

related purpose to enter (like New Year's Eve in Times Square). [NYPD is collecting names of employees so they can be issued special ID. Visitors may be required to show a written notice on business letterhead to get to meetings.]

- West 32nd between 6th and 7th Avenue will be closed to vehicle traffic. It will become a Pedestrian Mall, providing access to Penn Station up through Penn Station's 7th Avenue entrance under the MSG marquee. People will be able to enter Penn Station through the entrance at 34th & 7th Avenue but not from 8th Avenue.
- 7th Avenue will be closed from 42nd to 29th Streets during the 13 hours when the convention is in session. At other times, at least one lane will be open in the MSG area and all lanes will be open elsewhere.
- 8th Avenue will be closed during the convention hours from 23rd to 34th Streets. Since 31st Street at 8th Avenue will be a designated protest area, additional lane or avenue closures are likely south of that point at other times during the week.
- The MTA will be re-routing bus service on both 7th and 8th Avenues.

(Note that the convention hours are from 10:00 am to 1:00 pm Monday and 8:30 pm to 11:00 pm Monday through Thursday; these are the 13 hours referred to in the press release.)

Additional details:

All entrances to Penn Station will be closed except for the main entrance on 7th Ave under MsqG and the Long Island Rail Road entryway on 34th Street just west of 7th Ave.

The designated protest area on 31st St. and 8th Ave. will stretch as far south on 8th Ave. as needed to accommodate protesters.

An internal memo from Planned Parenthood describes the expansion of the security zone to include that West 31st, 32nd and 33rd Streets from 8th to 12th Avenues would be closed to vehicle traffic during the hours the convention is in session. This has not been verified by any other source (yet).

Security prep -- personnel

The NYPD plans to use 6,500 officers for the area around the convention, demonstrations, hotels, and points of interests for delegates. They'll have another 5,500 cops on the subways and trains and in Penn Station. They expect to keep the number of cops in the outer boroughs up to normal numbers and get the city to pay for overtime for the increase in staffing. Overtime means that the entire Patrol Bureau would be working 12-hour shifts, starting a few days before the convention. Around 1600 unarmed cadets will be among the police protecting the MSqG perimeter by checking IDs and directing traffic.

Uniformed cops will be using horses, scooters, and choppers, as well as being on foot. There will be about 25 sniper teams on the roofs around MSqG. Hundreds of officers will also be deployed in plainclothes. Additionally, many cops on bikes will be deployed for rapid response.

Officers will be stationed at each of the 25 hotels where delegates are staying. Some hotels have undertaken additional security measures, such as retraining their private security staff or installing new video cameras. Security personnel - some from private firms - also will be stationed outside of locations where parties are held for delegates and other convention-goers.

Security prep – other measures

Street vendors will be moved out of the security zone, and a soup kitchen in the zone will also be closed.

Preliminary plans call for state and city police officers -- armed with bomb-sniffing dogs and hand-held chemical detection devices -- to board commuter and subway trains one stop before they reach Penn Station during the hours of the convention. The trains will be swept for suspicious packages and terror suspects before being allowed to continue into the station.

Subway lines have been closed in the past, for construction or for bomb scares; as recently as June 23, four different lines were shut down for between 1 to 1 ½ hours because of calls reporting suspicious packages. Expect these delays to increase over time, as nerves get more jittery and as the city's renewed anti-terrorism campaign gets underway, with emphasis on passengers reporting unattended items.

Passengers exiting Penn Station will be sent outside the security perimeter around the Garden. (So far, no plans have been made to close down Penn Station, except perhaps for the brief periods that Bush is actually in the convention hall.)

New Jersey Transit riders will be rerouted to Hoboken and will need to transfer to PATH trains to get into Penn Station.

The Republicans plan to use 200 buses to shuttle delegates, dignitaries and reporters to and from Manhattan hotels. Buses will be whisked into Penn Station on specially coned-off lanes.

The police department also plans to buy a closed-circuit television system, special crowd control barriers to ring Madison Square Garden, nuclear, biological and chemical detection and monitoring devices, 300 motor scooters and 15 vans for the gathering.

Cars entering the area, including those carrying delegates and dignitaries, will be screened for explosives and other contraband by devices that provide real-time video images of their undercarriages.

In response to the DHS threat level announcement at the beginning of August, some new measures were put in place. Commercial vans and trucks may not use the Holland tunnel. There will be checkpoints and bridges and tunnels, and in Midtown.

MTA police set up a "frozen zone" around Grand Central Terminal. Vanderbilt Avenue

was closed between 42nd and 45th streets, and the area from 43rd and 44th streets between Vanderbilt and Madison avenues was also shut down. [These restrictions may or may not be in force through the convention.]

There will be checkpoints right around MSqG as well, at West 31st, 32nd and 33rd Streets on the west side of 6th Ave, West 31st and 33rd Streets on the east side of 9th Ave, 7th Ave at West 34th St and West 30th St, and 8th Ave at West 34th St and West 30th St.

There are checkpoints where traffic is being stopped and thoroughly inspected at 96th Street and 57th Street in Manhattan.

The Kodak parking lot is supposed to become a Secret Service staging area.

Security prep – protest-specific measures

Fearing a plot by rabble-rousers to overwhelm city emergency rooms, Police Commissioner Raymond Kelly is deploying physicians, 30 full-time police surgeons and about 100 doctors designated "honorary" police surgeons by the NYPD, for triage duties outside Madison Square Garden. The exams will be performed prior to transfer to hospitals or police facilities.

The NYPD had officers in Boston, watching what happened. Delegates arriving for the first night of the Democratic convention had to make their way through a crowd of demonstrators because there was no fence separating protesters from delegates. A Republican convention spokesman says it won't be that way in New York.

The bomb squad was busy in Boston checking suspicious packages that turned out to be misplaced backpacks. So, New York officials will encourage travelers not to bring unnecessary bags with them.

Past NYPD tactics

Most NY folks think that we should be looking to the events of Feb 15th, 2003 as an example of what the NYPD are likely to do in August. This was the day that millions of people around the world demonstrated their opposition to the impending war on Iraq. In NYC, hundreds of thousands of people took to the streets, and about 350 people were arrested.

The cops used metal barriers to confine people to one-block segments. These barriers, colloquially called "protest pens", can be linked together at the corners, thus confining a group of people in (or out of) a specific space. See http://www.newsfrombabylon.com/images/articles/02-2003/feb15-nyc/IMG_1197.JPG for a picture of the barriers in use. The cops here have used similar barriers around 850 Bryant in the recent past, if you've seen those.

People were frequently refused entrance/exit from protest pens. One woman tried to leave in her wheelchair; the cop stopping her was so forceful that he damaged the wheelchair controls, effectively immobilizing her. Other folks were told that the pen they were trying

to enter was full and redirected to others; on their way to the other pens those cops told them the opposite story. In these cases folks were often beaten or arrested.

Some folks were pepper sprayed. It seems **mainly** to have been used only at short range to target small numbers of people. However... at least one report is of pepper spray being aimed into the air so that it would come down on the crowd.

Some folks were beaten when they were arrested, even though they were lying on the ground immobile.

The NYPD used horses for crowd dispersal, even when the crowds were pretty packed in and unable to move. Some folks were knocked to the ground and others were trampled.

At many demonstrations the NYPD has required all demonstrators to submit to a search of their bags in order to gain access to the protest site.

The NYCLU filed a federal lawsuit on behalf of three demonstrators from the Feb. 15, 2003 activities. The suit challenged the police use of protest pens, closure of streets, horses, and blanket searches of everyone going to the demo.

The judge ruled that the NYPD cannot close streets and sidewalks at demos without making reasonable efforts to notify persons how they can otherwise access the demo sites; they can't unreasonably restrict access to and participation in demos through the use of pens (one option is to create a larger number of openings which may be monitored by cops); they cannot search the bags of all demonstrators without individualized suspicion at particular demos without the showing of both a specific threat to public safety and an indication of how blanket searches could reduce that threat. In his order implementing the ruling, however, he said that they could search bags if they determined there was a "probability of a threat to public safety" and could show that the searches would reduce that threat. The challenge to horses was not addressed for technical reasons.

Since then, the Department of Homeland Security has raised the threat level around the financial centers in NJ and DC, and has named two buildings in NY that are specific targets of attack, namely, the NYSE and the Citicorp building. Among the possible methods of attack specified are a truck or limousine with explosives, a person with explosives in their bag, and helicopters. The NYPD may well implement blanket searches based on this information.

Items not permitted in the security zone include laptops, camcorders, cameras with long lenses, bags for carrying cameras or binoculars, backpacks of any kind, bottles of liquid, spray bottles, and umbrellas. This should apply only to delegates and staff actually going into MSqG, but be prepared for the zone and the restrictions to expand at any time.

Possible new tactics

Since the Feds are actually in charge, and they will be driven by a different agenda than the NYPD, we may see new tactics this time around. NYCPLC speculation centers around preemptive arrests and raids.

Consider contingency plans for what you or your group might do in the worst case scenario (alert level is raised and security plans change, or a terrorist attack is thwarted and all permits are revoked, or an attack actually takes place and who knows what the hell happens). We all hope this doesn't happen, and most likely it won't, but if you've spent a few minutes thinking about what to do, you'll be better prepared for whatever comes along.

Surveillance practices

On Feb 15, 2003, after folks were arrested, cops referred to a "Criminal Intelligence Section Demonstration Debriefing Form" which they filled out by interrogating arrestees on a range of inappropriate topics including their political group membership, views on the Middle East, and whereabouts on September 11, 2001. (A couple of sample questions: "Do you hate George W. Bush," and "Don't you think it was necessary for us to get involved in World War II?") Some folks were asked about their religious affiliations. Some folks that requested lawyers were threatened, and questioning continued regardless of the arrestee's insistence on their rights. This practice was exposed in April of 2003 and the NYPD agreed to halt the practice.

The Handschu guidelines, which said that the NYPD had to have proof of an actual or imminent crime before investigating political activities, were modified by Judge Haight (U.S. District Court of NY) in January; when the new interrogations came to light, he expressed his dismay and placed the police's surveillance policies under court supervision. But the modifications Judge Haight put into place remain. Under those changes, the department will no longer need to obtain specific information of criminal activity before investigating a political group.

The NY City Council passed a resolution June 28th which called for the cops to respect the First Amendment and included a specific list of things they'd like the NYPD to do. Though non-binding, it does include this wish list item for NYPD behavior: "refrain from engaging in a preliminary inquiry or investigation of individuals or groups, as provided in the Handschu decree, based solely upon their participation in activities protected by the First Amendment, such as political advocacy or the practice of religion".

The bottom line is that NYPD will be widely frowned upon, including by their own city council, if they engage in these interrogations or in undercover surveillance activities, but there's no guaranteed protection. Your best protection is to be ready to invoke your rights: "I am going to remain silent! I want to see a lawyer!" Any information that you give them other than identifying information is bound to be used for bad ends. And it won't help them find terrorists either.

Possible charges

Favorite charges of the NYPD at mass demos: disorderly conduct, unlawful assembly, resisting arrest, and obstructing government administration, all misdemeanors or lesser offenses. A handful of folks usually wind up with felonies, as in SF. (Common felony charges: assault of an officer.)

Infractions: Citations in NYC are called DATs (Desk Appearance Tickets). A DAT is a promise to appear in court. Disorderly conduct and other like charges are often given out on DATs.

There is an anti-mask law on the books that was upheld in the 2nd Circuit in January of this year. However, it hasn't been used against protesters in the last couple of years. Your guess is as good as mine about its use at the RNC. At the least, police may use wearing of masks by protesters as a justification for use of force.

Sticks are illegal for signs by regulations, and most often result in confiscation and sometimes arrest. Use cardboard tubes instead.

A new law in NYC makes posting stickers on public/private property a graffiti offense, which is not DAT-able.

If you are arrested by federal officials, you may be facing federal charges, and a different strategy may be needed. For example, at demonstrations elsewhere, the Secret Service have taken people into custody who were later charged with entering a restricted area when they refused to move into the designated "free speech zone". Of course, most officers making arrests will be NYPD.

Arrest strategies

Robert Morgenthau, the Manhattan District attorney, claimed back in March that he was expecting about 1000 arrests a day. No one knows for sure if this is an indication of plans for mass preemptive arrests, or whether he was just angling for more money for law enforcement in the budget.

The NYPD has used snatch squads in the past (for example, the WEF in 2002). They have done mass sweeps too but not of the size that we've seen in SF.

After being arrested

Arrestees have been taken to the Brooklyn Navy Yard in the past, but Mayor Bloomberg said that it would not be used to house convention arrestees. (The city is planning to tear it down and build mixed-income apartments.) A couple of other detention areas are 120 Schermerhorn in Brooklyn, and the "Tombs" at 125 White Street in Manhattan. We don't have word on where people might be taken in August yet. There are rumors that if enough folks are arrested they'll be transferred to outlying boroughs.

In New York City, they are used to pushing about 20,000 arraignments through the system per month. (That's around 670 a day!) Typically, about 1000 folks are arrested each day. This includes all 5 boroughs. In Manhattan, about 300 or so people are arrested per day. They are planning to double court capacity for arraignments during the week of the convention. This means that if you want jail solidarity of the "no one gives their names and we stuff the system" variety to work, you need thousands of people to get started. They are also planning to postpone proceedings involving jailed defendants during the week of the conventions (trials, pre-trial hearings, and so on) where police officers might

be called to appear.

In the past, folks have generally not been held on bail. This goes for out-of-towners too. Even protesters with felonies have been released on their own recognizance, as happened after the March 20th rally last year. The exception to this rule is those folks who are more likely to be targeted by the police (i.e. young men of color). Nonetheless, you should make contingency plans in case things change.

If you are arrested and booked, during the booking procedure you should be interviewed by a representative from "pretrial services". The result of this interview will be used by the judge in determining whether you should be released on your own promise to appear (release on own recognizance, or ROR). It is important to give them the name and telephone number of someone who can verify the information that you provide.

Some charges will get dropped outright by the DA. Many more cases seem to be candidates for an "ACD", which is adjournment in contemplation of dismissal. This procedure is where the court adjourns the hearing; it's **not** a guilty plea. If you don't get arrested again in some time frame (usually 6 months), the charge goes away. Otherwise the prosecution may reinstate the charge.

The Civilian Complaint Review Board (a group much like the CPRB in Oakland) has e-mailed hundreds of protest groups and attended some of their meetings to hand out brochures and offer instructions on how to bring complaints against police officers. Talk with others planning legal strategy before you plan to go this route, however; it may interfere with your criminal case and/or any civil suits that result. Additionally, information you give to the Board is made available to the NYPD.

NYPD and Immigrants

If the NYPD figures out that someone they are holding is undocumented, while the person is still in custody, what they've done in the past is bring the person into the courtroom, drop charges, and turn the person over to ICE [Immigration Customs Enforcement] officials right on the spot. NYC PLC has generally been successful at getting the person out before the NYPD figures it out. Immigration lawyers will be on call to help.

Although it is illegal for NYPD to ask your citizenship and related questions, expect that they will. Do not give anything but your name and identifying info. Do **not** give your SSN or nationality.

NYPD and Priors/Warrants

If you have an in state prior, it won't usually affect your bail or release. It may affect the kind of deal you get. If you have an out of state prior, the NYPD will likely not even know about it. Exception: if it is a federal charge, the Feds may know about it and follow you around in NY and pick you up. If you have a warrant, in OR out of state, expect to get held, because the NYPD does check for that during booking. If there are mass arrests they may not check though and then it won't matter.

NYPD and Trans Folks

Expect police abuse of folks perceived to be trans. They will ignore name, id, dress, and behavior, and put folks in a cell according to their guessed biological sexual characteristics. The NYPD does have a LGBTQ liaison which is not all that useful, but sometimes you can talk to them and get a person moved. There will be some NLG lawyers for these issues on call.

NYPD and Minors

Their own written policy is very vague. They have done all of the following: refuse to release minors, treat them as adults and process them that way, release them as juveniles with no one there to pick them up, refuse to release to anyone but a parent, etc. They get to decide to whom a minor gets released, and it doesn't have to be a parent or guardian. But it doesn't have to be consistent, either.

If you need medication

The NYPD frequently refuses to provide people their medication in jail. PLC recommends that you inform your arresting officer what medication you need and what it is for, and **be persistent**. You'll need to bring your medication in the original prescription bottle, with your name on it, and you'll need to bring your ID. It may also help to have a letter from your doctor.

An NYPD policy implemented several years ago requires people taken into custody with prescription medication to be taken to a hospital where a doctor will evaluate them, but this does not always happen. [Does anyone know if this is current NYPD policy?]

Legal support plans

NYCPLC has said that they are **not** going to do post-arraignment court support. They will organize the first meeting of folks who get arrested, set up a listserv for arrestees, and then turn the list over to the arrestees to self-organize. They expect the first meeting to be just a few days after folks are arrested, while everyone is still in town.

The Bay Area Legal Cluster (tentatively named the "WMD" or "Weapons of Mass Defense") is talking about post-arrest support of folks from the Bay Area, which would include doing court tracking and legal strategy meetings. More will be known as we get closer to the date.

Lawyers will represent folks at arraignment; the ALAA is working on this. (The ALAA has a contract for providing defense and trial services and is like a public defender's office in most locales.)

The NLG is working on finding pro bono lawyers to represent people whose cases do not go away at arraignment. There is no guarantee as of yet that enough lawyers will be available. They have an open call out for volunteers; if you or your friends know criminal lawyers in New York who would be interested, they should go to the New York NLG's

web page at <http://www.nlgnyc.org/RNC.html> and fill out the form there.

No one is dealing with bail from the legal support community; please organize within your own groups for this.

Note that we are currently working under the assumption that folks will get charged with the usual minor offenses. If we all get held for felony terrorist raps, plans may change!

Additional resources

NYC PLC legal faq; great for NYC background!

<http://nycplc.mahost.org/FAQ.htm>

NYC PLC RNC legal info

<http://nycplc.mahost.org/>

NYCLU RNC legal info

<http://www.rncprotestrights.org/>

NLG RNC web site

<http://www.nlgnyc.org/RNC.html>

RNCNotWelcome legal links

<http://www.rncnotwelcome.org/legal.html>

What a DAT (citation in NYC) looks like

<http://www.columbia.edu/~ariel/rants/dat.gif>

Protest pens lawsuit

<http://www.rncprotestrights.org/courts-premc.html>

Feb. 15th 2003 police tactics

<http://www.rncprotestrights.org/streets-arrestingprotest.html>

Maps of NYC surveillance cameras

<http://www.notbored.org/scp-maps.html>

Legal trainings on your rights (Bay Area)

<http://www.midnightspecial.net/rnc/>

New York City Council resolution on protesters' rights for the RNC

<http://www.nycborc.org/resolution0389-2004.html>

NY NLG guide to getting arrested

<http://www.nlgnyc.org/howtodealNLG.pdf>