Representing People Charged with

Ordinance Violations or Misdemeanor Offenses in the City of Chicago

NLG Presentation in Anticipation of Potential NATO-related Arrests

May 14, 2012

Janine Hoft and Melinda Power

Introduction

The NATO Summit here in Chicago may prompt many to participate in demonstrations and either engage in civil disobedience or be subject to police harassment and false arrest. The NLG has committed to organizing representation for those involved in political protests who are arrested during this time. Attorneys will be requested to provide their services pro bono although donations to the NLG will be accepted. This training focuses on preparing attorneys with little criminal defense experience to feel comfortable representing clients on ordinance violation or misdemeanor charges, particularly at initial court appearances.

Representing Political Clients

Some clients may have carefully planned and anticipated their arrest and others may be victims of police over-reaction or misconduct. Political clients need the same information as to their available options as any other criminal defendants but some may view their involvement in the so-called criminal justice system in a different way than an individual arrested in another context. Some may not want to raise technical defenses and others may have qualms about expressing "guilt." Others may want to creatively challenge the issues in the form of unique motions or trial defenses. It is important for attorneys to assist the political client in navigating the system while identifying and respecting the client's unique concerns and goals.

Assignment of Lawyers to Clients

The Mass Defense Committee of the NLG plans to compile a list of all arrestees desiring representation and match them with available pro bono attorneys.

The Mass Defense Committee will assign attorneys to a particular court date, time and location and provide attorneys in advance of the court date with the names of potential clients appearing, any available contact information and an identification of the particular charges faced by the client. Attorneys are encouraged to contact clients in advance to introduce themselves, verify information, review the actual charging document or bond slip and discuss a client's understanding of the process and their expectations. It would be helpful to have an idea in advance whether a client wants to enter into plea negotiations in an effort to get the best deal to resolve their case, is willing to pay a fine or do community service, whether the client will only accept a dismissal and wants to fight the charge and proceed to trial.

Representation of Clients Charged with Offenses

Although many minor charges are dismissed on the first court date, the attorney should be aware of the options available in defending a client. Representation of a client charged with an offense can be a unique challenge much like unraveling a mystery. An evaluation of each case includes reviewing the charge and identifying the police version of events compared with a client's version. Can the prosecutor meet its burden to prove each and every element of the crime charged? Are there technical defenses to the charge, including did the police identify the wrong charge or fail to adequately prepare the charging documents? Is there a factual defense to the charge or can facts be presented that deny the stated offense? Will a bench or jury trial be an appropriate and desirable method to raise issues or present defenses? An arrestee has a right to a jury trial only if the charge carries the potential for jail time and if not a jury trial must be purchased for $250. A trial is not likely to take place on an initial court appearance as generally judges provide each side with one continuance and therefore the defense attorney will have an opportunity to obtain police reports and other documents, visuals, evidence or witnesses necessary for a trial. Knowledge of who the judge is that will hear the case is indispensable information. Prior to the initial court appearance, attorneys will want to review the statutory elements of the charge and may want to prepare certain documents as discussed below.

Potential Charges Anticipated in a Demonstration Context

People arrested in Chicago for what the police consider minor offenses are usually either given a City of Chicago ordinance violation or charged with a misdemeanor. Common applicable ordinance violations include parading without a permit, disorderly conduct and pedestrian traffic offenses. Common applicable misdemeanors include state disorderly conduct, criminal trespass, resisting or obstructing, mob action and reckless conduct. Certain offenses committed on federal property, such as blocking the doors of a federally owned building or trespassing on federal property may be similarly charged by Federal Protective Service Officers (FPS) as violating federal codes. The FPS can process these federal charges or relinquish jurisdiction and request arrest by the CPD.

I. Representing Client Charged with an Ordinance Violation

An ordinance violation is issued by the Chicago Police Department for a violation of the City of Chicago Municipal Code. The client will receive a "ticket" that looks somewhat like a traffic ticket if she/he is charged with an ordinance violation, (See, copy of ticket attached as Exhibit 1).

The **ticket** will provide the following information:

-**Step** 1 is in the middle section of the ticket. On the left hand side of the ticket are **pre-printed numbers** facing vertically which represent a client's ticket or case number. When an attorney files an appearance (see below), this number is put on the right side of the appearance form.

- On the left side of Step 1 are the charge and the **Municipal Code violation number.** The Municipal Code number identifies the chapter and subsection of the violation and defines the elements of the offense. The Code can be viewed by downloading the "Municipal Code of Chicago". A copy of the Chicago Municipal Code is available on line at http://www.amlegal.com/library/il/chicago.shtml and through the city clerk at www.chicityclerk.com. (See, e.g., Exhibit 2, copy of text of ordinance violation: 9-80-180 Obstruction of or interference with traffic).

-**Step 2** section lists the alleged action done by the client which formed the basis for the arrest.

The bottom of the ticket states the date and time of the court appearance.

Court Location and Filing Attorney Appearance

Administrative Hearings are held at 400 W. Superior just west and north of the Chicago Loop. [Note, meter parking is available on Chicago Avenue and nearby cross streets.]

When arriving at 400 W. Superior, everyone, including attorneys, must go through a metal detector. The courtrooms are located to the left and the particular courtroom number will be identified on the client's ticket. In the hallway outside the courtrooms sits a clerk at a desk who can provide attorney appearance forms that must be completed and returned to the clerk. (See copy of appearance form attached as Exhibit 3). A copy of the appearance should then be brought into the courtroom.

Courtroom Proceedings

In the courtroom there will be an office right off the courtroom where the Corporation Counsels are located. Check in with them first. Sometimes they come in and make an announcement and collect a copy of everyone's ticket and attorneys provide their appearance forms with a client's ticket to the corporation counsel. Corporation counsel may first communicate whether they plan to proceed with the client's case. If they don't, the case will be called and they will let the administrative law judge know and a printed order will be generated indicating the case is dismissed.

If the City plans to proceed, they will make an offer to resolve the case. Generally, the offer is a monetary fine up to around $100.00. Alternatively, a client can do community service through the City but there is an administrative cost. The defense attorney may know in advance whether the client wishes to resolve the case by a plea and if so is able to pay a fine or do community service through the City or the offer can be communicated to the client and a decision made about whether the offer is acceptable to the client. Unlike Cook County courts that allow community service to be completed at any not for profit organization, the community service must be done through the City.

If the client wishes to contest the charge, he/she has a right to a trial or may request a continuance. The trial will take place in the hearing room and the burden is "a preponderance of the evidence". The hearing officers are practicing attorneys and not full time judges. The City can proceed by the sworn allegations on the ticket and does not need to present a live witness. The defense can present live witnesses, visuals and documentary evidence to overcome the preponderance of the evidence standard.

Spectators can be in the courtroom. At the conclusion of the trial, the Hearing Officer will make a finding and generate a printed order. (See attached Exhibit 4) If the finding is guilty, the hearing officer generally will assess a fine and court costs. An attorney can try to negotiate with the corporation counsel about the penalty, either by negotiating a reduction of the fine or requesting community service. If the client is found guilty, and is ordered to pay a fine or fee, it can be paid by credit card at a machine located further north of the metal detectors at the entrance of the building. An attorney may be able to negotiate a time period within which the fine and costs must be paid.

An attorney may also try to negotiate a resolution of the case before court by contacting the Corporation Counsel's office at 400 W. Superior if the client indicates in advance they are willing to enter into a plea. A continuance may be requested, without the client's appearance, if the client is unable to attend court. An arrangement may be worked out in advance and possibly obviate the need for the client to appear. The attorney would still go to 400 W. Superior, file an appearance and tell the Corporation Counsel that an agreement was reached in advance. A printed order will be generated as discussed above identifying the agreement that was reached to pay a fine and/or complete community service.

II. Representing Client Charged with Misdemeanor Offenses

A misdemeanor offense is a violation of state law for which the maximum penalty upon conviction is no longer than one year in jail. Misdemeanors are classified according to the maximum penalty with a Class C misdemeanor carrying a maximum 30 days and $1500 fine, Class B misdemeanor carrying a maximum 6 months and $1500 fine and Class A misdemeanor carrying a maximum of one year and a $2500 fine. Fines are generally not imposed in misdemeanor cases. Periods

of probation and supervision are available dispositions of misdemeanor cases except in the case of a resisting arrest charge.

Preparing for Initial Court Appearance

The client will have been given a **bond** slip which contains helpful information. The following information may be found on the bond slip (see attached Exhibit 5):

On the upper right hand, the bond will have either the letter D or I. A **D bond** indicates that money, usually $100.00, has been paid to be released from custody. An **I bond** means that the arrestee is released on his/her own recognizance and no money has been paid for her/his release

In the middle of the bond slip is a section entitled **Court Appearance**. It will identify the address of the court, the branch number of the court and the date and time for the court hearing.

Right above that is a box which contains **the charge**. It will refer to the State of Illinois criminal code and begin with the chapter number 720 followed by numbers which refer to the specific charge. A review of the annotated statute identifying the criminal charge and related case law yields a wealth of information. (See, e.g. copies of Reckless Conduct and Mob Action statutes attached as Exhibit 6)

Initial Court Appearance and Court Location Information

An attorney who shows their bar card and Cook County identification card at the misdemeanor courthouse will not need to go through the metal detector or be searched. The attorney will want to find out if the client is present, then file a appearance form with the clerk in the courtroom.(See attached Exhibit 7). Appearance forms are found in the area of the clerk's desk or ask a public defender or sheriff for their location if the clerk isn't out. An attorney may also prepare their own version of the appearance form in advance. The court case number may be found on a call sheet which is either in front of the clerk's area, posted outside the courtroom or can be obtained by asking the sheriffs or the public defenders for the call sheet.

An attorney who arrives prior to the time of the court call may request to see the court file before the case is called. The file should contain the Complaint, or formal charge and the attorney is entitled to a copy. Also, the arrest report should be in the file which will include a narrative of the police version of what happened and the basis of the charge. An attorney must file an appearance and tell the clerk that the case is ready in order to have it called, and private attorneys have priority to have cases called outside the order of the regular court call.

On the **Arrest Report** in the upper right hand corner are the following #s which are useful to obtain subpoenaed material or to get the Office of Emergency Management Communication recordings. (O.E.M.C. recordings include any 911 calls or police messages pertaining to the arrest) They are:

> The CB#, the IR# with which may used to obtain the criminal history of your client generally for purposes of expunging a client's record, the RD# and Event # which are used to get reports, O.E.M.C. recordings and subpoenaed material.

The attorney may ask the state's attorney if they plan to proceed with the case or argue why the charge should be dismissed. They may know whether they plan to proceed or they may say they will see if an officer checks in or what the officer says about your client. Generally, if the police officer is not present in court, the court will dismiss the case. If the case is dismissed or "stricken on leave to reinstate (SOL-ed)" an attorney should file a written trial demand. (See attached Exhibit 8). When the case is first called the judge should look to the state first and if the state wishes to proceed they will ask the judge to pass the case in order to "pre-try" the case with defense counsel. The state should then tell you what there offer is and you can negotiate and argue with them for a resolution more beneficial to your client if your client is interested in resolving the case on the first court appearance.

Possible Offers from State's Attorney to Resolve Charge

-Community service at any not-for-profit in exchange for dismissal. Upon completion of the community service, the client will need to get a letter from the not-for-profit verifying that he/she completed the required number of hours. The client will need to bring this letter to court: The case will not be dismissed until the

letter is presented to the court. Judges have allowed clients to present the letters without their attorney's presence and have waived the client's presence if the attorney presents the letter.

- Supervision which lasts from one to twelve months. During that time, the client is not supposed to break the law. If the client successfully completes the supervision, two years from the termination of the supervision, the arrest can be expunged. Supervision does not count as a conviction under Illinois state law but a supervision finding will have immigration consequences for an undocumented client. Supervision may be used in subsequent sentencing determinations within the two years and pursuant to federal sentencing guidelines.

-Conditional Discharge for a similar period of time. The difference with Supervision is that upon completion of the conditional discharge your client may never expunge their arrest and a conviction is recorded on their record.

An arrestee who is charged with a misdemeanor as a result of political expression or activity should be placed on a period of supervision unless they have a significant criminal background.

Trial of Misdemeanors

If a client wishes to proceed to trial, it's important to file a discovery motion. (See attached Exhibit 9). She/he can request a bench trial, which is a trial without a judge at the branch court where the case is being held. The trial is generally continued for another date so that both sides can get needed discovery. Alternatively, a jury trial can be requested. If a jury trial is requested, the case will be sent to room 102 at 26th and California. A court date within a week will be given. The client will need to understand that it may be several months before the trial is actually held due to obtaining discovery and court back log and may require multiple court appearances. An attorney should be prepared to subpoena records and evidence for a trial. A subpoena can be prepared for additional documents that the police maintain but do not place in the court file. (See Exhibit 10, copy of subpoena for documents in a misdemeanor case). A subpoena, in addition to uncovering additional information, can send a message to the prosecutor that the defense of the case will leave no stone unturned and will require the expenditure of the state's resources. It is essential to serve the subpoena within 30 days of the

event prompting the client's arrest to assure that all available documents and evidence will be preserved. Additionally, a court order to preserve any 911 calls or O.E.M.C. recordings can be entered on the first court date and then served on O.E.M.C, within 30 days to preserve any audio communications regarding the case. (O.E.M.C. order, Exhibit 11).

Trials may be consolidated with other related cases and more experienced criminal defense attorneys are available for consultation about, preparation for and conducting a trial. NLG attorneys can work together to defend clients and create trial strategies.

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Presentation in Anticipation of Potential NATO-related Arrests by: Chicago National Police Accountability Project and the Chicago Chapter of the National Lawyers Guild

Presentation by: Janine Hoft and Melinda Power

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Exhibit 1

Sample ordinance violation ticket

ADMINISTRATIVE NOTICE OF ORDINANCE VIOLATION

CPD 11.497A

In the City of Chicago Department of Administrative Hearings
City of Chicago, a Municipal Corporation, Petitioner, vs. REV 04-01-09

Respondent if Chicago Business, use name on license	Last Name, First Name	MI
W [redacted] B [redacted]		J

Resp. Address No.	Dir.	Street Name	ST Suffix	Apt./Ste.
[redacted]	S	[redacted]		

City	State	ZIP
Chicago	(X) IL ( ) Other	60614

Person Served if other than Respondent	Last Name, First Name	MI

Phone	Acct./DREV No. or Inventory No. if applicable
773 [redacted]	

Identification	DLN State	D.O.B. (M/D/Y)
(X) DLN/ID ( ) Other [redacted]	(X) IL ( ) Other	[redacted]

Height	Weight	Sex	Race	Eyes	Hair	Event/IIDA
5/5	120	F	2	BLU	BRN	05296

STEP 1: Officer, Investigator, Inspector, and/or Complainant on oath states that the Respondent did then and there violate the following section(s) of the Municipal Code of Chicago:

P001985432 16

COUNT		COUNT	
	DRIVING WHILE USING MOBILE TELEPHONE WITHOUT HANDS-FREE DEVICE 9-76-230(A)		UNSAFE CONDUCT ON CTA - CROSSING BETWEEN CARS 10-8-520/90-120 #1.6(1)
	DRINKING ALCOHOL ON THE PUBLIC WAY 8-4-030		FALSE BURGLAR ALARM 8-4-050(b)
	PUBLIC URINATION 8-4-091		OTHER TITLE CHA SEC. 1 9-60-120 RULE
	ALCOHOL ON PARK DISTRICT PROPERTY 10-36-185 Ch. VII D.2		OFFENSE (if other): Pedestrian Obstruct Disp Conduct
	AFTER HOURS - PARK DISTRICT PROPERTY 10-36-185 Ch. VII D.2		
	SMOKING ON THE CTA 10-8-520/90-120 #1.8		
	DRINKING ALCOHOL ON CTA 10-8-520/90-120 #1.4		

STEP 2: You Must Describe Actions for Each Count below:

Count 1, In That: Subject observed sitting in the street obstructing vehicular traffic

Count 2, In That:

Violation Location Nos.	Dir.	Street Name in the City of Chicago, County of Cook	ST Suffix
300	S	Clark	

Vio. Date: Mo/Day	Year	Time of Violation	Notice Date: Mo/Day if different than Vio. Date	Year of Notice
11 07	2011	12:00 (X) PM		20

Complainant's Name if not issuing officer, Investigator, or Inspector

CPD 11.497A Version B - 01-05-09

Unit	Star / Badge	Signature of issuing officer, investigator, or inspector
001	9286	X [signature]

Administrative Hearing Appearance

IMPORTANT: UNLESS YOU HAVE BEEN ISSUED A MAIL-IN OPTION VIOLATION YOU MUST APPEAR FOR A MANDATORY HEARING ON:

Date: Mo/Day	Year	Time	at:	Room No.
11 29	2011	09:00 (X) AM ( ) PM	(X) 400 W. Superior	101

FAILURE TO APPEAR may result in the imposition of a fine not to exceed the maximum penalties for each violation as specified in the Municipal Code of Chicago plus costs, restitution, and fees. Failure to comply with the administrative law officer's order may result in the issuance of additional sanctions.

I acknowledge receipt of this notice.
Signature of Respondent or Person Served: X [redacted]

Comments

P

SEE REVERSE SIDE FOR MAIL-IN PAYMENT OPTIONS

DEPARTMENT OF ADMINISTRATIVE HEARINGS COPY

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Exhibit 2

Sample text of ordinance violation

CHAPTER 9-60
PEDESTRIANS' RIGHTS AND DUTIES

9-60-010 Crosswalks authorized – Crossing between intersections prohibited when.

(a) The commissioner of transportation is hereby authorized to designate and maintain by appropriate lines upon the surface of roadway, crosswalks at intersections where in his opinion there is particular danger to pedestrians crossing the roadway and at such other places as he may deem necessary.

(b) Whenever, upon the basis of an engineering or traffic investigation upon any street, it is determined that pedestrian crossings between intersections shall be prohibited in the interest of public safety, pedestrians shall not cross between intersections except where there may be a marked crosswalk. Such regulations against pedestrians crossing between intersections shall be effective when appropriate signs giving notice thereof are erected.

(Added Coun. J. 7-12-90, p. 18634; Amend Coun. J. 12-11-91, p. 10832)

9-60-020 Through streets.

No pedestrian shall cross a roadway other than in a crosswalk on any through street.

(Added Coun. J. 7-12-90, p. 18634)

9-60-030 Limited access streets and highways -- Public pedestrian tunnels and bridges.

(a) No pedestrian shall cross the roadway of a limited-access street or highway other than by means of those facilities which have been constructed as pedestrian crossings or at those points where marked crosswalks have been provided.

(b) No pedestrian shall cross a roadway where a public pedestrian tunnel or bridge has been provided other than by way of the tunnel or bridge within a section to be determined by the commissioner of transportation and to be so designated by the erection of appropriate signs or fencing.

(Added Coun. J. 7-12-90, p. 18634; Amend Coun. J. 12-11-91, p. 10832)

9-60-040 Railroad grade crossings and bridges.

(a) No pedestrian shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.

(b) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate or barrier after a bridge operation signal indication has been given.

(Added Coun. J. 7-12-90, p. 18634)

9-60-050 Pedestrian to yield right-of-way when.

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk shall yield the right-of-way to all vehicles upon the roadway.

(b) The foregoing rules in this section have no application under the conditions stated in Section 9-60-010 when pedestrians are prohibited from crossing at certain designated places.

(Added Coun. J. 7-12-90, p. 18634)

9-60-060 Pedestrian crossing.

(a) No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb except in a marked crosswalk.

(b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(Added Coun. J. 7-12-90, p. 18634)

9-60-070 Use of crosswalk.

Pedestrians shall move whenever practicable upon the right side of crosswalks.

(Added Coun. J. 7-12-90, p. 18634)

9-60-080 Walking along roadways.

(a) Where sidewalks are provided it shall be unlawful for a pedestrian to walk along and upon an adjacent roadway.

(b) Where sidewalks are not provided any pedestrian walking along and upon a roadway shall when practicable walk only on the left side of the roadway or its shoulder facing traffic that may approach from the opposite direction.

(Added Coun. J. 7-12-90, p. 18634)

9-60-090 Soliciting rides prohibited.

No person shall stand in a roadway for the purpose of soliciting a ride from the driver of any private vehicle.

(Added Coun. J. 7-12-90, p. 18634)

9-60-100 Traffic-control signals.

Pedestrians shall be subject to traffic-control signals as provided in Sections 9-8-020 and 9-8-050, but at all other places shall be granted those rights and be subject to the restrictions stated in this chapter.

(Added Coun. J. 7-12-90, p. 18634)

9-60-110 Imitation of blind persons prohibited.

It shall be unlawful for any person, except persons wholly or partially blind, to carry or use on the public streets of the city any cane or walking stick which is white in color, or white with a red end on the bottom.

(Added Coun. J. 7-12-90, p. 18634)

9-60-120 Pedestrians to exercise due care.

Nothing in this chapter shall relieve a pedestrian from the duty of exercising due care.

(Added Coun. J. 7-12-90, p. 18634)

Municipal Code of Chicago

CHAPTER 9-80
MISCELLANEOUS RULES

9-80-010 Blue lights and flashing, rotating or oscillating blue beams.

No person shall drive or move any vehicle or equipment upon any street with any device thereon displaying a blue light visible directly in front thereof, except a vehicle owned and operated by a police department, or place, maintain, or display upon or in view of any public way a flashing, rotating or oscillating blue beam.

(Added Coun. J. 7-12-90, p. 18634)

9-80-020 Red lights and flashing lights.

(a) No person shall drive or move any vehicle or equipment upon any roadway with any lamp or device thereon displaying a red light visible from directly in front thereof.

(b) Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or left turn or an emergency stop.

(c) The provisions of this section shall not apply to authorized emergency vehicles.

(Added Coun. J. 7-12-90, p. 18634)

9-80-030 Destructive substances on public way.

(a) No person shall throw or deposit upon any public way any glass bottle, glass, nails, tacks, wire, cans, or any other substance likely to injure any person, animal or vehicle upon such public way.

(b) Any person who drops, or permits to be dropped or thrown, upon any public way any destructive or injurious material shall immediately remove the same or cause it to be removed.

(c) Any person removing wrecked or damaged vehicle from a public way shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

(d) No person shall cast, throw or deposit any litter, as defined in Section 10-8-480 of the Municipal Code, upon any public way.

(e) Any police officer or traffic control aide observing a violation of this section may issue a notice of violation or other appropriate citation to any person violating any of the provisions of this section.

(Added Coun. J. 7-12-90, p. 18634; Amend Coun. J. 11-5-08, p. 43682, § 1)

9-80-160 Interference with traffic-control devices prohibited.

No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device or any railroad sign or signal. Every person who violates this section shall be fined not less than $250.00 nor more than $500.00 for each offense.

(Added Coun. J. 7-12-90, p. 18634; Amend Coun. J. 11-5-08, p. 43682, § 1)

9-80-170 Unauthorized signs declared a nuisance -- Exceptions.

(a) No person shall place, maintain, or display upon or in view of any public way any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal, and no person shall place or maintain upon any public way any traffic sign or signal bearing thereon any commercial advertising.

(b) Every person who violates this section shall be fined not less than $100.00 nor more than $500.00 for each offense. Every sign, signal, or marking prohibited under this section is hereby declared to be a public nuisance, and the commissioner of transportation is empowered to and shall remove the same or cause it to be removed without notice.

(c) This section shall not apply to crossing guards displaying portable stop signs to permit the street crossing of children or to "Neighborhood Watch" signs installed and maintained by local residents or organizations; provided, however, that "Neighborhood Watch" signs shall be uniform in size, color and design as approved by the Chicago Police Department and shall be installed only on residential streets, at least eight feet above curb grade, not less than 150 feet from any intersection and in such a manner as not to obstruct any traffic or other regulatory sign or signal. This section also shall not be deemed to prohibit the erection, upon private property adjacent to public ways, of signs giving useful directional information and of a type that cannot be mistaken for official traffic signs.

(Added Coun. J. 7-12-90, p. 18634; Amend Coun. J. 12-11-91, p. 10832; Amend Coun. J. 11-5-08, p. 43682, § 1)

IVSL

9-80-180 Obstruction of or interference with traffic.

Any person who shall wilfully and unnecessarily hinder, obstruct or delay or who shall wilfully and unnecessarily attempt to hinder, obstruct or delay any other person in lawfully driving or travelling along or upon any street or who shall offer to barter or sell any merchandise or service on the street so as to interfere with the effective movement of traffic or who shall repeatedly cause motor vehicles travelling on public thoroughfares to stop or impede the flow of traffic shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $200.00 or imprisoned for not more than ten days, or both, for the first offense, fined not more than $500.00 or imprisoned for not more than 20 days, or both, for the second

offense, and fined not more than 30 days, or both, for each such subsequent offense. Violations of this section shall be prosecuted in accordance with the procedures set forth in Section 1-2-1.1 of the Illinois Municipal Code, as amended, and the provisions of the Illinois Code of Criminal Procedure, as amended.

(Added Coun. J. 7-12-90, p. 18634)

9-80-190 Mobile food dispensers and peddlers prohibited in medical center district.

No person shall conduct the business of a mobile food dispenser or peddler as defined in this Code, on any portion of the public way within the boundaries of the medical center district and no person shall operate, stop or park any vehicle on any portion of the public way within the medical center district for the purposes of conducting any such businesses.

For the purpose of this section, "medical center district" means the area bounded by Ashland Avenue on the east, Congress Parkway on the north, Oakley Street on the west, and a line co-incidental with the north line of the property at or near 14th Street and 15th Street, owned or used by the Baltimore and Ohio Chicago Terminal Railroad Company for railroad purposes, on the south.

Any person who violates the provisions of this section shall be fined not less than $50.00 nor more than $500.00 for each offense.

(Added Coun. J. 7-12-90, p. 18634)

9-80-200 Toy vehicles.

(a) No person shall operate any pushcart upon any roadway, except by permit.

(b) No person shall ride a skateboard upon any roadway or sidewalk in a business district.

(c) No person upon roller skates, or riding in or by means of any coaster, skateboard, toy vehicle, or similar device, shall go upon any roadway except while crossing a street on a crosswalk and when so crossing such person shall be granted all the rights and shall be subject to all the duties applicable to pedestrians. This section shall not apply upon any street while set aside as a play street.

(d) Any person upon a sidewalk on roller skates or riding in or by means of any coaster, skateboard, or similar device shall yield the right-of-way to any pedestrian and shall give audible signals before overtaking and passing such pedestrian.

(e) No person riding upon any bicycle, motor- driven cycle, coaster, sled, roller skates, skateboard or any toy vehicle shall attach the same or himself to any moving vehicle upon any roadway.

(f) No person shall operate a motorized cycle or motorized scooter on the public way, except on a street where vehicular traffic is allowed. No person shall operate a motorized cycle or motorized scooter on a street unless the vehicle is properly registered and the operator is in possession of a valid driver's license, and meets the requirements of the

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Exhibit 3

Ordinance violation appearance form

DOAH-Appearance (A)

IN THE CITY OF CHICAGO, ILLINOIS
DEPARTMENT OF ADMINISTRATIVE HEARINGS

(5/05)

_____ **HEARINGS DIVISION**

_____ **SECTION**

CITY OF CHICAGO, a Municipal Corporation,
(by the Department of _____)
Petitioner,

v.

[redacted]

Respondent.

Doc. No. 11 CP 072819

Cit. No. P 003104364

APPEARANCE FOR RESPONDENT

I, JANINE HOFT, do hereby enter my Appearance on behalf of the above
(Print name)
captioned Respondent. I do further state under oath that I am the Respondent/Owner _____, or that I am the Lessee _____, Attorney X, or authorized Agent/Representative _____ of the above captioned Respondent.

FILED
NOV 23 2011
ADMINISTRATIVE HEARINGS
(Date)

J Hoft
(Signature)

1180 N. MILWAUKEE
(Address)

CHICAGO, IL 60656
(City, State, Zip)

773/235-0070
(Phone #)

55091
(Attorney #, if applicable)

MCN

White–DOAH Yellow–Respondent

Representing People Charged with
Ordinance Violations or Misdemeanor Offenses in the City of Chicago
NLG Presentation in Anticipation of Potential NATO-related Arrests
May 14, 2012
Janine Hoft and Melinda Power

Exhibit 4

Ordinance violation disposition order

IN THE CITY OF CHICAGO, ILLINOIS
DEPARTMENT OF ADMINISTRATIVE HEARINGS

CITY OF CHICAGO, a Municipal Corporation, Petitioner,)	Address of Violation: 300 S Clark
v.)	
[redacted])	Docket #: 11CP074480
[redacted])	Issuing City Department: Police
, Respondent.)	

FINDINGS, DECISIONS & ORDER

This matter coming for Hearing, notice given and the Administrative Body advised in the premises, having considered the motions, evidence and arguments presented, IT IS ORDERED: As to the count(s), this tribunal finds by a preponderance of the evidence and rules as follows:

Finding	*NOV#*	*Count(s)*	*Municipal Code Violated*	*Penalties*
City's motion to amend the charge(s) - Granted	P001985431	1	9-60-120 Pedestrians to exercise due care.	$0.00
Liable - By plea	P001985431	2	8-4-010 Disorderly conduct	$0.00

Sanction(s):

Order corrected nunc pro tunc to reflect community service hours.

Admin Costs: $20.00

JUDGMENT TOTAL: $20.00 plus 8 Hours Community service

Balance Due: $0.00

Respondent is ordered to come into immediate compliance with any/all outstanding Code violations.

Respondent is ordered to comply with all requirements of City's community service program.

ENTERED: Carmen Harris 39 Dec 1, 2011

Administrative Law Judge ALO# Date

This Order may be appealed to the Circuit Court of Cook Co. (Daley Center 6th Fl.) within 35 days by filing a civil law suit and by paying the appropriate State mandated filing fees.

Pursuant to Municipal Code Chapter 1-19, the city's collection costs and attorney's fees shall be added to the balance due if the debt is not paid prior to being referred for collection.

Representing People Charged with
Ordinance Violations or Misdemeanor Offenses in the City of Chicago
NLG Presentation in Anticipation of Potential NATO-related Arrests
May 14, 2012
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Exhibit 5

Misdemeanor bond slip

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

CASH DEPOSIT BAIL BOND: CRIMINAL OR QUASI-CRIMINAL (10% OF BAIL, $25.00 MINIMUM DEPOSIT) **D**

ORIGIN OF BOND	☐ Bail set by Rule of the Illinois Supreme Court OR	
USING AGENCY NO.	By (PRINT NAME OF JUDGE) (JUDGE'S NO.)	(OFFICE USE)

BAIL AMOUNT

$ _,___,___,___.00 ____ 00/100

DEPOSIT AMOUNT

$ XXX,500.00 ____ 00/100

STATEMENT OF DEFENDANT: I understand and accept the terms and conditions set forth below and on the reverse side of this bail bond. I understand in all cases, 10 % of any amount posted as bail is retained by the Clerk of Court, by law. Further, I hereby certify that I understand the consequences of failure to appear for trial as required.

ASSIGNMENT OF BAIL BOND BY THE DEFENDANT: I hereby authorize the return of the money posted above to the person shown on this bond as having provided money for my bail after all conditions of this bail bond have been met, or as ordered by the court.

Defendant's Signature _____

DEFENDANT (Person Preparing Bond - Always complete this section)

Full Name (PRINT) _____ (Last) (First) (MI)

Address (PRINT) _____ Apt. No. _____

City and State (PRINT) _____ Zip Code _____

COURT COMPLAINT OR INDICTMENT NUMBER(S)		CHARGE	DISPOSITION

DISPOSITION entered by (Signature of Deputy Clerk) _____ Br. or Sub. CT _____ Court Date ___/___/___ (Month Day Year)

COURT APPEARANCE: Defendant named above shall appear in the Circuit Court of Cook County, Illinois located at:

Address (Number and Street) _____ City/Town/Village _____ Illinois,

Branch No. _____ in Room No. _____ on _____ at _____ ☐ a.m. ☐ p.m.

CONDITIONS OF BOND: The defendant is hereby released on the conditions as indicated below:

- ☒ Appear to answer the charge in court until discharge or final order of court.
- ☒ Obey all court orders and process; not leave this State without permission of court and report changes of address to the Clerk within 24 hours.
- ☒ Not commit any criminal offenses while awaiting final order in this case.
- ☒ If on appeal, prosecute the appeal, and surrender to custody if the judgment is affirmed or a new trial is ordered.
- ☐ Surrender (725 ILCS 5/110-10(a)(5)) OR not possess any firearms or dangerous weapons until final order in this case.
- ☐ Not contact or communicate with any complaining witnesses or members of their immediate families or: _____
- ☐ Not go to the area or premises of victims/complaining witnesses home, work, school on: _____
- ☐ Not to indulge in intoxicating liquors, illegal drugs or certain drugs, to-wit: _____
- ☐ Undergo alcoholism or drug addiction treatment as ordered by the court.
- ☐ Undergo medical or psychiatric treatment as ordered by the court.
- ☐ If you are charged with a criminal offense and the victim is a family or household member, you are ordered to refrain from all contact or communication with: _____ for a minimum of 72 hours following release, and further ordered to refrain from entering and/or remaining at the location of: _____ for a minimum of 72 hours following release.
- ☐ Reside with parents or in a foster home, attend school or nonresidential program for youths, contribute to his/her support at home or in a foster home, observe curfew set by court: _____
- ☐ Report to and remain under the pretrial supervision of such agency or third-party custodian as ordered by the court: _____
- ☐ Other conditions: _____

CONDITIONS - Continued on reverse side.

NOTICE TO PERSON PROVIDING BAIL MONEY OTHER THAN THE DEFENDANT

1. I understand that the money I have posted is for the bail for the defendant named on this bond in the above numbered case or cases.

2. I understand that even if the defendant follows all court orders, that this money may be ordered by the Judge to pay for the defendant's attorney fees, court costs, fines, fees and/or restitution to the victim, and that *I may lose all or part of my money.*

3. I understand that if the defendant fails to comply with the conditions reflected on this bond, *I may lose all of my money* should the court enter a forfeiture of bail order.

4. I understand in all cases, 10 % of any amount posted as bail is retained by the Clerk of the Circuit court, by law.

Provider's Name (print): _____

Relationship to Defendant: _____

Address: _____

City: _____ State: _____ Zip: _____

Area Code/Telephone No.: _____

Provider's Signature: _____

☐ a.m. ☐ p.m. Hour _____

Date ___/___/___ (Month Day Year)

This bail bond form was prepared by:

_____ Star No. _____ Police Dept. _____
(Signature of Peace Officer) (CPD District No. or Suburban City, Town, or Village)

Or Clerk of the Circuit Court of Cook County, by _____ Loc. _____
(Signature of Deputy Clerk) (Branch or Suburban Court)

D

DEFENDANT'S BOND & RECEIPT FOR CASH DEPOSITED

FOR APPROPRIATE REFUND, DEPOSIT THIS COPY WITH COURT CLERK ON DATE OF FINAL ORDER OF COURT.

CCG N696 A-2.5M-10/08(83350067)

D85488515

Representing People Charged with
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Exhibit 6

Annotations of misdemeanor statutes

*** STATUTES CURRENT THROUGH PUBLIC ACTS 97-225, EXCEPT FOR PUBLIC ACT 97-81, OF THE 2011 LEGISLATIVE SESSION ***
*** ANNOTATIONS CURRENT TO STATE CASES THROUGH JUNE 10, 2011 ***

CHAPTER 720. CRIMINAL OFFENSES
CRIMINAL CODE
CRIMINAL CODE OF 1961
TITLE III. SPECIFIC OFFENSES
PART C. OFFENSES DIRECTED AGAINST PROPERTY
ARTICLE 25. MOB ACTION AND RELATED OFFENSES

GO TO THE ILLINOIS STATUTES ARCHIVE DIRECTORY

720 ILCS 5/25-1 (2011)

§ 720 ILCS 5/25-1. Mob action

Sec. 25-1. Mob action. (a) A person commits the offense of mob action when he or she engages in any of the following:

(1) the knowing or reckless use of force or violence disturbing the public peace by 2 or more persons acting together and without authority of law;

(2) the knowing assembly of 2 or more persons with the intent to commit or facilitate the commission of a felony or misdemeanor; or

(3) the knowing assembly of 2 or more persons, without authority of law, for the purpose of doing violence to the person or property of anyone supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional powers or regulative powers over any person by violence.

(b) Mob action as defined in paragraph (1) of subsection (a) is a Class 4 felony.

(c) Mob action as defined in paragraphs (2) and (3) of subsection (a) is a Class C misdemeanor.

(d) Any participant in a mob action that by violence inflicts injury to the person or property of another commits a Class 4 felony.

(e) Any participant in a mob action who does not withdraw on being commanded to do so by any peace officer commits a Class A misdemeanor.

(f) In addition to any other sentence that may be imposed, a court shall order any person convicted of mob action to perform community service for not less than 30 and not more than 120 hours, if community service is available in the jurisdiction and is funded and approved by the county board of the county where the offense was committed. In addition, whenever any person is placed on supervision for an alleged offense under this Section, the supervision shall be conditioned upon the performance of the community service.

This subsection does not apply when the court imposes a sentence of incarceration.

HISTORY: Source: P.A. 86-863; 88-558, § 5; 89-8, § 1-15; 96-710, § 25.

NOTES:
NOTE.
This section was Ill.Rev.Stat., Ch. 38, para. 25-1.

EFFECT OF AMENDMENTS.
The 1994 amendment by P.A. 88-558, effective January 1, 1995, added subsection (f).
The 1995 amendment by P.A. 89-8, effective March 21, 1995, in subsection (f), in the first sentence, added at the end "and is funded and approved by the county board of the county where the offense was committed".
The 2009 amendment by P.A. 96-710, effective January 1, 2010, rewrote the introductory language of (a), which formerly read: "Mob action consists of any of the following"; added "the knowing or reckless" to the beginning of (a)(1); rewrote (a)(2), which formerly read: "The assembly of 2 or more persons to do an unlawful act; or"; and made stylistic changes.

CASE NOTES

ANALYSIS
Constitutionality
Appeals
--Jurisdiction of Court
Arrest
--Probable Cause
Complaint
Elements
--Public View
Evidence
--Accomplices
Evidence Held Insufficient
Evidence Held Sufficient
Exhortation to Crowd
Gang Membership
--Admissibility
--Proof
Indemnity
Interference with Arrest
Labor Dispute
Legislative Purpose
Mental State
--Not Shown
--Requirement
--Shown
Multiple Convictions
--Different Acts
Personal Injury
Prosecutorial misconduct
Public Peace
--Disturbance in Jail
Riot
Sentence Held Excessive
Sufficiency of Complaint
Violence Against Individual

CONSTITUTIONALITY

Since a federal court injunction was still in existence and was still valid, since that injunction barred the State from enforcing charges of mob action in violation of *720 ILCS 5/25-1(a)(2)* (2004), and since controlling state precedent from the supreme court required the State to honor the injunction and held that the injunction was not limited to the parties in that federal action, mob action charges were properly dismissed. *People v. Williams, 361 Ill. App. 3d 723, 297 Ill. Dec. 788, 838 N.E.2d 275, 2005 Ill. App. LEXIS 1099* (2 Dist. 2005), appeal denied, *217 Ill. 2d 623, 300 Ill. Dec. 528, 844 N.E.2d 971 (2006).*

A federal district court injunction against the enforcement of subsection (a)(2) on the basis of its unconstitutionality remained in effect where such injunction was never appealed and never overturned. *People v. Nance, 189 Ill. 2d 142, 244 Ill. Dec. 1, 724 N.E.2d 889, 2000 Ill. LEXIS 2 (2000).*

Federal court's declaration and injunction invalidating subdivision (a)(2) were not appealed and remained in effect, and in the 25 years that followed, the General Assembly did not amend subdivision (a)(2), nor had the state or City of Chicago attempted to have the federal court's permanent injunction modified, dissolved or set aside on review. *People v. Nash, 173 Ill. 2d 423, 220 Ill. Dec. 154, 672 N.E.2d 1166 (1996).*

Subdivision (a)(1) of this section, providing that mob action consists of the use of force or violence disturbing the public peace by two or more persons acting together and without authority of law, is not so vague or indefinite as to be invalid and does not forbid the peaceful exercise of the rights of free speech and assembly under *U.S. Const., Amend. I. Landry v. Daley, 280 F. Supp. 938* (N.D. Ill.), appeal dismissed, *393 U.S. 220, 89 S. Ct. 455, 21 L. Ed. 2d 392 (1968),* rev'd on other grounds, *Boyle v. Landry, 401 U.S. 77, 91 S. Ct. 758, 27 L. Ed. 2d 696 (1971).*

Subdivision (a)(2) of this section, which proscribes the assembly of 2 or more persons to do an unlawful act, is invalid because it is impermissively vague and overboard as to deny due process and because it suppresses free speech and assembly in violation of *U.S. Const., Amend. I. Landry v. Daley, 280 F. Supp. 938* (N.D. Ill.), appeal dismissed, *393 U.S. 220, 89 S. Ct. 455, 21 L. Ed. 2d 392 (1968),* rev'd on other grounds, *Boyle v. Landry, 401 U.S. 77, 91 S. Ct. 758, 27 L. Ed. 2d 696 (1971).*

Subsection (a)(3) of this section, which proscribes the assembly of 2 or more persons, without authority of law, for the purpose of doing violence to the person or property of any one supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional powers or regulative powers over any person by violence, is neither vague nor overboard. *Landry v. Daley, 280 F. Supp. 938* (N.D. Ill.), appeal dismissed, *393 U.S. 220, 89 S. Ct. 455, 21 L. Ed. 2d 392 (1968),* rev'd on other grounds, *Boyle v. Landry, 401 U.S. 77, 91 S. Ct. 758, 27 L. Ed. 2d 696 (1971).*

Former mob action statute which required the city or county in which property was destroyed be liable for 3/4 of the damages sustained by reason thereof was constitutional, as municipal corporations are instrumentalities of the state for the convenient administration of government within their limits, and it has, therefore, been generally considered as a just burden case upon them to require them to make good any loss sustained from the acts of such assemblages which they should have repressed. *Pennsylvania Co. v. City of Chicago, 81 F. 317 (N.D. Ill. 1897).*

APPEALS

--JURISDICTION OF COURT

Where the appellate court was unable to determine from the record whether a judgment was ever entered by the trial court on the verdict of guilty of mob action, the appellate court had no jurisdiction on appeal to consider any issue relating to that charge. *People v. Biederman, 100 Ill. App. 3d 558, 55 Ill. Dec. 851, 426 N.E.2d 1225* (2 Dist. 1981).

ARREST

--PROBABLE CAUSE

In an action that alleged that defendants, a city and police officers, violated arrestees' Fourth Amendment rights by unlawfully arresting and detaining them, a district court erred in ruling that defendants had probable cause as a matter of law to arrest the arrestees for mob action, under *720 ILCS 5/25-1(a),* because there were disputes of material fact with respect to the elements of mob action because (1) by the time the police arrived, the arrestees were calmly chatting with a restaurant owner and tending to two injured parties; (2) in the face of the arrestees' evidence, the district court's conclusion that it was undisputed that two officers arrived at a chaotic scene involving a fight between two groups of people with others running to intervene in the fray was unsupportable; and (3) the evidence on which the district court relied--the officers' testimony that the crowd appeared intoxicated and agitated, that the crowd did not immediately disperse when instructed to do so, and that at least some of the arrestees were visibly intoxicated--was all contested. *Gonzalez v. City of Elgin, 578 F.3d 526, 2009 U.S. App. LEXIS 18724 (7th Cir. 2009).*

COMPLAINT

Allegations that defendants "knowingly by the use of intimidation, disturbed the public peace" were too general to meet requirement that facts constituting the crime be specifically set forth to state an offense under the Mob Action Statute; allegations in charging instruments of intimidation and peace disturbance were not the same as allegations of unlawful assembly for violations of the crime charged under this section, and based on allegations in charging instrument, without more, there would be no way to ascertain what defendants did that was supposed to be against the law. *People v. Nash, 173 Ill. 2d 423, 220 Ill. Dec. 154, 672 N.E.2d 1166 (1996).*

ELEMENTS

By charging two separate acts which constitute the offense of mob action, the charge did not set forth the nature and elements of the crime with certainty as is constitutionally required. *People v. Aldridge, 20 Ill. App. 3d 1045, 314 N.E.2d 24* (4 Dist. 1974).

Intent, knowledge, recklessness or negligence is an essential element of mob action. *People v. Leach, 3 Ill. App. 3d 389, 279 N.E.2d 450 (1972).*

--PUBLIC VIEW

Acts constituting mob action need not occur in public view. *People v. Garza, 298 Ill. App. 3d 452, 232 Ill. Dec. 734, 699 N.E.2d 181* (2 Dist. 1998), appeal denied, *181 Ill. 2d 579, 235 Ill. Dec. 944, 706 N.E.2d 499 (1998).*

EVIDENCE

--ACCOMPLICES

Where allowing the state to call defendant's accomplices as witnesses, and then precluding the state from calling them may have raised questions in the juror's minds, this was harmless error because the witnesses were not called to the stand and forced to invoke the privilege to remain silent before the jury, no mention was made of the fact that the witnesses intended to invoke their privilege, the jury was informed only that those witnesses could not be called to testify, and the jury already knew that the accomplices had been tried and convicted for the same offense for which the defendant was on trial. *People v. Harmon, 194 Ill. App. 3d 135, 141 Ill. Dec. 94, 550 N.E.2d 1140* (1 Dist.), appeal denied, *132 Ill. 2d 550, 144 Ill. Dec. 261, 555 N.E.2d 380 (1990).*

EVIDENCE HELD INSUFFICIENT

Evidence was insufficient to show that conduct of defendant who dropped to the ground after police officer responding to a complaint regarding a group of youths fired a warning shot, fell within this section. *People v. Roldan, 54 Ill. 2d 60, 294 N.E.2d 274 (1973).*

EVIDENCE HELD SUFFICIENT

Plaintiff African-Americans were entitled to summary judgment on their hate crime claims under *720 ILCS 5/12-7.1* where defendants, former members of a white supremacist group, failed to dispute plaintiffs' allegations that defendants acted together in a civil conspiracy when they approached plaintiffs, accosted them, acted in unison in issuing oral threats, and they acted together to surround one plaintiff, trapping her against a car. Those allegations established mob action under *720 ILCS 5/25-1*, which in turn established the violation of the hate crime statute. *Williams v. Derifield, F. Supp. 2d , 2005 U.S. Dist. LEXIS 33367* (N.D. Ill. Dec. 13, 2005).

Where defendant was convicted of mob action in violation of *720 ILCS 5/25-1(a)(1)* and was acquitted of aggravated battery in violation of *720 ILCS 5/12-4(a)*, (b)(8), (b)(10), there was no inconsistency in the verdict such that vacatur of the mob action conviction was required; pursuant to the rule in Powell, the mob action conviction was allowed to stand and required reinstatement. *People v. Jones, 207 Ill. 2d 122, 278 Ill. Dec. 45, 797 N.E.2d 640, 2003 Ill. LEXIS 782 (2003).*

Where defendant was part of a group engaged in physical aggression reasonably capable of inspiring fear of injury or harm, the requirements of the statute were satisfied. *People v. Johnston, 267 Ill. App. 3d 526, 204 Ill. Dec. 468, 641 N.E.2d 898* (1 Dist. 1994).

When viewing the evidence in the light most favorable to the prosecution, a rational trier of fact could have found that defendant participated in the beating and that defendant therefore was guilty of mob action beyond a reasonable doubt. People v. *Baldwin, 256 Ill. App. 3d 536, 194 Ill. Dec. 586, 627 N.E.2d 1228* (2 Dist. 1994).

Evidence and complaint held sufficient to support a conviction for mob action where a police officer testified that he received a radio call that shots had been fired, when he arrived he heard several shots and saw two groups of teenagers

running in opposite directions, the group that he followed ran to an automobile parked in the middle of a street, one of the youths in this group, a juvenile, had a revolver in his hand, the officer approached the automobile and placed the group of seven, which included the three defendants, under arrest, and, the revolver contained one spent cartridge and two misfires. *People v. Simpkins, 48 Ill. 2d 106, 268 N.E.2d 386 (1971).*

Evidence held sufficient to sustain conviction of labor union employee for failing to disperse from an unlawful assemblage as prohibited under prior similar provisions. *People v. Guzzardo, 4 Ill. App. 2d 355, 124 N.E.2d 39* (2 Dist. 1955).

EXHORTATION TO CROWD

The trier of fact could reasonably have concluded that a crowd formed in response to defendant's shouting and joined her in yelling "don't let him/them take that man away," and could further have inferred that defendant intended or at least knew that her exhortation to the crowd was likely to result in the interference with an arrest. *People v. Montgomery, 179 Ill. App. 3d 330, 128 Ill. Dec. 469, 534 N.E.2d 651* (1 Dist. 1989).

Where the defendant exhorted the crowd to immediate action, she was not punished for her criticism of the police, but for her unlawful incitement of the crowd to do an unlawful act; therefore, this section did not unconstitutionally infringe upon her First Amendment right to freedom of speech. *People v. Montgomery, 179 Ill. App. 3d 330, 128 Ill. Dec. 469, 534 N.E.2d 651* (1 Dist. 1989).

GANG MEMBERSHIP

--ADMISSIBILITY

No error occurred in the admission of testimony concerning gang membership in a prosecution for mob action where a witness testified that he heard gang slogans being shouted while he was being beaten by defendant and others, that defendant joined in the shouting, and that he knew defendant to be a member of a gang. *People v. McClendon, 146 Ill. App. 3d 1004, 100 Ill. Dec. 671, 497 N.E.2d 849* (4 Dist. 1986).

--PROOF

Evidence concerning gang membership is admissible only if there is sufficient proof to show that such membership is related to the offense charged. *People v. McClendon, 146 Ill. App. 3d 1004, 100 Ill. Dec. 671, 497 N.E.2d 849* (4 Dist. 1986).

INDEMNITY

For a case discussing the former act to indemnify the owner of property for damages by mobs and riots of 1887, see *City of Chicago v. Sturges, 222 U.S. 313, 32 S. Ct. 92, 56 L. Ed. 215 (1911).*

INTERFERENCE WITH ARREST

Where defendant was not charged with preventing an arrest, but merely interfering with one, the fact that both suspects were ultimately arrested did not vitiate a necessary element of defendant's crime; the trial judge could reasonably have found from the testimony that the police had not yet arrested the suspect when defendant began shouting, and that the disturbance she caused resulted in interference with his arrest. *People v. Montgomery, 179 Ill. App. 3d 330, 128 Ill. Dec. 469, 534 N.E.2d 651* (1 Dist. 1989).

LABOR DISPUTE

Where the purpose of striking workers who marched on their employer's mill was "to get them men out who were working there" and to "get them finks out of the mill," the marchers did not constitute a mob under former similar provision (see now this section), because their purpose was not to exercise "correctional" or "regulative" powers. *Anderson v. City of Chicago, 313 Ill. App. 616, 40 N.E.2d 601* (1 Dist. 1942).

LEGISLATIVE PURPOSE

One of the purposes for which local governments are organized is to preserve the peace and good order of the community, and to prevent and suppress riots, affrays and disorder therein. *People ex rel. Illinois Armory Bd. v. Kelly, 369 Ill. 280, 16 N.E.2d 693 (1938).*

The words "force and violence," as used in the "riot" section, do not mean merely the manual force necessary to commit the act; it was the intention of the legislature, in the enactment of the riot section, to retain the element of force

and violence as it existed under the common law defining riot, and that such terms should be construed in the light of the common law. *Walter v. Northern Ins. Co., 370 Ill. 283, 18 N.E.2d 906 (1938).*

MENTAL STATE

--NOT SHOWN

Where the only evidence of mob action or battery adduced against respondent was that she left a car, participated in a chase of two victims, and was in the company of perpetrator when he committed a battery, and where there was no evidence that respondent either threatened or touched either victim, there was no evidence that respondent carried with her an intent to do an unlawful act; her acquittal of the battery charges operated to place in doubt any inference the circumstantial evidence of her presence during the chase might have raised concerning her intent to aid or abet the perpetrator of the battery in the commission of an act of violence against either victim. *People v. Kirby, 50 Ill. App. 3d 915, 8 Ill. Dec. 914, 365 N.E.2d 1376* (4 Dist. 1977).

--REQUIREMENT

Although this section does not in express terms require a mental state, a person is not guilty of an offense, other than an offense which involves absolute liability, unless, with respect to each element described by the statute defining the offense, he acts while having one of the mental states described in our criminal code; that is, intent, knowledge, recklessness or negligence. *People v. Grant, 101 Ill. App. 3d 43, 56 Ill. Dec. 478, 427 N.E.2d 810* (1 Dist. 1981).

This section has been interpreted to carry with it the requirement of a mental state. *People v. Kirby, 50 Ill. App. 3d 915, 8 Ill. Dec. 914, 365 N.E.2d 1376* (4 Dist. 1977).

--SHOWN

Where the defendant used a weapon to hit the victim, where the defendant acted with a sizeable mob of 20 to 30 people to attack a defenseless victim who did not fight back, was unconscious, and died as a result, and where defendant and the mob ended their attack only upon information that the police might be on their way, defendant's argument that he acted recklessly and was thus entitled to involuntary manslaughter instructions failed and his conviction for felony murder was affirmed; *720 ILCS 5/25-1* was the felony committed. *People v. Davis, 335 Ill. App. 3d 1102, 270 Ill. Dec. 116, 782 N.E.2d 310, 2002 Ill. App. LEXIS 1242* (5 Dist. 2002), aff'd, *213 Ill. 2d 459, 290 Ill. Dec. 580, 821 N.E.2d 1154 (2004).*

A jury could have concluded that attack on individual, which led to victim's death, was premeditated in retaliation for an earlier shooting of the defendant and was not merely a reckless act sufficient to show an intentional or knowing state of mind. *People v. Banks, 287 Ill. App. 3d 273, 222 Ill. Dec. 736, 678 N.E.2d 348* (2 Dist. 1997).

MULTIPLE CONVICTIONS

--DIFFERENT ACTS

One-act, one-crime doctrine did not bar defendant's conviction for mob action in violation of *720 ILCS 5/25-1(a)(1)*, arising out of a jail melee, despite defendant also being convicted on four counts of aggravated battery of a peace officer in violation of *720 ILCS 5/12-4(b)(6)*. The crimes were not carved from the same act, as the mob action involved defendant participating with others while the aggravated battery involved defendant's conduct in striking four corrections officers. *People v. Jimerson, 404 Ill. App. 3d 621, 344 Ill. Dec. 220, 936 N.E.2d 749, 2010 Ill. App. LEXIS 1011* (1 Dist. 2010).

PERSONAL INJURY

The evidence showed that plaintiff fell into the class of persons who sustained material damage to property or injury to person by a mob under former similar provision (see now this section). *Slaton v. City of Chicago, 8 Ill. App. 2d 47, 130 N.E.2d 205* (1 Dist. 1955).

In action against city to recover damages for personal injuries alleged to have been inflicted by a "mob" as defined in former similar provision (see now subdivision (a)(3) of this section), where there was nothing in the record to establish the allegation of the complaint that the assemblage of five or more persons congregated for the purpose of exercising correctional powers over the plaintiff, court should have directed a verdict for the defendant. *Brannock v. City of Chicago, 348 Ill. App. 484, 109 N.E.2d 396* (1 Dist. 1952).

PROSECUTORIAL MISCONDUCT

Prosecution's repeated closing comments on witness conspiracy and concoction of defenses with the intent to focus the jury's attention away from the evidence deprived defendant of fair trial. *People v. Slabaugh, 323 Ill. App. 3d 723, 257 Ill. Dec. 544, 753 N.E.2d 1170, 2001 Ill. App. LEXIS 592* (2 Dist. 2001).

In defendant's trial for mob action, defense counsel failed to object to cross-examination on the issue of whether defendant had a drug problem or to the prosecutor's comment in closing argument regarding his drug use; however, because this was a bench trial, it was presumed that the court considered only competent and proper evidence in reaching its decision regarding defendant's guilt. *People v. Willis, 235 Ill. App. 3d 1060, 176 Ill. Dec. 609, 601 N.E.2d 1307, 1992 Ill. App. LEXIS 1634* (1 Dist. 1992); *People v. Jackson, 235 Ill. App. 3d 732, 176 Ill. Dec. 619, 601 N.E.2d 1317, 1992 Ill. App. LEXIS 1633* (1 Dist. 1992).

In defendant's trial for mob action, cross-examination on whether he had previously been arrested for drug activity was improper, but reversible error did not occur, because the case was tried without a jury. *People v. Willis, 235 Ill. App. 3d 1060, 176 Ill. Dec. 609, 601 N.E.2d 1307, 1992 Ill. App. LEXIS 1634* (1 Dist. 1992); *People v. Jackson, 235 Ill. App. 3d 732, 176 Ill. Dec. 619, 601 N.E.2d 1317, 1992 Ill. App. LEXIS 1633* (1 Dist. 1992).

PUBLIC PEACE

--DISTURBANCE IN JAIL

A disturbance of the "public peace" can occur within the confines of a jail and where, as a participant in a mob action, defendant violently inflicted injury on another person, he could be convicted of mob action. *People v. Dixon, 91 Ill. 2d 346, 63 Ill. Dec. 442, 438 N.E.2d 180 (1982).*

RIOT

No riot occurred where the acts were done stealthily, not in the presence of the party injured or persons in authority. *Walter v. Northern Ins. Co., 370 Ill. 283, 18 N.E.2d 906 (1938).*

SENTENCE HELD EXCESSIVE

In imposing sentence on a charge of mob action, the trial court erred by not specifically identifying the sentence to which defendant's mob action sentence was made consecutive. The case was remanded for the limited purpose of allowing the trial judge to state with particularity the sentence to which the mob action sentence was to be consecutive. *People v. Willis, 235 Ill. App. 3d 1060, 176 Ill. Dec. 609, 601 N.E.2d 1307, 1992 Ill. App. LEXIS 1634* (1 Dist. 1992); *People v. Jackson, 235 Ill. App. 3d 732, 176 Ill. Dec. 619, 601 N.E.2d 1317, 1992 Ill. App. LEXIS 1633* (1 Dist. 1992).

Before imposing sentence on a charge of mob action, the trial court properly considered a facsimile (fax) copy of defendant's prison disciplinary reports as an aggravating factor, because there was no reason to regard the reports as inaccurate or unreliable; the reports were relevant to sentencing because they were related to the likelihood that defendant would commit other offenses. *People v. Willis, 235 Ill. App. 3d 1060, 176 Ill. Dec. 609, 601 N.E.2d 1307, 1992 Ill. App. LEXIS 1634* (1 Dist. 1992).

Sentence held excessive for conviction of mob action. *People v. Simpkins, 48 Ill. 2d 106, 268 N.E.2d 386 (1971).*

SUFFICIENCY OF COMPLAINT

Complaints charging defendants with mob action met the requirements of *725 ILCS 5/111-3*, where each complaint stated the name of the accused, the name, date and place of the offense, cited the statutory provision alleged to have been violated and set forth in the language of the statute the nature and elements of the offense charged; an additional phrase alleging use of a revolver was unnecessary and could be disregarded as surplusage without affecting the validity of the complaints. *People v. Simpkins, 48 Ill. 2d 106, 268 N.E.2d 386 (1971).*

VIOLENCE AGAINST INDIVIDUAL

Mob action, in violation of *720 ILCS 5/25-1(a)(1)*, could serve as the predicate forcible felony to support defendant's first-degree felony murder conviction under *720 ILCS 5/9-1(a)(3)*. Defendant's conduct in joining three co-offenders to breach the peace by finding the victim, who had argued with one of the co-offenders a few hours before, was not inherent in and did not arise from the killing of the victim and, thus, the mob action had the required independent felonious purpose necessary for it to serve as the predicate felony in the felony first degree murder case against defendant. *People v. Davison, 236 Ill. 2d 232, 337 Ill. Dec. 930, 923 N.E.2d 781, 2010 Ill. LEXIS 23 (2010).*

Although subdivision (a)(1) refers to the use of force or violence disturbing the public peace, it has been used to charge defendants with mob action that involved violence against an individual. *People v. Banks, 287 Ill. App. 3d 273, 222 Ill. Dec. 736, 678 N.E.2d 348* (2 Dist. 1997).

15 of 23 DOCUMENTS

*** Statutes current through Public Acts 97-619 of the 2011 Legislative Session ***
*** Annotations current to State Cases through November 1, 2011 ***

CHAPTER 720. CRIMINAL OFFENSES
CRIMINAL CODE
CRIMINAL CODE OF 1961
TITLE III. SPECIFIC OFFENSES
PART B. OFFENSES DIRECTED AGAINST THE PERSON
SUBDIVISION 10. ENDANGERMENT

GO TO THE ILLINOIS STATUTES ARCHIVE DIRECTORY

720 ILCS 5/12-5 (2011)

§ 720 ILCS 5/12-5. Reckless conduct

Sec. 12-5. Reckless conduct. (a) A person commits reckless conduct when he or she, by any means lawful or unlawful, recklessly performs an act or acts that:

(1) cause bodily harm to or endanger the safety of another person; or

(2) cause great bodily harm or permanent disability or disfigurement to another person.

(b) Sentence.

Reckless conduct under subdivision (a)(1) is a Class A misdemeanor. Reckless conduct under subdivision (a)(2) is a Class 4 felony.

HISTORY: Source: P.A. 77-2638; 93-710, § 5; 96-1551, § 5.

NOTES:
MULTIPLE VERSIONS OF SECTION.
Multiple versions of this section have been created by the editor to reflect conflicting or postponed legislation.

NOTE.
This section was Ill.Rev.Stat., Ch. 38, para. 12-5.
Section 9995 of P.A. 96-1551 contains a "no acceleration or delay" provision.

CROSS REFERENCES.
For provision requiring mandatory revocation of license or permit of persons convicted of violating this section, see *625 ILCS 5/6-205*.

EFFECT OF AMENDMENTS.

The 2004 amendment by P.A. 93-710, effective January 1, 2005, inserted subsection (a-5); in subsection (b) inserted "under subsection (a)" in the first sentence and added the last sentence; and made gender-neutralizing and stylistic changes.

The 2011 amendment by P.A. 96-1551, effective July 1, 2011, rewrote the section.

CASE NOTES

ANALYSIS

-- --Instructions
-- --Purpose
--Recklessness as Defense
Lesser Included Offenses: Jury
--Instructions
Mental State
--Evidence Held Insufficient
--Evidence Held Sufficient
--Inference
--Intent
--Intoxication
--Jury Instructions
--Single Act
Multiple Convictions
--Not Shown
--Single Act
Recklessness
--Question of Fact
Separate Offenses
--Aggravated Battery
--Attempt Murder
--Criminal Damage

ACCOUNTABILITY

--INVOLUNTARY MANSLAUGHTER

Not guilty verdict as to aggravated battery was not inconsistent with verdict of guilty of involuntary manslaughter, based upon defendant's accountability for conduct of another under *720 ILCS 5/5-2*, because the jury could find an illegal common design to commit conduct which was reckless under this section. *People v. Cole, 253 Ill. App. 3d 603, 192 Ill. Dec. 661, 625 N.E.2d 816* (4 Dist. 1993).

AFFIRMATIVE DEFENSES

--SELF-DEFENSE

Where one person justifiably shoots another and a third person is inadvertently injured, the one shooting the weapon may not be guilty of reckless conduct relating to the injury of the third person. *People v. Whitelow, 162 Ill. App. 3d 626, 114 Ill. Dec. 56, 515 N.E.2d 1327* (4 Dist. 1987).

AGGRAVATED BATTERY

--DISTINGUISHED

To sustain a conviction for aggravated battery it must be proved that the conduct of defendant was performed "knowingly" or "intentionally;" on the other hand, to sustain a conviction for reckless conduct of the same facts, it must be proved that the defendant's conduct was "reckless." *People v. Perry, 19 Ill. App. 3d 254, 311 N.E.2d 341* (1 Dist. 1974).

--JURY INSTRUCTIONS

There was evidence from which the jury could have concluded that defendant was guilty of reckless conduct rather than the greater offense of aggravated battery with a firearm, therefore, the trial court erred in refusing to give the instruction. *People v. Roberts, 265 Ill. App. 3d 400, 202 Ill. Dec. 713, 638 N.E.2d 359* (1 Dist. 1994).

APPELLATE REVIEW

A reviewing court will not set aside a jury verdict regarding recklessness unless the evidence is so palpably contrary to the verdict so as to create a reasonable doubt of guilt. *People v. Gosse, 119 Ill. App. 3d 733, 75 Ill. Dec. 339, 457 N.E.2d 129* (2 Dist. 1983).

APPLICATION

Since the practical realities of the criminal litigation against the shooter were such that if he did not enter into the plea agreement that he plead guilty to reckless conduct, he was quite possibly facing a lengthy term in prison for attempted murder for shooting the shooting victim at the shooter's residence, the shooter had little incentive not to plead guilty to a charge of reckless conduct and, thus, that plea had no collateral estoppel effect on the insurance company's declaratory judgment action against the shooter and shooting victim to declare that the shooting incident was not something covered under the relevant insurance policy. *Metro. Prop. & Cas. Ins. Co. v. Pittington, Ill. App. 3d , Ill. Dec. , N.E.2d , 2005 Ill. App. LEXIS 384* (3 Dist. Apr. 22, 2005).

Where a driver's acts obviously endangered the bodily safety of the individuals in the other car, his conduct fell within the coverage of subsection (a) of this section. *People v. Burton, 100 Ill. App. 3d 1021, 56 Ill. Dec. 430, 427 N.E.2d 625* (4 Dist. 1981).

While the offense of reckless conduct may be directed primarily toward conduct which places a person in danger of extreme bodily harm or death, the legislature did not draw the statute so narrowly as to have it apply exclusively to such actions. *People v. Swanson, 84 Ill. App. 3d 245, 39 Ill. Dec. 730, 405 N.E.2d 483* (2 Dist. 1980).

AUTOMOBILE LICENSE

--REVOKED

Revocation of plaintiff's automobile operator's license was authorized where driver, originally indicted for involuntary manslaughter when car driven by him killed a child, pleaded guilty to reckless conduct. *Sturgeon v. Powell, 1 Ill. App. 3d 130, 273 N.E.2d 617* (1 Dist. 1971).

CODEFENDANTS

--DUAL CONVICTIONS

Dual reckless conduct convictions can be upheld without determining who did the actual shooting if it can be shown that defendants shared a conscious disregard of the substantial and unjustified risk of harm to the victim. *People v. Torres, 100 Ill. App. 3d 931, 56 Ill. Dec. 249, 427 N.E.2d 329* (1 Dist. 1981).

COMPLAINT

--HELD SUFFICIENT

Where in a prosecution for reckless conduct the complaint failed to allege that defendant performed any act recklessly, the complaint was not fatally defective since the charge of the complaint not only set out the statutory definition of reckless conduct, but alleged the specific acts of defendant which constituted the offense, and the statutory language read together with the particular acts of defendant clearly and unequivocally indicated the crime with which the defendant was charged; therefore, the absence of an adverbial description of defendant's conduct was of no consequence. *People v. Brownlee, 17 Ill. App. 3d 535, 308 N.E.2d 377* (1 Dist. 1974).

--OMISSION OF SPECIFICALLY-NAMED INDIVIDUAL

Complaint for reckless conduct was not insufficient although it did not charge that defendant's actions endangered a specifically-named individual. *People v. De Kosta, 132 Ill. App. 2d 691, 270 N.E.2d 475* (1 Dist. 1971).

--SURPLUSAGE

The words "intentionally and knowingly" were merely surplusage and did not confuse or contribute to the clearly charged offense of reckless conduct; the complaint was not defective for duplicity on the theory that defendant was also charged with battery. *People v. Kent, 18 Ill. App. 3d 357, 309 N.E.2d 715* (1 Dist. 1974).

CONSTRUCTION WITH OTHER LAWS

Since the practical realities of the criminal litigation against the alleged shooter were such that if he did not enter into the plea agreement that he plead guilty to reckless conduct, and he was quite possibly facing a lengthy term in prison for attempted murder for shooting the victim at the shooter's residence, the shooter had little incentive not to plead guilty to a charge of reckless conduct and, thus, that plea had no collateral estoppel effect on the insurance company's declaratory judgment action against the shooter and shooting victim to declare that the shooting incident was not something covered

under the relevant insurance policy. *Metro. Prop. & Cas. Ins. Co. v. Pittington, Ill. App. 3d , Ill. Dec. , N.E.2d , 2005 Ill. App. LEXIS 384* (3 Dist. Apr. 22, 2005).

There is nothing in the structure of the Occupational Safety and Health (OSHA) *(29 U.S.C. § 651* et seq.) or its legislative history which indicates that Congress intended to preempt the enforcement of this section, or other sections prohibiting conduct of employers, which may also governed by OSHA safety standards. *People v. Chicago Magnet Wire Corp., 126 Ill. 2d 356, 128 Ill. Dec. 517, 534 N.E.2d 962,* cert. denied, *493 U.S. 809, 110 S. Ct. 52, 107 L. Ed. 2d 21 (1989).*

ELEMENTS OF OFFENSE

--INTOXICATION

It would be difficult to conclude that defendant, as he was becoming intoxicated, was consciously disregarding the risk that he would subsequently, due to the drinking, attack another person for no apparent reason; defendant, in becoming intoxicated, did not commit a reckless act. *People v. LePretre, 196 Ill. App. 3d 111, 142 Ill. Dec. 578, 552 N.E.2d 1319* (4 Dist. 1990).

--MENTAL STATE

Although this section does not require that the person act with the greater mental state of knowledge, it does require the lesser mental state of recklessness. *H. B. Inv. & Dev., Inc. v. License Appeal Comm'n, 47 Ill. App. 3d 750, 8 Ill. Dec. 219, 365 N.E.2d 457* (1 Dist. 1977).

--NEGLIGENCE

Proof of negligence alone cannot sustain a finding of recklessness. *People v. Gosse, 119 Ill. App. 3d 733, 75 Ill. Dec. 339, 457 N.E.2d 129* (2 Dist. 1983).

--PRIMA FACIE CASE

In prosecuting reckless conduct, in addition to proving negligence, the state must further establish circumstances by which the negligent conduct evinces a conscious disregard of a substantial risk likely to cause bodily harm and under which a reasonable person would have acted differently under the same situation. *People v. Gosse, 119 Ill. App. 3d 733, 75 Ill. Dec. 339, 457 N.E.2d 129* (2 Dist. 1983).

--SELF AS VICTIM

A complaint which charged the defendant with the offense of reckless conduct as a result of a reckless act he performed which resulted in bodily injury to himself, when he accidentally shot himself, failed to state a cause of action. *People v. Peters, 180 Ill. App. 3d 850, 129 Ill. Dec. 625, 536 N.E.2d 465* (2 Dist. 1989).

EVIDENCE

--HELD INSUFFICIENT

Where defendant briefly left a child in a room unattended and omitted to close a basement door, and child fell down the basement stairs, defendant was not guilty of reckless conduct. *People v. Gibbs, 119 Ill. App. 2d 222, 255 N.E.2d 486* (2 Dist. 1970).

--HELD SUFFICIENT

Evidence admitted at defendant's trial on a charge of reckless conduct pursuant to *720 ILCS 5/12-5(a)* was sufficient to support defendant's conviction in a case where defendant allegedly unhooked the caps on gas pipes leading to the hot water heater and furnace in defendant's pizza restaurant, which endangered at least one tenant who lived in an apartment above the restaurant. The evidence supported the conviction because defendant's conduct showed that defendant acted recklessly, as defined by *720 ILCS 5/4-6*, by disregarding a substantial and unjustifiable risk of harm and, in doing so, endangered the welfare of another person. *People v. Martin, 401 Ill. App. 3d 315, 340 Ill. Dec. 138, 927 N.E.2d 877, 2010 Ill. App. LEXIS 361* (3 Dist. 2010).

Where defendant, for no apparent reason, struck the complainant in the face with his fist and a glass, such conduct was sufficient to support a judgment of conviction of reckless conduct. *People v. Vassar, 62 Ill. App. 3d 523, 19 Ill. Dec. 579, 379 N.E.2d 94* (1 Dist. 1978).

Where the testimony of the arresting police officer was positive and credible, and established that defendant had possession of a revolver, that he fired the revolver at the officer's squad car, and then attempted to dispose of the weapon, and that when the officer attempted to arrest him, defendant resisted and had to be physically restrained, and where defendant was unable to produce a state firearm owner's identification card and when asked if he had one, he replied that he did not, the evidence was sufficient to sustain the finding that defendant's guilt on the charges of reckless conduct and failure to produce an Illinois state firearm owner's identification card was established beyond a reasonable doubt. *People v. Brownlee, 17 Ill. App. 3d 535, 308 N.E.2d 377* (1 Dist. 1974).

Even though a defendant may have been justified in firing one shot at three men who were looking for him, there was no legal second shot, fired into the ground which ricocheted into the chest and arm of one of the three, the trial court found that the defendant's conduct under the facts and circumstances was a gross deviation from the standard of conduct which a reasonable person would have exercised or should have exercised under the circumstances, and was, therefore, reckless. *People v. Johnson, 20 Ill. App. 3d 1085, 314 N.E.2d 197* (4 Dist. 1974).

Evidence was sufficient to sustain defendant's conviction for reckless conduct. *People v. Thomas, 1 Ill. App. 3d 139, 275 N.E.2d 253* (4 Dist. 1971); *People v. Mines, 132 Ill. App. 2d 628, 270 N.E.2d 265* (1 Dist. 1971); *People v. Smith, 76 Ill. App. 3d 191, 30 Ill. Dec. 27, 392 N.E.2d 682* (2 Dist. 1979); *People v. Grover, 93 Ill. App. 3d 877, 49 Ill. Dec. 266, 417 N.E.2d 1093* (4 Dist. 1981); *People v. Khan, 136 Ill. App. 3d 754, 91 Ill. Dec. 544, 483 N.E.2d 1030* (1 Dist. 1985).

GUILTY PLEA

--EFFECT ON CIVIL ACTION

In plaintiff insurance company's declaratory judgment action against defendants, a shooter and shooting victim, the trial court erred in granting summary judgment to the plaintiff since divergent inferences could be drawn from the evidence about whether the shooting was accidental, and the fact that the shooter he pled guilty to reckless conduct at his trial on criminal charges had no estoppel effect on the declaratory judgment action. *Metro. Prop. & Cas. Ins. Co. v. Pittington, Ill. App. 3d , Ill. Dec. , N.E.2d , 2005 Ill. App. LEXIS 384* (3 Dist. Apr. 22, 2005).

--IMPROPER ADMONITION

The defendant's conviction of reckless misconduct was reversed because the admonition concerning the right to trial by jury given by the trial court prior to the acceptance of the plea of guilty did not comply with the requirements of Rule 402(a)(4), Supreme Court Rules, because the court did not admonish the defendant that upon a plea of guilty that there would be no trial at all, and that such plea served as a waiver of defendant's right to be confronted by the witnesses against him. *People v. Newbern, 16 Ill. App. 3d 1037, 307 N.E.2d 439* (4 Dist. 1974).

ILLUSTRATIVE CASES

Handling a gun while intoxicated is reckless conduct. *People v. Franklin, 189 Ill. App. 3d 425, 136 Ill. Dec. 822, 545 N.E.2d 346* (1 Dist. 1989).

The firing of a loaded weapon in the general direction of another may support a verdict of reckless conduct. *Carrigan v. Board of Fire & Police Comm'rs, 121 Ill. App. 3d 303, 76 Ill. Dec. 744, 459 N.E.2d 659* (2 Dist 1984).

The firing of a gunshot, which ricocheted and caused injury, constituted reckless conduct. *Carrigan v. Board of Fire & Police Comm'rs, 121 Ill. App. 3d 303, 76 Ill. Dec. 744, 459 N.E.2d 659* (2 Dist 1984).

Where accused fired shots into bar and set a fire which required the services of the fire department, accused's argument that the bar was not open to the public did not negate the danger which the shots and the fire posed to the bodily safety of persons within, and the convictions for reckless conduct were not against the manifest weight of the evidence. *H. B. Inv. & Dev., Inc. v. License Appeal Comm'n, 47 Ill. App. 3d 750, 8 Ill. Dec. 219, 365 N.E.2d 457* (1 Dist. 1977).

INCONSISTENT VERDICTS

Jury could not have rationally found separable acts accompanied by different mental states to support both the aggravated discharge of a firearm and reckless conduct verdicts as legally consistent. *People v. Fornear, 176 Ill. 2d 523, 224 Ill. Dec. 12, 680 N.E.2d 1383 (1997).*

Convictions for attempt murder and reckless conduct were legally inconsistent because attempted murder requires the specific intent to commit murder while reckless conduct requires the lesser mental state of recklessness; as the defendant could not simultaneously have acted both intentionally and recklessly, the convictions were legally inconsistent, necessitating reversal for a new trial. *People v. Chambers, 219 Ill. App. 3d 470, 162 Ill. Dec. 171, 579 N.E.2d 985* (1 Dist.), cert. denied, *142 Ill. 2d 655, 164 Ill. Dec. 920, 584 N.E.2d 132 (1991).*

Because the offenses of murder and reckless conduct require mutually exclusive mental states, and because the same evidence of the individual defendants' conduct was used to support both murder of an employee and reckless conduct involving others, and did not establish, separately, each of the requisite mental states, the convictions for both offenses were legally inconsistent. *People v. O'Neil, 194 Ill. App. 3d 79, 141 Ill. Dec. 44, 550 N.E.2d 1090* (1 Dist. 1990).

Guilty verdicts for attempt murder and for reckless conduct are legally inconsistent, since attempt requires specific intent, and reckless involves no specific intent but rather a conscious disregard of one's actions; the mere fact that both "attempt" and "reckless conduct" require that a person act consciously is not sufficient to make "recklessness" a lesser included mental state of the intent to commit murder. *People v. Coleman, 131 Ill. App. 3d 76, 86 Ill. Dec. 351, 475 N.E.2d 565* (1 Dist. 1985).

INDICTMENT

--HELD SUFFICIENT

Where the charging documents not only incorporated the statutory language but expanded upon it by giving defendants precise notice of their alleged unlawful conduct, the informations were not defective and gave defendants adequate notice of the nature and elements of the alleged offense. *People v. Intercoastal Realty, Inc., 148 Ill. App. 3d 964, 103 Ill. Dec. 767, 501 N.E.2d 1305* (1 Dist. 1986).

--LIMITATIONS PERIOD

Where an indictment clearly showed that the acts allegedly committed occurred on a date not within the general limitations period and there was no averment of facts avoiding the bar of the statute of limitations, the indictment was defective and properly subject to a motion to dismiss. *People v. Munoz, 23 Ill. App. 3d 306, 319 N.E.2d 98* (2 Dist. 1974).

--SPECIFICITY REQUIRED

Reckless conduct is a broad and all-inclusive offense; this section is so general that the charging instrument must provide more specific details of the alleged criminal conduct than those contained in the statute itself. *People v. Smith, 90 Ill. App. 3d 83, 45 Ill. Dec. 520, 412 N.E.2d 1102* (5 Dist. 1980).

INTENT

--AGGRAVATED BATTERY DISTINGUISHED

The intent necessary to support a verdict of aggravated battery is that the act be done intentionally and knowingly, while the intent element to support a verdict of reckless conduct is that the act be done recklessly. *People v. Norris, 118 Ill. App. 2d 406, 254 N.E.2d 304* (2 Dist. 1969).

JURY QUESTIONS

Defendant convicted of the attempted murder of a peace officer for nearly driving over a police officer trying to arrest defendant should have been allowed to instruct the jury on the offense of reckless conduct in violation of *720 ILCS 5/12-5*. Although the jury could have inferred an intent to kill the officer, it also could have inferred that defendant acted recklessly as defined in *720 ILCS 5/4-6* by driving away quickly in disregard of the officer, by driving on a sidewalk, and by striking a store awning before being arrested following the collision of defendant's vehicle with an unmarked police car. *People v. Smith, 402 Ill. App. 3d 538, 341 Ill. Dec. 967, 931 N.E.2d 864, 2010 Ill. App. LEXIS 655* (1 Dist. 2010).

Defendant convicted of the attempted murder of a peace officer for defendant's conduct in nearly driving over a police officer who was trying to arrest defendant should have been allowed to instruct the jury that eventually convicted defendant on the offense of reckless conduct in violation of *720 ILCS 5/12-5*. Although the jury could have inferred from the evidence that defendant intended to kill the officer, the evidence also supported an inference that defendant, in an attempt to get away, simply acted recklessly as defined in *720 ILCS 5/4-6* by driving away quickly, in not only disregarding the officer, but also driving on a sidewalk and striking a store awning before being arrested upon colliding with an unmarked police car. *People v. Smith, Ill. App. 3d , Ill. Dec. , N.E.2d , 2010 Ill. App. LEXIS 386* (1 Dist. May 6, 2010).

Defendant was entitled to a jury instruction on the offense of reckless conduct where the trial court's observation that defendant was playing with gun up to the time it went off, whereupon he suddenly manifested "intent," was entirely without basis in the evidence; victim was defendant's friend, no discernible motive was offered for his alleged murder,

and the only witness to the shooting portrayed the incident as accidental in nature. *People v. Smith, 261 Ill. App. 3d 117, 198 Ill. Dec. 607, 633 N.E.2d 69* (4 Dist.), appeal denied, *157 Ill. 2d 518, 205 Ill. Dec. 181, 642 N.E.2d 1298 (1994).*

Whether defendant assaulted police officers on the stairs, whether defendant's conduct was reckless, and whether there was a causal relation between his acts and the injury were questions for the jury in the prosecution for reckless conduct. *People v. Myers, 94 Ill. App. 2d 340, 236 N.E.2d 786* (3 Dist. 1968).

JUVENILE PROCEEDING

--EVIDENCE HELD INSUFFICIENT

Where the testimony of the victim supported a minor's statement that he did not know that the weapon was loaded, the evidence was insufficient in a delinquency proceeding to prove beyond a reasonable doubt that the minor's shooting of a friend constituted the gross deviation from the standard of care which a reasonable person would exercised in the situation to constitute reckless conduct. *In re Landorf, 7 Ill. App. 3d 89, 287 N.E.2d 21* (2 Dist. 1972).

LESSER INCLUDED OFFENSES

--AGGRAVATED BATTERY

The offense of reckless conduct may be a lesser included offense of aggravated battery, and a defendant is entitled to an instruction consistent with the theory of his case if there is evidence to support that theory. *People v. Solis, 216 Ill. App. 3d 11, 159 Ill. Dec. 451, 576 N.E.2d 120* (1 Dist. 1991).

Reckless conduct may be a lesser included offense of aggravated battery. *People v. Smith, 90 Ill. App. 3d 83, 45 Ill. Dec. 520, 412 N.E.2d 1102* (5 Dist. 1980); *People v. Willis, 170 Ill. App. 3d 638, 121 Ill. Dec. 211, 524 N.E.2d 1259* (3 Dist. 1988).

Reckless conduct is a lesser included offense of aggravated battery. *People v. Johnson, 20 Ill. App. 3d 1085, 314 N.E.2d 197* (4 Dist. 1974); *People v. Rodriguez, 89 Ill. App. 3d 941, 45 Ill. Dec. 304, 412 N.E.2d 655* (1 Dist. 1980).

Reckless conduct was included within the offense of aggravated battery; the only element of difference related to the degree of culpability, and the lesser of these related to reckless conduct. *People v. Thomas, 1 Ill. App. 3d 139, 275 N.E.2d 253* (4 Dist. 1971).

--AGGRAVATED DISCHARGE OF FIREARM

Based on the charging instrument approach, the offense of reckless conduct is a lesser included offense of aggravated discharge of a firearm. *People v. Williams, 287 Ill. App. 3d 262, 222 Ill. Dec. 722, 678 N.E.2d 334* (2 Dist. 1997), appeal denied, *174 Ill. 2d 591, 226 Ill. Dec. 366, 685 N.E.2d 621 (1997).*

--ATTEMPT ARMED ROBBERY

Where all the elements of the offense of reckless conduct were not included in an indictment for attempt armed robbery, since the element of reckless performance of an act was not charged, the defendant was not entitled to an instruction on reckless conduct as a lesser included offense. *People v. Barkenlau, 105 Ill. App. 3d 785, 61 Ill. Dec. 501, 434 N.E.2d 856* (2 Dist. 1982).

--ATTEMPT MURDER

Trial court did not err in refusing the instruction as to reckless conduct even under the assumption that it was a lesser included offense of attempt murder; there was only an intentional act with no evidence to support defendant's theory that he acted recklessly, therefore, there was no evidence in the record which, if believed by the jury, would have reduced the crime to reckless conduct. *People v. Harris, 90 Ill. App. 3d 703, 46 Ill. Dec. 59, 413 N.E.2d 499* (2 Dist. 1980).

The judgment entered on the conviction of reckless conduct against one defendant was vacated where the charge arose as a result of identical conduct from which arose the more serious conviction for attempt murder. *People v. Funches, 34 Ill. App. 3d 1015, 341 N.E.2d 195* (3 Dist. 1976).

--JURY

-- --INSTRUCTIONS

Where there was evidence which, if believed, tended to prove reckless conduct, rather than aggravated battery, the trial court erred in refusing the tendered instruction of the lesser included offense of reckless conduct. *People v. Sibley, 101 Ill. App. 3d 953, 57 Ill. Dec. 463, 428 N.E.2d 1143* (1 Dist. 1981).

In prosecution for aggravated battery, where there was no evidence of conduct of the defendant that could be termed reckless, the trial court properly refused a jury instruction on reckless conduct. *People v. Smith, 90 Ill. App. 3d 83, 45 Ill. Dec. 520, 412 N.E.2d 1102* (5 Dist. 1980).

-- --PURPOSE

In a jury trial, it is the province of the jury to determine the guilt or innocence of the accused, and also to determine whether the accused is guilty of aggravated battery or the lesser crime of reckless conduct if there is any evidence which tends to prove the lesser rather than the greater crime. *People v. Sibley, 101 Ill. App. 3d 953, 57 Ill. Dec. 463, 428 N.E.2d 1143* (1 Dist. 1981).

--RECKLESSNESS AS DEFENSE

Where defendant's testimony constituted some evidence of reckless conduct which was sufficient to create an issue of fact as to whether the defendant acted knowingly or recklessly, he was entitled to the benefit of any defense shown by the entire evidence, even if the facts on which the defense was based were inconsistent with defendant's own testimony. *People v. Stevenson, 196 Ill. App. 3d 225, 142 Ill. Dec. 927, 553 N.E.2d 441* (2 Dist. 1990).

LESSER INCLUDED OFFENSES: JURY

--INSTRUCTIONS

In defendant's prosecution for aggravated battery with a firearm under *720 ILCS 5/12-4.2(a)(1)*, trial counsel was not ineffective for failing to request a reckless conduct instruction because defendant's actions in trying to wrestle a gun away from the victim, resulting in the shooting, did not amount to reckless conduct under *720 ILCS 5/12-5(a)* and *720 ILCS 5/4-6. People v. Cathey, Ill. App. 3d , Ill. Dec. , N.E.2d , 2010 Ill. App. LEXIS 1220* (1 Dist. Nov. 12, 2010).

MENTAL STATE

--EVIDENCE HELD INSUFFICIENT

Where there was no evidence that defendant drove at an excessive rate of speed, and while his speed may have constituted negligence considering loose gravel conditions, there was no evidence that defendant knew of this or that his speed constituted danger or that he acted in conscious disregard of this danger, evidence was held insufficient to sustain a conviction for reckless conduct. *People v. Gosse, 119 Ill. App. 3d 733, 75 Ill. Dec. 339, 457 N.E.2d 129* (2 Dist. 1983).

--EVIDENCE HELD SUFFICIENT

In the absence of a change in the statute by the legislature, or an expression by the legislature of an intent different than that which is shown by the language of the statute, the jury, having heard and weighed the testimony and other evidence, had a sufficient basis to find that defendant recklessly (as defined in *720 ILCS 5/4-6*) spanked child with belt while disciplining him. *People v. Swanson, 84 Ill. App. 3d 245, 39 Ill. Dec. 730, 405 N.E.2d 483* (2 Dist. 1980).

--INFERENCE

When ascertaining whether or not a defendant's actions were reckless or intentional, courts look to the manner in which the defendant used the weapon and the severity of the victim's injuries. *People v. Solis, 216 Ill. App. 3d 11, 159 Ill. Dec. 451, 576 N.E.2d 120* (1 Dist. 1991).

Proof of a conscious disregard of risk may be established by the physical condition of the driver and his manner of operating the vehicle. *People v. Gosse, 119 Ill. App. 3d 733, 75 Ill. Dec. 339, 457 N.E.2d 129* (2 Dist. 1983).

--INTENT

The mere fact that both "attempt" and "reckless conduct" require that a person act consciously is not sufficient to make "recklessness" a lesser included mental state of the intent to commit murder. *People v. Coleman, 131 Ill. App. 3d 76, 86 Ill. Dec. 351, 475 N.E.2d 565* (1 Dist. 1985).

--INTOXICATION

Evidence of intoxication is permissible in criminal prosecutions charging reckless conduct, and is probative of recklessness. *People v. Gosse, 119 Ill. App. 3d 733, 75 Ill. Dec. 339, 457 N.E.2d 129* (2 Dist. 1983).

Where there was no evidence supporting an inference that a nominal consumption of alcohol and use of cannabis in any way affected the defendant's ability to drive a jeep, evidence of this nature had a prejudicial impact and should not have been submitted in trial for reckless conduct. *People v. Gosse, 119 Ill. App. 3d 733, 75 Ill. Dec. 339, 457 N.E.2d 129* (2 Dist. 1983).

--JURY INSTRUCTIONS

The failure to submit the issue of defendant's recklessness to the jury required a new trial where, if defendant's testimony had been believed, a jury might have concluded that defendant knew or should have known that handling a knife the way he did created a strong probability of death or great bodily harm, but that he did not intend the stabbing that resulted in decedent's death. *People v. Jenkins, 30 Ill. App. 3d 1034, 333 N.E.2d 497* (4 Dist. 1975).

--SINGLE ACT

Where defendant's actions in continuing to fire gun at victim indicated a single continuous state of mind and conduct, it was impermissible, and therefore error, for the jury to assess a different state of mind as to the defendant when he fired each of the shots that were not directed at victim. *People v. Gross, 52 Ill. App. 3d 765, 10 Ill. Dec. 419, 367 N.E.2d 1028* (4 Dist. 1977).

MULTIPLE CONVICTIONS

--NOT SHOWN

The jury could not have rationally found separable acts accompanied by different mental states to support both the attempt (murder) and reckless conduct verdicts as legally consistent. *People v. Mitchell, 238 Ill. App. 3d 1055, 179 Ill. Dec. 41, 605 N.E.2d 1055* (2 Dist. 1992).

--SINGLE ACT

Where both the conviction for criminal damage to property and the conviction of reckless conduct were based upon the same solitary physical act -- the breaking of the tavern door window by defendant, the conviction for criminal damage to property was vacated. *People v. Pearson, 108 Ill. App. 3d 241, 64 Ill. Dec. 102, 439 N.E.2d 31* (4 Dist. 1982).

RECKLESSNESS

Court properly denied plaintiff's motion for summary judgment on her false arrest claim because the court's analysis focused on whether words alone could qualify as the "act" under Illinois' reckless conduct statute, *720 ILCS 5/12-5(a)*, as that issue was one of first impression and was hotly contested; the other elements of the statute were obviously established as defendants alleged them because attempting to incite a riot among a crowd of disgruntled individuals endangered the bodily safety of an individual, namely, anyone in the vicinity, and one who attempts to incite a riot acts "recklessly" under *720 ILCS 5/4-6. Bass v. Hansen, F. Supp. 2d , 2011 U.S. Dist. LEXIS 10372* (N.D. Ill. Feb. 3, 2011).

Insured party's guilty plea to reckless conduct was not collateral estoppel in the insurer's declaratory judgment action, as the insured party, by pleading guilty, did not admit to the kind of intentional conduct excluded under the policy, since the insured party admitted under *720 ILCS 5/12-5* to conscious disregard of a substantial and unjustifiable risk. The issue of the insured party's alleged intentional conduct was not litigated in the first suit, where the insured party was charged with attempted murder with a firearm in violation of *720 ILCS 5/8-4(c)(1)*, but the insured party pled guilty to a misdemeanor. *Metro. Prop. & Cas. Ins. Co. v. Pittington, Ill. App. 3d , Ill. Dec. , N.E.2d , 2005 Ill. App. LEXIS 384* (1 Dist. Apr. 22, 2005).

--QUESTION OF FACT

Recklessness is a jury question. *People v. Gosse, 119 Ill. App. 3d 733, 75 Ill. Dec. 339, 457 N.E.2d 129* (2 Dist. 1983).

SEPARATE OFFENSES

--AGGRAVATED BATTERY

The trial court's legally inconsistent findings of both reckless conduct and aggravated battery did not necessitate a new trial, where the trial court entered judgment on only one count of aggravated battery and resolved the confusion, if any,

when it vacated its finding regarding the reckless conduct charge; further, unlike a legally inconsistent jury verdict, a legally inconsistent finding in a bench trial is not reversible error per se. *People v. J.F. (In re J.F.), 312 Ill. App. 3d 449, 245 Ill. Dec. 242, 727 N.E.2d 689, 2000 Ill. App. LEXIS 227* (2 Dist. 2000).

Convictions for aggravated battery and reckless conduct require proof of different degrees of culpability, and even though reckless conduct can be a lesser included offense of aggravated battery, convictions for both offenses are not void if the jury could have rationally concluded that the defendant had different states of mind when wounds were inflicted on the victim. *People v. Harris, 104 Ill. App. 3d 833, 60 Ill. Dec. 546, 433 N.E.2d 343* (2 Dist. 1982).

A defendant can be guilty of both aggravated battery and reckless conduct toward the same individual if there are distinguishable variations in conduct. *People v. Harris, 104 Ill. App. 3d 833, 60 Ill. Dec. 546, 433 N.E.2d 343* (2 Dist. 1982).

Where the jury could have concluded that some of defendant's acts, such as throwing victim from the bed and striking her, were knowing and intentional, while other acts, such as dragging her around the apartment, were reckless, and thus found that more than one act was involved so that the finding of guilty as to both aggravated battery and reckless conduct were the result of different acts and not the same act, the verdicts were not inconsistent. *People v. Norris, 118 Ill. App. 2d 406, 254 N.E.2d 304* (2 Dist. 1969).

--ATTEMPT MURDER

Specific intent is not an element of reckless conduct as it is of attempt murder; therefore, reckless conduct is not a lesser included offense of attempt murder. *People v. Smith, 90 Ill. App. 3d 83, 45 Ill. Dec. 520, 412 N.E.2d 1102* (5 Dist. 1980).

--CRIMINAL DAMAGE

Verdicts finding defendant guilty of criminal damage to government-supported property under *720 ILCS 5/21-4(1)(a)* and reckless conduct under *720 ILCS 5/12-5* were not legally inconsistent, even though defendant argued that defendant could not have the criminal damage mind state of "knowledge" and the reckless conduct of "recklessness" simultaneously as the charges involved separate crimes, the State proved both crimes, and neither offense was a lesser-included offense of the other; indeed, criminal damage charge involved damage to police squad car from beer bottle defendant threw at it, but reckless conduct involved endangering police officer inside the squad car. *People v. Bustamante, 334 Ill. App. 3d 515, 268 Ill. Dec. 358, 778 N.E.2d 344, 2002 Ill. App. LEXIS 928* (2 Dist. 2002).

LEGAL PERIODICALS

For article, "Lesser-Included Offenses in Illinois: A Look at Recent Developments," see *85 Ill. B.J. 480 (1997).*

For comment, "An Illinois Physician-Assisted Suicide Act: A Merciful End to a Terminally Ill Criminal Tradition," see *28 Loy. U. Chi. L.J. 763 (1997).*

For article, "Survey of Illinois Law [1988-89] -- Criminal Procedure," see *14 S. Ill. U.L.J. 813 (1990).*

For note, "Specific Intent Made More Specific: A Clarification of the Law of Attempted Murder in Illinois -- People v. Harris," see *28 De Paul L. Rev. 157 (1978).*

Representing People Charged with
Ordinance Violations or Misdemeanor Offenses in the City of Chicago
NLG Presentation in Anticipation of Potential NATO-related Arrests
May 14, 2012
Janine Hoft and Melinda Power

Exhibit 7

Misdemeanor appearance form

APPEARANCE (Rev. 1/17/01) CCCR 0114

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

The People of the State of Illinois
Plaintiff

v.

_____

_____
Defendant(s)

No. _____

Charge

_____

_____

The undersigned, as attorney, enters the appearance of _____

_____

_____

Defendant(s) in the above entitled cause.

_____
Attorney

Atty. No.: _____

Name: _____

Attorney for: _____

Address: _____

City/Zip: _____

Telephone: _____

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Representing People Charged with
Ordinance Violations or Misdemeanor Offenses in the City of Chicago
NLG Presentation in Anticipation of Potential NATO-related Arrests
May 14, 2012
Janine Hoft and Melinda Power

Exhibit 8

Written trial demand

Attorney Code: 55091

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, CRIMINAL DIVISION

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
	)	
Plaintiff,	)	**No.**
	)	
vs.	)	
	)	**Judge**
M. G.,	)	
	)	
Defendant.	)	

DEMAND FOR TRIAL

NOW COMES DEFENDANT, **M. G.**, by and through her undersigned attorney, and pursuant to 725 ILCS 5/103-5, demands an immediate and speedy trial upon all charges contained in the above entitled docket number, regardless of whether said charges have been nolle prosequied or stricken off the call with leave to reinstate (SOL'ed).

Respectfully submitted,

JANINE L. HOFT
People's Law Office
1180 N. Milwaukee
Chicago, Illinois 60622
773/235-0070
Attorney for Defendant

Dated: _____

Representing People Charged with
Ordinance Violations or Misdemeanor Offenses in the City of Chicago
NLG Presentation in Anticipation of Potential NATO-related Arrests
May 14, 2012
Janine Hoft and Melinda Power

Exhibit 9

Misdemeanor discovery motion

Attorney Code: 55091

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, CRIMINAL DIVISION

PEOPLE OF THE STATE OF ILLINOIS	)	
	)	
Plaintiff,	)	
	)	**No.**
vs.	)	
	)	
M G,	)	**Judge**
	)	
Defendants	)	

MOTION FOR DISCOVERY

NOW COMES the above Defendant, by and through her attorney JANINE L. HOFT, and pursuant to the authority granted in 725 ILCS § 5/114-2, 725 ILCS § 5/114-9, 725 ILCS § 5/114-10, 725 ILCS § 114-13, Supreme Court Rule 412, ***People v. Kladis,*** 960 N.E.2d 1104 (Ill. 2011) and ***People v. Schmidt***, 56 Ill.2d 572, 309 N.E.2d 557 (1974) move this Honorable Court for an order directing the State's Attorney to disclose and produce certain evidence which is essential and material to the preparation of the defense.

The Defendant requests that such disclosure and production include, but not be limited to, the following:

1. A bill of particulars containing:

a) the exact time and date of the occurrence;

b) the exact street address and physical description of the location of the occurrence. (725 ILCS § 5/114-2).

2. A list of witnesses to the occurrence, persons who have knowledge of the incident, and identify any person the State intends to call at any hearing or trial, including their addresses, and:

a) any written or recorded statements by these witnesses including those written or recorded statements of police officers, including any and all injury on duty reports, flash messages and video tapes;

b) any memoranda reporting or summarizing oral statements by such witnesses. (725 ILCS § 5/114-9).

3. Any written or recorded statement or statements and the substance of any oral statements made by the accused or co-defendant, including:

a) a list of witnesses to the making and acknowledgment of such statements;

b) the time, place and date of the making of such statements;

c) any written or recorded memoranda containing the substance of any oral statements. (725 ILCS § 5/114-10).

4. A list of all physical property that the State intends to use at the time of trial, including:

a) A list of all physical property in the possession of law enforcement officials;

b) Date and time the property was acquired;

c) Location from which the property was acquired;

d) What person or persons first took the property into their possession;

e) Reports made by law enforcement authorities pertaining to this property, including scientific reports, etc.

f) that such property be made available to the defense for inspection before trial. (See ***People v. Buzan***, 351 Ill. 610, 184 N.E. 890 (1933)).

5. Any reports or statements of experts made in connection with this case, including the results of physical or mental examinations and of scientific tests, experiments, or comparisons.

6. Any books, papers, documents, photographs or tangible objects which the prosecution

intends to use in any hearing or at trial or which were obtained from or belong to the accused or a co-defendant. [See ***People v. Gerold***, 265 Ill. 448, 107 N.E. 165 (1914)].

7. Prior criminal records of State's witnesses.

8. Whether the prosecution intends to use certified copies of convictions of the accused for purposes of impeachment during trial, and if so, a list of these convictions.

9. That the prosecution disclose any evidence in its possession as to whether it will rely on prior acts or convictions of a similar for proof of knowledge, intent or motive.

10. The names and addresses of the witnesses the State intends to call at the time of trial for identification of the defendant as the perpetrator of a crime, including:

a) time, date and place of identification;

b) if photographic identification were used, production of any photos used, whether of the defendant or of other persons;

c) all persons present at such viewing;

d) any pictures taken of any line-up;

e) names of any persons who confronted the accused and made no identification or identified him for other crimes.

11. That the prosecution inform defense counsel of any electronic surveillance (including wiretapping) of conversations to which the accused was a party, or which occurred on his/her premises, or which the prosecution intends to use in prosecution of a conspiracy.

12. That the prosecution inform defense counsel whether any evidence was acquired as a result of the execution of any legal process. If so, a copy of this to be supplied to the defense for inspection.

13. That the prosecution disclose to the defense the names and addresses of any witness or

witnesses that may be or would be favorable to the defense, and any physical evidence or scientific evidence that might be or would be favorable to the defense. (See Brady v. Maryland, 373 U.S. 83 (1963)).

14. That the prosecution be ordered to compel any informants whom the State intends to keep the identity of a secret, to be brought into the Court at any time, date or place out of the presence of the Defendant and defense counsel to ascertain whether or not this informant does exist. Further, that informants who are to be produced at any hearing or trial be named and disclosed on the list of witnesses.

15. Any and all police reports containing information relevant to this case.

ACCORDINGLY, Defendants respectfully requests this Honorable Court to enter an order requiring the prosecution to fulfill the aforesaid requests at the earliest reasonable time.

Respectfully submitted,

Dated: September 22, 2011

JANINE L. HOFT
Attorney for Defendant

PEOPLE'S LAW OFFICE
1180 N. Milwaukee
Chicago, IL 60622
773/235-0070

Attorney for Defendant

Representing People Charged with
Ordinance Violations or Misdemeanor Offenses in the City of Chicago
NLG Presentation in Anticipation of Potential NATO-related Arrests
May 14, 2012
Janine Hoft and Melinda Power

Exhibit 10

OEMC/police records subpoena

0300 (Rev. 12/6/00) CCCR 0066 A

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

THE PEOPLE OF THE STATE OF ILLINOIS

v. [redacted]

No. 11 CR 3197

SUBPOENA - SUBPOENA DUCES TECUM

The People of the State of Illinois to all Peace Officers in the State - GREETING:

WE COMMAND THAT YOU SUMMON Records keeper for Chicago Police Department at 3510 S. Michigan, Chicago IL 60653

to appear to testify before the Honorable Judge Alonso

on 7/26, 2011 in Room 207, Circuit Court, 26th Street and California Avenue, Chicago, Illinois, at 9:30 a.m.

YOU ARE COMMANDED ALSO to bring the following:

Any and all reports, general case incident reports, Supplementry reports, General Progress Reports in RD# HT118679, Event#17608.

in your possession or control.

YOUR FAILURE TO APPEAR IN RESPONSE TO THIS SUBPOENA WILL SUBJECT YOU TO PUNISHMENT FOR CONTEMPT OF THIS COURT.

WITNESS, Dorothy Brown, Clerk of Court

Atty. No.: 70344
Name: Melinda Power
Atty. for: [redacted]
Address: WEST TOWN COMMUNITY LAW OFFICE
City/State/Zip: 2502 West Division Street, Chicago, Illinois 60622
Telephone: (773) 278-6706

CIRCUIT COURT OF COOK COUNTY, ILLINOIS

DIRECT INQUIRIES TO: DOROTHY BROWN
Clerk of the Circuit Court
Criminal Division
2650 South California, Chicago, Illinois 60608

NON-APPLICABLE - Strike out Title which does not apply - Subpoena or Subpoena Duces Tecum.

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

(OVER)

ATTACHMENT TO SUBPOENA DUCES TECUM

Defendant: **R.D. No. #**

Case No.: **C.B. No. #**

INFORMATION FROM: C.B. No. #

Location of Arrest:

Date of Arrest--Time:

Beat of Arrest:

Arresting Officers:

Beat of Arresting Officers:

Beat of Transport Officers:

REQUESTED INFORMATION

1. Any and all tape recordings, recordings of transcripts of any and all "911" calls to the Chicago Police Department, related in any way to the above described occurrence or information;

2. Any and all tape recordings, recordings or transcripts of any and all Chicago Police Department radio communications, dispatches, zone communications, simulcasts, or Flash Messages related in any way to the above described occurrence or information;

3. Any and all tape recordings, recordings or transcripts of Chicago Police Department radio communications, dispatches, zone communications, simulcasts, Flash Messages, and COS, officer, station or police car communications, related in any way to the surveillance, arrest, subsequent transport and processing under C.B. # , on or about , 1997.

ATTACHMENT TO SUBPOENA DUCES TECUM

Representing People Charged with
Ordinance Violations or Misdemeanor Offenses in the City of Chicago
NLG Presentation in Anticipation of Potential NATO-related Arrests
May 14, 2012
Janine Hoft and Melinda Power

Exhibit 11

OEMC order

STATE OF ILLINOIS)
COUNTY OF C O O K) SS.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CRIMINAL DIVISION

PEOPLE OF THE STATE OF ILLINOIS,	)	
Plaintiff,	)	
	)	Case No.
VS.	)	
	)	
Defendant.	)	

OEMC PRESERVATION ORDER

This cause coming before the Court on Defendant's Motion for a Protective and Preservation Order of all Recording and Records of Communication by the City of Chicago, Office of Emergency Management and Communications (OEMC), all parties present and represented by counsel, also present, the Court being fully advised in the premises:

IT IS HEREBY ORDERED that CITY OF CHICAGO, OFFICE OF EMERGENCY MANAGEMENT AND COMMUNICATIONS shall preserve any and all recorded communications of any and all 911 calls, radio transmissions and CAD events related to:

RD#_____, DATE OF EVENT_____

DATE OF ARREST_____, in your possession or control.

Any further, said recordings shall not be destroyed until _____, one year after the date of entry.

ENTER:

_____

JUDGE NO.

ATTORNEY FOR DEFENDANT:
Melinda Power, Esq.
West Town Community Law Office
2502 W. Division, Chicago, IL 60622
Tel: 773-278-6706 Fax: 773-278-0635