

# National Lawyers Guild-New York City Chapter Mass Defense Committee

## Basic Information About The Responsibilities of Being a Legal Observer

(see also [www.nlg.org/resources/LO\\_Manual.pdf](http://www.nlg.org/resources/LO_Manual.pdf))

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### What are Legal Observers?

Legal Observers are typically, but not exclusively, law students, legal workers (such as paralegals) and lawyers who may or may not be licensed locally. The Legal Observer program is part of the comprehensive legal support coordinated by the NLG, designed to enable people to express their political views as fully as possible, without unconstitutional disruption or interference by the government. Legal Observers work closely with NLG members who represent individual activists and political organizations. The Legal Observer performs an important investigative function of the legal team, providing key factual information for evaluation within the team.

Legal Observers are trained support persons who play a distinct role, separate from regular participants, at protests and demonstrations. The primary goal of legal observing is to witness and record arrests. Legal observers also watch the actions of all law enforcement officers and particularly note violations of people's rights. The presence of legal observers helps keep people safe by discouraging police abuses. Also, the information legal observers collect can be useful in jail support of arrestees, criminal defense of protesters, and in lawsuits against police or government agencies.

The **primary responsibility** of Legal Observers on the street is recording arrests. This includes, in order of priority,

1. Name and/or physical description of arrestee
2. Names and phone numbers of witnesses (Do not get statements! Leave that to the lawyers.)
3. Time
4. Location (for example, the NW corner of 52<sup>nd</sup> Street and 3<sup>rd</sup> Avenue)
5. Injuries, if any

**Call the arrest in as soon as possible during the protest, and make sure these notes are turned in to the Legal Observer Coordinator or point person as soon as possible after the protest is over.**

Because this information is extremely important in providing immediate legal support to arrestees, the notes should be short and sweet, containing all of the above information and nothing extraneous.

Do not go into detail about what happened just before or during the arrest. Instead, write quick, rough notes that could help you recall what happened if a defense lawyer called you a few months later and asked for a declaration. Legal observers are rarely called as witnesses at trial, but it does happen, and the evidence we gather can be invaluable in criminal and civil proceedings. You will be the custodian of these more detailed notes.

Remember: recording arrests is the Legal Observer's main job!

A **secondary responsibility**, if time or experience permits, is to get notes on any police brutality or other questionable police activity.

When documenting police brutality, you should document as much of the following as possible:

- Name and/or physical description of victim
- Name and/or badge number(s) of police officer(s)
- Time

- Location
- Injuries, if any
- Names and phone numbers of witnesses, if any

When documenting police activity, look for:

- TARU (Technical Assistance Resource Unit) officers taking pictures or video of protesters
- Police performing searches of protesters' bags and clothing
- Police questioning protesters on the streets
- Suspected undercover officers

Note time, location, and name or badge number. If you have a camera, take a picture of the suspicious activity (be as discreet as you need to be to feel comfortable).

Again, turn in your notes on police brutality or police activity to the Legal Observer Coordinator as soon as possible after the protest is over. If you were able to get pictures of the incident, turn in your pictures and/or undeveloped film as well, and make sure they are clearly labeled. Also state in your notes that the visual evidence exists.

#### What a Legal Observer is NOT:

Groups will often deploy parade marshals to keep people on the route, some groups occasionally will have peace-keepers to monitor the crowd, etc. If the organizations want people performing those roles, they will have arranged for that. It is not our job to fill-in as we think appropriate. Legal Observers are not on the street to make political decisions or tell people what to do, even if they are doing something you disagree with. Sometimes, this may seem hard to do – just remember that once you begin deciding what other people should or should not do, it is hard to draw any kind of line.

We are out there because we have a certain type of access to the system; as lawyers, legal students and legal workers, most of us are in fact part of the system. So we can use that to support others who don't have as much access. It's incumbent on us not to abuse that access in the way we deal with cops and demonstrators.

Legal Observers do not give unsolicited legal advice.

There will be more than enough cops to watch the protesters. Therefore, our limited numbers should keep our attention on the cops.

#### Notes on Preparation:

It might be good to review various Know Your Rights (KYR) materials before hitting the streets. You can find some good ones at [www.nlg.org](http://www.nlg.org) and [www.civil-rights.net](http://www.civil-rights.net). The People's Law Collective also provides some good materials at [www.nycplc.mahost.org](http://www.nycplc.mahost.org). These will help you to identify some of the primary legal issues that can come up at demonstrations. To be a good observer, you should understand the kinds of things that might lead to arrest, as well as the Constitutional and statutory limitations on law enforcement. It's also useful for you to know your rights in the (unlikely but still possible) event that you should be arrested yourself. And, if you are able to talk with an arrestee for a minute you can be very helpful in making sure they know their rights.

There are certain materials you should have in order to be a productive Legal Observer. These are:

- ❑ Pens and paper (preferably a small notepad, or something that is easy to handle and carry) *or* a handheld tape recorder
- ❑ Important phone numbers, such as your coordinator, legal team, etc.
- ❑ Cell phone if possible (but for emergency have quarters for pay phone)
- ❑ Camera if possible (we recommend disposable; a regular camera could easily get damaged)
- ❑ Water and/or snacks (you will often be out for at least 2-3 hours)

### On the Street:

Once you are on the street, remember your primary objective: **GET NAMES!!** If an incident occurs, get as close to the scene as necessary to get a good perspective. A clear angle may be more important than getting close if your vision will be obscured. If you have a camera, a wider point of view may in fact reveal more than closer shots that are too narrow.

You have the right to observe arrests and get the names of arrestees. Police may try to make you move, either nicely or sometimes with threats. It is important to remain calm and professional. Show the officer your legal observer ID and explain that you have the legal right to be there, and that you are working with attorneys who represent the demonstrators. Evaluate the situation and do not be scared off too easily, but do not push to the point of getting arrested. It is important that Legal Observers do not get arrested themselves – you will be much more effective this way. If the police want your notes, camera or film tell them you are working with attorneys representing the demonstrators and your notes are protected as work product.

### Getting Arrestee Information:

Try and secure a close and/or optimal position that lets you talk to and hear those getting arrested. When gathering names, be calm but loud. Identify yourself as a Legal Observer. After asking for a name, give the arrestee a chance to answer. If they can't hear your question, get others around you to yell in unison.

You may need to ask the cops to get close enough. Say something like, "I am with the legal team representing these people. I need to take their names so we can track them, so their friends won't be calling the precinct and bugging you."

If the cops won't let you any closer, be persistent and try different officers. Look for commanders, the officers wearing white shirts – they may be less distracted and more reasonable.

### Post - Demonstration:

**REMEMBER, WE DON'T LEAVE UNTIL THE COPS LEAVE.**

Sometimes it may look or seem like everything is calm or over. However, most incidents with police happen **AFTER** the main demonstration has ended. You are watching the police and not the demonstrators, and watching them leave is the only sure sign that there won't be any chance for an arrest.

If you need to leave early, make sure you tell your coordinator, and also leave evidence with him or her **BEFORE** you leave the scene. This is vitally important to your job as a Legal Observer.

After the police have left, meet with your coordinator and hand over your camera or film. As soon as you get home, email your "short and sweet" notes to the coordinator. Remember, it's important to turn that information in as soon as possible. **YOUR JOB IS NOT OVER UNTIL ALL YOUR EVIDENCE IS TURNED IN.** Keep the more detailed notes in your own possession, and review them to make sure they make sense and will jog your memory if necessary.

## NOTE TAKING DO'S AND DON'TS

**Do:** -arrestee(s) names  
-street corner  
-time and date  
-specific brief words that will remind you of important details  
-witnesses and contacts and whether or not they saw entire incident  
-injuries

Additional “can’s”: Police badge numbers/names; commanding officer’s name/ #; TARU location and activity; Undercover cop activity/ location/ description.

**Don’t:** ANY KIND OF NARRATIVE (both by yourself or a “statement” by witnesses)

### **EXAMPLE:**

**Do:**

Emma Goldman

White female, 20’s, brown hair, red bandana, black hoodie, blk pants

5:42 pm

NW corner, 42<sup>nd</sup>/ B’way

Witnesses: Che Guevara 212-333-4444/ victoriasiempre@revolution.com (saw entire incident); Lucy Parsons 718-555-5555 (saw injuries, not entire incident)

Bleeding from forehead/rt side of face.

**Don’t:**

I was walking southbound on Broadway near the Black Bloc when one of them ran up and told me that her friend had just been arrested at the corner. I ran to the corner and saw a young white female with long brown hair lying handcuffed in the intersection. She was bleeding from her forehead and the right side of her face and seemed to be crying. She couldn't hear me ask for her name, but her friend said her name is Emma Goldman. She did not actually witness the arrest. A guy named Che Guevara says he saw Emma on the ground and then a cop ran over and grabbed her immediately. The cop slammed her into the ground and yelled profanities at her. (What’s wrong: Complete sentences, unnecessary details, no time, unspecific location, lack of witness contact info.)

For further information on becoming a legal observer, contact: [Nycmassdefense@riseup.net](mailto:Nycmassdefense@riseup.net)

Mass Defense Committee

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