

# KNOW YOUR RIGHTS



*a legal guide for the Homeless*

# Know Your Rights!

Throughout the country there have been an increasing number of incidents in which the civil rights of homeless people have been violated. Cities have passed laws targeting the homeless and have selectively enforced already existing laws against them. Such actions may be unconstitutional. Homeless people and advocates around the country have led successful legal campaigns to overturn such discriminatory practices.

The Cincinnati Civil Rights Project is part of the National Homeless Civil Rights Organizing Project, created by the National Coalition for the Homeless to address the systematic violations of the civil rights of homeless people. Through working with the National Law Center on Homelessness and Poverty, homeless people, and advocates across the country, the National Coalition for the Homeless intends to promote legislation and policy ensuring that the civil rights of the homeless are upheld.

This brochure covers some of a person's basic rights, as well as some laws in Cincinnati and Ohio that may be of interest to homeless people. It provides general information to assist you until the advice of an attorney is sought. It is brought to you by the Greater Cincinnati Coalition for the Homeless' Civil Rights Project, through the kind support of the Cincinnati Bar Foundation.



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Civil Rights Organizing Project  
addresses the systematic violations  
of the civil rights of homeless people*



# WHAT TO DO WHEN YOU ARE STOPPED BY A POLICE OFFICER

## *Conversation*

- If an officer stops and questions you, ask if you are detained or free to go.
- If you are free to go, you have the right to leave. It is advisable not to run from the police. Courts have held that running from the police is probable cause to be stopped and detained. If you voluntarily engage in conversation with the police, you may be providing them with reason to detain or arrest you.
- You have the right not to answer an officer's questions. If you begin to answer questions, you have the right to stop and to remain silent at any time. While you have the right to remain silent, it is advisable that you give your name and show them your ID if asked.
- During the course of a conversation, the police do not have to tell you why they want to talk to you, that they are conducting an investigation, or that they have reason to suspect you are involved in a crime. The police are also permitted to use various tactics to convince you to talk.

## *Detainment*

- If you are being detained, you are not free to leave, but this does not mean you are charged with a crime.
- The police must have reasonable suspicion that you were involved in criminal activity before they detain you.
- If you are not free to go, ask the police why you are being detained, and remember their response, as this may help you in court. They do not have to tell you what their reasonable suspicion is, but in court they must be able to justify why they stopped you.
- The police may only detain you for a “reasonable” amount of time for questioning and investigation.

## *Arrest*

- If you have been ticketed before and did not go to court or pay the fine, a *capias* warrant will be issued for your arrest.
- The police have the right to arrest you without a warrant if they witness you committing a misdemeanor or a felony.
- If you are under arrest, you still have the right to not answer questions.



## Search and Seizure

- If you are being detained, the police have the right to frisk you. This is a pat-down. A pat-down is only allowed if the police have reasonable suspicion that you have committed a crime and you have a weapon. They are only allowed to feel around for that weapon. They cannot go through your pockets, your bag, or your possessions.
- Once you are officially arrested, the police have the right to thoroughly search you, your bag, or anything in your immediate control.
- The police can also search you at anytime if you consent to the search. Many things can be construed as consent so it is important to say respectfully but loudly so witnesses can hear, "I do not consent to this search."

## Use of Force

- Officers are only allowed to use reasonable force when arresting someone. This force should not continue after the person has been taken into custody. If the suspect offers no resistance, then the officers cannot use force.
- Police can use deadly force to make an arrest but only if the suspect threatens the officer with a weapon or to protect the life of a third person.



# SPECIFIC LAWS THAT APPLY TO CINCINNATI AND OHIO

## Fountain Square

Certain restrictions apply to Fountain Square and all second-level walkways, including the Skywalk, in the entire downtown area. Lying down on the floor of the Square's walking and standing areas is prohibited.

It is also illegal to sell, barter or offer, or display for sale any merchandise (this includes Streetvibes).

## Panhandling-Related Laws

*Aggressive Panhandling:* All panhandling is legal except for in the following circumstances:

- Panhandling is illegal when in a public place the panhandler attempts to block or impede the travel of a person or vehicle (through walking, standing, sitting, lying, grabbing, touching or approaching);
- When the request alarms, intimidates, harasses or coerces a reasonable person;
- When the panhandler keeps asking the person after they have conveyed or said no.

This applies on streets, sidewalks, parks, plazas, parking lots, driveways, public or private buildings open to the public, and doorways and entrances to buildings or dwellings.

*City Hall:* Panhandling is not allowed in or around the building. Penalty is no more than a \$10 fine.

*Sidewalk Laws:* The City of Cincinnati passed an ordinance in 1995 that prohibited sitting or lying on public sidewalks. This law was overturned in the United States District Court on the grounds that it violated the plaintiffs' First Amendment rights. You do have the right to sit on public sidewalks as long as you are not obstructing pedestrian traffic. You cannot be told to move along, nor can you be given a warning or citation for this conduct.

## Disorderly Conduct

No person shall recklessly cause inconvenience, annoyance, or alarm to another by doing, among other things, any of the following:

- Making unreasonable noise or offensively coarse utterance, gesture or display or communicating unwarranted and grossly abusive language to any person.
- Hindering or preventing the movement of persons on a public street, highway or right-of-way, or hindering their access upon public or private property, so as to interfere with the rights of others, and by any act that serves no lawful and reasonable purpose of the offender.
- People may be arrested for disorderly conduct for standing in a group on the sidewalk if other people cannot get past.

If a person persists in this action after a warning, the penalty will be greater.

## Obstructing Official Business

No person shall, with the purpose to prevent, obstruct, or delay the performance of a public official acting in their official capacity, do anything that hampers or impedes a public official in the performance of his or her lawful duties.

## Criminal Trespass

No person, without privilege to do so, shall do any of the following:

- Knowingly or recklessly enter or remain on the land or premises of another that are restricted to certain persons, purposes, modes or hours, when the offender knows she or he is violating those restrictions, such as through posted signs.
- Not leaving the property of another when asked to. It is not a defense to claim that the land is public property. It is also not a defense if permission to stay on a piece of property was gained by deception.



## Resisting Arrest

It is illegal to recklessly or by force knowingly resist either your or another person's arrest. The penalties are higher if you cause harm to a law enforcement officer or if you use a weapon to resist.

## Open container Law

No person shall have in the person's possession an open container of beer or intoxicating liquor in a state liquor store, a public park, or in any public place unless it was purchased for consumption at that place from the holder of an alcohol permit. This also applies to operators and passengers in a motor vehicle whether it is traveling, parked, or being stationary and whether it is on public or private land.

## Public Indecency

No person shall recklessly expose his or her private parts in which his or her conduct is likely to be viewed by and affront others who are not members of his or her household. This may include urinating in public. The penalties increase with each offense after the first.

## Loitering

Loitering is illegal if it is for the purpose of soliciting sexual activity for hire. Loitering is defined as beckoning to, stopping or attempting to stop another person either on foot or in a motor vehicle, engaging or attempting to engage another in conversation, or interfering with the free passage of another.



# The Cincinnati Homeless Civil Rights Project

While these are your rights, we realize that what happens on the street often does not follow these guidelines. Even if your rights are being violated, remember to remain respectful and that the best place to address a violation of your rights may be in court.

Many times people feel pressure to make 'no contest' or 'guilty' pleas when they are arrested. While this may be easier on you and a busy justice system, it does not address the fact your rights were violated and will put a conviction on your police record. If you plead not guilty and win, it is more likely to reduce the future number of illegal citations and arrests.

It is important to come forward and report any violations of your civil rights; if enough people come forward, change can be made. The Civil Rights Organizing Project will provide assistance and referrals for people needing help.

To report a violation of your rights, police harassment, a violent crime against a homeless person, or for any other assistance, contact a civil rights organizer at:

Greater  
Cincinnati  
Coalition For  
The Homeless



117 E. 12th Street, in Over-the-Rhine.  
Phone: 421-7803 · Fax: 421-7813  
E-mail: [homelesscivilrights@yahoo.com](mailto:homelesscivilrights@yahoo.com)

## Sponsors

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## Greater Cincinnati Coalition For The Homeless



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