

PUBLIC MEETINGS

The Canadian Bill of Rights affirms the right to freedom of assembly and freedom of speech. Read this to mean the right of "lawful assembly" and "lawful speech", because the Criminal Code has put restrictions on both of these rights. Basically, an unlawful assembly is one in which more than two people meet for a common purpose, and in the course of the meeting conduct themselves in such a way as to give those in the neighbourhood a reasonable cause to fear that the meeting will be tumultuous (which has been interpreted to mean "violent") or to fear that the meeting will needlessly and without reasonable cause provoke others to disturb the peace tumultuously. If you choose to hold the meeting in an obviously hostile neighbourhood, it will not be an unlawful meeting simply by virtue of the fact that the meeting might provoke disruption by those in opposition. Since we are guaranteed freedom of speech there are not many subject matters which would give reasonable cause to a disrupter, and hence possibly making the assembly unlawful. (Examples would include a meeting which was advocating the violent overthrow of the government or a meeting which was inciting race hatred.

Disruption

The question of how to deal with disrupters at a public meeting can only be given commonsense answers, depending on the situation. Your response might vary from throwing out a heckler to calling the police if a gang threatens violence. The fact that you've billed a meeting as "public" in no way means that you must admit everyone who shows up. In order to avoid an "unlawful assembly", you are justified in denying admittance to, or evicting, those who threaten a fight. When it comes to throwing someone out, it should be done as calmly as possible, in order to avoid a charge of causing a disturbance. If you anticipate disruption, designate certain people to act as security. This serves two purposes. Specific people will be on the alert to act swiftly and to avoid a commotion. Since responsibility for dealing with disrupters is allocated before the fact, the rest of the meeting need not get involved in the disturbance.

Riots

The Criminal Code defines a riot as an unlawful assembly that has begun to disturb the peace tumultuously. A meeting which has ^{began} as a lawful assembly may become unlawful as a result of the actions of those present. If three or more people acting in concert conduct themselves in a manner which is in itself unlawful, the meeting may become a riot.

"The reading of the Riot Act" is largely the creation of the movies, and would seldom happen at a public meeting. The Criminal Code gives the police full power to use as much force as necessary to suppress a riot even though no "Riot Act" has been read. If no police are on the scene, any person is justified in using reasonable force to suppress a riot. The force must not be excessive, having regard to the danger which would result if the riot continued.

Weapons

The Criminal Code makes it an offence for anyone, without lawful excuse (don't kid yourself, you haven't got one), to have a weapon in his or her possession while attending a public meeting, or while on the way to attend a public meeting. Almost anything can be classified as a weapon if it is used as such: a crutch, a broken beer bottle, sulfuric acid. (See the section on weapons below.)

Preventing Entry to a "Public Meeting"

If you have rented or booked a hall or room for a public meeting you are the "occupier" and hence are responsible for what goes on in the hall. Since you have this responsibility, you can exercise discretion over who should have access to the meeting. The one qualification is that you cannot deny anyone entry on the grounds of race, sex, age, or religious beliefs. This is prohibited by the Ontario Human Rights Code. On the other hand you can deny entry on the grounds of a person's political beliefs.

The Criminal Code states that everyone who is in peaceable possession of a dwelling house or real property (and everyone assisting him or her) is justified in using force to prevent any person from trespassing, or to remove a trespasser, provided only reasonable force is used. A person becomes a trespasser when you deny

him or her entry, or ask that person to leave. If he or she attempts to enter anyway, or refuses to leave when asked, and resists your efforts to bar or evict them, they are deemed to have committed an assault. You may use reasonable force to defend yourself and evict the trespasser.

You may also impose conditions upon persons admitted to a public meeting: no cameras or tape recorders, submission to a search, etc. You are entitled to evict anyone who breaches the condition.

What if the police attend the meeting? Apart from special powers given by particular statutes, there is no general right for the police to enter and search premises. (See the section on Searches under "Meeting the Police" below) If the police attend the meeting and you do not wish them to be present, ask them why they are there. If they say they are simply observing you can ask them to leave. If they refuse to leave, however, it would be highly inadvisable to attempt to physically evict them, though you might mention your right to do so. Let them know that you are aware of your rights and will not be intimidated by their presence. Ask what division they come from and telephone the Staff Sergeant and ask that they be ordered to leave. If he refuses to do so, ask him if he is ordering his men to commit illegal acts. Ask for the exact spelling of his name as well as his badge number. Eventually the message will get through.

I PREPARING TO GO

If you are concerned that the police not know that you are going to attend a particular demonstration, rally or march then you should not discuss your plans for attending over the phone, nor in your home or any other place that might be bugged. Of course you have to be of significant interest to the police for them to be bugging your house or your car.

DO YOU WANT TO BE IDENTIFIED WHEN THERE?

It is safe to assume that the police photograph every demonstration, rally and march. They try to get pictures of every person in attendance. (Other photographers will be in attendance as well, including members of right wing organizations & security firms compiling files). The police will later go through the pictures in order to identify individuals and they will update their files. Their concerns include knowing who was in attendance as well as establishing which individuals play leadership roles and the connections or affiliations of the individuals. ("Independent leftists" are more trouble in this respect.)

In the winter it is much easier to not reveal one's identity since scarves and hats can cover a great deal of the face. Eyes and ears are two features that are focussed on for identification. Wigs and eyeglasses and other items can provide the aids necessary, if you are determined to both attend the demonstration and remain unidentified. Iranian students studying abroad have pioneered the use of masks (even bags over the head with eye holes cut out) in order to avoid identification by intelligence services. This technique also has the propagandistic value of dramatizing the fact that photographs are being taken and that freedom of assembly (so proudly touted by government officials responsible for the police activities) is not so free in fact.

Remember that your clothing is identifiable as well as your face.

Police informers in the crowd are also used to identify people.

II WHAT TO TAKE WITH YOUPAPER AND PEN.

The pen is sometimes more powerful than the sword; especially later in the court where they do not allow swords. Use it to:

- write names of arrested persons and their phone numbers, their friends phone number, their condition before they disappeared from the scene, the words spoken by police during their arrest, their words the number of the car or wagon they are put into etc, badge numbers and or descriptions of police involved in the arrest.
- police badge numbers (of those that are aggressive, those who make arrests or are just on the scene, since sometimes there may be testimony from police who were not in fact at the scene at all - of course photographs are also useful)
- significant conversations
- licence plates of vehicles (and / or squad car numbers if police vehicles) and description and location of vehicles.

TAKE DOWN INFORMATION BEFORE THE SHIT HITS THE FAN. You must anticipate, because once the action starts you will not necessarily have time to get enough down. For example: a car carrying four thuggish looking characters is parked on a side street as your march walks by. Later that car speeds by across the rear of your march and someone is knocked down. You got the licence plate earlier and recognize the car, although no one was able to get the plates at the time of the hit and run. Later, because of your astuteness the car is identified as belonging to a known member of the KKK. (Of course a picture taken when they were on the side street would have been better.)

CAMERAS

There is no general right to privacy in Canada. You can take peoples pictures without their permission.

The camera is a powerful weapon. At rallies demonstrations etc. they are essential. The more the better. BUT YOU MUST ARRANGE FOR THEM TO BE THERE. You can not rely on someone showing up with one. And you certainly can not count on someone with the right consciousness about these matters turning up with a camera.

Use them to:

- provide some deterrance to police brutality. The sound of shutters clicking in those tense moments sometimes can prevent the police from doing things which they might otherwise do.
- Take pictures of the licence plates that you want to record.
- Take pictures of the police, both plain cloths "old cloths" and uniformed. Later witnesses my want to identify the officer who did the dirty deed.
- Take pictures of those you only suspect of being police. They may show

up later in more interesting circumstances.

- take pictures of those who seem to be provocateurs.
- take pictures of those who you suspect of being fascist thugs.
- take pictures of any "incident", including arrests. These can be useful in the press and in court.
- get shots of the general lay out. This helps in court too.

Remember that cameras have a tendency to fall out of hands when they are capturing scenes that are damaging to the police public image. Often one finds that one gets an excellent picture of a policeman's palm print rather than the scene one intended to photograph. However, when there are many cameras it is possible to get pictures of these "accidents" where cameras are destroyed or of the police officer posing his palm for a photograph.

Bring enough film!

Preserving the photographic evidence for the court is critical. The main problem is that of "continuity". This means that in the court it is necessary to show a continuous chain of possession of the film, negatives and prints. This must be done to counter any suggestion that these items have been tampered with. It is necessary to have the negatives so that it can be established that the prints are in fact derived from the negatives etc. Also it must be shown that the prints made were not selected to avoid the more damaging evidence (or to provide only the damaging evidence).

The safest way to handle this problem of continuity is to have as few people as possible handle the film, negatives and prints. The best situation is to have one person take the pictures, and develop the film. In that case it is necessary to call only one witness. That witness can establish that there has been no possibility of tampering. It will be necessary to be able to establish that no other person has had the opportunity to come into possession of the film, negatives or prints. Therefore, you want to be able to say something like "I took the film home, I locked it in a drawer (or I placed it where no one else had access to it): and I developed the film myself and I can account for where these items were at all times from the time I put the film into my camera until I have brought them to court on this day".

The other concern that the court will have is that the photographer can testify that the print is an accurate reflection of what he or she saw with the naked eye through the view finder. For that reason it is necessary to use film that does not "distort" reality and also to not have any settings that would have similar results.

TAPE RECORDERS

It may be useful to record comments made by the police, a factory owner, scab, or provocateur or perhaps participants in your own demonstration, rally or march. A recording device that is not visible has certain obvious advantages but one that is visible may have the same deterrent effect that the presence of cameras often has.

This kind of evidence is admissible in the court but there are certain procedures that must be followed as there are with photographs.

First: there is the problem of "continuity". (Read above with respect to photographs ie. under the heading "cameras")

Second: You must have someone who will be able to identify the voice. That is; someone who can connect the voice to a particular individual. Thus it is necessary to remember who was making the remarks you have recorded. In the case of a police officer you might want to write down the officers name or badge number and with other individuals you will have to rely on some method of identification. You might want to indicate the place on the tape (by use of the counter) where the relevant recording begins and/or ends.

Third: You will have to be able to testify that the tape was run through and found to be clean before the recording in question was made. You don't want to have your recording of Bach played in the court before you get to the relevant portion.

Fourth: You will have to testify that the machine was in proper working order.

Fifth : You have played the tape over after making the recording and heard voices that you can identify.

Sixth: A transcript of the recording has been made. If typed then keep the the original notes.

Seventh: The Transcript has been checked with the original recording by the witness who will introduce the recording in evidence.

Recordings also have their uses for the media.

WHAT IDENTIFICATION TO CARRY

If you are arrested you sometimes (depending on the gravity of the offence with which you have been charged) can be released from the police station. However, one of the excuses for holding you until you appear before the court is that there is some doubt as to your identity.

You are obliged to identify yourself and provide your address (if you have one) when you are arrested or when you are being charged with any offence (but not being arrested). The general rule is that you do not have to carry identification in this country.

If you have some identification your chances of being released from the station are much greater. Nevertheless, something like a birth certificate or drivers licence should be enough and you may not wish to provide the police with the knowledge of every club you belong to, your place of work etc. In that case you should only take with you the identification you will require for release.

You may wish to carry no identification. As long as you provide your name and address (if you have one). You have fulfilled your obligations. You may find that you are held in custody until your trial if the court is not satisfied that you have been identified. But after your trial and any sentence that you may have to serve you will be released because there will be no grounds for holding you. There is no right on the part of the state to hold someone for the purposes of identification when there are no charges pending. Of course, if you have committed an indictable offence (more serious than a summary offence) they will have the right to take your fingerprints and they may be able to match them up with your prints taken on an earlier occasion or later occasion. Providing a false name to the police may amount to "obstruct police" or "public mischief".

WALKIE-TALKIES

These allow you to keep in touch with your friends who are 10 blocks ahead of you (you hope) at the other end of the march. They also allow you to speak to people who are walking the surrounding area to see if the police mounted squad or riot squad is forming up, or to see if some fascist gang is approaching.

Of course the police use these as well so that you must remember that you will be talking to them as well (and they may be talking to you).

DRESS

Are your shoes good for running or do they fall off? Is your hair easily grabbed? Is your clothing conspicuous and therefore you are easily identified in the crowd? etc.

A LAWYERS PHONE NUMBER

Have the organizers arranged for lawyers to be available?

WHAT TO LEAVE BEHIND

Even the innocent are arrested (and arrest includes the right to search) so:

- leave your three joints behind
- remember what might be construed to be a weapon (see separate section on this question)
- make your decision on what I.D. to leave behind (if not all) - see section above on "what identification to take with you"
- Leave behind your address books and any other papers that you don't want the police to see. There is no need to help them complete their charts on who is connected with whom.

Remember that your arrest may inspire the police to pay a visit to your home so you should also consider the security of your home. (See section on general security). Thus leaving things behind may not mean leaving them in your home.

III GOING THEREBY CAR

You may want to park a good distance from the site if you are concerned with not being identified. If you don't your licence plate may be traced.

Warrants for unpaid tickets also provide the excuse for arrest and you will miss the march or your dinner after the march while you sit in the police station waiting to be bailed.

Inoperative lights or other obvious mechanical defects provide the excuse for police hassling and a request for production of a drivers licence.

BY PUBLIC TRANSIT

You might want to get off a few stops early or late in order to look over the scene.

SCOUTING THE AREA

This is a useful practice. You will find that the police are doing the same thing. You are concerned (perhaps) with the fact that the riot squad is formed up three blocks away or at the closest police station. Or, you may find that a fascist is unloading their baseball bats from the trunk of a car and you the casual citizen will have obtained the licence plate, model of car and colour, and if you are really good a picture as well. You may then be able to alert your friends at the rally or march. (this will be easier if you have your walkie talkie). You may want to alert the police (getting the name or number of the officer you tell) so that they will not be able to say later that they were unable to protect you because of the "surprise".

AT THE DEMONSTRATION, RALLY OR MARCH

SEE COMMENTS ON USE OF CAMERAS AND TAPE RECORDERS ^(above) ~~(back)~~

WHO TO BE WITH

In general it is better to be with 4 or 5 other people who have an agreement that they will stick together. These "affinity groups" provide for good self defence. The isolated individual is an easy target for police abuse or fascist attack. The isolated individual may find that he or she has no witnesses.

WHAT YOU SAY

Remember the stranger beside you may not be a friend. Standard police practice includes placing officers in a crowd (some wired for sound perhaps). Parabolic microphones, which pick up sound from a great distance (including your suggestion to trash the building), are standard police equipment as well.

WHAT THEY SAY

Write down or tape record the words of provocateurs and of course get their pictures. See back to section on cameras and tape recorders.

POINTING OUT THE UNDERCOVER POLICE

It is certainly nice for someone to know that that they are speaking to or with in hearing range of a police officer. Even the most innocent conversations can be misconstrued and of course there is the danger of embellishment. Some courts have held that in some circumstances exposing an undercover police officer will amount to the crime of "obstruct police". Of course there are ways to not commit the crime and accomplish ones purpose. It is not uncommon for large numbers of people to begin chanting and pointing to an officer.

COMMON OFFENCES CHARGED

The most common offenses charged at demonstrations, rallies of marches are assault, assault police in the execution of their duty, assault to resist arrest, obstruct police in the execution of their duty, mischief to property; causing a disturbance; possession of a weapon dangerous to the public peace or carrying a concealed weapon; and trespass. Less common are unlawful assembly, riotous assembly and conspiracy.

ASSAULT - This offence includes not only touching someone without their consent but also attempting or threatening by acts or gestures to apply force to another person.

Assault police - this is an assault on a peace officer. The peace officer must be "engaged in the execution of his (or her) duty" otherwise it is just a common assault.

in some instances an assault will not be illegal because it is done in self defence or there is some other lawful excuse. Similarly with assault police if the police officer is not in the execution of his or her duty you may get away with the assault. But don't count on it.

Assault to resist arrest

The arrest may be your own or someone else's. The arrest must be legal for this charge to be made out. However, this is a hard one to beat also since the courts tend to lean over backwards to avoid finding an arrest is not legal. One is allowed to use "reasonable force" to resist an illegal arrest of oneself. There is some doubt about your right to aid someone else who is being illegally arrested, although the English common law tradition said you could.

Obstruct Police

Once again the police officer must be in the execution of his or her duty. Your interference (or obstruction) must be willful. For instance if you are knocked into a police officer while that officer is trying to make an arrest and the person being arrested escapes then you will not be guilty. But if you intentionally interfere you will be guilty. If the arrest is illegal you have no problem in either case. At least theoretically.

Mischief to property

To qualify for a conviction in this case you must wilfully destroy or damage property or render property dangerous, useless, inoperative or ineffective or obstruct, interrupt or interfere with the lawful use enjoyment or operation of property etc. This is the one they use when you destroy the Toronto Sun paper box after they print another racist or sexist article or when you stop a car trying to cross a picket line.

Causing a disturbance

You have to do this in or near a public place and not be in a dwelling house. You can do it by fighting, screaming, shouting, swearing, singing (presumably the wrong songs) or using insulting or obscene language. Also this can be done by being drunk and as well by impeding or molesting other persons. There are other methods as well. This is the charge they trot out when they don't like the chants at your demonstration or they claim that your picket is impeding the traffic (pedestrian or vehicular).

Possession of a weapon dangerous to the public peace and concealed weapons
see the special section devoted to these charges (Chapter D)

Trespass

This is not a "criminal offence" it is a "Provincial offence". However,

You probably won't appreciate the difference while you are being arrested carried to the paddy wagon and and lodged in a cell before your release. At the moment the maximum fine is \$100.00 but the government of Ontario has announced plans to increase this amount to several thousand. They could include a jail term in the new law as well. Trespass involves entering unlawfully (without their permission) another person's land when that land is enclosed or it is a garden or lawn or notice has been given by word of mouth, writing or posters or signs.

Unlawful assembly

You can commit this offence by getting together with 2 other people (at least) with intent to carry out some common purpose and you assemble in a manner that causes people near by to fear that (a) you will "disturb the peace tumultuously" or (b) you will needlessly and without reasonable cause cause provoke others to "disturb the peace tumultuously".

Riot

This is an unlawful assembly that makes it. That is one that in fact "has begun to disturb the peace tumultuously".

If a sheriff or sheriff's deputy reads certain magic words after a riot has started and you are still around after 30 minutes you will have committed a much more serious offence. Similarly if you interfere with the reading of the magic words.

Conspiracy

The essence of this charge is the making of the agreement. It is the agreeing that is the crime. That is why you always need two people to have this crime committed. You have to agree to "effect an unlawful purpose" or to "effect an unlawful purpose by unlawful means". You do not have to do anything but make such an agreement. The prosecutors like this charge because there are special rules of evidence which apply and make their task easier; that is anything any of the "conspirators" does to further the conspiracy can be used to convict you as well as that other person. This is why you have to be careful about where you talk who you talk with (try to exclude agents from your planning meetings) and what you say. Theoretically, you could get 2 years for agreeing to Jay walk with someone else. You have agreed to effect an unlawful purpose. This is the one they used to get the early unionists on, when they agreed to "restrain trade" by keeping wages up. Now they talk about conspiracies to breach contracts since breaking a contract is illegal --- two years for a wildcat!

WHEN DOES AN OBJECT BECOME A WEAPON?

There are several provisions in the Criminal Code creating weapons offences. In part, these provisions are intended to control the distribution and use of objects which are clearly identifiable as weapons. However, they also attempt to control and punish any violent conduct or potentially conduct where a dangerous object is wielded. I have not addressed the broader societal and state interests in controlling weapons as my intention is merely to provide information that would be useful to activists in this area of the law.

In the Criminal Code, the definition of a weapon has been extended to include objects which would not normally be considered "weapons", but which under the circumstances of the individual case, have become weapons due to the intention of the person in possession, to use them as a weapon. The factors that give objects this dangerous quality include the state of mind of the person in possession and the circumstances in which the person is found in possession of an object that could be used as a weapon. For those who attend demonstrations, public meetings, etc., there are therefore special concerns about weapons due to the increased risk of violence and the presence of police at such gatherings.

WHAT ARE THE WEAPONS OFFENCES?

Weapons offences under the Criminal Code are numerous and cover many fact situations. The following is a partial list of these offences.

Restricted and Prohibited Weapons

Restricted and prohibited weapons are mainly guns and rifles, but prohibited weapons also include switchblade knives, spiked wristbands, blowguns, and other things such as Mace, devices used in karate, etc.¹ Mere possession, in your home, car, or on your person, of certain weapons is sufficient to be prosecuted under the Criminal Code. However, it is also illegal

to buy, sell, give, deliver, or lend a prohibited weapon. Possession of restricted weapons is illegal where they are unregistered or are possessed "elsewhere than at the place at which he is entitled to possess it".²

Possession of a Weapon Dangerous to the Public Peace

Carrying or being in possession of a weapon, or an imitation weapon, "for a purpose dangerous to the public peace or for the purpose of committing an offence"³ is an offence under the Criminal Code. For the purpose of clarifying this section, a "weapon" is broadly defined in the Code so as to include many objects which are not designed as weapons.

Proof of this offence involves consideration of the following factors:

- the nature of the object, i.e. being in possession of an actual weapon or something that could be considered to be a weapon e.g. a kitchen knife or baseball bat.
- the circumstances in which the object is possessed (which includes consideration of the potential danger to the public peace and the intention of the accused to possess the weapon for a dangerous purpose as revealed by the circumstances). e.g. possessing a knife when involved in a fight in a bar versus when no fight is in progress or is likely to take place.
- the subjective purpose for possessing the object as explained by the accused e.g. always carrying a knife for self-defence versus grabbing a knife to defend yourself when suddenly attacked. (The former would probably lead to conviction.)

The following are some interesting examples from the caselaw.

- A broken beer glass became a "weapon" in a fight in a bar.
- A jack-knife with a four inch blade was not a

"weapon" where there was no disturbance on any sort in a bar. Possession for a purpose dangerous to the public peace could therefore not be inferred.

- A hunting knife carried for the purpose of self-defence when travelling could be considered to be contrary to this section of the Code because the "accused might have had to use it if a confrontation had been imminent".⁴ However, if hunting or fishing the purpose for which the knife is carried is not against the law.

- "Appellant had in his possession a cross-bow dart gun. No bow string was available and the cross-bow was cracked. But the cross-bow was easily repairable and therefore it remained a weapon. Appellant also possessed the "Anarchist Cookbook". The fact that the shaft, found in the appellant's closet, had been modified in accordance with the references in the book; and the fact that the shaft fitted the cross-bow, justified the inference that appellant possessed the cross-bow for a purpose dangerous to the public peace."⁵

- Membership in an organization prepared to resort to violence has been considered relevant to this charge.

The courts have found "a reasonable definition of weapon" to be: "any article made or adopted for use for causing injury to the person, or intended by the person having it with him for such use by him".⁶

From the above, it can be seen that for people attending demonstrations, public meetings, strikes, etc., the inference that a weapon or other object possessed for a purpose dangerous to the public peace would easily be drawn. A rule of thumb for activists would be simply not to take such implements to these gatherings. Whether or not a picket sign on a stick could be found to be a weapon dangerous to the public peace is unknown.

While Attending a Public Meeting

This offence describes a situation in which "every one who, without lawful excuse, has a weapon in his possession while he is attending or is on his way to attend a public meeting..."⁷ What constitutes a weapon under this section is determined by reference to the same broad definition as for the Weapons Dangerous and Carrying Concealed Weapon offences.

This section of the Code clearly applies to activists. Determining what is a weapon would involve the same considerations as described above for the Weapons Dangerous charge, with the circumstance of either attending or being on the way to attending at a public meeting being a requirement for proof of the charge, and providing a circumstance which could be sufficient to raise the inference that the person intended to use the object as a weapon.

It should be noted that this is a little used section of the Code, probably because Weapons Dangerous covers the same ground and provides for a heavier penalty. This is also a recently proclaimed section of the Code, and the police are probably not yet attuned to its possible uses.

Carrying a Concealed Weapon

This section of the Code applies only to the carrying of a dangerous object intended to be used as a weapon where there is no permit allowing it to be carried, and where the weapon has been concealed; either on the person, in a car, etc.⁸

Where no purpose or intention is evident, but a "weapon" is being carried concealed, this section would be used. An intentional concealment must be proved in order to convict. The fact of concealment speaks to the intention of the person to use the object as a weapon, thereby converting an object into a "weapon". A mere jack-knife carried on the person, or any other relatively innocent object, would probably not be sufficiently weapon-like to convict under this section, unless

the "concealment" is clearly not the normal way to carry it. e.g. a jack-knife concealed in a boot.

Summary: Weapons Offences

Evidence going to prove the commission of restricted and prohibited weapons offences is more clear than evidence going to prove the weapons dangerous, public meeting, and carrying concealed weapon offences, for which the dangerous intention of the person in possession of a potentially dangerous object must be proved. Nevertheless, the broader definition of weapons in these latter offences creates a strong enforcement tool.

As a result of Canada's restrictive weapons laws, relatively few people are actually in possession of prohibited and restricted weapons. Yet all of us possess objects which under certain circumstances could be used as or considered to be weapons. As previously stated, the additional dangers of activism require the taking of precautionary measures in order to avoid serious problems with the law.

SEARCH AND SEIZURE OF WEAPONS
(See SEARCHES under MEETING THE POLICE)

The police have extensive powers of search and seizure under the Criminal Code. For illegal weapons (i.e. prohibited or restricted weapons, firearms, or ammunition), the police may search without a search warrant a person or vehicle or other premises not a dwelling house if the "peace officer believes on reasonable grounds that an offence is being committed or has been committed".⁹ Anything relating to the offence may be seized.

In order to search for other weapons, the police must normally obtain a search warrant. The grounds for doing so are that the magistrate who issues warrants must be "satisfied that there are reasonable grounds for believing that it is not desirable in the interests of the safety of that person, or of any other person, that that person should have in his possession,

custody or control any firearm or other offensive weapon..."¹⁰
Where there are "reasonable grounds for believing" that someone's safety is threatened, the police do not have to obtain a search warrant.¹¹

It is not known what constitutes "reasonable grounds". As a result, the police have considerable discretionary power regarding weapons. However, they must specify to those being searched that they are looking for weapons (or drugs or liquor) and what the weapons are that are being searched for.

The following is useful advice to those who may be searched. "If there is no real point to the search, the officer may give up the idea when you make these requests. If, however, he or she states "all weapons", or "all drugs", and embarks upon the search with or without using force, there is little point in offering resistance. It is better to observe everything that the officer does and consult a lawyer before making any statements."¹²

THE CRIMINAL SANCTION

Weapons offences are taken seriously by the law, as can be seen by the punishments that can potentially be imposed. Possession of a weapon or an imitation weapon for a purpose dangerous to the public peace is the most serious of these offences, carrying a maximum of ten years imprisonment. The seriousness of these offences means that precautions must be taken by those likely to be searched or apprehended by the police. The following advice has been suggested for those who attend demonstrations.

"It is most unwise to be in possession of drugs, weapons, or alcohol during a demonstration. Try to stay near one or more friends so that someone will know if you are arrested. Your friends should be able to get a lawyer and arrange bail. They will know what you were doing prior to the arrest and can testify at your trial. If a friend is arrested, try to get the badge numbers of the officers concerned, and the names of other witnesses."¹³

THE UPS AND DOWNS OF POSTERING

Legislation prohibits postering in all likely places. Municipalities and utilities are protected under specific legislation that is rarely invoked.

Legal problems follow from being caught in the act, and rarely otherwise.

Posterers are most likely to be caught by the police, if at all, probably resulting in a minor criminal charge.

For many organizations, posters and flyers are a major form of communication. Posters are visible everywhere in downtown Toronto. What follows is a description of the rules of the game of postering, and some of the dangers.

The Protection of Property

Good postering locations are almost always the property of some corporation (i.e. private property) or the government (i.e. public property). Hydro poles are the property of Ontario Hydro; telephone poles belong to the telephone company; hoardings around construction sites are the property of the construction company; trees are either public or private property depending on where they are located.

Utility poles, although belonging to the utility, are usually located on public property, sidewalks. Local by-laws govern the use of these poles, but signs can only be placed legally on utility poles with the permission of the utility. Several means of protecting public safety as well as both the private and public aspects of this property are provided.

The City of Toronto and each of the boroughs have their own Streets By-laws forbidding the placing of signs on "...the face of any building, post, structure or other

erection, when such face or any part thereof abuts any street property used as a street..."¹ The by-law also provides a penalty for its contravention of a summary conviction offence with a maximum fine of \$1,000.²

The Ontario Public Utilities Act also protects property belonging to the utilities, making a person liable to the corporation for any damage occasioned to their property as well as creating a summary conviction offence with a maximum fine of \$300.³

Mischief charges under the Criminal Code can also be laid, most likely by the police, for postering activity. Where the damage is estimated to be under \$50.00, as is most likely in the case of postering, it is a minor criminal offence punishable on summary conviction.⁴ The maximum penalty is therefore a \$500.00 fine or six months imprisonment or both.⁵ Most likely a small fine and/or a discharge would result upon a first conviction, although it should be noted that people have gone to jail.

Enforcement

The likelihood of being charged depends very much on the resources of the community and the number of complaints made to police and local authorities by residents. And, all of these measures are very difficult to enforce unless one is caught in the act.

The City of Toronto sends out an inspector when a complaint is received. By-law violations are also discovered through routine inspections. The nature of the poster affects the City's decision whether or not to enforce the Streets By-law. Charges would be laid immediately against the person or group responsible if the poster are considered to be of a serious nature, for example, if they were clearly racist. Otherwise, if the person responsible or groups benefitting can be identified from the poster, the City merely contacts them and warns them not to continue. By-law violations of this type rarely reach the courts, with probably no more than

one or two charges a year being laid.

Posters are sometimes removed by City employees, but there are not sufficient employees to regularly perform such clean-ups. The borough of North York asks people to remove the posters themselves. Charges could follow if the activity persisted.

An additional wrinkle in the enforcement of Streets By-laws in Metropolitan Toronto is the overlapping jurisdiction between Metro and the boroughs and City, and the consequent bureaucratic confusion. Most major streets where postering is frequently done are Metro roads. The City and the boroughs are responsible only for the maintenance of the sidewalks on those roads. Each therefore claims less than full responsibility for by-law enforcement.

If caught by the police, charges for by-law violations could be laid. However, police officers are much more likely to lay a charge under the Criminal Code. Similarly, the utilities may wish to proceed under the Public Utilities Act because of the possibility under that act of recovering damages. However, compensation for damage can also be obtained under the Criminal Code.⁶

One construction company in Toronto sued in the civil courts for recovery of their cleaning and painting expenses which they incurred in an attempt to meet the requirement that they keep their construction site clean.

Postering is not usually a very dangerous activity. However, certain precautions are sometimes taken in order to avoid problems with the law. For "socially acceptable" activities, permission is obtained from the utilities to place posters on their property. The enforcement capacity and techniques of the municipality are ascertainable by calling the local city hall.

Postering persists in spite of the law. It seems detection is avoided by the disguising of paste pots and the posting of lookouts. Also it is clear that the police devote little effort to this "problem".