



RISK MANAGEMENT INFORMATION

OBSTRUCTION OF LEGAL PROCESS AND RELATED CRIMES

**This information was originally developed in conjunction with the League of Minnesota Cities Insurance Trust's PATROL program (Police Accredited TRaining OnLine). For information on PATROL, contact Laura Honeck at patrol@lmc.org or 651-281-1280. For questions about the material in this memo, contact Ann Gergen at agergen@lmc.org or 651-281-1291.*

Introduction:

Obstructing legal process is intentionally interfering with the lawful execution of any legal process.¹ The statute, Minn. Stat. § 609.50, is written broadly and proscribes conduct ranging from interfering with a police officer or firefighter to hindering a department of revenue employee. However, the statute has primarily been used to prosecute defendants who intentionally obstruct peace officers during investigations or who resist arrest.² Obstruction of legal process can be charged as a misdemeanor, gross misdemeanor, or a felony depending on the seriousness of the offense.³

Courts have limited the definition of obstructing legal process by narrowly construing the statute. In *State v. Krawsky*, the Minnesota Supreme Court held that interrupting or directing criticism towards an officer does not constitute a violation of obstruction of legal process.⁴ In doing so, the court differentiated Minn. Stat. § 609.50 from a Houston, Texas ordinance that was struck down by the United States Supreme Court for being overbroad.⁵ Instead, the Minnesota Supreme Court held that to be found guilty of obstruction of legal process, the defendant must act in way that *physically* hinders an officer in the performance of his or her duties.⁶ The court described a physical obstruction as “not merely interrupting an officer but substantially frustrating or hindering the officer in the performance of his duties.”⁷

Physical Acts:

It is well-settled that obstruction of legal process occurs when a defendant physically acts in a manner that prevents or hinders officers from performing their duties. Therefore, an obstruction of legal process charge is appropriate when a defendant assaults an officer while the officer is

¹ Minn. Stat. § 609.50 (2006).

² 9A HENRY W. MCCARR AND JACK S. NORDBY, MINN. PRAC., CRIMINAL LAW AND PROCEDURE § 54.5 (3d ed.).

³ Minn. Stat. § 609.50, subd. 2 (2006).

⁴ 426 N.W.2d 875, 877 (Minn. 1988).

⁵ *Id.*; see *Hill v. City of Houston*, 482 U.S. 451 (1987).

⁶ *Krawsky*, 426 N.W.2d at 877.

⁷ *Id.*

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conducting a search⁸, resists being handcuffed during an arrest,⁹ or pushes an officer in an attempt to escape police custody.¹⁰

Additionally, threatening physical violence can constitute obstruction of legal process if the officer reasonably fears for his or her safety. For example, the Minnesota Court of Appeals upheld an obstruction of legal process conviction where the defendant challenged the officer to a fight and threatened him with physical violence.¹¹ The court noted that the defendant's angry and aggressive tone of voice and combative gestures made it reasonable for the officer to think the defendant would hit him.¹² This belief prevented the officer from executing the traffic stop, as he had to call for assistance to take the driver into custody.¹³

Verbal Acts:

In *Krawsky*, the Minnesota Supreme Court noted that a violation would usually require a physical act by a defendant, but acknowledged that it would be possible for a conviction to be based on a defendant's words if those words had the effect of physically obstructing or interfering with an officer.¹⁴ In other words, if a verbal act has the same effect on an officer as a physical obstruction does, the verbal act alone is sufficient for an obstruction of legal process violation. The court in *Krawsky* provided the following example as an instance in which words could constitute a violation, "the statute may be used to punish a person who runs beside an officer pursuing a felon in a public street shouting and cursing at the officer if the shouting and cursing physically obstructs the officer's pursuit and if the person intends by his conduct to obstruct or interfere with the officer."¹⁵

Following *Krawsky*, courts have found defendants guilty when their verbal conduct exceeded ordinary circumstances and had the effect of physically interfering with the officer. For example, the Minnesota Court of Appeals affirmed an obstructing legal process conviction when the defendant yelled and screamed at a desk officer to the point that she was physically unable to perform her duties.¹⁶ The court reasoned that the defendant's "intentional repeated verbal interruptions exceeded ordinary verbal criticism of the police and rose to the unlawful level in which his words had the effect of physically interfering" with the officer's duties.¹⁷

⁸ See, e.g., *State v. Wakanabo*, 1994 W.L. 495057 (Minn. Ct. App. Sept. 13, 1994).

⁹ *State v. Pendegayosh*, 2007 WL 1322269 (Minn. Ct. App. May 8, 2007).

¹⁰ *State v. Diedrich*, 410 N.W.2d 20, 23 (Minn. Ct. App. 1987) (pushing officer in an attempt to get out of the patrol car).

¹¹ *State v. Clancy*, 2001 WL 233913 (Minn. Ct. App. Feb. 19, 2002).

¹² *Id.*

¹³ *Id.*

¹⁴ *Krawsky*, 426 N.W.2d at 877-78.

¹⁵ *Id.*

¹⁶ *State v. Occhino*, 572 N.W.2d 316, 320-21 (Minn. Ct. App. 1997).

¹⁷ *Id.*

Refusal to Cooperate with the Police:

While refusing to cooperate with police is often coupled with acts that amount to obstruction of legal process, refusing to cooperate with the police, by itself, is not a crime.¹⁸ For example, refusing to open a security door for police on a 911 hang-up was found not to be a violation.¹⁹

Lying to the police also does not amount to an obstruction of legal process violation, even if it delays or prolongs the investigation.²⁰ In *State v. Tomlin*, a defendant intentionally lied about crucial details of a hit and run accident that he had witnessed because his friend was the suspect.²¹ The lie delayed the suspect's arrest and police were unable to obtain blood alcohol evidence.²² Nevertheless, the Minnesota Supreme Court held that the defendant could not be found guilty of obstruction of legal process because the lie itself did not physically obstruct the officers from obtaining the evidence.²³

Conduct not directed at officer:

Courts have further limited obstruction of legal process violations by finding that defendants have to direct their activity towards police officers.²⁴ Therefore statements made to third parties, rather than directly to a police officer, do not constitute a violation even if the statements have the effect of physically obstructing the officers. For example, a defendant was found not to have committed obstruction of the legal process when she warned another person that the police were on their way to arrest her and the person fled before police arrived.²⁵

Conduct Covered by Other Statutes:

The Legislature has also limited the number of acts that may be charged as obstruction of legal process by outlawing specific acts in other statutes. For example, fleeing the police in a motor vehicle has long been dealt with under Minn. Stat. § 609.487. In 2005, the Legislature modified the fleeing statute to include running or hiding from an officer by means other than in a vehicle.²⁶ Therefore, fleeing an officer on foot should no longer be charged as obstruction of legal process. Doing so risks losing a potential conviction. In a recent decision, the Minnesota Court of Appeals held that fleeing an officer, although physical conduct, is not a violation of the obstructing-the-legal-process statute. The court noted that the defendant in that case should have been charged with Minn. Stat. § 609.487, subd. 6.²⁷

¹⁸ *Adewale v. Whalen*, 21 F.Supp.2d 1006, 1011 (D. Minn. 1998) (applying Minnesota law and holding that if the Minnesota Supreme Court was confronted with the issue of whether refusing to open a security door for police is OLP, they would find that it is not.)

¹⁹ *Id.*

²⁰ *State v. Tomlin*, 622 N.W.2d 546, 549 (Minn. 2001).

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *State v. Patch*, 594 N.W.2d 537 (Minn. Ct. App. 1999).

²⁵ *Id.*

²⁶ Minn. Stat. § 609.487, subd. 6 (2006) (a person that flees police by running is guilty of a misdemeanor)

²⁷ *State v. Morin*, 735 N.W.2d 691, 698 (Minn. Ct. App. 2007).

False Identification:

Suspects occasionally provide the police with fictitious names or the names of others to avoid being properly identified. These acts are also dealt with by specific legislation and do not constitute obstruction of legal process. Defendants who provide false identification are charged with either a misdemeanor or gross misdemeanor depending on whether the information given is fictitious or that of another person. Providing a fictitious name or date of birth to an officer is a misdemeanor.²⁸ Providing the name of real person is a gross misdemeanor.²⁹

Report Writing and Testimony:

An officer's report and later testimony is crucial to obtaining convictions for obstruction of legal process. Officers need to discuss the suspect's behavior and then clarify how that behavior affected their work. For example, writing or saying that the defendant "resisted arrest" is conclusory. Instead, officers need to go into detail about the suspect's actions and explain how they were physically hindered from performing their duties. These details are especially important when the defendant's behavior was verbal in nature.

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²⁸ Minn. Stat. § 171.22, subd. 1(4) (2006).

²⁹ Minn. Stat. § 171.22, subd. 1(8) (2006).