

a short intro to michigan's utterly fucked "resisting and obstructing" statutes

tl;dr

serious felony charges can get added to basically every arrest

the charges often stick and a high percentage of these cases result in guilty pleas or convictions

regardless of your feelings about NVDA in general, strategies that result in mass arrests have specific challenges here

Michigan's law makes resisting or obstructing arrest a potential felony with fines of up to \$2000 and up to two years in jail per count. You can get these charges for active or passive "resistance."

"Passive" resistance includes running away, refusing to open your door for police, not putting your hands up when told, hiding from cops trying to arrest you, or anything else that can be construed as trying to "escape" an arrest situation.

"Active" resistance includes pushing, shoving, or kicking the person trying to make the arrest. But it can also mean shifting your body away from the officer arresting you because you are in pain, moving your neck or arms in fear, or responding involuntarily to the violence that police are committing against you.

"Obstructing" is defined as using or threatening to use physical force or knowingly failing to comply with a lawful demand. **E.g., if an officer tells you to unlock from the excavator and you don't?** Felony charge. The law is very broad and very easy to apply, so the charges stick.

You can be charged with an r&o count for every cop present. And you can catch r&o charges from more than just cops. Campus security, mall patrol, twig pigs/conservation officers, EMS techs, firefighters, SAR team members, and others can give commands that result in r&o charges.

Because most r&o falls under assault statutes, it can be considered a violent crime. That means a lot of people with r&o convictions can't hold certain jobs or licenses and can't cross the border, among other things.

We want to illustrate a few times it has been applied at protests/direct actions, but we also want to point out that **the overwhelming number of people getting felony charges under this law are not at a protest or action when they receive them. Mostly, racist cops dole it out in overpoliced/overcharged communities during their daily campaigns of terror.**

The law is racist and is applied in racist ways. A Detroit Free Press investigation reported that Black men are six times more likely than white men to get charged with resisting. In the 2021 Kalamazoo event described below, police were much more violent when arresting Black/Indigenous land defenders, and a Black/Ojibwe land defender received far more charges than other land defenders. In May 2022, six activists were arrested on their way to a City Commission meeting after the murder of Patrick Lyoya. Five of these individuals were Black, one was white. All four people facing felony r&o charges are Black.

The law has been applied to water protectors. In 2013, three water protectors fighting Enbridge's Line 6B refused to unlock from equipment after a police officer ordered them to unlock. They were eventually convicted of felony r&o.

The law has been applied to land defenders. In 2021, seven land defenders in Kalamazoo were protesting the eviction of unhoused people. Officers told them to leave and they refused. All received felony charges (though two people eventually had their felonies dropped). The land defenders argued they had a right to assemble on public land, and the orders/arrests were unlawful. However, the judge ruled that even though the city owns the vacant grassy lot (which is used by the public for frisbee, gardens, dog walks, and more), the lot is not public. Two of the defenders took guilty pleas, one is still awaiting trial, and two are appealing the judge's decision to higher courts as of the time of this writing.

The charge has been applied to people marching in the street (the Shelby 5), people asking "Am I being arrested?", and basically all sorts of scenarios where it is objectively bullshit. Again, we must reiterate that **the overwhelming majority of people who receive felony r&o charges are not targeted because of activism or protests. The cops can find a reason to give anyone an r&o charge for basically any reason, and because of racist policing and the racist criminal legal system, cops are most likely to give these to Black and Indigenous people just trying to live their lives.**

Not every protest/action results in these types of charges, and the majority of us in Michigan do not regularly face charges like this at protests. However, we want people to understand this law exists and can be applied broadly. Speaking with public defenders and other people in the criminalization system, it seems like these charges have been used more and more frequently in the past decade.

Many of us have been part of campaigns in the past where direct action resulted in many (sometimes even hundreds) of arrests. While many participants feel positively about those campaigns (pride, solidarity, strength, commitment, validation), many people feel negatively about their experiences as well (frustration, isolation, disposability, neglect, invalidation). We are not lawyers, and we are not trying to give you legal advice. Simply, we believe everyone has the right to informed consent about this particular legal challenge in the State of Michigan, because we are aware of how the mass application of felony charges can break people and movements.

Abolition now, abolition forever. Fuck these racist laws and the racist system that upholds them.