

Barcelona English Squat Manual

Oficina per l'Okupació

Barcelona 2009



Index

6. Your rights in the building
 - “Morador” legal occupant.
 - Identify or not?.
 - The first days.
 - Matones illegal eviction.

7. Your rights and the police
 - Police illegal eviction.
 - If you are arrested.
 - People “with papers”.
 - People “without papers”.

8. Legal Process
 - Administrative, civil and penal processes.
 - Administrative process.
 - Civil process.
 - Getting a state appointed free lawyer.
 - Civil case strategy.
 - Penal process.
 - Penal case strategy.
 - Evictions.

9. Deals with the owner
 - While squatting.
 - Before an eviction.
 - Don't take money or make deals.

10. Appendices:
 - Your rights being identified during squatting.
 - Your rights being arrested during squatting.
 - Advice about testifying in front of a judge.
 - Legal notice against cops and matones.
 - List of useful addresses.
 - Note to neighbors.
 - Check list.

Examples of a letter to your neighbors in català and castellano

Veïns i veïnes del barri:

Somun grup/de joves/estudiants/gent.... que hem okupat el nombre ... del carrer

Aquesta casa estava abandonada des de fa molt de temps. Volem tenir una vida digna i no podem pagar els elevats preus que suposa el lloguer d'una vivenda, és per això que hem decidit okupar aquesta casa. Creiem que totes les persones tenen dret a tenir un lloc on viure i no és just que hi hagi empreses i grans propietaris que tinguin cases i edificis buits i s'estiguin enriquin amb ells, quan hi ha molta gent que no té un lloc on dormir.

Ens agradaria molt viure en aquest carrer, respectant en tot moment a les veïnes i veïns del barri i esperem poder entre tots i totes establir un clima de bona convivència i de coneixement mutu. Per això els i les convidem a apropar-se a parlar amb nosaltres de qualsevol suggeriment, pregunta, queixa...

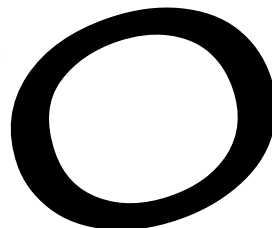
o simplement per a prendre un te en bona companyia!

Vecinos y vecinas del barrio:

Somosun grupo/de jóvenes/estudiantes/gente..... que hemos okupado el número ... de la calle Esta casa estaba abandonada desde hace mucho tiempo.

Queriendo tener una vida digna y no pudiendo pagar los elevados precios que supone el alquiler de una vivienda, decidimos okupar esta casa. Creemos que todas las personas tienen derecho a tener un lugar para vivir y no es justo que halla empresas y grandes propietarios que tengan casas y edificios vacíos y se estén enriqueciendo con ellos, cuando hay mucha gente que no tiene ningún lugar para dormir.

Nos gustaría mucho vivir en esta calle, respetando en todo momento a las vecinas y a los vecinos del barrio y esperamos poder entre todas y todos establecer un clima de buena convivencia y de mutuo conocimiento. Por eso, les invitamos a venir a hablar con nosotrxs de cualquier sugerencia, pregunta, queja... o simplemente a compartir un té en buena compañía!



Preparation for Squatting

Lock type: - easily replaceable cylinder Yes/No

- Possible entrances and level difficulty: rollergate, door, window?

-Other options:

.....

-Alarm list of people living nearby willing to help with the squatting or in case of an emergency:

-Tools you need to squat and make barricades:

- Type of action: silent or group action?

-Support groups for the squatting: legal, breakers, squatters, supporters,

- note to the neighbors

- What kind of neighborhood is it, are there other squats, what are the buildings next door like?

Legal aspect:

-Lawyer and legal group who have the squatters names and will call the lawyer if arrests are made.

-Legal notifications to paste on house

-Flyers about your rights in the action

Barricading:

Number of doors and windows to barricade? Sizes?

Appropriate barricading materials ?



Introduction

This is a brief introductory English manual for squatting in Barcelona. It was made from personal experiences and many legal resources and texts from the Oficina per l'Okupació. The Oficina per l'Okupació is a space to give advice about internal questions about squatting in Barcelona. It does not contain all the information there is about squatting in Barcelona; there are many legal factors that are too complex and lengthy to be included. We chose to make this a short, basic, and practical manual for easy reference and photocopying rather than an in depth manual. There are some other more in depth and complete manuals about squatting from the Oficina per l'Okupació and l'Assemblea d' Okupes de Barcelona. If you have any doubts or questions that were not addressed in this brief manual we suggest you look at the other manuals and talk to the Oficina per l'Okupació or other squatters who know the answers. We hope this manual will be of some help. Best of luck and happy squatting.

What is squatting?

Squatting is the process of entering an abandoned property and residing there or using the space without the permission of the owner. People squat for many different reasons varying from individual need, to the wish to live in a group, or for political convictions. In Spain squatting started as a movement in the late seventies out of a need for social spaces and lack of affordable housing in the cities. Apart from Amsterdam, Barcelona has the most squatting out of all the cities in Europe. In the past and today squatters have had to defend their rights to a home; through protests, physical and legal confrontations and court battles with the police, property owners, the Spanish state, and the court systems.

It is VERY IMPORTANT if you are going to squat here that you understand that many people from Barcelona have been fighting the owners, police, and the court system a long time to make squatting possible; this should be respected. Squatters from Barcelona do not appreciate when people come here as squat tourists; squat badly in a disorganized manner and do not take care of the

legal aspect of squatting; therefore getting houses evicted unnecessarily, setting negative legal precedents or ruining houses for further squatting.

It is IMPORTANT to squat responsibly, by being well informed, organizing the squatting well, paying attention to the concerns of locals and organizing the legal aspect by going through with court cases, and having a good legal strategy because all this will affect other squatters who live here by setting positive legal and social precedents, which will allow people to keep squatting. Squat smart and if you don't know how, get people who do to help you; communicate with other squatters in the city. It is necessary to learn Catalán and Castellano.

The laws in Spain about squatting are somewhat complicated and some are used against squatting and some can be used to benefit squatters. According to the Spanish penal code article number 245.2 entering private property that you are not entitled to with the intention of permanently living there is illegal and you can be charged with Usurpación for this. However, Article 47 of the Spanish constitution says every citizen has the right to an adequate and dignified living situation and this right should be facilitated by public powers and they should regulate the use of the land and impede speculation. This law is used in court cases to support squatting as a right to a place to live under the constitution.

Many times squatting in Spain can fall under various legal categories and applications depending on who owns the building and how and who is interpreting and or applying the law (corrupt judges, big corporate construction firms, the city government, or the private owner). Therefore, it is very important to be well informed about squatting and your legal rights regarding it. Some of the most important aspects of squatting to be aware of are as follows. The legal aspects: what you can be charged with, to identify to the police or not, the difference between legal and illegal evictions, and the most common types of court processes that occur. The practical aspects: how to look for a house, how to find out who the owner is and what plans there are for the building. The physical aspects: How to organize a squatting action, how to get in, how to barricade, and how to stay in your new home and make it livable. With this manual we hope to give basic answers to these questions. Before you squat it is advisable to do some research about the law, about the building, and how to plan a squatting action.

Check list before Squatting:

Owner of the building:

Name of owner or

Company

Address:

Place of Residence:.....

Telephone:.....

Property

Address:.....

Empty since:.....

Size of the building or apartment:

.....

Number of rooms, windows and doors:.....

Is it state or private property? Yes/No

Has a building permit been issued? Since when?

Has a demolition permit been issued? Since when?

Has a property been included in a urban development project? Since when?

Is the electricity, water, or gas connected, is there the possibility to connect it? Yes/No

Is the property managed by an estate agent, or are there guards watching it

periodically? Yes/No

If so, by whom?.....

Internet Sites of interest

-Asamblea d´ Okupes de Barcelona:

<http://okupesbcn.squat.net/>

-A las Barricadas Web Site:

<http://www.alasbarricadas.org>

Squat guide: <http://www.alasbarricadas.org/ateneo/modules/wikimod/index.php?page=Manual%20de%20okupación>

-Oficina de Okupación de Madrid:

www.okupatutambien.net

-Introducción a la Okupación:

<http://punksunidos.com.ar/okupa/>

-Defensa Jurídica; Por la defensa de los derechos civiles: civil rights defense

Legal aspects of squatting:

http://www.nodo50.org/defensajuridica/article.php3?id_article=15

-Contra Violencia Inmobiliaria :

Group doing research about speculation in BCN

www.bcnviu.org

Códigos y Artículos de la Ley:

look for laws about squatting in Spain.

www.noticiasjuridicas.com

International Squating Guide:

<http://www.roadjunky.com/guide/794/international-squatting-guide>

European Squat news site:

<http://www.squat.net/>



The politics of squatting

For many people, squatting is a political act, a form of resistance against capitalism and authority, and an important part of their lives. In Barcelona especially, housing, real estate speculation and gentrification are extremely important issues, as billions of euros in international investments pour in to remake the city into a tourist paradise, destroying entire neighborhoods, kicking out long-time residents, poor people, and immigrants. It is important to be aware of the other struggles with which squatting overlaps.

Autonomy or housing rights:

There are a variety of philosophies behind political squatting. One major current sees squatting as a form of direct action: stealing property from the owning class in order to gain control of the necessities of survival and to open autonomous spaces for the creation of a free culture. Squatting then is one part of a revolutionary war against capital and the state.

Other people are more specifically involved in campaigns for housing rights. They see injustice in the fact that so many buildings are empty while many people cannot afford housing. They see squatting as a protest of this situation, a provisional means for people to get housing, and a way to demand housing rights and affordable housing from the government.

There is a tension between these and other currents. There is also a major controversy in Barcelona about whether it is okay for squats to seek legalization (being recognized by the city government and entering into a contract to buy or rent the building). Although legalization is common in the squatting movements of many other countries, historically it has rarely happened in Spain and is viewed by many as weakening the movement.

Friends and Enemies:

It is vital to create good relationships with other squatters and with non-squatting neighbors. It is these relationships that help us survive. The media work very hard to separate squatters from so-called normal people, by suggesting that direct action against property is not normal, and that people who do not

squat have no interest in the struggle against capitalism. It is important not to help the media, by being respectful of neighbors, finding common ground with them, and participating in other struggles that may not involve squatting. Squatted social centers have provided important spaces for many other social struggles, including the struggles of workers, women, queer and transsexuals, environmentalists, the indigenous, prisoners, etc. And these other struggles have often supported the squatting struggle.

On the other hand, squatters have many enemies. Police, judges, politicians and the media have all supported torture and abuse of squatters and other radicals. Some of them will see you as an enemy and others may think they are doing their best at a difficult job.

Addictive drugs and sexual assault have also played major roles in harming the movement. In some countries, police have spread addictive drugs within the movement, because addiction causes serious social problems. And because we live in a patriarchal society, sexual violence continues to exist within squats until we take serious steps to combat it. It is all of our responsibility to confront these problems.

Solidarity:

When we squat, we rely on large social networks and collective infrastructure to support us. None of us is alone. Recognize this and do your part to support these networks. Is there a neighborhood emergency phone you can help carry or pay for? Can you help at all with the Oficina per l'Okupació or the Info Usurpa (the weekly squatters' news bulletin)? Right now, there are fellow political radicals in prison and others facing prison. Who would help you if you were arrested? It's important to help organize and carry out solidarity actions and raise money to fight repression.

We're all in this together



Arquitectos Sin Fronteras:

Architects who make assessments for courtcases

Gran via Cortes Catalanes núm 563 floor 5, Tel: 933 067 819
asfcatlocal@coac.net

Oficina per l'okupación: oficinaokupacio@sindominio.net

Every Thursday: 18-22H, At Carrer Fonollar N° 9,
(also Taller de Barris en Lluita and Biblioteca Kilombo)

Metro: L1 Arc del Triomf / L4 Jaume I

<http://sindominio.net/okupesbcn/oficinadokupacio/es/inicio.html>

Lawyers and collectives who handle squatter cases (not free)

- **DALP.** (Despatx d'assessorament laboral i popular).
dalp@pangea.org. ,Tel: 93 412 6671.

- **CAIA AFRÀNIA.** (Col.lectiu d'advocades). Women's collective.
adcaiafrania@gmail.com, tel: 645656549.

- **COL.LECTIU FONTANELLA.** colfontanella@mesvilaweb.cat
tel: 932681758.

- **DMT ADVOCATS.** info@dmtadvocats.com, tel: 934587092,

- **Eduardo Cáliz.**ecaliz@icab.cat, tel: 667880061.

- **Eva Somoza.** esomozpa@icab.cat, tel: 695493343.

- **Jaume Asens.** asens@icab.es, tel: 639319018.

- **Robert Sabata.** robertsabata@icab.es, tel: 934578358.

- **Santiago González.** santiagoabok@hotmail.com
tel: 637011120.

- **Xavier Asensio.**freeworldallrightnow@yahoo.es
tel: 677798205.

- **Hibai Arbide Aza.** hibairbide@icab.es, Tel: 691441024.

Juzgado de Guardia:

Judges that are on duty 24hours and process charges
Pg Lluís Companys núm 1-7 Barcelona, 08003
Tel: 935 673 140
Metro : Arc de Triomf.

Juzgado de Primera Instancia

civil process address depends which judge you have.
Via Laietana núms 2, 8-10, & 10 bis Barcelona, 08003
Carrer Valencia núm 344-346 Barcelona, 08009
Metro: Verdaguer.

Justicia Gratuita-

Servicio de Tramitación de Justicia Gratuita Jurídica

Free state appointed lawyer
Carrer Valencia núm 344-346 Barcelona 08009 Tel:93-567-1987
Fax: 93-567-1988
www.icab.cat.

Comissió d' Assistència Jurídica Gratuïta

Application for free state legal aid
Via Laietana núm 4 , floor 6 Barcelona 08003 Tel: 93 567 44 32
Fax: 93 567 44 33 www.gencat.net/dji.

Colegio de Abogados:

State lawyers *information about arrested people*
Carrer Mallorca núm 238 Barcelona 08037 Tel. 934 961 880
fax: 93 487 15 89
www.icab.es.

Turno de oficio-

State lawyers office to get info about people who are arrested.
Collegi d'advocats de Barcelona
Tel: 93 487 1350 Tel: 93 487 2890.



Looking for a house

One of the first things to decide before squatting is what type of space you or your group is looking for; a small house for a small group or a large building to provide a group of people with living and working/social center space? Try visiting different areas of the city and looking for abandoned buildings, write down all the addresses of places you suspect are not in use.

Some ways to determine if the building is in use or not are: patrol these addresses at different times; check if the lights come on at night; ring the doorbell and wait to see if someone answers it; check the letterbox to see if old mail is piled up; stick a matchstick, piece of paper or clear plastic tape in the door (this will fall down or break if the door is opened, and this is a good way to check if there are people going in and out). Check the door entryway: is there lots of dust, leaves or trash between the door and the frame? How many entrances are there? Is there a garage door that looks used more than the front door? Check the other side of the block: is there another door or entryway? You can also talk to the neighbors or neighborhood association about abandoned apartments or buildings, but be careful: sometimes you can't be sure how reliable their information is or if they are sympathetic to squatting. It is not a good idea to tell them outright you are planning on squatting the building, they may alert the owner or police. It can be helpful to ask other squatters or social centers in the neighborhood if they know anything about the building or other abandoned buildings in the neighborhood.

It is a good idea to make a squatting folder right from the start where you keep all your squatting information such as: lists of buildings, notes about the building, official papers from the registry offices, maps of the building and photos. While looking for a building you can make a detailed list of all the places you have visited. This list can include useful information that may help you later like the neighborhood/ barrio the building is in, what it looks like, how many entrances there are, what are the neighboring buildings, the date you first saw it and put the tape or piece of paper on the door. All this can go in the squatting folder. The next step in finding a building is investigating the particulars about it.

Finding out who the owner is:

Once you have established which of the buildings/apartments on your list only seemed empty and which of them are really not in use, the time has come to find out who owns the building, if there are plans for the building, and if possible how long the building has been empty.

To find out who owns the building you must go to the:

Registro de la propiedad de Barcelona (property registration office)

Carrer Joan Miro #19-21 piso 2 tel: 93 225 40 46

metro: ciutadella vila olimpica

Before you go to the Propiedad office or the urbanismo office it can be very helpful to go online to the national cadastre web site :

<http://ovc.catastro.meh.es/> (under acceso a datos catastrales no protegidos) to find and print a map of the block where the building is located. Or to find the cadastral reference number and see a more detailed map of the building go to the Barcelona cadastre website: www.bcn.es/urbanisme/. (Click informació urbanística then click punt d'informació cartogràfica). At some of the information tables in the Propiedad office you must show an identification card or passport to fill out a "Nota Simple" application with the address in question, it usually takes 3 days and 3 euros to get a photocopy of the information back about the owner of the building. In some of the offices you only need to ask and they give you the info right away you can always choose to just look at the owners name and not pay the 3 euros for photocopies.

With this you can tell if the owner is **public** (owned by the city, state, or national government, the university) or **private** (construction firm, corporation, church, a group or an individual). The Nota Simple can also tell you if they have a mortgage on the building, if they have paid their taxes or when they bought the property. Sometimes the Nota Simple mentions construction permits. Be aware that most construction permits are only valid for one year or six months after they are granted so it is good to double check this information with the urban planning office to see if there are current construction permits.

Many times you can also do more research about the property owner on the internet to find out where they live. Is it close to the house? If they are a

List of Helpful and legal addresses

Registro de la propiedad de Barcelona: property registers office

- Carrer Joan Miro núm 19-21, floor 2 Tel: 93 225 40 46
Metro: ciutadella vila olímpica.

Registro del Sector de Urbanismo: urban planning office

Av Diagonal núm. 230, floor 2 Tel:932 914 444

Metro: Glories <https://ovc.catastro.meh.es> <http://www.bcn.es/urbanisme> <http://www.bcn.es/guia/bcnpicc.html>
(maps)

Very useful cadastre websites to find out info on buildings and cadastral reference numbers.

Registro Mercantil

Gran Via de les Corts Catalanes núm 184 (Information about members of associations)

Ferrocarriles Catalanes (Parada Magòria-La Campana)

Tel: 935.081.445

www.registromercantilbcn.es

Endesa electricidad: Atención al Cliente Electric Company

Av Vilanova, núm 12-14 Tel : 900847384

Metro : Arc de Triomf

<http://www.endesaonline.com> <http://www.endesa.es>

Societat General d'Aigües de Barcelona: Water Company

Torre Agbar Address: Av Diagonal, núm 209-211 Tel: 933422000

Metro: Glories

www.aiguesdebarcelona.es www.agbar.es

Juzgado de Instrucción y de lo Penal and Departamento de Incidencias/Información

For information on penal charges

Pg Lluís Companys núm 1-5 Barcelona, 08003

Metro : Arc de Triomf

Advice about testifying in front of a judge:

You can make 2 types of testimony:

1 . You should say that you DO NOT live in the house in question. They will ask you what you were doing there or what you are doing in this city (You can say that you are studying, or that you are on vacation.); they will ask you what is your income; You should say that you DIDN'T KNOW THAT YOU COULDN'T BE IN THE HOUSE; If they ask you specific questions about the squatting; insist that you don't live there and you don't know anything. You have to give them a legal address in Barcelona where you can receive legal papers.

2 . If you acknowledge that you live in the house, you can say you were not there the day it was squatted, but you know that the house has been abandoned for many years. Say that you do not have enough money or income to rent a house, and you are squatting out of necessity and you are claiming the right to housing. Say that you were repairing the house because it was abandoned and that NO ONE EVER TOLD YOU THAT YOU COULD NOT LIVE THERE. They will ask you what your income is, and what you are doing in the city. They will ask you if there is electricity and water in the house. You should NOT ADMIT THAT THE ELECTRICITY AND WATER ARE STOLEN. It is better to say that you do not have electricity or water; or that when you got there it was already turned on. If they ask you other specific questions you can say that you don't know. If they ask you questions about your political beliefs you can refuse to answer.

company where is their office? You can also ask l'Oficina per l'Okupació where to find out more info about inmobiliarias (realestate firms) or companies who practice mobbing or especulación (buying properties and leaving them vacant for years to sell them for huge profits). Not all buildings are registered nor are they required to be so by law, so you might not find your building registered with the Registro de la Propiedad. Sometimes you can check in the ajuntament (city hall) of the barrio to see if the number of the building was changed or if they know who the owner is.

If the building is owned by an association like inmobiliarias, holdings, or corporations, you can check to find out who the members are in the **Registro Mercantil (chamber of commerce) Gran Via de les Corts Catalanes # 184**. Also, if the owner of the building is a corporation or inmobiliaria (large real estate corporation) you can look up information about them on the internet. There are some interesting sites that keep track of which corporations are using mobbing and speculation with their buildings. It is very important to find out who the owner of the building is to know what type of company, government, or person you are dealing with and what tools they use to get squatters out of their buildings. Some inmobiliarias are known to use matones (illegally paid bad guys) to evict squatters, and some companies have special legal teams that deal with squatters and evictions. After you have an idea of who the owner of the building is, the next step can be finding out what plans the owners or city have in store for the building.

Finding out if there are immediate plans for the building:

To find out information on whether construction or demolishing permits have been applied for or issued for the building in question you must go to the:

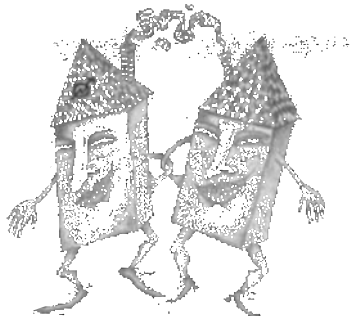
Registro del sector del urbanismo (Urban planning Department)
Avinguda Diagonal # 230, 2nd floor tel:932 914 444 metro: Glories

You must ask for the information in the department of urban planning and technical services. It is helpful to bring a cadastre map with you when asking these questions to use as a reference.

You can say you are a concerned neighbor, or that you want to rent the building and ask if there are plans applied for or granted for construction, destruction, or declaration that the building is a ruin, or if it is included in a big urban plan for the whole block or neighborhood. It is important to know this information because it can give you an idea on the possible longevity of your squat. Usually the portion of the office that has the information about urban planning can also give you a copy of a brief map of the building and the block it is on.

The Urbanismo office doesn't usually give copies of the permits or applications though. So take notes of questions you want to ask and of what they tell you about what permits there are and when they were granted. Many building permits take 6 months to be approved and are only valid for one year, and many destruction permits are granted right away, however this is not always the case. It is advisable to ask the people at the office what types of permits there are and how long have they been processing, and when they think they could be granted.

Other information that can be useful about a building is whether the owner paid up the water or electricity bills or when the services were terminated. This information can be found at the offices of the water and electric companies; however sometimes they will not tell you everything you want to know because of information privacy, so it can help to make up a story of being a scared or uninformed resident of the building in question. It is important that you go with someone who speaks Spanish, and try not look like squatters; even though this information is public the office workers are sometimes jerks. It is very helpful to always try to find out as much as you possibly can about your prospective squat and keep the information organized. You can then put all the information you have gathered in your squat folder. You can only benefit from more information. Many squats have failed due to sloppy research.



- To 'habeas corpus', you, a family member or your lawyer can demand to see a judge immediately, and you can declare your arrest is illegal, if the judge accepts; you will immediately be set free.

Support group for the arrested people:

Be informed about how many people are arrested and who they are.

Find out which police station they are in. You can call the police stations and ask if they are there, but you can't always trust this information.

The police have to tell the Colegio de abogados (Bar association of lawyers). This is another place to get information.

You should quickly make a support group and concentration of people in front of the police station to talk to lawyers, family.

You should have another meeting point where you can have all the information about the arrested people and there you can make plans about what to do next.

In some cases where the media or police are releasing lots of false information about the arrests you can also think about making a counter media statement telling what really happened.

Your rights if you are arrested during squatting

When you're arrested the police will take you to a police station and you have the following rights:

(unless you are arrested under the antiterrorist laws, in which case you don't have any rights, not even to talk to a lawyer)

- To be released or formally charged within 72 hours. If they charge you, they can hold you on bail.
- To have someone informed by telephone about your detention. You have to give the police the number and they will call.
- To medical assistance. If during the arrest you were injured you should demand medical assistance because this will allow you to put charges against police brutality afterwards. After you are free get another medical exam to help to prove the abuse.
- To an interpreter (if you don't speak the language)
- To appoint a lawyer you trust, or see a state lawyer (a state lawyer can assist you for free at the police station, but doesn't have to continue being your lawyer for your entire case).

If there are many people arrested it is not necessary that all of them have trusted paid lawyers, but some people can have state appointed lawyers, in this way there will be more lawyers in the police station and this could help you get out sooner.

- To not answer any questions the police ask. This is very important because you can't see your lawyer before the police try to interrogate you. You only have to give some personal information, - your name – passport number and a legal address in Barcelona to receive legal papers. You can say you want to testify in front of a judge and this way you can talk to a lawyer before you see a judge.



Preparing your squatting action

Practical things about the building:

When you have found 1 or more buildings to your liking and you have gathered all the information on them, it is wise to have a good look at some of the more practical aspects of your action, such as: how and when to get in unseen and unheard. What tools to bring, etc....

Here are some typical questions to consider:

- *Does anyone enter the building regularly? (tip: stick some tape over the door and doorpost, and check regularly if broken/removed)*
- *Does your building have neighbors, and if so what type (families, young, old, shops, café/bars, another squat?) This will give you an indication of when to enter, and how quiet you need to be.*
- *Are there any possibilities to get in around the back of the building, or via neighboring buildings onto the roof?*
- *Is the building bricked up, and if so, is it only the ground floor, or are the above floors (if present) also bricked up? How about the door/window on the roof?*
- *When bricked up, is it possible to tell if the original front door is still in place?*
- *What type of front door does the building have, is it wood or metal, or is it a roller gate?*
- *Does it open inwards or outwards, on the left hand side or on the right hand side?*
- *What kind of locks are on the door and how many?*
- *Are there any other ways the door is kept shut, by barricades, or is it welded shut?*
- *Are there any signs of an alarm installation (stickers, boxes or lights on the facade) and if so are they functioning? Are there any stickers of private security firms that might come by to check the building?*
- *If you are entering the building with a ladder, how long does it need to be? (tip: take a picture from across the street with someone you know standing in front so you can make an estimation based on your friend's height)*

- *Is there a place where you can store your ladder nearby, so you don't have to walk around with it at night and arouse suspicion? (A nearby friendly squat, or a building site where you can lock up your ladder)*
- *Are there any close by friendly squats that will let you use their place as a meeting point?*
- *How close are you to any police stations?*
- *What is the best route to take, avoiding busy streets etc.*

Most importantly, make notes (and if possible, take pictures) of all these things, put them in your squat folder and relay them back to your group so you can together discuss your action strategy based on the facts.

Tools, materials, essentials:

Here is a list of tools, materials and other essentials you will definitely need to bring, if you want to be prepared for the most common situations (barring the inevitable unforeseen)

- *1 or more pieces of adjustable scaffolding (puntales) for barricading (easily "borrowed" from any building site) and other items to barricade temporarily (especially important if your owner is dodgy and is liable to send heavies (see section about Matones))*
- *Wooden planks or metal plates (planchas) to use with the puntales*
- *Crowbar (pata de cabra) to overcome obstacles such as locked doors and windows...*
- *A set of screwdrivers (destornilladores) flat and cross/phillips*
- *Screws (tornillos)*
- *A bolt lock (pestillo)*
- *Hacksaw (sierra de arco)*
- *Pliers (alicates)*
- *Wrench (llave inglesa)*
- *Bolt cutters (cizallas)*
- *Flashlight/candles (Linterna)*
- *Rope and bucket to get things in and out of your squat with help of your friends (cubo y cuerda)*
- *Comfort items, such as sleeping bags, books, toilet paper, a radio etc...*
- *Food and drinking water*



Appendices

ting

It is important to have your identification papers with you. If you do not show your identification to the police when they ask you to, they have the right to take you to the police station to prove your identity.

Private security guards legally can not make you show them your ID. However they can detain you with force until the police come to identify you. Depending on the motives for the detention it could be considered illegal.

Remember that when you are identified by the police or security guards they must tell you why they are identifying you; why they suspect you and how you broke the law.

If the police take you to the police station they have to write down the motives for detaining you in a police registry. Remember you are not formally under arrest until you are charged with something and they are only detaining you. You have the right to remain silent and not answer any of their questions and you are not obligated to sign anything.

If you are detained remain calm and show that you know your rights about what the police are doing and what they are not allowed to do. Remember they use intimidation, fear, and ignorance of the law to get you to give up information.

Don't give the cops any information!

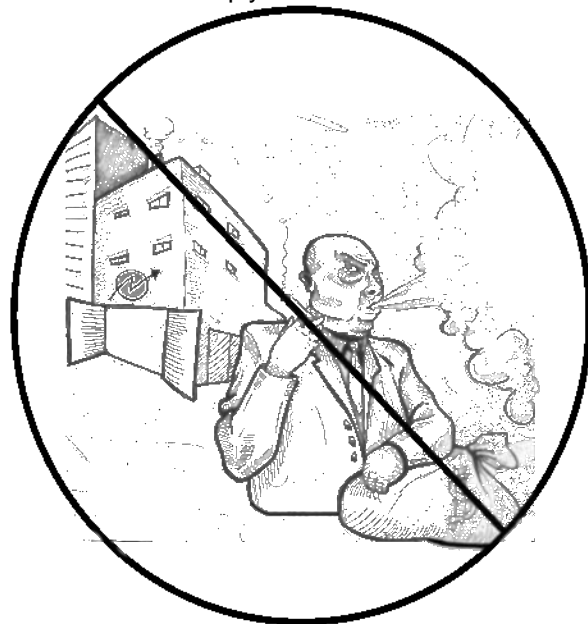
According to the laws that protect citizen's rights you can file a complaint for damages that were done to you by being identified without a good motive. You can file a written complaint to the government and it is a long and bureaucratic process.

Before an eviction

If after the court process you have received an eviction order realize that in some cases an eviction order does not lead to an actual eviction right away. There are squats that are still alive months or years after the eviction order is given because the eviction order has not been carried out. It can also be empowering for yourself, other squatters, and the neighborhood to defend and fight for your rights and your home during an eviction. You can use this to tell about vacancy, speculation, and gentrification. When you resist be careful what you do. If you throw things at the police, they are known for physical abuse and torture; and they can use that as an excuse to charge you with intent against their life which is a serious charge. But riots, if everyone gets away, have been an important strategy to discourage evictions and increase the power of squatters. But be aware that if a cop gets hurt, they will make someone go to jail.

!No! Don't take money or make deals

Never give or take money from an owner. Don't strip the house of copper, cables, tiles, sinks etc, it will make your house un-squattable and easier to demolish. You would be helping the owner speculate on his property and allowing him to demolish it cheaply.



- A squatting banner! (IMPORTANT) to show you are squatting and not robbing the house. (pancarta)
- List of phone numbers of friends and supporters, lawyers, ambulance, etc.
- Mobile phone with credit
- Pen and paper to make notes
- Camera to take pictures of the state of the building, electricity and gas meter-counts
- Some form of identification
- First aid (for the inevitable cuts and bruises) band aids, disinfectant etc.

What NOT to bring:

- Anything you do not want to lose or you don't want the police to see
- Pets
- Illegal substances

About Locks and bolts:

It is a good idea to have a fitting lock with you to replace the old one. However it is not always possible to determine beforehand exactly what type of lock you will need since there are many different types and not all are easily available or affordable. You are going to have to maintain a presence of at least 2 people in your new squat for the first 2 weeks, and have the door barricaded, so working on changing the lock and arranging that the door works well should be a priority. The sooner you change the lock the better, as in the eyes of the police and the law your presence in the building is more legitimate when you can leave and enter with your own key.

If your building is not bricked up and the front door has more than one lock you may be able to find out if one or more of the locks are unlocked by pushing at the bottom and the top of the door and see if it gives way or not. You can use a thin piece of plastic (cut out of a plastic bottle) and sliding it in between the door and door frame above or below the lock and move it up/down, you can then feel if one or more of the locks are locked all the way, or just on "daytime mode" ; and can be easily wiggled open (this takes some practice, but could save you some time and money).

When already inside, first of all: look around in the building for a key box and/or loose keys/ key chains lying about and try them out. Look on ledges, in kitchen drawers, on hooks, in electricity boxes/gas boxes, under doormats....etc.

- Cheap second hand locks can sometimes be found at markets such as Glories market.
- At the better locksmiths, you can get keys cut for old locks that have no keys, or original locks can be modified, at prices way below the costs of a new lock.

Neighborhood informational pamphlet

It is a good idea to inform your neighbors, and start off on the right foot with them. After all you are going to meet them on a daily basis and support from your neighbors, or at least some kind of mutual understanding can increase your chances and can promote support for the squatting movement in general which ultimately benefits all squatters including you!

So, take the effort of writing a pamphlet explaining your action and you will be able to take away a lot of the existing prejudices that exist against squatters. Or use the letter to the neighbors at the end of this manual as a guide.

Explain the situation of the building, who owns it, how long and why it was abandoned and what your motives are to squat it. Refrain from high flying political rhetoric and stick to the facts; people are perfectly capable to draw their own conclusions. If possible try to write it in Catalán as well as in Spanish.

Tell your neighbors they are welcome to come around with any questions, or just to make your acquaintance. Of course there will be people that still disagree with you, but you will have taken away some of the fears they might have, and they might not be calling the cops on you every time you show your face.

You can't do it alone

There is one thing that has been learned from practice over the years by many people in many different situations: that squatting is done with best results when done by a group of well prepared and determined cooperating people who stick together!



Deals with the owner

Take notice and respect the years of struggle the people in BCN have made to claim and defend their (and your) right to squat. They have been fighting against court cases, evictions and new laws against squatting despite growing repression. Making deals with the property owner undermines this struggle and the autonomy squatters in BCN have won.

While squatting

Squatters aren't in such a bad position. You have a quasi legal right to be there; as long as they don't catch you in the actual act of forcibly entering, you can stay there until the judge has decided you have to leave. Sometimes a property owner will offer money for squatters to leave because they do not have a good legal reason to get you out. With most deals with landlords the squatters agree to leave their house on short notice (a few weeks) when the owner has permits to do something with his property. But these permits don't say the landlord will actually use the building. Plus, when a house is being speculated on and has been empty for years, it is not likely that this will change when you leave, and you will be making this easy for them if you accept money or make deals.

Usually squatters don't win much from deals, except living more secure for a short period of time; meanwhile the owners win a lot. They control (even more than when you go to court) when you have to leave, they can put more rules on you and the squat and it cost them a lot less. If you accept money from the landlord or make deals this can negatively affect other squatters and make it easier for property owners to abuse the law and speculate on their property without having to answer for their actions.

Sometimes, if the owner is not the government or a large corporation, you can try talking to them to humanize yourself and your need for housing, and discourage eviction. But we encourage you not to make a deal with them. If they are a real human being, they won't ask you to make a precarious deal in exchange for housing.

You can make an outline of what might happen in the eviction, and discuss the possible actions you can make. It is a good idea to have an organized plan where certain people do certain tasks and everyone knows where the action will take place and you all know the layout of your neighborhood. Have a plan B in case something changes and inform everyone accordingly what the new plan is and why you can't go through with the original idea. It is important to make decisions responsibly about how you will handle your side of the eviction and make sure everyone can live with the possible consequences of your actions. It is also important to communicate some details of what you will do, to supporters and friends, so everyone knows what might happen if they come to support you on eviction day.

There is no one right way to resist an eviction.

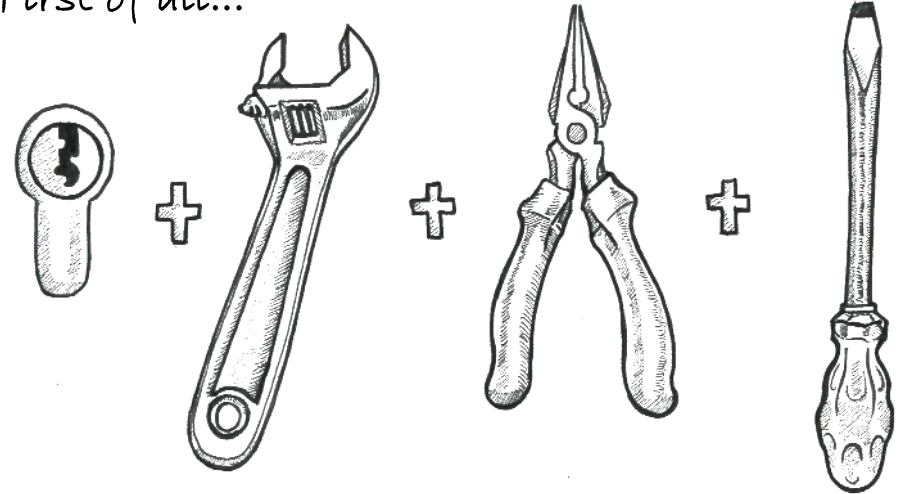
Strategies vary and depend a lot on the people, circumstances and the building under threat. Remember that squatting is possible in Barcelona due to the history of squatters physically, politically and legally resisting evictions; their past struggles have paved the way for our future actions. We strongly recommend not just leaving the house wide open before the eviction; you will only be making it easier for the state to carry on with their plans. Stay in the squat, resist, communicate, and coordinate your eviction by the means you see necessary, but also be aware of the reactions and consequences.



stop evictions, our lives are not commodities

How to break a rounded cylinder lock

First of all...



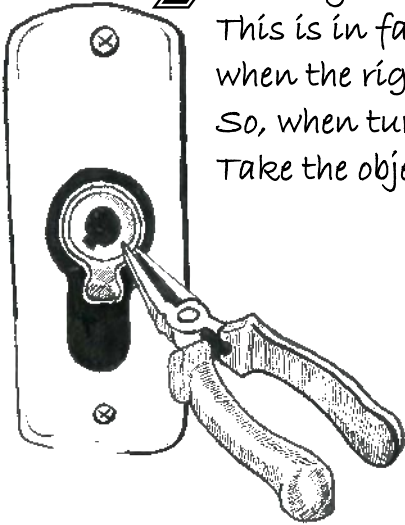
...the tools you need.

and now follow the steps

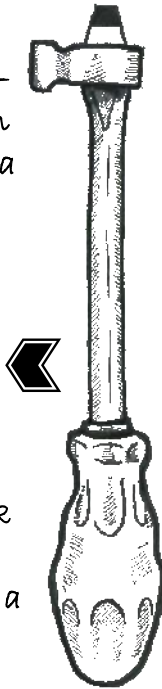


1. Grab the lower part of the lock with the monkey wrench. (if that's impossible because the part of the lock sticking out is too shallow, break off the cover around the lock, by putting a screwdriver or crowbar under it. Use force!) Now move the wrench softly left and right a few times, creating some movement. After this, use force and push the wrench to one side, breaking off the front part of the lock.

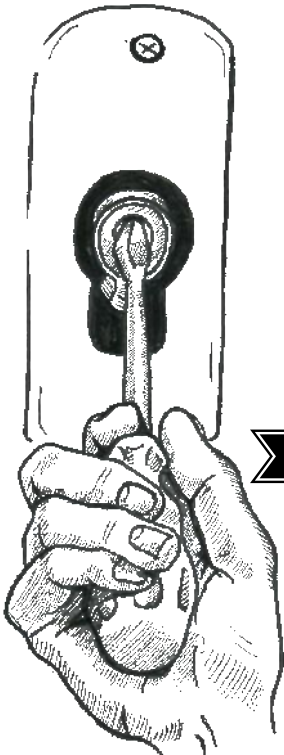
➤ 2. Now you see a round object. This is in fact the object that is being turned when the right key is inserted. So, when turned, the lock will open. Take the object out with the pliers.



3. Put it on a screwdriver. This way, you can use the screwdriver as a handle to turn the round thing. You can also just insert the screwdriver and turn the object around.



It is handier to weld one of those round things to a screwdriver so you can work faster. Always make sure you use a flat screwdriver of the right size. If it's too small, it won't turn and if it's too big it won't enter.



➤ 4. Insert the screwdriver with the round object and turn it around. The door should now open. If not, make sure you tried turning in both directions. Also make sure you inserted it until the right depth. Now the door will open!

However it is not uncommon for the mossos to be violent and abusive, slapping people around and overstepping their own laws. Be prepared for this and try to document any abuse if possible, do not leave anyone alone with the police, remain in an affinity group and stay calm during your encounter with the police. Pay attention to badge numbers and names. If possible let people on the outside like supporters or neighbors know what the police are doing and can see you from where they are. It is also a good idea to have a friend or neighbor you trust video taping the eviction in case you need evidence to defend yourself later. Hidden or obvious cameras in the squat can also be used as a tactic to make police think first about openly abusing you.

Many times in Barcelona when squatters have made direct action resistance in their evictions; such as hanging off the side of the building or locking themselves to the roof it has taken the police a very long time and a lot more money to get them down and out of the building and has resulted in squatters being charged with disobedience and a large fine (multa) or worse case scenario a pena multa, a fine that must be served out in jail if not paid. Riots have been made to stop or slow down evictions causing mayhem and damages to the city; also with consequences for the neighborhood and squatters. Some squatters choose to have a large concentration in front of their squat on the eviction date with a breakfast, a street parade, a critical mass style bike ride, or street party with lots of people, banners, and information fliers for the neighbors. Many times squatters can draw interesting political connections between the eviction of their home and instances of speculation, gentrification, vacancy, and demolitions elsewhere in the neighborhood. Maybe they are not the only ones being forced to leave their living place. Many times if there are a lot of people in front of the squat on eviction day the police will decide to come back some other quieter day. Many squatters barricade themselves inside the building or make resistance on the outside in other ways.

Keeping these scenarios in mind, it is important to think about, talk about and plan out how you want to organize your side of the eviction. The police and the state have their roles organized as to what they will do, so it makes sense that you can too. There are many different ways to organize an eviction but pay attention to the feelings of the squatting group, the other squatters in the neighborhood, and the neighbors close by. If you want to be organized for the eviction you should make a meeting with your living group and your supporters.

discussion groups. Remember after a penal court case goes to court, if the decision is unfavorable you always have the right to appeal the judge's decision and should do so, using strengthened evidence and a good legal strategy.

Evictions

Many times at the end of both civil and penal court processes for squats there are inevitably eviction orders signed by judges and dates for the actual eviction. With most civil cases the squatters will be given a notification of the date of the eviction or an open eviction date, which means the eviction can happen any time within several weeks after a given date. With penal processes a judge can order a quick eviction (*desalojo cautelar*) even if there is not a court case started for the squat and these can sometimes happen without prior notification of the occupants. Many times if there is a penal court case there can be a regular or open eviction date and the squatters have the right to be notified with a legal eviction order.

The *mossos d'esquadra* are the police unit that carry out evictions in Catalunya. They usually show up early in the morning (before 8am) on the eviction date with a few or many riot vans and many officers with heavy riot gear and heavy tools to carry out the eviction; which can include a ladder to get on balconies, giant sledge hammers, battering rams, diesel powered angle grinders, etc.

Depending on the circumstances, if there is no violent resistance or direct action resistance to the eviction or physical harm done to the police and if the people who are inside the building do not have previous criminal charges, there are few arrests made during an eviction and people can go free once they have been checked out by the police.



Squatting action

There are many different ways to enter and squat a building. A lot of times in BCN squatters enter their house with just a few people at night and keep silent until the next morning. Another tactic is to enter in the daytime with a big group of people.

There is not one best way, and the decision to do it a certain way should be made by the group looking at the specific circumstances of the house, neighborhood and owner. So depending on how you're entering the house you can decide if and at what moment you need a group of people to help out.

If there is a group helping you out it should be clear to everyone involved what the plans are and what they can expect, for their and your safety. It is the responsibility of the group that everyone who goes to the action is well informed and knows how the group works, and that everyone has decided to be part of the action.

Informing your group starts well before the action. Call a meeting point, preferably indoors out of sight of the public and at a clear time to explain to everyone about the action. What should everyone know?

- *Outline of the action, where are we going, history of building, who is the owner? Are there plans for the building? what are we going to do and why? What is expected of me and/or us?*
- *Roles (breakers, inhabitants, protectors, people with barricading material), distribution of flyers, spokesperson for neighbors, spokesperson for the media if you decide to contact them*
- *Basics of the group, for instance: decision making, general principles and telephone alarm list with the numbers of people who can be there on short notice*
- *If you have one or more spokespersons for police and or owner, who will show their identification. Will the people inside identify or not?*
- *Your rights, on identification, in detention and other legal aspects of the action*
- *If you arranged one, the telephone number, name and surname of your lawyer written on your arm. A legal group with names of the people in the action who will call the lawyer if arrests are made.*
- *What do we do if the police come? Having a plan or series of plans to deal with the cops*

The actual squatting:

Now that you've done the research on the building, collected the proper materials and tools, and had a meeting to explain the plan to all the people involved, you're all ready to go. Depending on the moment you're entering the house and how you will enter, means several different plans could work. The plans listed here are possible plans that you could use. If you plan on doing a silent action in the night, make sure you have a support group outside the building who will come if something should go wrong, like heavies coming immediately to kick you out or an angry landlord.

A Silent Action:

If you squat at night try to make as little noise as possible getting in and don't be too obvious. If you will enter with a ladder try to lock it on a pole close to the house so you are not walking around with it looking like a criminal. Bring a small backpack, a squatting banner, tools, a new lock, some materials to barricade, and a telephone with an emergency phone list of people in the area who know about the action and are able to help. You might consider bringing only one phone number of a contact person away from the action who has the full list, which then won't fall into the hands of the police. When you go inside you can pull the ladder up with you or get people on the outside to take it away and chain it up somewhere nearby depending on how easy it is to get in and out of the building. Once inside make sure there are not a lot of expensive things inside and that the place is really abandoned. Look for mail with dates or signs that people do not use the place.

BE CAREFUL : Entering abandoned buildings, especially at night can be scary business. Be aware of holes in floors, broken glass and loose live wiring and or other unsafe situations!!

Try to barricade quietly until daylight then barricade more heavily and hang the squatting banner and the "legal warning against illegal entry into your home" paper (**Advertencia legal**: photo copied page in middle of this manual) along with the note to the neighbors on the door. Get friends to put notes to the neighbors in the mailboxes of the buildings nearby. It is a good idea to try to change the lock as soon as possible, as it gives more evidence that you are the occupant of the house. When you do so have people on the outside looking out

jurisprudence or legal precedent about squatting, to use in your own case as arguments to not be condemned to jail time or a big fine.

Some arguments that are used to fight penal cases are:

- Squatting does not use violence or intimidation against people; it is only the occupying of abandoned buildings.
- Article 33.2 and 33.1 of the Spanish constitution says that the right to private property is limited by social function; this means that when a property owner has abandoned his property he has also abandoned some of his rights to it.
- (Principio de mínima intervención penal) A Legal concept which should be honored by the court system, which states: If it is possible that a case be tried as a civil or administrative matter, then it should not be tried as a penal crime, because a penal process is for serious crimes.
- (Principio de ultima ratio) A legal concept that states the penal process should only be used against serious crimes when other legal processes can not be used.
- (Principio de proporcionalidad) A legal concept that talks about the rights of private property and the right to housing which is stated in articles 33.2 of the Spanish constitution, and article 348 of the civil law code, and is related to articles 47, art. 53.3, and art. 9.2 of the Spanish constitution. The argument says that there can not be a penal conviction due to the lack of civil responsibility regarding housing rights. It also implies that such a small infraction of the law does not deserve such a heavy punishment.

Some strategies that can be used as a defense in a penal court case are: proof that the house was really abandoned and unused by the owner for some period of time. Declarations and testimonies from people not named in the court case (neighbors, university professors, shop owners who live nearby, credible individuals). A dossier or folder with photos, proof, and notes on the state of the house when it was squatted should be compiled as defense in the court case. Documentation that can be used in the dossier can include: neighbors' signatures and written or verbal testimony, official stamps or statements from neighborhood associations which favor the squatters, receipts from bought material and hours worked, and photos of how the house was when the squatters entered and photos of repairs. A list or flyers of social and public activities held in the house if it is a social center (or even if it's not) like workshops, classes,

The Penal process follows these steps:

1. The property owner files a legal charge about the squatting and this goes to the "**Juzgado de instrucción**". At some point police are sent to look for names to go with the penal charge. This judge looks for previous charges or proceedings related to the individuals whose names have been taken by the police. Then he investigates and reviews the police report and the owner's charge.

2. After the judge has investigated the information about the squatting, a court file is made with all the reports, charges, and names, and it is passed to the prosecuting attorney for the state who reviews the case and he or she can either make a written accusation of the crime or ask to close the case because it is not a crime.

3. Then the case goes back to the presiding judge and he has the option to make a decision about the sentencing of the case by either agreeing or disagreeing with the prosecuting attorney's requests regarding action against the squatters. The judge can either call all the parties involved to testify at a legal proceeding in the judge's office (declarer see what to declare in front of a judge in the back of this manual), or give the order to make a quick eviction (desalojo cautelar) based on certain arguments: (house in danger of collapse, landlord losing money, etc). The judge or attorney general can also ask for fines or jail time. Or they can archive the case and close it without doing anything.

In general squatting receives some social support from the public in Barcelona; therefore some judges are flexible when they try a criminal squatting case. Sometimes they archive the case, and many times they go for a quick eviction with fines.

Penal case strategy:

It is important to have a trusted paid lawyer who knows how to fight a criminal squatting case and it is important to build a good legal strategy when fighting a penal court case because a negative decision could mean jail time, a big fine, and a negative legal precedent which could effect future squatting cases and give the state more legal cause to evict squatters; therefore hurting not only your case but the squatting community as a whole. It is important to have information about previous penal court proceedings that have set a positive

and a barricade for the door that is ready to put up to keep them out in case they show up demanding to be let in. At this point realize some neighbor will probably call the police or landlord. Make sure they can not get in and have barricades tightly in place at all times for the first few weeks.

Remember you are now the occupant of the house; you have the right to not let the police or property owner in, and don't tell them how you got in or any other incriminating information (DO NOT give them the old lock or say you broke a window or door to get in). If the door does not look forced and you have your own lock on it, then they have no reason to charge you with robbery. It is better to give them the least amount of information possible. You can tell them you are many people and you have been there for a week or longer and that it is your home. You do not have to identify (see section on to identify or not) and make a group decision about this before you enter the building. If they come with the landlord and he claims there is stuff inside and he is using it, call the alarm list to mobilize support outside the building. If there is no stuff inside stay inside and keep up the barricades telling the cops you have a legal right to be there and there is nothing inside; most of the time the cops will leave after either trying to identify you or calling the landlord.

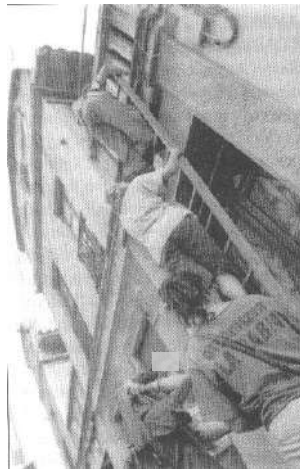
However, if there is lots of valuable stuff inside ask a lawyer's advice or other squatters if you should leave or not, depending on how forceful the cops are being. If it looks easy for the landlord to use this against you, you can rethink the squatting and decide to leave before many cops come and if there are a lot of your comrades outside they can protect you and you can all get away together. Many times if they want to get you out with charges of robbery they will try to get a judge's order and call for the riot vans to do the actual eviction, which will take some time to organize. Take photos of the building and stuff inside, and your squatter banner; put it in your squat folder to us in your court case later.

A Public Action:

If you plan on making a big public action you should have as many people as possible, 20 to 50 or more, and several groups planned out such as: look-outs on the corners to watch for cops, . A legal support team who are not squatting that have the names of everyone involved in the action and the name of the lawyer; and will make phone calls on your behalf if there are arrests during the action. People who know how to break a lock or open the door,

people protecting them by covering their actions with a large banner or with their bodies (blocking the view from the street), people to bring the barricading materials, a calm spokesperson to talk to the cops and give their identification if need be and people to hand out flyers to the neighbors. In this situation the breakers or people entering the house should be able to decide if they want to actually go on or abort the action, since they are the ones taking the biggest risk. It is a good idea if this group has done lots of previous research to check out how easy it is to get in the building and where to get in, so there are fewer surprises in this crucial moment.

When you get to the door or other entry point the group should come right behind the breakers or people entering the building to protect them from being seen. You can hold up a banner in front of them explaining that this is a squatting action so people on the street know it is not a group robbery. The rest of the group should let the breakers do their work; dangerous situations can come up if others start to interfere with this. The group should focus on looking out for cops, keeping angry neighbors and landlords back. Other people should be passing out notes to the neighbors explaining that it is a squatting and that you are all nice folks who need a home. In many cases when people explained calmly and kindly what was going on, many neighbors saw the action but no one called the cops.



Make sure that the people breaking the door have done prior research and know what they're doing. It is important that you change the lock quickly and that the door is not damaged in the process because the police can use a damaged door as evidence that you broke in and call it usurpation or forceful entry which is an arrestable crime. This is why many times in Barcelona people choose to enter through a window, barricading, and then deal with changing the lock later, sometime after the police have come and gone, or changing the lock while a big group of people is outside protecting them. If the doorway is bricked up and if it is possible to get people inside first without being seen by the neighbors (like the night before), it is a good idea to make sure there is a door with a lock you can change or something you can barricade with behind the bricks and that you can barricade yourself inside quickly if the cops come. Make sure you can barricade the doorway before you start taking out the bricks.

Penal Process:

When squatting is treated as a criminal activity a penal process is opened in the court system. In Spain they began to use these processes when they changed the criminal laws in 1996; this allowed squatting to be judged as a penal (criminal) crime and not just a civil infraction of the law.

Normally we can assume that the landlord has brought criminal charges against the squatters when police come around the building looking for people to identify in order to put their names on the court case. This usually happens some days, weeks or months after a visit from the police or when the landlord has been informed of the squatting.

If you have previous serious charges that are not resolved and you could go to jail for them, or you do not have the legal right to be in Europe or you are not a citizen of the EU it is better not to be identified when the police come around because later they could use all of these situations against you during the penal court case; like arresting you, starting deportation proceedings, ect.



To find out if your name has a penal case against it you can go to the information counter of the penal judicial offices and show your ID, do not go alone. If someone is identified and does not want to be put in the court case they can try to get out of the case by showing papers that have them registered as living somewhere else, or other legal documents that deny their relation to the building; they must present these papers in the Penal judges' office to the judge who is trying the case. The number of this judge is on the denuncia (Papers with the charges against you). Go with a lawyer, do not go alone. Both of these steps can be done at the **Juzgado de Instrucción y de lo Penal, Passeig Lluís Companys #1-5**. According to the law you are entitled to have a photocopy of all the papers in the denuncia against you, which you can get from the above mentioned offices and you should, in order to understand what the charges are and who filed them, in order to build your defense. Some examples of charges used in a penal case could be: damage to the building, building is in ruin, building being used, robbery, and forceful entry.

used is that of the right to housing above the right of property owners to leave their property abandoned and unused for years. It is important to incorporate a good legal strategy and lots of evidence for your case. You want to show that the owner really hasn't shown much interest in his property and this has affected the neighbors and neighborhood in a negative way.

Documented evidence, both material and verbal testimony that can be used in the case include a dossier containing: testimony of the neighbors or local shop owners, written and verbal if they will appear in court with you, photos of the state of the house when you entered, signatures of the neighbors, or support from neighborhood association in the form of their official stamp and a legal paper giving support. A form from **Arquitectos sin Fronteras** (Architects' group who make statements about the state of a building and help squatters) or other squatter friendly architects saying the house is inhabitable, receipts from the money you put into the house, details about hours you worked in the building and work done with photos of improvements you have made, receipts from the water, electric, or telephone in the building if you have them, and photos of the building before you squatted and photos of any repairs you have made, if the house is a social center a list of activities that go on there with photos and flyers.

After you have presented your dossier of materials and case to the judge the sentence will be delivered, this could take a few weeks or months depending. If the judge didn't archive or close the case the sentence will most likely be eviction. At this point you have 10 days after the sentence is delivered to file an appeal with your lawyer with the reason why you are appealing. Then after this in 30 days you have to present the appeal papers.

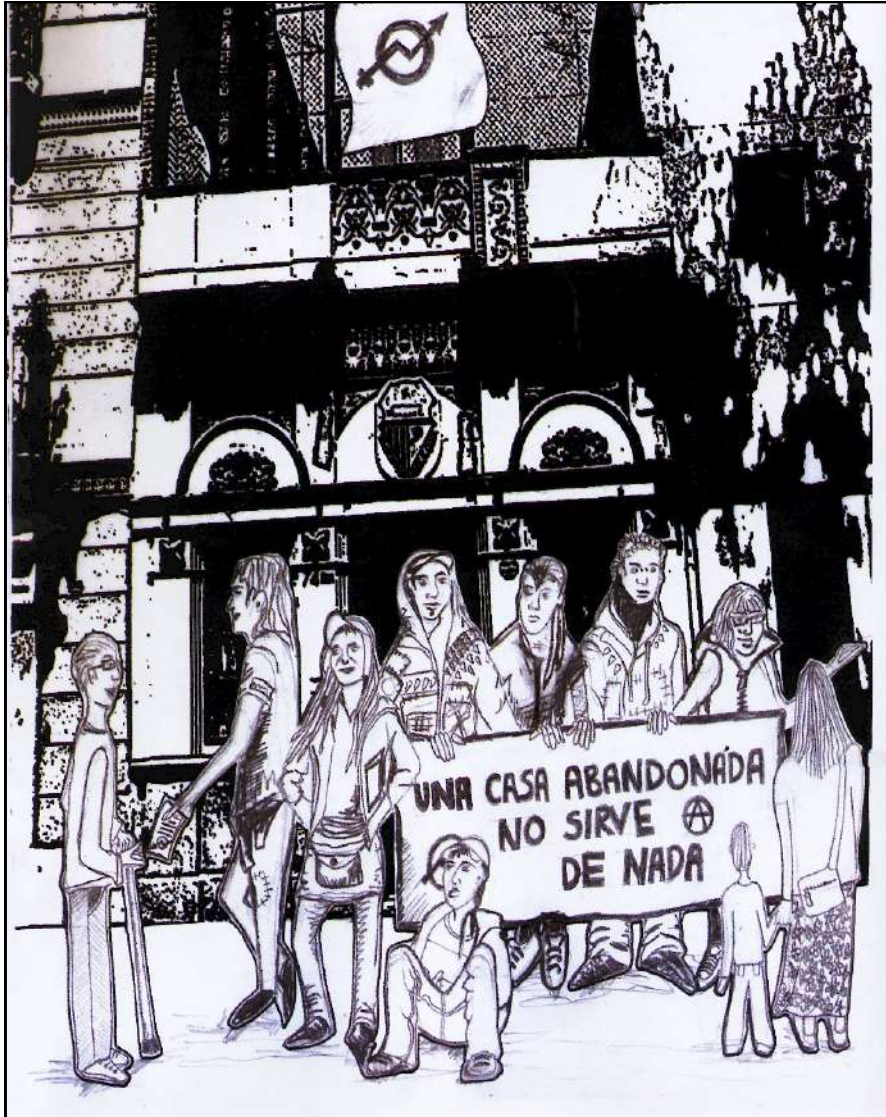
Important note: the landlord can file a movement asking for the eviction to be carried out provisionally before the appeal is heard and the judge can agree to this. You can also file an appeal against this, which takes more time. It is important to see the case through to the end if you are involved in a civil case and not to leave before all the appeals and charges have been sorted. Remember the way you defend your case can set legal precedents, which can affect other squatters and their court cases and we want to set positive legal decisions and court cases related to squatting.

You will need to have a lot of people in front of the house to be safe while taking out the bricks,. If taking out the bricks from the outside you can cover the people breaking the bricks with a big free standing banner that can also protect the people on the street from getting hit by bits of flying bricks. If taking out the bricks from the inside you can hold a mattress up against the door to stop the bricks from flying everywhere and then a banner in front to cover the action from people on the street. Use 2 people with big sledge hammers to break through the bricks. Remember to have a way to hide the tools in the house or take them away fast in case the cops show up.

Remember to bring material for barricading (see materials section) and necessary tools but not too many in case you get caught. Sometimes there is more than one door that has to be broken, so take extra locks or cylinders and materials. Make sure they are the right size beforehand as cylinders here are not all standard in size. Also discuss in advance what is to be done if there are problems or if the squatting fails. For example, if the building turns out to be stacked with stuff, you can't get in anywhere, if the police make difficulties, or if the owner or neighbor freaks out.

As soon as the door is open, check whether the place has really been vacant. Mind: storage does not necessarily mean the place is being used. If you decide to stay, you can fix the new lock to the door quickly while the support group still covers your actions from the street, or you can enter and start barricading the door and the rest of the building. Start barricading the main and every other entrance with puntales (adjustable scaffolding poles) or planchas de metal (metal plates or big wooden ones) and if necessary also windows that are on the first floor or other easy ways to enter like the roof. You can also use metal L brackets that screw into wood with wooden or metal beams as bars; or big metal O rings that screw into a wooden door or window frame and metal poles that fit through the O rings for barricading. These barricades are there for your protection against police, angry neighbors and nasty friends of the owner. Build your barricades in a way that the people on the inside control the entrances. After barricading and securing the building the outside support group can either wait till the cops get there, to help protect the people inside, or go away and let the squatters take it from there. Realize, if the cops come they will want to identify someone and the people in the squat should decide about whether they want to identify beforehand or not, and the people on the outside should also think

about who will identify beforehand. Sometimes if you are in a big group you can decide collectively to not identify and try solidarity pressure against the cops by telling them you don't live in the house, you were just visiting and you do not want to identify. Sometimes they give up if you are many and they are only a few. Sometimes they have put the names of the people outside the house (if they were only a few people) on a court case for the house, but not always. After the cops leave, the support group should still be on call for the first few days or weeks to show up in case of matones or other problems.



(the expediente) with the number of the judge who was appointed the case and the number of the court case (both listed next to each other on the court papers/expediente) to the State Lawyers offices.

**Justicia Gratuita- Servicio de Orientation Juridica (SOJ),
Carrer Valencia # 344**

to start the process of applying for justicia gratuita (a state-provided free lawyer). Sometimes this can suspend the court case for a month or longer until you get a lawyer, or the judge can appoint a temporary lawyer for the court date and the process goes on as scheduled. The person who is applying for free legal assistance can not have lots of money in the bank or many properties in their name. After you apply for the free lawyer they will give you an appointment to find out if they will give you a free lawyer or not.

You can try to put multiple people's names on the court case, approximately 4, and see if the judge accepts them and if you can get a different state lawyer for all of them to draw out the court case even longer.

Once you get a lawyer, if you think they are discriminating against you or aren't working on your case you can change lawyers also with more paperwork and you can file a written complaint with the Colegio de Abogados. It is important to take this decision seriously if you will just go with the free lawyer or pay for one because many times state-appointed lawyers are not specialized in squatting related laws and many times don't work very hard on the case. It is a good idea to have a paid and trusted lawyer that has experience in squatting cases also to give you advice and form a strategy that you can bring to the state lawyer to carry out (but don't tell them you have a paid lawyer).

Civil Case strategy:

In most cases the squatters do not win a civil court case because it is a dispute about property rights, but it can be stalled or thrown out of court if the papers are not all in order. That is why it is important to read the "demanda," the charges and court papers, very carefully with a lawyer to check for errors. Normally the demanda is for "precario" when the occupants don't have the title or permission to be in the building. The civil process can be either "oral," very quick, or "ordinario" which takes longer to be processed. It is important to build a strong defense against the demanda with a lawyer. One strategy that can be

The squatters have 8 days to file a response to the administration. Then the administration sends a paper saying they will evict the house in no less than 10 days. Then the squatters send appeal to this decision asking that the eviction order be suspended. Then the eviction order comes and if the squatters have sufficient proof of their case as the people living and using the space (see civil process strategies and squat dossier) they can file an appeal with a lawyer to the

Juzgado de lo contencioso-administrativo (the judge that hears administration cases).

Civil Process:

The civil court process is commonly used in Barcelona to evict squatters. There are several formats a civil process can take: verbal and ordenario are the most common. First the property owner files a demanda (charge) of squatting on their property; this can be with a name of someone living in the house or under the "ignorados ocupantes," unknown occupants. Then an official from the office of SACC (Servicio de Actas de Comunicación Civil) will come to the house and deliver a copy of the court papers ("la demanda"). They are required to deliver the court papers in person to someone living in the house. You are not obligated to show them your identity when you receive the papers. If no one is there they will leave a notice informing the person identified or the unknown occupant when to come pick up their court papers at the judge's office. The court papers will tell you: who is filing against you, the date the court case will be held, what type of court case it is and the judge assigned to the case.

If the papers are under the name of the "ignorados ocupantes" (unknown occupants), it is advisable that someone, preferably an EU citizen without standing legal charges identify their name for the civil court process of the building. This can be done at the **Juzgado de primera instancia** (the judge who is in charge of your case, their number will be on the papers next to the number of the expediente or court case) at the judges office on **Via Laietana #8-10**

Getting a state appointed free lawyer:

After you have received court papers it is important to start the process of getting a court appointed (free) lawyer, which also helps the court process take longer and stalls for time. To start this process you must take the court papers



Your rights in the building

Article 18.2 and **18.1** of the Spanish constitution protects the inhabitants of a house (in this case the squatters) from people entering without their permission, except if the police have a legal order to enter signed by a judge.

At the end of this guide there is a paper that cites this article and declares it is illegal for anyone to forcefully enter your home without your express permission (**Advertencia legal**) and that it is a crime punishable by the law. It is a good idea to put this legal notice up on the door after you have squatted to warn the police, matones, landlord and neighbors, that according to the law you have rights and it is illegal for them to enter your home. After you squat it is also a good idea to mail a letter (with first and surname) to the people living in the squat who want to be implicated in the court case as this can be used to prove you are indeed the persons residing there. If the police suspect with concrete evidence (seeing or hearing something) that there is a crime being committed at that very moment, they can legally enter your home.

From the moment the police have passed by, your house will be registered as used or squatted. This also means that you officially have the right to not let in anyone you don't want inside, like the owner. Keep your barricades up and be on guard for the first few weeks, months or until the owner has reacted to the squatting or until there is notification of a court process. Many a squat has failed because people opened the door without looking outside first to see if it was safe, or they were disorganized with their barricades and the owner and matones (heavies) broke their way in and made an illegal eviction.

Be safe, put up good barricades, have an alarm list of friends nearby and be alert !!!!!

Identify, or not?

At almost every squat, sooner or later the police will show up and ask for at least one person's (ID) identification card or passport. It's best to decide before the squatting who will react to this and how. The cops can use this information to go to court and start a legal procedure and inform the landlord that his property is

squatted. Often the first time the cops come to identify you they can use the name to pass it on to the landlord or they can denounce the squatters themselves and the name will appear on the court case. Sometimes they don't do anything with the name. Sometimes people choose not to identify the first time the cops come around and to wait and see if they come back or if they receive court papers. Many times the cops or undercover police come back a second time to identify someone to start a court case, weeks or months later.

If you don't identify they can start a court case against the unknown squatters and then it is difficult to get information about the case.

The person who showed their identification can go to the court some days later and ask if there is a legal process open on their name. Do not go alone. You can go to the **Información** section in the court building on **Passeig Lluís Companys #1-5** for penal charges. This means you know if there is a criminal case started against you and when it was started. So, by giving a name, you get access to legal information about the court process against you for squatting the house.

If you decide not to identify yourself, it's a lot harder to get the information about a court case. Maybe you could try to prove you have a legal right to know if a court case is being carried out on an address according to Article 234.2 Ley Orgánica del Poder Judicial (law of judicial power) and it is better to bring this article on a paper with you. Inform yourself about this option first, with the Oficina per l'Okupació.

You can also identify yourself if the police come around for a second time or when you receive court papers. When you decide to give an ID, don't let the police in your house, because of the threat of an illegal, immediate eviction. If there are people on the street, you can throw your passport down (be careful as sometimes they have been known to steal or damage passports). If you are "illegal" or do not have the right papers to be in Spain do not give them your papers. It is better if a European does so. You can use a safe exit and give your ID yourself, in the street, but be careful: the cops are sneaky and could think up an excuse to arrest you. You can also shout the information to the cops or throw a photocopy.

from the building. It is then that the police come to identify someone living in the squat. This can happen in the first day of squatting or at any other time. When the police identify someone on the first day of the squatting it is not certain that they will pass this name on to the landlord or use this name to start legal proceedings, therefore they may come again to identify. The police have been known to stand outside a building and wait for people to come out so they can identify them to begin a legal process. To find out if there is a legal process or denuncia (charge) against you, you must go with your Identity card to the: **Información** section in the court building on **Passeig Lluís Companys #1-5** for penal charges. For civil charges you should receive notification in your name, or addressed to the unknown occupants, delivered to the squat. If the police have not identified anyone for a penal process, it is difficult to find out whether your squat has such a process against it.

Legal and Court Processes: Administrative, Civil, and Penal Processes

Administrative Process:

Administrative legal processes are carried out against people squatting public property: that which is owned by the government, (city, state, national), university, or companies that are run by the city government (mail service, etc). Public properties are owned by administrations of the government, and therefore they are allowed to sign an eviction notice. The police (Guardia Urbana if property is owned by ayuntamiento/ city government; Mossos d'Esquadra if the property is owned by the generalitat/ state government) have to announce the administrative eviction notice to the squatters but they can not enter the building without a judicial order to make the eviction. The administration has one year to begin this administrative process, then after a year they must start a judicial process. This can happen anytime within the first few days or first year of the occupation of public property and they can evict the property with only a judicial order for eviction and not a court case. It is difficult to fight these types of evictions but more time can be gained. In the administrative process if the building is squatted for a year they have to notify the squatters in the building of the process. The notification also has to be published in an official bulletin printed by the state concerning public proceedings.

The stages of the administrative process after one year of squatting are as follows: First some papers are sent by the administration informing the squatters of the court proceedings for an eviction.



The legal process

In order to legally evict a squat there must be some sort of legal process first. There are 3 general types of legal processes used in Barcelona to evict squats: Administrative, Civil and Penal Process. Under these there are various charges that can be filed against squatters. It is very important to know what type of legal proceedings are being carried out surrounding the identified person for the squatting or the building itself; in order to understand how and what strategies to use to fight for squatting in the courts. If we don't understand the law it is easier for the authorities to abuse their power and take away our rights. Most laws don't have anything to do with justice or common sense and their use and application are usually arbitrary and inevitably support the political powers in control of this society. Participating in and fighting squatting court cases in an organized way with competent legal representation can help legitimize the idea of squatting, possibly winning new favorable decisions, and dragging out the eviction process giving you more time in your home. It is important to consider beforehand with the squatters in your group what you all will do when there is a legal process with the squat and organize yourselves accordingly.

It is important to note that when a squatting case goes to court there is always the possibility that an unfavorable decision by the courts can set a negative legal precedent (when a legal court decision affects how other legal court decisions will be made in the future). This decision could affect all other squats and court cases. Therefore it is important that if you do go through with a court case don't do it alone. It is a good idea to get legal advice and help from a trusted lawyer who knows about squatting rights, the Oficina per l'Okupació l'Assemblea d'Okupes, (see addresses at the end of the manual) and to have a politically organized defense, against the laws that protect private property owners and condemn squatters. The more court cases we can fight, the more chances there are of setting favorable precedents and protocol norms (ways in which the courts deal with squatting court cases) for squatting.

Usually what happens first in a legal process is that the property owner (or the police) need to go to a judge and make a denuncia (charges) against the squatters and ask that a legal process be started against them to evict them

The First days:

In the first days anything can happen. From an early morning surprise eviction to a visit by the owner to sweet neighbors bringing you food and furniture. It is important to be prepared for all occasions. Some important points to organize are:

- Barricades
- Alarm list
- Occupying the house at all times
- Utilities and comforts

It's good if your barricades are easy to open from the inside but strong from the outside. You can use puntales (construction braces) and metal plates, or metal L or U braces with iron bars or wood beams put through them to bar the doors or windows. The barricades should be strong enough to take several blows without giving way.

It is still important to have an alarm list with phone numbers of dependable people in your neighborhood who know about your squat action. The alarm list can function like a phone tree where you call someone and they call the next person on the list and they call someone else on the list, etc. Or there can be a barrio phone which receives a message and then that message can be sent via a list to all the phones in the neighborhood. Always keep a phone with batteries and credit in your house and make sure everyone knows how it works. Also make sure the people on the lists know they might be called during the first few weeks. If the cops evict you destroy the lists and sim card.

For at least the first 2 weeks there should be 2 or more people inside the building 24 hours a day. This is very important because it is likely that the police or owner stop by at this time and you need to be there to defend your new home. You can make an occupying schedule of who will be in the house so you can leave for short periods of time.



Are there utilities like water and electricity? You can check the possibilities to arrange it, alone or with help of skilled friends. If the utilities are still there, write down the numbers of the meter or take pictures of it.

It's advisable to take pictures of the status of the house when entered, like the empty dusty spaces, broken walls, windows, roof, mold. Later you can make pictures of the repairs too. You can put all this information in your squat folder which can later be used in a house dossier as proof in your defense in a court case.

FIX HER UP!

Don't expect your new house to come equipped with all sorts of luxuries like toilets, showers, bubble baths, (but then again, you might get lucky!) cable television, internet, or even a roof. Expect to have to invest a lot of time and energy into making the place livable. Start immediately, building and fixing things is uplifting and positive not only for yourself but also as a message to your neighbors to show that you are serious about living there. Lots of things seem harder to do than they really are, so don't get discouraged. Ask other squatters for help and information on how to connect water/electricity, fix roofs/plumbing, make a tool room where you store your tools and materials. Share your tools with other squatters! Also a nice way for the neighborhood to get to know you and your squat is to invite them over to help out with cleaning up or organizing the house and share food together.



RESPECT YOUR NEIGHBOURS

Loud music and hammering/sawing etc. after midnight, bikes blocking the pavement or large groups of weird-looking people shouting and pissing and drinking in front of your house, dogs barking all night and shitting on the pavement... are not good for your relationship with your neighbors.

It is impossible to predict how things will turn out. Every squat is different. But one thing you can be sure of. Owners and other interested parties will not be thrilled that you have squatted their property. Usually there are one or more

date of birth

passport number

You have the right to know what your charges are. In case of a squat action it can be several things;

violación de domicilio, violation of residence, meaning entering a house where someone is living

usurpación, usurpation, entering/being somewhere without permission

daños, damages on and/or in the house

robo con fuerza, robbery with force

You have the right to see a lawyer. It can either be a public lawyer, in which case it's best to keep the information you give to a minimum, or a trusted lawyer you or your friends arranged beforehand. Either way, keep in mind that you are talking with your lawyer in a police station, and the police will listen to everything you say. It's important to NOT declare anything to the cops. Wait until you are before the judge to declare. (see section on declaring in front of the judge) This also gives you the opportunity to speak to your lawyer first. This is your right so use it. Everything you declare will be used against you or your friends. Remember that cops are trained to get information not only during an interrogation, but with every contact, however innocent it might seem. You can't talk with the cops; a slip of the tongue might give useful information.

People "without papers":

The consequences of an arrest for someone without papers could be a lot bigger than for people with papers. If you get arrested they can take you to the police station, or to the Centro de Internamiento de Extranjeros CIE (the foreigners detention center) and begin an expulsion process that could take 40 days. You have the right to see a lawyer, but a lot of times in these cases the police are not upholding your rights. A free state-appointed lawyer is usually an even bigger disadvantage, because you would not be a priority. It's better to already have thought about a lawyer for your squatting group and have the people who are not arrested get in contact with the lawyer to prepare your case and give support.

Know before you go squatting if you have people without papers in your group. Don't have them deal alone with these laws that are imposed upon them, share the responsibility and talk about how you, as a group, deal with these situations.

There is a flyer about your rights in the end of the zine, read them, copy them and spread them

Tell them the law says they must have a court order and judge's authorization for eviction, to legally evict the house and that you want to see the papers and ask what papers they have. Ask to look at them, they can pass them to the balcony or show them through a window. Many times if many people come and they are only a few cops they will back down. If there are a few riot vans it usually means they have a legal reason to evict and it could be serious. If it is an illegal eviction of a few cops and not riot vans then someone or your lawyer can go to the:

Juzgado de guardia (judge who is open on that particular day) on Paseig Lluís Companys 1-5 (If you go at night there's a door in the back side of the building), to denounce the situation as invasion of your home under Articles 169-172, and 202 of the Código Penal (penal code), and file charges against the police. This will not always stop the eviction immediately but can be used later as collective evidence against police abusing the law. Most likely if they come with riot vans it is hard to stop the eviction and only after the fact can you take legal action and recourse. Nevertheless don't let that stop you from barricading, because it will benefit future actions. Keep in mind you could be charged with disobedience, resisting, or robbing, in most cases these charges can be a fine or jail time and many times they can be dropped with a good lawyer and the use of documentation as proof for your case (filming, recording, or photos).

If you are arrested:

Whenever you are doing any type of action, there is always a chance of getting arrested. Squatting is also a type of action so you should always be prepared to deal with the cops and know your rights just in case. It is important to have a legal address in Barcelona where you can receive legal papers because if you don't have one the police can keep you in jail longer. It can help you and your friends a lot if you know what you can expect in case of detention, you will be less vulnerable for police intimidation before and during an arrest.

People “with papers”

When you get arrested during or after a squatting action, you can be kept at the police station for 72 hours maximum. You will have to give the police some personal information, like;

your first and last name

your official address in the country you are from

an official legal address in Barcelona to receive the court papers

attempts to evict so be prepared. Despite the fact that the legal opportunities for owners to evict squatters are on the increase, this does not always mean that you will have to leave your squat sooner or later. The oficina per l'okupació are always willing to answer any questions and to help with problems that may arise.

Matones illegal eviction:

If the owner, their friends or family live nearby, it is also possible they are going to pass by. Make sure you know your rights in this situation, and also make them clear to the owner, by pasting the legal notice against forcible entry on your door (see page with **ADVERTENCIA LEGAL**). Remember that you are in a good position; you created the right to not let the owner in. There have been situations where the owner refused to leave. If you do decide to get into a dialog with the owner, do it on the streets, or from a window with some friends close by.

Sometimes the owner doesn't show up alone. It is not uncommon that they take their muscled 'friends' with them (or pay people to be their friends). These 'friends' are called matones, and it's impossible to predict how matones will react. There is one thing you know for sure; they want you out of the house. Some matones will stop when you talk to them, others will want to hurt you also after that. But there are ways to prepare and protect yourself. The most important thing should be the safety of your friends and yourself, and if possible keeping the house. And these two things can go together. There are plenty of squats that had to fight off matones once or twice but lived there peacefully after that.

In the first few weeks of squatting it is important to be alert about barricading and paying attention to who is around the house when you open and close the door. Easy things to bring against matones are: protective clothing, good shoes, long sleeves and pants, gloves, ski masks and/or helmets, mace spray, and wooden poles.. The first thing to do if you see matones coming near the house is warn everyone in the house, secure the barricades and call friends that live nearby and the alarm list so they can help get a large group of supporters outside the squat to help defend it. It's good to have an alarm list or message system so you only have to call one person or send one message that will notify everybody else, so you can concentrate on your situation.

In the beginning of an attack the squatters are actually in a good position, because you're inside, and the first strategy is to keep the matones outside and away from the entrances (for as long as possible). You can do this by first

barricading all entrances like the front door, windows on balconies, roof door. You can try talking with them first. If they are violent you can try screaming that you are the legal resident here and what they are doing is illegal and punishable by law; and then throwing bottles or other breakable things near them, to keep them from kicking the door in. Put empty bottles or other throwable objects that break when you've thrown them on the balconies or near windows; this is important because things like stones can be thrown back and injure you. You have two advantages that way.

Then in case the matones do get in you want to keep them at a distance and it's good to bring sticks of wood or metal for self-defense or try barricading your self in one room and call for backup. If that fails it's important to protect yourself and your friends, don't leave anyone behind.

In extreme situations you can also call the police. Don't say you are in a squat. But realize that cops are cops and they sometimes don't do anything or even help evict you themselves. It's good to talk with your group beforehand to decide what to do when and if matones come and in what situation if any you want to call cops. If you do call the cops let the group of supporters outside know. After all, you have the right to be in the house. Be prepared have good barricades and a good alarm list of friends nearby who are willing to defend the squat and understand what that means!!!!

You can also take photos of the matones, note their descriptions, and see what kind of car they drive and their license plate number. It could be helpful to use this information to make fliers about the matones and the company or owner that hired them. You can then go to the offices of the company or owner that hired them and protest outside handing out info flyers to tell the neighbors and potential customers that the property owner hired matones and that it is illegal. While you're at it you can bang on pots and pans and make lots of noise to bother the property owner or company or put pressure on them in some other way; so they will reconsider using matones to make other illegal evictions.

You can also place charges against the matones at the

Juzgado de Guardia

Passeig Lluís Companys # 1-5 Barcelona, 08003 Metro : Arc de Triomf
(If you go at night there's a door in the back side of the building)



Your rights and the police

Illegal eviction by the police:

Sometimes during the first hours or days or weeks of a new squat or squatting action the police may come in a few patrol cars and try to push their way in to make an illegal eviction. It is usually an illegal eviction if they do not have eviction papers signed by a judge and they do not come in riot vans.

They may come insisting you must leave as the building is unsafe, or it's owned by the ayuntamiento, (city government) whatever excuse; if they think it is easy to get in and many times if you are foreign they will try to enter your house and make an illegal eviction. Be prepared for this before it happens! It is important to have all the information about the house before you squat: who is the owner, how empty, if it unsafe, etc.

with a lawyer you squat, can call for in case of emergency. Post warning gal entry home" on



long it was declared Be in contact yer before so that you legal advice an emer- the legal "against ille- into your your door

(**Advertencia legal**, look in the middle of this guide). Have your house heavily barricaded during the first few days or months of the squat. And if it doesn't make living there hard, it doesn't hurt to keep it permanently barricaded.

You can call your emergency phone list of all the other squatters and friends in the neighborhood and get them to come over. Or try to get a lawyer to come over to talk to the police. Remain calm....Talk to the police, insist that you are now the new resident of the house and you are not leaving nor coming out. Quote the law, article 18.1 and 2 of the constitution, which says you have a legal right to privacy, and they have no right to enter.

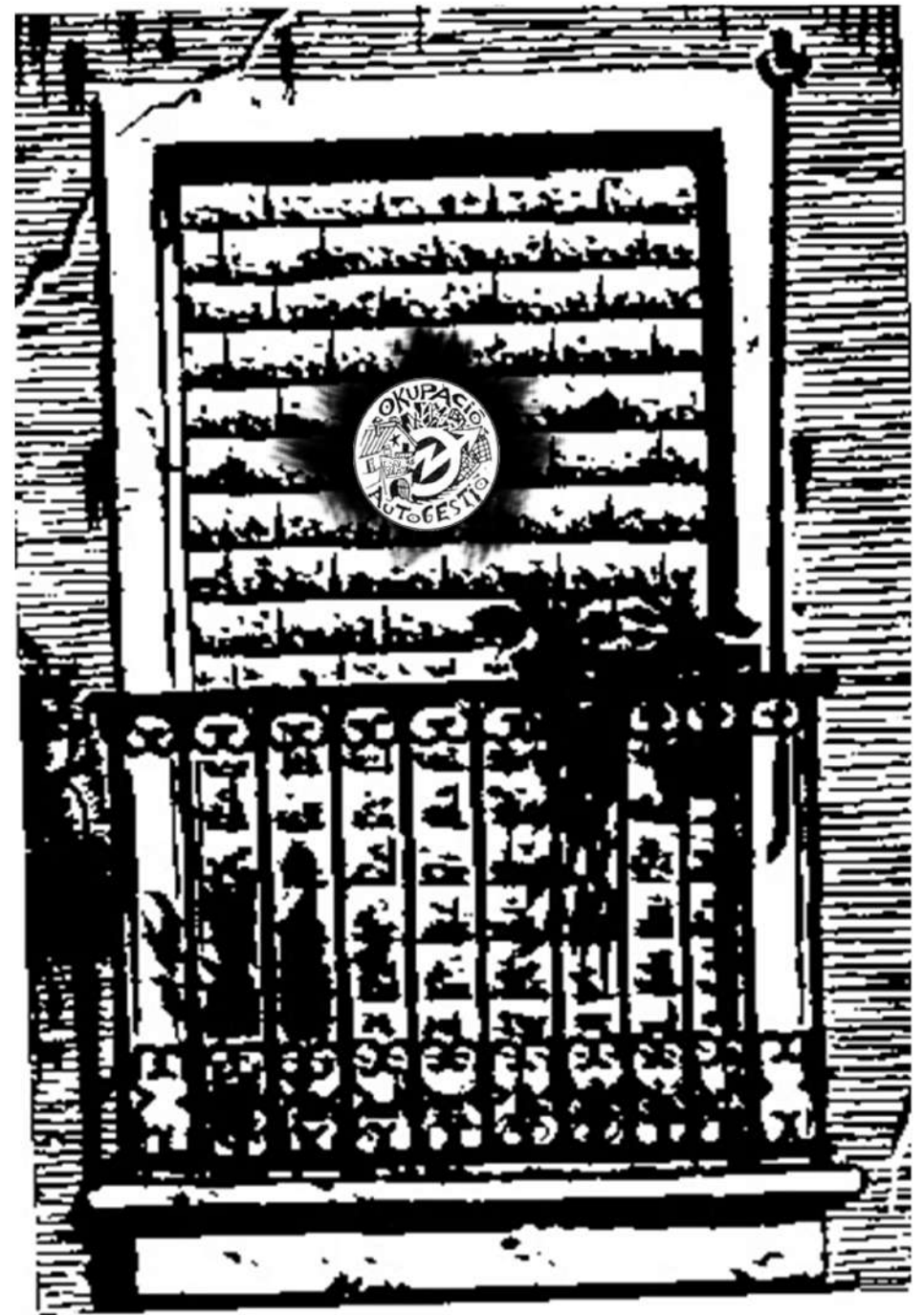
Dubtes, preguntes, col.laboracions, assessoria legal i tècnica...



Oficina per l'okupació
Barcelona



Taller de Barris en Lluita, Carrer Fonollar Nº 9, Forat de la Vergonya



ADVERTENCIA LEGAL SOBRE EL USO ABUSIVO DEL DELITO FLAGRANTE Y LA VULNERACIÓN DE LA INVIOLABILIDAD DEL DOMICILIO POR PARTE DE LOS CUERPOS POLICIALES

El artículo 545 de la LECR define la inviolabilidad del domicilio. El artículo 553 define que que el acceso a un domicilio solo podrá producirse en caso de delito flagrante, orden judicial o consentimiento del habitante; en este caso, debería tratarse del supuesto de delito flagrante, que solo se da con la percepción directa e inmediata por parte de los cuerpos y fuerzas de seguridad del Estado de la comisión del delito.

Obviamente, en la situación actual no se cumplen ninguno de los supuestos anteriores y es por ello que si se procediese al acceso a la vivienda se estaría cometiendo un delito de violación del domicilio establecido en el artículo 534 del Código Penal.

CORPUS LEGAL:

Artículo 555 de la Ley de Enjuiciamiento Criminal:

Nadie podrá entrar en el domicilio de un español o extranjero residente en España sin su consentimiento, excepto e los casos y en la forma expresamente previstos en las leyes.

Artículo 554 de la Ley de Enjuiciamiento Criminal:

Se reputan domicilio, para los efectos de los artículos anteriores:

1. [...]]
2. El edificio o lugar cerrado, o parte de éste destinada principalmente a la habitación de cualquier español o extranjero residente en España y de su familia.
3. [...]

Definición legal de flagrancia según jurisprudencia del Tribunal Supremo y el Tribunal

Constitucional:

Percepción sensorial directa por parte de los agentes de seguridad de la comisión de un delito y carácter evidente de urgencia e inmediatez en los supuestos siguientes:

- Que la percepción es directa y no proviene de deducciones o de informaciones de terceras personas
- Inmediatez del delito. Que este se esté cometiendo en ese mismo momento.
- La presencia de las personas que están cometiendo el delito en posesión de los instrumentos para cometerlo.
- Existencia de necesidad urgente de intervenir para evitar la fuga de los delincuentes o pero la producción de una lesión grave contra bienes jurídicos.

Artículo 534 del Código Penal

1. Será castigado con las penas de multa de seis a doce meses e inhabilitación especial para empleo o cargo público de dos a seis años la autoridad o funcionario público que, mediando cause por delito, y sin respetar las garantías constitucionales o legales: 1. Entre en un domicilio sin el consentimiento del morador. 2. Registre los papeles o documentos de una persona o los efectos que se hallen en su domicilio, a no ser que el dueño haya prestado libremente su consentimiento. [...]
2. La autoridad o funcionario público que, con ocasión de lícito registro de papeles, documentos o efectos de una persona, cometa cualquier vejación injusta o daño innecesario en sus bienes, será castigado con las penas previstas para estos hechos, impuestas en su mitad superior, y, además, con la pena de inhabilitación especial para empleo o cargo público por tiempo de dos a seis años.