

# **C Drew - Street Artist Adventures (blog by Chris Drew)**

Chicago photographs, community art, artists

## **An Open Letter to Tony Fitzpatrick and Dmitry Samarov**

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## **An Open Letter to [Tony Fitzpatrick](#) and [Dmitry Samarov](#)**

Hello Tony and Dmitry. You don't know me. We've just met. I've been maintaining a community art center at the American Indian Center for the last 23 years as a volunteer. I've taught a [free screen-print workshop for artists](#) for 18 years offering artists free instruction in the basics of screen printing that has allowed hundreds of artists to get over the early hurdles of using screen-printing to print their art for sale and creative pleasure. Most recently, I am leading a team of Chicago artists in challenging laws that prevent artists from being "out and about in public." I am not alone in this effort.

I want to thank Nick Digilio for introducing me to you two great ([great disappointments as](#)) Chicago artists, Tony Fitzpatrick and Dmitry Samarov. I respect your creative work. You were asked to comment on the First Amendment issues of selling art in public, on my act of civil disobedience protesting the peddlers license requirement for artists and on the First Amendment issue of audio-recording police in public. It has taken me years of study on the first issue, several decades of

consideration to commit to the second action and a full year of study to understand the third issue. Why should I be surprised by your responses? We never talked. With perhaps an hour or two of thought and several e-mails you came to your conclusions expressed on the Nick Digilio Show.

**I looked up the definition of a Mook:** Mooks are archetypal young males(teens-early 20s) who act like moronic boneheads. They are self centered simpletons who live a drunken frat-boy lifestyle. Tony, as we explore the issues below, ask yourself again if I am a “mook” as defined above.

After some thought and listening to the audio I realize that you were both somewhat sympathetic to our cause but also somewhat confused about what it is and who I am.

Tony, you were very concerned that I went out of my way to get arrested. Just like Rosa Parks sat in a white's only seat and refused to move until the police arrested her, I stood on State Street selling art until I was arrested. I did not resist or taunt the police. They did not beat or abuse me during the arrest. This action is called “civil disobedience” and is a standard form of protest common in America and is the accepted method of testing unconstitutional laws in our legal system of government. It is not weird or kooky or new. I was not crazy. I spent four years preparing to take this risk and found a pro-Bono First Amendment lawyer to support our cause before I did. A team of Chicago artists supported me in this action.

I believe this eavesdropping charge is a gift to us to give our arts group an enlarged voice for our mission to create art scenes around Chicago. Tony says about the eavesdropping issue that he can think of good reasons that it should be illegal to “record” officers but he only advances one. He says allowing recording would compromise Chicago's many undercover officers. That does not hold up for several reasons. First assuming he is referring to audio-recording this reason makes little sense because it is highly unlikely that an audio-recording of someones voice

will give away the identity of an undercover officer to someone hearing it as compared to the possibility that a video recording would give up the officers identity to someone seeing it. Video recording of police is completely legal and there is Federal Case law to that effect. No other reasons for not audio-recording police in public are offered and no reasons for citizen's right to audio-record police were presented on the show. I was not present to support my viewpoints.

True, I did not know the details of Illinois eavesdropping law before I was arrested and later charged for violating this law. Most people do not know its details. For that reason I am not surprised that neither of you have considered the importance of our right to audio-record police in public. Since I was charged, I have studied the law and the related constitutional issues. The law was written to protect our privacy rights from people tapping our telephones in 1961. Police on duty in public have no privacy rights because even the State of Illinois audio and video records their actions to protect against citizens who might make false claims and to deter police misconduct. In Illinois, in 1994 an ex-policeman who was a state senator added the unconstitutional amendments to the eavesdropping law under which I am charged and those amendments have yet to be tested in federal court to create case law that clarifies their constitutionality.

**Here are the reasons for our right to audio-record police. We have the First Amendment right of the press to gather information on what our public servants do in public while on duty to report on their actions to our fellow citizens. This right is required by citizens to do their democratic duty to oversee their public servants performance while on the job in public. It is a fact that without other evidence a citizen's word is less credible than the word of an arresting officer in court. Therefore, citizens need to be able to bring evidence into court to defend themselves and others with the truth of what was said to them while being arrested or interrogated in public by police.** Reflecting this fact, in 47 States in the Nation it is legal to audio-record police in public while they are on duty. Artists in New

York use this right all the time to defend themselves in New York courts when tickets are written by police who harass them for selling their art legally in public.

Tony, I am eager to give you an opportunity to provide me with any other reasons citizens in Illinois should not have this same right enjoyed by citizens of 47 other states.

Dmitry, the art I was selling was 24 different art patches by eight or more different artists. I thought it important that we establish our First Amendment right to sell art as speech and not just to sell only our own art. I spent four years writing on [my blog](#) about my activities screen-printing patches of both art and political expressions in many locations where it is illegal to sell art. I gave this work away free to the public during that time to demonstrate that art and political expressions should be protected equally by the First Amendment at those locations. You see, some in our legal system feel that political expressions should be protected by the First Amendment but art should not and the City says selling art in public is a safety hazard for pedestrians. I proved both of these assumptions wrong by my actions over this period before stepping out on State Street to test the law.

The art I was selling is from the [Art Patch Project](#). The art of the [Art Patch Project](#) is submitted by local artists from around Chicago who support our efforts to change the laws that prevent artists from creating art scenes where artists can sell their art without a license in public. We want to change the face of Chicago so artists can be “out and about in public” as you suggested on the show. Normally, we give the art of the [Art Patch Project](#) away to educate the public about artists First Amendment right to sell art in public without a license or permit. To confirm that this is our right – review what artists are doing in New York City to establish and defend our rights as artists under the First Amendment. Both of you should consider submitting a work of graphic art to the [Art Patch Project](#). You are leaders. Why not lead?

Presently we have over 130 designs and more than forty artists involved. The [Art Patch Project](#) will continue to grow until we gain our rights. We are planning to tour the art-patches nationally. Guess how easy it is to send an exhibit of 200 4×5” cotton cloth art-patches somewhere for exhibit? Guess how many exhibits we can print and send off? I developed the [Art Patch Project](#) for a year before selling a few select artists work along with two pieces of my own on State Street, December 2, 2009. My work was posterized photo images that are not on my website. Dimtry, I am not the great artist that you and Tony are but in my humble way I enjoy my work.

Tony said he is “Not familiar with the in’s and out’s of that ([peddlers license](#)) law.” Neither was I. Twelve years earlier, when I first read about what [artists in New York](#) were doing to fight for First Amendment rights, I reacted to their actions a bit like you did to my actions. After the Iraq war began I explored reaching the public by screen-printing my work on patches on the street. I studied the First Amendment as it relates to artists’ rights to sell art in public. Gradually, I realized what the New York artists were talking about. I realized [how marginalized artists are by unconstitutional laws](#). Unless someone takes time to understand how the First Amendment works with respect to artists selling art in public, they can’t understand our position. We have a lot of work to do to educate and inform the public.

What are our First Amendment rights? Any time the government (City) wants to limit our speech rights they must have a very good reason. They must write a narrow law that addresses that reason and give us an ample alternative that we consider fair in exchange for limiting our speech rights. If the safety of pedestrians is the City’s important reason then a narrow law would be - no selling on the public way without leaving 7’ for pedestrians to pass by. The City writes broad laws that prohibit selling anywhere in the greater Loop which is an unconstitutional law. For a detailed analysis of our First Amendment rights and the effect of the City’s laws and policies on arts activities in Chicago visit “[A Modest Proposal](#)” on my website.

**“You can’t sell art in the City? I’ve been selling art in the City for 25 years!” Tony says. Then he admits that he hasn’t sold art on the City’s streets since he was in high-school. When he was in high-school it was legal to sell art on the street in Chicago without a [peddlers license and Lee Godie](#) was selling her art in front of the Arts Institute on Michigan Avenue. During Mayor Washington’s administration it was [legal to sell art in the parks](#) in Chicago. Mayor Daley made it illegal to sell art anywhere in public without a license in 1994 (the year Lee Godie died) and illegal even with a license to sell it pretty much wherever you could do good business in public. The cold-hard fact is that today there is not one single open-air market where artists can start out selling their art and build an audience in Chicago, period. This is a first amendment right that we should enjoy according to existing First Amendment case law. It is a right that many artists in cities around the world enjoy in countries that have no First Amendment. What’s wrong with us? Don’t we value our core values?**

Art Fairs. Tony says that art fairs are an adequate alternative. They are not. I have sold our t-shirt art from the many artists involved in our screen print workshop for artists in art fairs and interviewed many artists around Chicago struggling to make a living in art fairs. Few artists believe it is the great opportunity that Tony suggests. A small percentage of artists do well in them. They have an established audience, a well managed mailing list and they give the public just what it wants in order to pay the art fair fees demanded of them.

Art fairs in the Chicago region are more like sharecropping for most artists. The artists are the attraction but the fairs make most of the profit. The fairs charge from \$150-500 for a weekend and most of the customers want low price gifts for friends and relatives. The fees come off the top of the artists’ income and all the risks of bad weather are born by the artists. Artists work long hours preparing, long hours setting up and showing and too often make less than minimum wage for their efforts. If early art fairs in the spring are rained out, many artists can’t afford the fees the fairs charge up-front to rent a piece of the public

sidewalk – something the artist is promised for free by the First Amendment but denied by the laws that we are protesting.

Artists selling in galleries to wealthy clientele do not experience this struggle. They live in a different world. Our First Amendment right to sell art freely in public is the first rung of opportunity to emerging and struggling artists. If we create art scenes in Chicago, even established artists will find advantages in this activity. Take this opportunity away and the arts community loses plus the public is deprived of an opportunity to meet many different artists in their everyday life. Because street art culture has been dead so long in Chicago few people understand what they are missing. Both of you indicated on the show that you believe community art and the idea of artists in public are to be supported.

We dream of creating art scenes around Chicago where artists can thrive and inspire each other. We want to change the face of Chicago to accentuate its creative voices and visions. Is this a greater artistic principle - free-speech and free art scenes - that you can support or this the vision of a self-centered simpleton living in a frat-boy dream world?