

A HAND BECOMES A FIST

LEGAL SOLIDARITY MANUAL

INTRODUCTION

Legal Solidarity is a strategy that uses group decision-making and action to protect people when they are being held in the legal system. Jails and courts are designed to make people feel powerless. By using Solidarity tactics – making legal decisions as a group, acting in unity with each other, and committing yourselves to safeguarding every arrestee's interests – you can gain more control over what happens to you in the jails and courts. Legal Solidarity has been used effectively for decades in the civil rights, peace, environmental, and anti-corporate globalization movements, among others.

THE BASICS

Understanding the theory and tools of legal solidarity -- its practical objectives, using tactics and demands, and distinguishing between Jail and Court Solidarity -- is crucial to using legal solidarity and its tools effectively.

Objectives of Legal Solidarity

If you are considering using Legal Solidarity, it's important to know what your specific goals are and which tactics will help you achieve those goals. Specific goals should be under the more general goal of taking care of each other – whether that means using physical non-cooperation to address immediate health and safety concerns, or using your rights to obtain a universal plea bargain.

As part of the racist, classist, and homophobic society that we live in, cops and courts often target specific people for more abuse and harsher prosecution. People should be ready to use solidarity to take care of everyone, but should be especially on the lookout for minors, non-U.S. citizens, people of color, people who are seen as leaders; people who go limp or use more militant tactics, transgender or queer people, people who dress punk or who wear all black, people on probation or parole and people with prior arrests or convictions.

Tactics and Demands

A **tactic** is something you do (e.g. chant incessantly). A **demand** is something you want (some water). You use tactics to get demands met ("We're going to chant incessantly unless you bring us some water.")

Matching tactic to demand is one key to successful Legal Solidarity. A group using Solidarity should come up with a set of demands and corresponding tactics. It's crucial to make sure the authority (cop, guard, judge, prosecutor, etc.) you are making

a demand to can meet that demand **and** is affected by your tactic. If not, you are unlikely to accomplish anything.

Consider these three examples:

1. Fifty people in a holding cell demand water from the guard or else they will insist on a speedy trial.
2. Fifty people in a holding cell demand world peace from the guard or they will scream and shout until she delivers it.
3. Fifty people in a holding cell demand water from the guard or they will scream and shout until she brings some.

In example 1, nothing will happen because although the guard can provide water, she is not affected at all by their insistence on a speedy trial. There is no motivation for the guard to do what the group wants. In example 2, the guard will certainly be affected by the shouting, but since she can't deliver world peace, she will likely resort to other (possibly violent) measures to stop the noise. In example 3, the guard will be affected by the shouting and can deliver on the demand. The easiest thing for her to do is get the water.

So what can be done if a tactic isn't delivering a demand? **Escalate**. If singing isn't working, try singing off key. Then try screaming. Then screaming and pounding on the door, etc. The important thing is to make sure the tactic is still at the same level of seriousness as the demand. Don't escalate so much that you completely exhaust yourselves (or your options) for a relatively minor demand. On the other hand, if you really want something and aren't getting it, it's probably time to think about escalating your tactics.

Another key to successful Legal Solidarity is **clear communication** of your tactics and demands to authorities. For example, if a cell-full of people starts screaming without both telling a guard their reason and making a demand, the guard won't understand why they are shouting and what to do to make them stop. The group needs to get her attention and then have one or two elected spokespersons clearly communicate specific demands.

Finally, when using tactics and demands, it's important to follow through on your promises. If you don't, you establish a lack of trust that jeopardizes all future negotiations.

Below are lists of common demands and tactics used in the jails and courts.

Some demands in jail

- give an injured or ill person immediate medical attention
- bring some water
- return a person who has been separated
- allow group visits with the legal team/lawyer

Some Jail Solidarity Non-Cooperation Tactics

- not bringing ID and refusing to give name or address
- refusing to promise to appear in court
- chanting, singing or dancing incessantly
- refusing to follow orders
- going limp
- stripping

Some Demands in Court

- give everyone the same charges and sentence, protecting targeted people ("leaders," people of color, etc.) from being singled out for harsher treatment

Some Court Solidarity Non-Cooperation Tactics

- pleading not guilty
 - this forces them to hold many trials, clogging the court system
- insisting the court appoint a free attorney to represent each defendant¹
 - this creates a vast amount of paperwork for the court and prosecution, as well as a huge expense
- insisting on a speedy trial
 - this forces them to bring everyone to trial within 30 to 90 days (depending on jurisdiction) of your first court appearance, as opposed to scheduling trials long after, at their convenience
- fighting the case vigorously before trial by submitting a lot of motions and requiring lots of hearings in court
 - this puts strain on the court bureaucracy and the prosecutor

Groups should make sure to talk in advance about which demands and which types of tactics they want to use. It's not necessary for everyone in the group to participate in a given tactic in order for it to work. However, you need enough people participating in a given tactic to overwhelm the authorities, forcing them to agree to demands. *Creativity and flexibility are the keys to successful tactics.*

Jail Solidarity

Generally speaking, you are engaging in Jail Solidarity when you are in custody of police or jail guards and are using the Jail Solidarity non-cooperation tactics like those described above (going limp, etc.). Your actions in Jail Solidarity directly affect the police, jail guards, and jail administration.

¹ People are only entitled to court-appointed attorneys if they're facing jailtime and have a low income. If you're charged with a crime for which the penalties don't include jail (for example, a jaywalking ticket), or you can afford to hire your own lawyer, the judge will not appoint a free attorney for you.

Though one of the most visible and potentially empowering aspects of Legal Solidarity is physical non-cooperation in jail, non-cooperation is not done for its own sake. **Always use non-cooperation or acts of resistance to take care of each other.**

Brutality at the hands of cops and guards is real and dangerous. By using non-cooperation tactics, you risk pissing the guards off. Activists can really get hurt. In addition, physical non-cooperation (e.g. going limp) could result in charges of resisting an officer, though this is usually an idle threat

Non-cooperation, though, doesn't have to be just physical. One tactic typically associated with Jail Solidarity is withholding your names upon arrest. The police usually won't release people who they can't find again. A group that is in jail and nameless 1) stays together; 2) clogs the jails; 3) can keep known organizers and legally vulnerable people from being targeted for mistreatment or more severe charges; 4) makes the paperwork hard; and 5) appears to the jails, prosecutor and media as one unified group. Keeping a committed group in the jails until demands are met is central to the tactics of Jail Solidarity.

Court Solidarity

Using the Court Solidarity tactics listed above directly affects the prosecutor and the courts. This is important because the prosecutor has the power to negotiate a plea bargain or even drop charges.

Court Solidarity involves people working together to fight their legal battles in court. Strategically speaking, the best way to do this is to use the strength of numbers to put pressure on the court system in order to: 1) get everyone's charges dismissed, or 2) negotiate a plea bargain that is agreed to by everyone, will cover everyone and will not have a harsher impact on targeted individuals, or 3) if this can't be done, vigorously fight individual cases and work as a group to help everyone mount a strong defense.

Legal Solidarity

Jail and Court Solidarity use different tactics but with the same end goal in mind -- taking care of each other. They can be used separately but are most effective when used together. A typical Legal Solidarity timeline looks like this:

1. A group of activists gets arrested. They begin using Jail Solidarity by refusing to give their names and by using physical non-cooperation to keep people together and safe.
 2. The activists begin using Court Solidarity by having the legal team communicate the proposed plea bargain, other demands and the Court Solidarity tactics (pleading not guilty, demanding a jury trial, etc.) to the prosecutor.
 3. The prosecutor caves. We win.
- OR-
3. After a few days, it becomes clear that Jail Solidarity isn't putting enough pressure on and/or people are unable to stay in jail any longer. The activists decide to give their names and leave jail as a strong group rather than a weak trickle. Jail Solidarity is now over and all efforts are focused on Court

Solidarity.

4. We overwhelm the courts and the prosecutor caves. We win.

SUPPORT

Legal Solidarity is not only carried out by the people in jail or facing trial, but also by supporters. Support is critical for the success of Legal Solidarity. Helping with support is a good way for people who had to take a separate plea bargain, had to leave jail, or couldn't get arrested to maintain their connection with the rest of the group. Here are a few ideas for organizing jail and court support. As usual, this handbook is just a guide—let your creativity lead the way.

Jail Support

- Visit them during jail visiting hours.
- If there is no legal team, have a phone number they can call to get and give information.
- If there is no legal team, arrange for trusted lawyers to visit them in jail to get and give information.
- Organize a jail vigil (preferably with friends and family members of those arrested). This gets lots of positive media attention as well as being a *huge* morale booster for the folks inside.
- Arrange to have food, water, friendly faces, rides, and places to spend the night for them when they get out.
- Write press releases and hold press conferences. This helps keep your spin in the media. You can keep pressure on the authorities and update the public on problems inside.
- If they are fasting inside, stage a solidarity fast outside, in the public eye.
- Organize rallies both locally and nationwide.
- Organize a phone call campaign to call the jail administrators, mayor, prosecutor, attorney general, judges, media, etc. in support of the incarcerated activists.
- Help them get things like ID, bail money, medicine, etc.

Court Support

- Generate street heat by holding marches and rallies at the courthouse on the day of the trial or the first hearing.
- Write press releases and hold press conferences.
- Organize a phone call campaign to call the mayor, prosecutor, attorney general, judges, media, etc. in support of the activists facing trial.
- Find out when the hearings and trial are and go to them. Organize lots of people from the community and friendly media to go.
- Take notes on what happens at trial and give them to the legal team/lawyer. Pay attention to: name of judge and attorneys, case #s/ docket #s, and any decisions that get made.

- Volunteer with the legal team (or with local lawyers if there is no legal team) gathering evidence, making courtroom displays, doing jury watching, etc.
- Raise money for legal expenses.

DECISIONS

Action Planning

Unfortunately, there is no formula to tell you if Legal Solidarity is the best legal strategy for your action. What's your objective? Some activists who engage in civil disobedience want to get in and out of the criminal justice system as quickly as possible. But here are some things you should discuss when deciding whether or not to use legal solidarity:

1. Are enough activists involved to overwhelm the system's resources?
 - This obviously depends on where you are. In a big city, it could take hundreds of people to clog the jails, whereas in a small town, they may not have the resources to deal with 20 of you. In Washington D.C. in April, 2000, 150 activists put the already full jail over its legal limits. This put real pressure on the authorities to bargain and to do it fast.
 - Even smaller numbers are needed for successful Court Solidarity.
2. Are you committed to following through?
 - For example, not everyone has to be able to stay in jail indefinitely, but if you get arrested on Friday and 90% of you need to be out of jail on Monday, don't use Jail Solidarity.
 - Note that Court Solidarity takes a very different kind of commitment than Jail Solidarity.
3. Do the people intending to risk arrest have enough points of unity to make difficult decisions as a unified group?
 - Appearing to be unified and absolutely committed makes a huge difference when plea bargaining with the prosecutor. Also, avoid pushing for decisions which will factionalize the group *there is more strength in unity than in any particular tactic*.
4. Can you arrange Legal Solidarity trainings for a significant proportion of the activists involved in the action?
 - This handbook is not enough! There is a growing number of groups that offer Legal Solidarity trainings. Contact us at www.midnightspecial.net.

Individual Decisions

The use of Legal Solidarity should not keep anyone from participating in the action. Not everyone can stay in jail. Not everyone can go to court. Give support to those who cannot take part. The strength of Solidarity comes from the voluntary agreement of everyone who takes part in it. Just because someone needs to leave jail does *not* mean that she has "broken" Solidarity.

Solidarity is based on consensus and it's easier to reach consensus on tactics and demands if you listen closely to all points of view before launching proposals. This is especially important when working in a group with diverse races, classes, sexual orientations, politics, etc.

Don't let the police, jail authorities or any lawyers push you into rushed decisions. If you're being rushed, bargain for more time. After all, it's simpler for the authorities to give you another fifteen minutes to come to consensus than for them to carry a bus-full or room-full of limp bodies. (It's a good idea to agree on using such tactics *before* there is a crisis.)

One problem activists face is that cops, lawyers, judges, etc. frequently lie about the situation. Common lies are that all your friends have gone home and you're the only one still in jail, or that it is illegal to refuse to answer questions. Make sure you base your decisions on reliable information received from someone you trust. When you get separated in jail, you feel really alone and it becomes very easy to believe what they're telling you. This is normal, but stick with whatever decision you made with the group and have faith that everyone else is doing the same.

PLEA BARGAINS

In the United States, only about 15% of all criminal cases actually go to trial. Most of the time there is a negotiation between the defendant and the prosecutor called a plea bargain. In a plea bargain, you agree to give up your right to a trial and plead guilty in return for getting a particular (lesser) charge and sentence. When a lot of activists are arrested together and have strong Solidarity, you're in a powerful bargaining position. First discuss whether you all want to negotiate a plea rather than go to trial. If you do want to negotiate, the whole group must agree on the range of charges and sentences you're willing to accept.

Come to consensus on the bargaining position and flexibility of the group. For example, you might decide that everyone is willing to do 10, 20, or even 50 hours of community service, but no one will pay a single dollar to the system in fines.

A key element of any plea bargain in a mass action is that *everyone gets the same deal*. This can be hard for prosecutors and judges to understand. It helps if the activists themselves talk face to face with the prosecutor or judge in a big group, rather than having the lawyers negotiate for them out of sight. Sometimes this negotiation takes place in the courthouse, but activists have also gotten the prosecutor or judge to come talk to them in the jail. When they look at a determined group of activists, the bargaining process usually speeds up.

Non-U.S. citizens charged with misdemeanors or felonies can face deportation or

be refused re-entry into the country. From the standpoint of equal treatment in a plea bargain, infractions are significantly better than misdemeanors, since they usually don't affect immigration status (though you should always ask an immigration attorney about a specific plea bargain.) This is a good example of how collective plea bargaining can protect defendants who are more vulnerable.

One of the most serious drawbacks of jail solidarity is that prosecutors are likely to offer a deal to everyone except people charged with felonies, non-US citizens, people with priors or on probation, etc. If you are faced with this situation, you must decide if getting people charged with felonies included in the plea bargain is realistic considering your numbers, outside support, media attention, etc. If it's not, you must decide if you will accept the plea bargain, or if you will all cite out and use Court Solidarity. If the group decides to take a plea bargain, plan and commit to long-term legal support for people charged with felonies who won't be covered. (See Court Support.)

In the end, it's usually better to leave jail together with a solid long term plan than to trickle out scattered and disorganized. Whatever the decision, it should be made by the whole group and include support for everyone.

Sentencing Components

Here are some things you can be sentenced to other than jailtime.

Credit for time served: Every day or part of a day spent in custody usually counts toward your sentence.

Diversion: In a diversion program, you do community service and pay an administrative fee. The charges against you are then dismissed, so you don't get a conviction on your record. However, judges and prosecutors can still see that you took diversion for those charges. Usually, you can only get diversion for your first offense.

Warning: Diversion can count as a conviction, not a dismissal, for non-U.S. citizens. Diversion programs go by a variety of names: deferral, deferred prosecution, dispositional continuance, etc. If you are a non-U.S. citizen, check with an immigration lawyer before you accept any plea bargain.

Probation: There are two kinds of probation, formal and informal. If you're on formal probation, you have a probation officer who makes rules about who you can see, where you can go, if you get drug-tested, etc. If you're on informal probation (sometimes called court probation), there is no probation officer and nothing happens unless you get arrested again. If you're accused of violating your probation, you will receive only a streamlined hearing, not a full trial. If the judge decides that you did violate probation, you could be sent to jail. Obviously, being on probation will interfere with your participation in other acts of resistance.

Fines: A fine is money paid to the government. When fines are imposed, penalty assessments are typically added, which may double or triple the total amount. Make sure you find out *exactly* how much you're going to pay before agreeing to any deals.

Restitution: Restitution is money paid to the victim (which can be a government entity) if you are being sentenced for having damaged property or stolen something. California imposes a restitution fine for most misdemeanors. Again, make sure you find out exactly how much you're going to pay before agreeing to any deals.

Community Service: Judges can assign a set number of community service hours instead of a fine, especially if the defendant has a low income. Community service work can range from cleaning cop cars to working with the organization of your choice—you may be able to negotiate about this. It's a good idea to come to court with a letter from one or more certified non-profit organizations, stating that the organization is willing to accept you as a volunteer for purposes of fulfilling your community service.

Often, there is a standard fine that is attached to every sentence. It may be called a court fee, victim fund fee or restitution fund fee. Although the prosecutor may claim that these fines are mandatory and non-negotiable, in the recent past groups have avoided them by using Legal Solidarity tactics.

POLICE²

Misc

When dealing with the police, keep your hands in view and don't make sudden movements. Avoid passing behind them. Nervous cops are dangerous cops. Also, never touch the police or their equipment (vehicles, flashlights, animals, etc.)—you can be beat up and charged with assault.

Whenever you interact with or observe the police, always write down what is said and who said it. Record the officers' names and badge numbers and names of any witnesses.

The police do *not* decide your charges; they can only make recommendations. The prosecutor is the only person who can actually charge you. Remember this the next time the police start rattling off all the charges they're supposedly "going to give you."

Questioning

Interrogation isn't all bright lights and rubber hoses—usually it's just a conversation. Whenever cops ask you anything besides your name and address, it's legally safest to say these Magic Words: "*I am going to remain silent. I want a lawyer.*" This invokes the rights which protect you from interrogation.³

Remember, anything you say to the authorities can and *will* be used against you and your friends in court. There's no way to predict what the police might try to use or how they'd use it. Plus, the police often misquote or lie altogether about what was said. So say *only* the Magic Words and let everyone know that this is your policy.

Cops are legally allowed to lie when they're investigating, and they are trained to be manipulative. Insist upon speaking with friends and lawyers before you answer any

² ² In this section, we are using "police" as a catch-all term for all law enforcement officers. This includes sheriffs, FBI agents, highway patrolmen, etc.

³ ³ You have the rights not to be forced to say anything which would help prove you guilty and to have a lawyer present when the police are questioning you if you've been arrested. If you invoke either of these rights, the police have to stop questioning you. *You have these rights even if you are a minor or non-U.S. citizen.*

questions or sign anything.

JAIL

Booking

Booking is when the police take photographs, fingerprints and information like names and addresses. Booking is usually done at a police station, but in mass arrest situations, police will often set up a mobile booking station.

If you are taken to the station for booking, the jail guards will probably take your clothes and other belongings—they'll issue you uniforms and a receipt for your property. You do *not* have to sign the receipts. The authorities are legally required to return your property anyway (they mark it with your booking numbers.)

Giving false information is illegal and has occasionally resulted in extra charges. However, in most situations when using Legal Solidarity it is okay to just not give *any* information to the police, including name and address. Say the Magic Words: "*I'm going to remain silent. I want to see a lawyer.*" Some protesters have smudged their fingerprints, made funny faces during the photography, swapped clothing and ID bracelets, and engaged in other nonviolent acts. We are not aware of anyone who was actually convicted of resisting an officer for having done these things when a larger group was in solidarity with them.

If you don't want to give the police any information, don't bring your ID, library card, or anything else that has your name on it to the protest. Also, *all telephone calls from jail can be monitored*. Don't tell secrets on the phone! Work out codes with your group before you're arrested if you need to talk about private things on the phone.

Staying Healthy in Jail

Food

The jail is not going to give you regular vitamins, herbs or homeopathic medicine. If you have glucose, lactose or gluten intolerance or severe food allergies, get a doctor's letter (but don't expect the jail kitchen staff to be able to follow directions). You have a legal right to kosher food if you're Jewish and to a non-pork diet if you're Muslim. Vegetarians are generally told, "Just don't eat the meat." Vegans, fruitarians and macrobiotics are usually out of luck. Supporters and lawyers cannot bring in food. The best advice is to eat well before the action and do your best to manage with the regular jail food.

Medical Conditions

If you have a potentially dangerous medical condition (asthma, diabetes, seizures), wear a medic-alert bracelet. This will make the police and jail staff take you much more seriously if you start to have problems.

The only way to be sure you'll get your medication in jail is to bring a recently dated doctor's letter that explains what you need. Keep one copy of this letter with you, leave one copy with your affinity group supporters, and leave copies with your legal and medical teams. If you don't want to give your name, give your doctor a photo

to go with the letter, and have the doctor refer to you as "the patient in the attached photograph."

Note: You do *not* have to tell the cops or jail guards whether you're HIV positive or have AIDS.

Fasting

Fasting in jail can be a powerful tactic, but it's *very* dangerous a should be used only as a last resort. People with current or chronic medical conditions should not fast. Previous or current heavy drug or alcohol users also should not fast. When in doubt, *do not fast*.

In jail, you will generally be restricted to water fasting. Usually you can water fast for 2 or 3 weeks without injuring yourself. Gandhi never fasted longer than 3 weeks. We have compiled some information to help you stay healthy if you do decide to fast.

Even when only one person is fasting in jail, it is an affinity group action, and works best when decided through consensus. If demands are attached to the fast, question whether the demands can be met in the time you are willing to fast. Don't bullshit.

Fasts work best when done within a well-organized, supported and publicized framework. There are many things supporters can do to help, such as publicizing the fast or fasting themselves outside the jail. The public can become involved and sometimes even guards become concerned.

The effects of fasting can be felt in less than 12 hours. Effects can include headache, dizziness confusion, coating on the tongue, chills, lethargy, mood swings and weight loss. Hunger pangs can be intense for a period of time but disappear for most people after several days. Expect to be mentally slow, cloudy, and moody. *A few people **must** refrain from fasting so they can act as caretakers and facilitators.*

Your body goes through an intense detoxification process during a fast. Here are some ways to minimize harmful effects and discomfort:

- Drink plenty of water. Remember, keep your pee pale in jail. *If your urine turns dark, stop fasting.*
- Shower as often as possible.
- Brush your skin with a rough towel to help remove toxins.
- Your tongue also excretes toxins, so brush it and your teeth often.
- Try to keep yourself warm at all times. If possible, sneak extra sets of clothes, towels or sheets to hide under your jail uniform.
- Slow down!
- Be clear before you start your fast. You will not think as clearly after.
- Develop a system ahead of time which allows you to stop someone's fast without undermining her (e.g., after someone passes out twice, she has to stop fasting).

COURT

If you're in custody, the authorities are legally supposed to bring you to court within 72 hours (not including weekends and holidays). If you're not being held in jail, your first court date may be up to a month after arrest. When being released, demand that everyone gets the same court date (and back it up with a tactic). This makes it easier to support each other in court and harder for the authorities to single people out.

The first hearing is usually three separate hearings rolled into one—the appointment of counsel, the arraignment, and the bail hearing. The appointment of counsel is when you indicate who's going to represent you: yourself, a private attorney, or a court-appointed lawyer. At arraignment, you find out the charges against you, and you enter a plea. The bail hearing focuses on release issues: bail, bond, or release on your own recognizance (OR).

Release

The police decide whether to give you citations and release you from their custody. The judge decides whether to offer you bail, bond or OR for release from jail.

Citation: A citation is a promise to appear in court which usually looks like a traffic ticket. If everyone has decided to sign citations and be released (cite out), it is important to make sure that the people who are at risk get cited out first.

Bail: Bail is money you pay to the court, which they keep if you don't show up at your trial. A bail bondsman can put up the money for you, but you have to give the bondsman a percentage of the total bail (usually 10 percent), which she keeps as payment. Often, there is a pre-set bail for misdemeanors and lesser felonies which you can pay at the jail without waiting to go before a judge.

Bond: A bond is like bail except that you put up collateral instead of paying money. Collateral is something of value, like a car or house or land.

OR: Release on your own recognizance (OR, ROR or PR) is like \$0 bail. Usually you will only be released on your own recognizance if you can prove that: (1) you are not a danger to the community; and (2) you are likely to return for court appearances. You are likely to be kept in jail if you have an outstanding warrant; are already out on OR, bond or bail; are on probation or parole; have failed to appear for court dates in the past; have immigration problems; or are arrested with drugs or weapons in your possession.

Pleading

Pleas fall into two categories: Guilty and Not Guilty. Only plead Guilty if you've negotiated a plea bargain (plead out). Often people plead No Contest. This helps protect you from civil liability, but it's essentially the same as a Guilty plea. If you can't reach an acceptable plea bargain or simply want to have your day in court, plead Not Guilty and go to trial.

Judges are required to take silence as a plea of Not Guilty. Some people make creative pleas by saying something like: "I plead Guilty on behalf of the U.S. government . . ." or "I plead for the redwood trees . . ." Judges usually end up interpreting these creative pleas as Not Guilty.

When you plead Not Guilty, you will be given a trial date, but that doesn't mean you actually have to go to trial. There is normally a lot of negotiating between arraignment and trial, so pleading Not Guilty is often just an opening move in the bargaining process. You can change pleas from Not Guilty to Guilty to accept a plea bargain at any time (but not vice versa!)

If you're not ready to enter a plea, ask the judge for a continuance (an extension). Normally, judges will give you a week or so to discuss things with your lawyer (or to find a lawyer).

At a loss for words at arraignment? Here's a mouthful for the judge:
Your Honor, I am in solidarity with all the other activists here. We want to negotiate collectively with the prosecutor to work out a universal plea bargain. Until then, I will not give my name or promise to return to court if released. I plead Not Guilty; I do not waive time; and I request court-appointed counsel.

When engaging in Legal Solidarity, it is strategically better to insist on a speedy trial as a group, which will overburden the court and pressure the prosecutor—giving you leverage for a good plea bargain. If you are facing trial alone, you may want to waive a speedy trial, so as to increase the time available for your lawyer to prepare the case and write motions. This is a decision to be discussed with your attorney.

Court Appearances

You should be in court for every hearing. Although sometimes you can arrange to have a lawyer appear for you at a hearing, it's better to be there in person. Your presence shows the court (and the media) that you care about the case and that you are ready to fight. Also, being there ensures that you will have input into decisions and negotiations that come up in court.

If you have a trial, you have to be in court for every day of it. If you miss a scheduled hearing, the judge will usually issue a bench warrant. If you have an outstanding bench warrant and get into any kind of trouble (e.g., get pulled over), you'll probably be arrested. Judges may accept extreme excuses for missing a hearing, like funerals or medical emergencies. Conflicts with school or work are not acceptable excuses.

Trial

If you insist on a speedy trial, the trial usually occurs 30 to 90 days after arraignment. If you waive your right to a speedy trial, the trial might not start for many months. In both cases, there are usually hearings to make legal arguments before the trial itself.

At trial, you can testify if you want to. Your lawyer can have eye and ear witnesses testify, as well as having witnesses testify about your good character. The lawyer will cross-examine the witnesses who testify against you (usually cops) and will make opening and closing arguments. If you represent yourself (*pro per* or *pro se*), you do all of this yourself—it's a good idea to have a lawyer as advisory counsel or co-counsel, to help with technical matters.

You don't necessarily get a jury trial. The rules for this vary by jurisdiction. A

bench trial (a judge but no jury), means that the judge decides the verdict as well as deciding what will be allowed as testimony and evidence.

LAWYERS: WHAT'S THE USE?

There are some excellent lawyers with good politics out there who can be a great resource to coordinate with the legal team for the action. The legal team can be a working group for the action, an independent activist law collective (e.g. Midnight Special, or New York People's Law Collective), or a combination of the two. The legal team may or may not include lawyers. Usually, there are progressive attorneys' associations which will want to be involved, like the National Lawyers' Guild (NLG). Also, public defenders are usually interested. Public defenders are typically well-qualified attorneys who represent low-income defendants in criminal cases. (When the Public Defender's office cannot take a case, the court appoints a local private attorney who gets paid by the government.) These lawyers tend to be interested in helping with exciting political cases, but many of them don't understand consensus process or believe that Legal Solidarity can work. It's important to have clear communication with lawyers at all times.

Lawyers and Jail Solidarity

Before the action, the legal team should hold a few meetings with interested attorneys to work out roles and responsibilities. In the Jail Solidarity stage of Legal Solidarity, lawyers are used primarily for their ability to see you in custody—they transfer information to help you coordinate and make collective decisions, they help deal with problems that come up (like medical issues), and they can answer legal questions. Also, it's good to have friendly lawyers present during arraignments.

If you have prepared for arrests, activist/lawyer pairs from the legal team can be available to visit shortly after you are detained. The cops or guards frequently lie and say there isn't a lawyer there to see you or that you need to name a specific lawyer. You don't have to know a lawyer's name—just ask for "someone from the legal team." (If you haven't made arrangements, the situation is different. If you have a public defender, you're not likely to see her until court. With a private attorney, you may see her sooner.)

These lawyers are donating their time and you should show them respect, but remember that it's important for activists, not lawyers, to be in control of their own legal fates.

Lawyers and Court Solidarity

At the Court Solidarity stage of Legal Solidarity, lawyers are used for real lawyering—they prepare your case for trial, write motions, go to court, etc. When you move to Court Solidarity, you will need to have different meetings with lawyers. These meetings should include all activists facing trial and all of their public defenders and court appointed attorneys, as well as the legal team. (The activists need to meet on

their own ahead of time to get on the same page.) Note that this is a new group of lawyers who may be less familiar with Legal Solidarity.

Again, it's important that the activists maintain control. Give the lawyers questions and instructions in writing and ask for responses in writing to be sure that they understand what you want and that they do it. Above all, approach public defenders and court appointed lawyers with the understanding that they want to help you. Give them the chance to learn about you and your tactics, rather than rejecting potential allies simply because you got off on the wrong foot. If you get a public defender or court appointed lawyer who won't consult you or do what you want, ask them to withdraw from helping you. They may help you switch lawyers. If they do not withdraw voluntarily, *fire them* (during a hearing in front of the judge, if necessary) and work with the legal team to find another lawyer (or *go pro se*).

Lawyer Concerns

Many times lawyers have concerns about Legal Solidarity. Share written materials on consensus process and Legal Solidarity with the lawyers, including this handbook. Urge the attorneys to consult with colleagues who are experienced in Solidarity-based criminal defense, such as the legal team for the action. Here are some typical lawyer concerns and suggestions on how to neutralize them:

- Attorneys don't understand consensus process and worry the group will coerce individuals.
 - Explain that none of the tactics require everyone's participation to work, and that people who need to cite out or take deals are supported.
- Lawyers worry that collective plea bargaining is inherently unethical.
 - Explain that you want a plea bargain that has equal impact on everyone. As long as each defendant is making an informed decision, the attorney should not have an ethical dilemma. Also, explain to them that Legal Solidarity often results in superior plea bargains.
- Lawyers think that anything is better than staying in jail.
 - Explain that when you do jail time in groups with outside support, it isn't as bad as they think. Also, it is better to spend a couple of extra days inside with your friends in order to get a good plea bargain than to have to deal with fines (which put money from your pocket directly into the system) or probation (which keeps you out of the streets).

Vocabulary

BAIL - Amount of money you pay to the court to get out of jail before your trial or plea bargain; you get it back when you show up for your trial.

CHARGE - Accusation that a person has violated a law.

CITE OUT - Being released from police custody after signing a citation - a promise to show up in court (or sometimes pay a fine, like a speeding ticket).

FELONY - Serious crime, usually one punishable by imprisonment for over one year (e.g. assault with a deadly weapon).

HEARING - Proceeding to discuss the case with the judge, but not the trial itself.

There can be hearings to file or answer motions, to request lower bail, etc

INFRACTION - Small offense usually not punishable by jail time (e.g. jaywalking)

SOLIDARITY - Protecting each other through group decision-making and action.

LEGAL TEAM - Activists, and sometimes local lawyers, coordinating legal support for an action.

MINOR - Person less than 18 years old.

MISDEMEANOR - Crime punishable by a year or less in jail (e.g. trespassing).

MOTION - Legal argument to which the opposing lawyer or judge must respond.

SENTENCE - Punishment ordered by the court if you're convicted.

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