

# Direct Action Legal Guide

An excerpt from

## Headwaters 97'

Essential Information  
for Participants in  
1997 Headwaters  
Actions



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## AFFINITY GROUPS

Affinity/ action groups (AGs) are self-sufficient support systems of about 5 to 15 people. A number of AGs may work together toward a common goal in a large action, or one affinity group might conceive of and carry an action on its own. Sometimes, affinity groups remain together over a long period of time, existing as political support and/or study groups, and only occasionally participating in actions. Affinity groups are composed of people who have been brought together at a nonviolence training or have existing ties such as friendship, living in the same area, or working together.

The concept of affinity groups is not a new one; the name goes back to the “grupos de afinidad” of the anarchist movement in Spain in the early part of this century. When an occupation was planned at Seabrook, New Hampshire in 1976, the concept of affinity groups for the democratic organization of civil disobedience was used for the first time since the Spanish Civil War. Using nonviolent tactics and decentralized planning, coupled with the decade-old ideas of nonviolence training that came out of the civil rights and anti-Vietnam War movements, the affinity group structure caught on quickly. Actually, affinity groups are the oldest and most ubiquitous form of organization: small groups of friends who share an “affinity”.

AGs form the basic decision-making bodies of mass actions. They are usually considered autonomous to develop any form of participation they choose, as long as they remain within the nonviolence guidelines. Groups of AGs working together are sometimes called “clusters”. A large action can have several large “clusters” all working together. In large actions affinity groups usually send “spokes” to a “spokes council” meeting, to communicate, coordinate, and/or consolidate the different groups’ decisions and then bring the coordinated information or proposal back to their respective groups for their final discussion and approval.

AGs also serve as a source of support for the members and reinforce a sense of solidarity. They provide an alternative to the feelings of isolation or separation from the movement that come to individuals acting alone. By including all participants in a circle of familiarity and acquaintance, the AG structure reduces the possibility of infiltration by outside agents or provocateurs. If a new person asks to join an affinity group, she/he should find out what the group believes in and what they plan to do, and decide if she/he can share it.

The role of support in a civil disobedience action is crucial. Support people accept the responsibility of being visible, involved contact to the outside once a member of the affinity group is arrested. They are the personal extension of the care and concern affinity group shares among its members. During and after a mass action, support members need to stay in touch with support people from other affinity group, for information sharing and emotional support.

### **Before an Action:**

1. Know the people in your affinity group by name and description
2. Know where people who are arrested are to be taken.
3. Make a confidential list with the following information:
4. Name of arrestee
5. Name used for arrest
6. Whether or not individual wants bail, and when.
7. Who arrestee would like contacted and under what circumstances.
8. Special medical information or other special needs info.
9. Whether the individual plans to cooperate and in what ways.

### **For a Mass Action:**

1. Know who the support coordinators are.
2. Know the phone number of the action office.
3. Be sure group fills out affinity group check-in sheet.
4. Be sure your name phone number, where you can be reached, and how long you will be available to do support work are written on your affinity group's list.

### **During an Action**

1. Know boundaries of arrest and non-arrest areas.
2. Give emergency info about yourself to another support person.
3. Bring paper and pen, and lots of food for your AG
4. Hold ID, money, keys and other things for CDers.
5. Keep in touch with CDers for as long as possible, noting any changes in arrest strategies, etc.
6. Once arrests begin, write down each individual's name, and the time and nature of the arrest (get badge # of officer).
7. At least one support person should stay at place of arrest until all members of you group are arrest, and at least one should go to where those are being taken.

**At the Courthouse:** (if that's where CDers are taken)

Be present during arraignments, and try to keep track of the following info for each person of your AG. During a mass action, call this info into the office.

1. Name of judge or magistrate.
2. Name of CDer (Doe # if applicable.)

3. Charge.
4. Plea (Not Guilty, No Contest, Creative Plea, Guilty, etc.).
5. If found guilty, sentence imposed.
6. If not guilty:
  - Amount of bail, if applicable.
  - Whether bail is paid or not.
  - Date, time and place of trial.
7. Name of lawyer.
8. Any other info that seems relevant.

### **After the Action:**

1. Call whoever needs to be informed about each person arrested.
2. Go to trial or any other appearances of CDers.
3. Help gather information for pro se defendants.
4. In large actions let office and/or coordinators know when/if you have to leave town and give them all relevant information.
5. If CDers are in jail, it is important to have someone near a phone so that calls from jail may be received.
6. Contact office about people in jail and where they are being held.
7. Be prepared to bring medication to jail site for who ever needs it, and follow up on whether or not it has been administered.
8. Visit your group members in jail, and pass on any messages.
9. Take care of plants, pets, cars, etc. for CDers.
10. Write letters to the people in jail; organize a support vigil in front of the jail.
11. Be there to pick up CDers up when they are released from jail.
12. Support other support people—working together will ease the load.

## THE LEGAL PROCESS

### Preparation for possible arrest:

- Attend nonviolent training session if you have not already done so.
- Prepare yourself for arrest/jail experience by talking with those who have experienced civil disobedience and arrest.
- Carry NO weapons or contraband into the action. Carry prescription orders with you as identification and to facilitate having prescription drugs into jail.
- Make sure support people have necessary information about you (name, who to contact, your birthdate, special needs.)
- Keep quarters for phone calls in jail.

**The warning:** The sheriff will usually order you to leave.

This is the last opportunity to opt out. In a situation of mass arrests, it is sometimes difficult to get away at this point.

**The arrest:** There are several options (up to the individual, but the affinity groups should know who is doing what.):

Walking with the officer in an effort to communicate with him/her; or -

Going “limp” or non-cooperating in another nonviolent manner.

Police are not required to read you the Miranda Rights unless they are questioning you. You do have the right to remain silent.

Men and women will be separated either at arrest or jail. Write down as soon as possible details of your arrest. Record time and date, situation, officer name and badge number.

You are a witness and what you remember may be valuable to someone else in court later.

You are entitled to confer with a lawyer at any time before you say anything or agree to anything. Don't be afraid to ask for some on the legal team if you are confused or need clarification on the process. The officer does not have to tell you the grounds for arrest.

**Booking:** Usually done at jail but sometimes can be done in the field. Will be asked for ID, address and social security number, etc. How much information you give is up to you. Some activists carry no identification and/or refuse to answer objectionable questions. Refusal to

answer slows the whole process down considerably. You will be given a preliminary set of charges which are not final, but may be change at time of arraignment.

### Immediate release vs. jail:

**“Cite and release”:** for infractions (which cannot be punished by a jail sentence) and most misdemeanors (crimes for which you cannot be sentenced to state prison), you have the right to be cited (receive a ticket) and released, provided you show valid ID and sign a written promise to appear in court at a later date. Usually release occurs on the spot, but for many offenses the police can take you to the jail or substation for booking (fingerprinting, mug shot) first. Once you are in jail awaiting arraignment, authorities may offer to let you go if you sign a citation release form promising that you will appear in court at the appointed time for arraignment. In previous Forest Actions, this has sometimes been offered before “arrest”. This is called being released on O.R. (own recognizance). Failure to appear results in a bench warrant being issued on you. O.R. release is less burdensome to Sheriff and County both financially and in terms of personnel. “Citing out” tends to split up group solidarity and those who cite out maybe given individual court dates.

**No immediate release:** you will be jailed until you post bail or appear before a municipal court judge (AKA magistrate) if you refuse to sign the promise to appear, or the police arrest you for what they claim is a felony, or you have outstanding arrest warrants, or you are on probation or parole. Normally you will be brought before the judge on the day following arrest, but there may be a delay of one or more days if our action clogs the courts. Anyone arrested between Friday and Sunday who does not receive cite-and-release will probably not be taken to court until the following Monday or Tuesday.

**Jail conditions:** noisy, crowded, bad food, minimal if any medical care, no access to your own medications, usually not dangerous, handcuffing during all transportation and while in court.

**Access to telephone:** you should be allowed several local or collect long-distance calls within a few hours in jail.

**Access to lawyers:** lawyers can make jail visits at most times, but they may be limited to seeing their client(s) only. Public defenders have an incredibly crowded calendar, so they are unlikely to visit people who face only minor charges. You have a right to have a lawyer appointed at your first court appearance, provided you are charged with a misdemeanor or felony, but not an infraction). But if you can afford a lawyer, you may have to reimburse the county if you accept representation by the public defender unless that representation is very brief.

**Bail:** Sometimes, at arraignment or before the judge will set bail, which guarantees your later appearance in court. Also, if you plead “not guilty” a bail may be set or O.R. Refusal of bail has been a general commitment of Activists in the past. Bail solidarity is one means of assuring equal treatment to everyone, including repeat offenders, organizers and perhaps non-cooperators. Most importantly, it unifies the group into a powerful negotiating bloc in jail and in court. The police have a bail schedule, and will release you if you pay the whole amount immediately or post bond at the jail or with the court clerk. If you pay the entire bail, it will be refunded later after you make all required court, appearances. To post bond, someone has to give the bondsman 10% (non-recoverable) of the total amount and give collateral for the remaining 90%. Bail for minor offenses typically runs \$500-1000. Posting bail or bond is the only sure way to get released quickly, assuming you have no outstanding warrants and are not on probation.

**Arraignment:** This is an appearance before the judge in which the charges will be read to you. You will not be alone in courtroom; other protesters and lawyers for the action will be present. If you are confused about the charges or how to plea request that the judge grant you time to consult with one of the lawyers. You have a right to be arraigned within 42 hours not counting weekends or holidays. Activists in the past have demanded

a mass arraignment as means of assuring equal treatment, but it is up to the judge to grant it.

**Pleas:** Defendants have the option of pleading **not guilty, guilty, or no contest** (nolo contendere) A “not guilty” results in a trial. You have the right to be tried by a jury, to call witnesses and a right to cross-examine county’s witnesses. “No contest” has the same effect as a guilty plea for purpose of sentencing, however it does not admit culpability. Further, “no contest” plea is not evidence of guilt in the possibility of a civil suit.

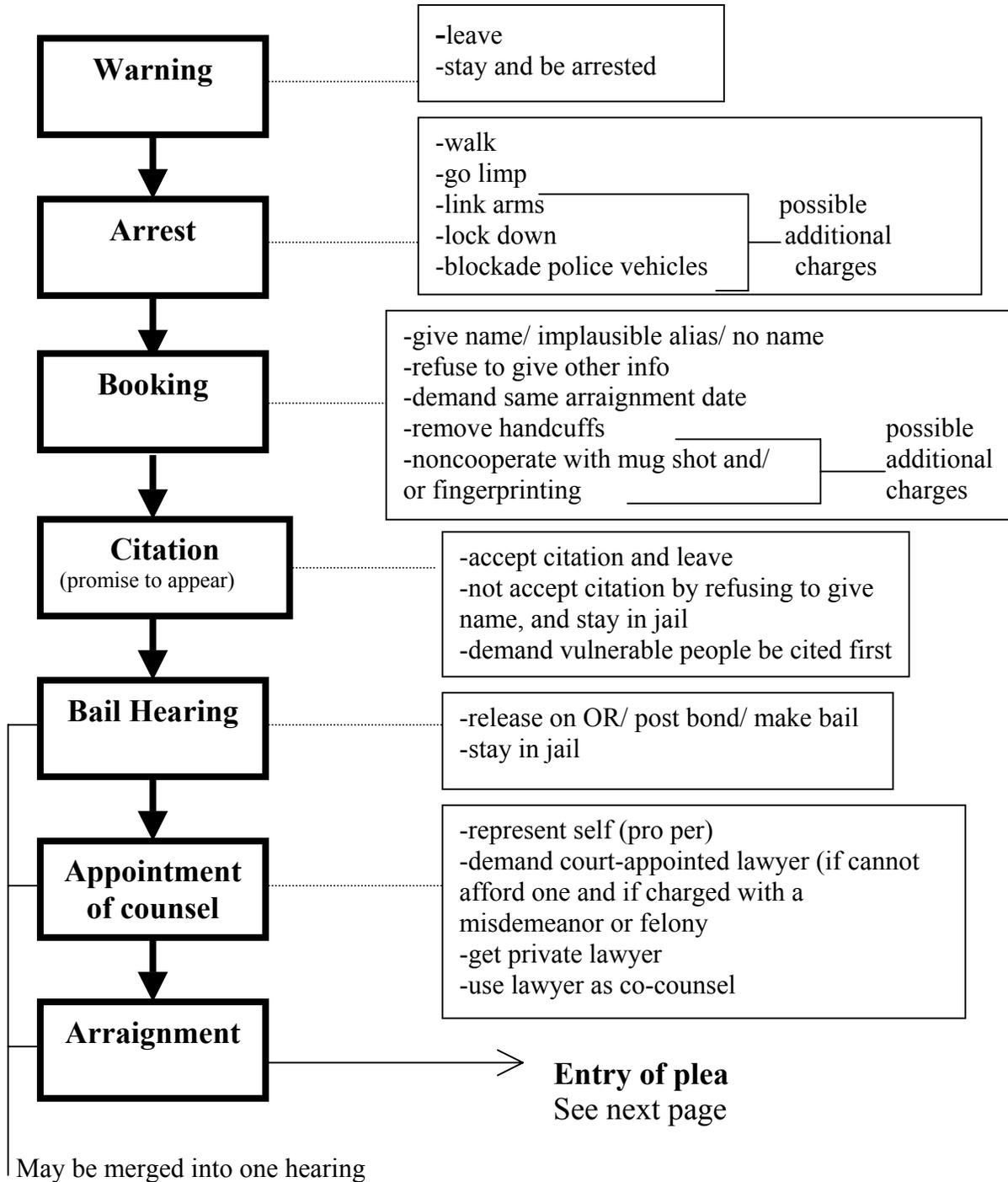
**Court dates:** for certain infractions you will be able to pay the fine by mail. If you live too far away to return for at least one court appearance, or you want to maintain group solidarity, consider refusing “cite-and-release” and demand an appearance before a magistrate. Regarding group solidarity, keep in mind that the judge can force immediate release on some by imposing “time served” without probation as punishment.

**Trials:** The decision to follow through with a trial is essentially a political one. Trials can be one way of changing consciousness and of outreach. A trial involves a major commitment of time, energy and sometimes money. We are in contact with lawyers who are interested in defending activists. One can always do their own trial pro per .

**Sentencing:** Sentencing is discretionary with the judge up to the statutory maximum. In lieu of jail or fines, the judge may offer probation, suspended sentence or several days community service. Traditionally, activists have refused to accept fines, probations, or suspended sentences. Their opposition to fines arises out of recognition that a vast majority of low-income defendants have not choice but to serve time in jail. Probation and suspended sentences are usually rejected for tactical reasons: Probation carries a condition that you will refrain from further acts of civil disobedience throughout the prescribed period. If you are found guilty in another action after receiving a suspended sentence, you will be immediately sentenced with a harsher penalty based on both incidents of civil disobedience.

## Legal Steps

## Your choices



**Entry of plea**  
From previous page

Demurer (not enough info in accusation to make a choice)

Negotiate deal with prosecutor & judge for:  
-diversion  
-probation  
-community service  
-fine  
-jail time

-not guilty -stand mute -creative plea	-guilty -nolo contendere (no contest- not denying charges) -Alford plea (innocent but pleading guilty anyway)
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**Speedy trial decision**

-demand speedy trial  
-waive right to speedy trial

**Hearings (0 - many)**

-file motions (get/ suppress evidence, dismiss charges, bury prosecutor in paper, draw out process)  
-negotiate plea at any point

**Trial**

-judge trial  
-jury trial (if charged with a misdemeanor or felony)  
-group trial/ individual trial atmosphere (circus/ conventional)

<b>Verdict</b>		
Not Guilty	Hung Jury	Guilty

**Sentencing**

**PARTY!**

Prosecutor decides:  
-retrial  
-dismiss charges

-make speech  
-stay silent  
-demand vulnerable people be sentenced first

## JAIL, SOLIDARITY AND NONCOOPERATION

Our approach to the legal system is up to us. We retain as much power as we refuse to relinquish to the government - city, state, or federal.

The criminal “justice” system functions to alienate and isolate the accused, to destroy one’s power and to weave a web of confusion and mystification around any legal proceedings. If we are prepared we can limit its negative personal and political effect. Bail solidarity, noncooperation and other forms of resistance can be used to reaffirm our position that we are not criminals and that we are taking positive steps toward saving the forests and the environment.

The decisions we make are political. The reaction of the government to what we are doing, to what we stand for, will also be political. We will have an impact in jail, in court, and during processing.

The sheriff or police may separate us from each other, breaking up affinity groups and possibly isolating individuals. Through solidarity with other demonstrators we maintain our spirits and effectiveness. Solidarity is more a state of mind that unites us through a long struggle than a specific course of action that everyone follows. Solidarity does not demand that everyone make the same choice in every situation. It is our dedication to support one another and to pursue our common goals at all times.

### **Five Good Reasons to Do Jail Solidarity**

1. Protect “repeat offenders” or other targeted individuals from discriminatory treatment.
2. Speed up our court appearances and sentencing, freeing us for work or other actions.
3. Let people from other areas avoid returning to the court for arraignment.
4. Allow us to serve our time in jail and court with the strength of the group, rather than as individuals.

5. Extend the action, keeping the attention of the public and the media, while demonstrating a strong commitment to effecting change.

For these and other reasons, jail solidarity strengthens our movement and gives us a greater sense of community. However, jail solidarity can weaken and divide us if people feel obliged to participate; the strength of solidarity comes from the agreement of all participants.

### **What Does Jail Feel Like?**

Jail is a lonely place. It aims to weaken solidarity, to try to isolate people from one another and reduce one's concentration to the demands of authority and of one's own survival. You can expect overcrowding, which means frustrating and irritating levels of noise and distraction, little personal space or privacy, scant regard for cleanliness. You must exercise patience, consideration and discipline to preserve peace and sanity. It will be difficult to sleep; there will be blaring radios and TVs, slamming bars and loud arguments, which may make you irritable and short tempered. Learn to watch for this in others and try to respect their need for space. Time will be distorted. Days will slip by but. Each hour will seem like eternity. Food will be starchy and dull (don't expect vegetarian menus). You and several other prisoners will be locked up most of the day in a cell containing only a toilet, sink and a few bunks.

You will learn to WAIT, for a phone call, a shower, a meal, the answer to a question, the time of day. The granting of the simplest courtesy, privileges or rights will be subject to the arbitrary whim of a particular guard trying to teach you to behave, submit, and obey. This can become boring and exhausting. Long exposure to jail, whether as a prisoner or a guard, tends to have a corrosive effect on one's confidence in human nature and goodness, and the guards are victims of this as well, although at least they get paid. They expect the worst

of people, and not surprisingly, they are not often disappointed. Their principal concern is to preserve order, which demands an atmosphere of unquestioning respect (fear for authority). Keep expecting that they should act with respect and compassion and you may be surprised by the results. Perhaps you will surprise them into remembering that they and the prisoners in their charge share a common humanity. At least you may establish a basis for dialogue. But at the same time that you recall the humanity of your guards, don't forget that, in the end, you and they have different jobs to perform. Let them be responsible for keeping order; you are responsible for keeping your conscience.

What exactly can you expect? Jails differ as to particular conditions, regulations and privileges allowed. Yet, jails are enough alike that it is possible to make some rough generalizations.

Though you should always (with discretion) be prepared to explain the politics and principles behind your arrest, don't expect that you are entitled to special privileges and treatment not extended to other prisoners. On the other hand, just because your body is detained doesn't mean you've got to turn in your conscience and convictions along with your other belongings. Whether in jail or on the "outside", the freedom we enjoy is always the freedom we claim for ourselves. Being under lock and key does not deprive you of your essential freedom as long as you continue to insist on your power to say "yes" or "no" within the limits of whatever situation you find yourself. It was your commitment to make decisions for yourself about what you should and shouldn't do that landed you in jail in the first place, and it remains a good principle to live by, even in jail.

### **Noncooperation & Jail Solidarity**

**Warning:** Lawyers frequently need to be brought up to date on political activism in jail. Very few lawyers have demonstration law

experience. You may need to explain why you don't want to get out of jail. Be gentle.

Non-cooperation ranges from total refusal to walk talk or eat, to refusal to give names or sign citations for release. The reason we decide to non-cooperate determines the form of our non-cooperation.

Jails and prisons are designed to make people feel powerless. Jail solidarity is one way we attempt to empower each other and ourselves.

Jail solidarity may be defined as an agreement between people in jail to act together for a common purpose. The ultimate objective of solidarity can be whatever everyone agrees on. It may be simply to demand that an activist be brought back from a separate cell. Or, it may be to ensure that everyone committing the same act be treated equally and fairly in jail and in court. Refusing citations, bail, fines, or probation often keeps us together in the system with the potential for collective bargaining.

For jail solidarity to be most effective, the potential reasons for solidarity and our feelings and concerns about solidarity should be discussed and resolved to the greatest extent possible before reaching jail. Jail creates panic.

One thing we can expect from the prison/legal system is different treatment for certain individuals or groups. These people risking harsher treatment usually include non-cooperators, repeat offenders, known organizers, people of color, lesbians and gay men.

Discussions of solidarity should always include the issues of how to give these people the extra protection they need. Other potential problems include people accused of violence or property damage. Despite our commitment to nonviolence, we can still be charged with violence. Further, if any of us have strong problems with acts that may be construed as damaging property, it should be discussed ahead of time.

People sometimes question the need to struggle inside the jails when our action's primary goal is something else. Some people

cannot afford the time jail solidarity may demand. Others find jail conditions physically or emotionally intolerable. Jail solidarity must never become coercive. The strength of our solidarity comes from the free agreement by all who can take part in it or support it. Those who must leave jail are not betraying the group. There are many ways they can continue supporting those inside: by speaking to the media, to the movement and to the public about why people went to jail or about the morale of people inside, by fulfilling responsibilities for those inside, by carrying messages to family, friends and employers.

The power of solidarity lies in three basic facts:

1. In a mass arrest situation the authorities cannot process us - in the jailhouse or in the courtroom - without cooperation.
2. It is very expensive to keep us in jail and deal with us in court.
3. There is little room for us in the already overcrowded prison system

### **The Legal Process and Solidarity**

This information is based on two years' experience with demonstrations at Headwaters, as well as several decades' participation in mass actions at other sites. The past is usually a good predictor of the future, but not always. The one thing we know for sure is: the more people we have and the more we use solidarity tactics, the better we will be treated.

Please take a look at the lovely "legal steps and choices chart," which precedes this section. It's a road map to the legal process and will make all these explanations much clearer. Observe that virtually every stage in the legal process gives us the opportunity to use solidarity tactics.

### **So just how do we use solidarity tactics in the legal system?**

Every time there's a choice in the legal process, we can either cooperate or make things more difficult for the authorities. Solidarity tactics mean that we non-cooperate as a group, unless the authorities agree to our demands. We should demand, for example,

that everyone be treated the same (given the same charges and the same sentence). If we're in custody, we might need to demand that a person who is sick or hurt be given immediate medical treatment. Again, in custody, we might have to demand that a person whom the authorities locked up separately, be brought back and kept with the rest of us. Types of non-cooperation include:

### **Physical Non-Cooperation Techniques**

refusing to answer questions

refusing to walk

refusing to hold still

refusing to stop singing or dancing

refusing to eat

refusing to wear clothes

### **Legal Process Non-Cooperation Technique**

refusing to give our names or promise to appear in court (which forces the authorities to keep us locked up, clogging the jail system)

demanding to have the court appoint a free attorney to defend every indigent (low-income) defendant (which creates a vast amount of paperwork for the court and prosecution, as well as a huge expense for the county)

refusing to plead guilty (which forces the authorities to hold trials, clogging the court system)

refusing to "waive time" for a speedy trial (which forces authorities to bring everyone to trial within 30 or 45 days of their first court appearance, as opposed to scheduling trials to start months later at the authorities' convenience) fighting the case vigorously before trial, by creating lots of paperwork and insisting on lots of hearings in court

Remember that physical non-cooperation (other than refusing to answer questions) could potentially result in charges of resisting an officer, but that's usually just threatened, not actually imposed. There are many creative ways to non-cooperate, beyond this short list, and it's good to mix-and-match. Groups should make sure to talk in advance about

which solidarity demands and which types of non-cooperation they might want to use. It's not necessary for everyone in the group to participate in a given non-cooperation tactic, in order for it to work. And sometimes one or two of us may choose to non-cooperate in a particular way by ourselves, as our own political statement. (For example, perhaps just

one or two people want to go limp when they're arrested or fast when they're in jail.) But to use non-cooperation as a solidarity tactic, in order to get the authorities to agree to our demands, you want to have enough people participating that it seriously inconveniences the authorities.

## QUESTIONS AND ANSWERS REGARDING CIVIL DISOBEDIENCE

### What crimes could we be charged with?

Protestors are usually charged with **infractions** (any crime not punishable by jail time) or **misdemeanors** (any crime punishable by a year in jail or less).

Infractions include: trespassing and jaywalking. Misdemeanors include: (also) trespassing; blocking the road; minor property damage/destruction; and resisting an officer.

Sometimes we are charged with **felonies** (any crime punishable by over a year in jail), such as conspiracy or major property destruction. However, People are only entitled to court-appointed attorneys if they're facing jail-time. So if you're charged with an infraction, for example, the judge won't appoint a free attorney for you. Our experience with nonviolent civil resistance is that these felony charges have nearly always been dropped.

Prosecutors simply use them as a scare tactic, or bargaining tool. In the same fashion, prosecutors will often pile up misdemeanor charges, in order to be able to say: 'We're charging the defendants with damaging property, resisting an officer, and trespass; but we'll drop the first two charges, if they'll plead guilty to trespass.'

If you bring weapons (including your trusty pocketknife) or illegal drugs to the action, you are likely to get additional charges—maybe very serious ones. So double-check your pockets and bags. It creates hassles for everyone if you get busted for drugs or weapons, and puts a major strain on solidarity.

### What's the likely penalty, if we get arrested?

In prior actions at Headwaters, there were two main outcomes. Those who participated in the giant, "crossing the line" action at the outset of each year's campaign were charged with infraction-level trespassing. Most of those infraction charges have been or are likely to be dropped. The penalty for first-time infraction-level trespassing is: a \$10 fine, plus \$17 assessment for court expenses. If you already have a conviction for trespassing, then the penalty can go up to: \$100 fine, plus \$170 assessment, plus 10% interest if you make time payments. So far, comparatively few people have a prior conviction for trespassing, because most of the charges have been dropped (and some people have beaten their charges at trial).

On the other hand, those who participated in later, smaller actions—for example, five to ten people locking down or sitting in trees—were charged with misdemeanor-level trespassing and other misdemeanors. Most of these people ended up spending a week or two in jail, or doing up to 50 hours of community service, and received convictions for trespassing.

However, the government's approach may well change. In the ultimate worst case scenario, everyone could be prosecuted for misdemeanors, found guilty, and receive the maximum sentence (six months, for most misdemeanors). While we try to be prepared for harsh sentences, we know that the actual amount of time served during the mass actions

in the past has actually been relatively short—mostly just a few hours in custody on a bus.

Instead of or in addition to jail sentences, judges frequently impose fines, community service and/or probation or diversion. It's important for affinity groups to discuss—in advance—what types of sentences people are willing to accept, if they want to negotiate a plea rather than go to trial. It helps immensely if those risking arrest, their supporters and their attorneys know in advance what their bottom line is. The following definitions may be helpful. Some people prefer the term “civil disobedience” and some like ‘civil resistance.’”

They are used interchangeably in this handout. **Credit for time served:** You get credit for any day (or part of a day) which you spend in custody, and this is applied to your sentence. Sometimes you negotiate a plea bargain in which the sentence is just the time already spent in custody, with no other penalties. So in legalese, your bargaining position would be: “We want credit for time served, no fines, no probation.” **Diversion:**

This is a program in which you do community service and pay an administrative fee. Once you complete the requirements, the charges against you are dismissed—so you don't get a conviction on your record. Usually, you can only get diversion once, for the first offense. **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 whom you can see, where you can go, how often you get drug-tested, etc. If you're on informal probation (also called “court probation”), you don't have anybody supervising you; nothing happens unless you get arrested for something new (like another protest, for example). If you are accused of having violated the conditions of your probation, you will receive only a rather streamlined hearing, not a full trial. If the judge decides that you did violate, the judge may sentence you to jail sentence which the judge will impose if you later violate probation). Obviously, being on probation will interfere with your participating in other civil resistance actions. **Restitution:** If you are being sentenced for having damaged property

or stolen something, the judge often tries to make you pay the victim money, as restitution. Of course, if your income is completely eaten up by your necessary expenses, then the court can't take your money. But restitution orders are generally in effect for many years, so if you had more money later, the court could take it (including garnishing your wages or seizing your tax return). It's particularly dangerous to agree to a plea bargain in which you'll pay restitution, without knowing exactly how much money is involved.

### **How does plea bargaining work and who determines the actual sentence?**

Plea-bargaining is the negotiation process we engage in with the prosecutor and judge. And we're the ones who determine the actual sentence, to an extent. The more people we have arrested and the stronger our solidarity, the easier it is to plea bargain. Small groups can also plea bargain pretty effectively, if they're willing to go to trial. We can use lawyers as go-betweens with the prosecutors and judges, or we can speak for ourselves. The main thing is that we've first got to get consensus on what our demands are, and what we're willing to do to back them up. Some plea bargains which have been negotiated in various mass actions of the past are: Each of us does 5 hours of community service, at any organization or event. We each report this to our attorneys, who then report it to the court, whereupon all charges are dropped. Each of us gets diversion, and we each do 8 hours of community service at any organization or event, with no 'administrative fees' to the diversion program-

We each plead guilty to an infraction and each of us is sentenced to one day in jail, time served (since we each spent time in custody on the day of the arrest).'

A key element of any plea bargain in a mass action is that everyone who acted within the nonviolence guidelines gets the same deal. This can be hard for prosecutors and judges to understand, because they think that if two defendants committed different acts—one walked when arrested and the other went limp

and was charged with resisting—then the noncooperative defendant must necessarily receive a harsher sentence. Similarly, prosecutors and judges feel entitled to deal more harshly with defendants who have prior convictions, to “teach those repeat offenders a lesson. “ We have to educate the authorities very firmly, until they understand that equal treatment is absolutely necessary and non-negotiable.

### **What is ‘citing out,’ and how is it different from other types of release, like bail?**

Citing out is a type of release from custody in which you sign a promise to appear in court, the “citation” (usually a form which looks like a traffic ticket). It’s up to the police whether or not to offer you citation release, and it happens around the time you’re arrested. The police can cite you with or without booking you (taking information, photo, fingerprints). In large actions, the police often desperately want everyone to cite out, because the authorities do not have the resources to keep everyone in custody. At some demonstrations, police have even released people who wouldn’t give their names—the police ended up writing citations to John or Jane Doe and dropping them at the feet of the protestors who, of course, did not sign them. If everyone has decided to cite out, check whether there are people who are “at risk, “ whom the authorities might try to keep them in custody because of warrants, immigration status, extra charges, etc. Make sure that these people get cited out first.

Bail, bond and release on your own recognizance are other forms of release. It’s up to the judge whether or not to offer you these types of release, and it usually happens around the time you first get to court (having been in jail meanwhile).

Bail is money which you pay to the court, to be forfeit if you don’t appear at scheduled hearings. You get it back when the case is all over. You can either put up all the bail money yourself, or have a bail bondsperson put up the money for you (but you have to give the bondsperson 10% of the total bail, which s/he

keeps as payment). Often, there is a pre-set bail for misdemeanors which you can pay at the jail, without waiting to go before a judge. A typical misdemeanor bail is \$500. Bond is a promise you make to come to court for scheduled hearings. Usually, you put up collateral to be forfeit if you don’t appear at scheduled hearings. Collateral is something of value, like a car or house or land.

Release on your own recognizance (OR) is simply your promise to come to court for scheduled hearings. The judge is relying on your word, without your having to put up money or collateral. Usually, you will only be released on your own recognizance if you can prove that you don’t have a record of failures to appear, and have ties to the community, like a home, job, school, family, etc.

### **What exactly is resisting an officer?**

Resisting an officer is generally physical, not verbal. Struggling with the police is obviously resisting (and can result in other more serious charges, like ‘battery on a peace officer’). Even passive physical resistance, such as going limp, is legally considered resisting an officer. However, refusing to answer questions is not resisting. Usually at least some protestors in any mass action are initially charged with resisting an officer—but we can protect them by using solidarity tactics to demand that everyone receive the same charges and the same sentence.

### **What happens if I damage property?**

Property damage which has occurred in previous mass civil resistance actions has included things like: cutting fences, painting messages, taking up train tracks, etc. In California, the penalties for property damage include fines and restitution, as well as the following maximum periods of incarceration:

damage up to \$400	up to 6 months
damage over \$400	up to 1 year

## **Is it really a felony to merely touch a police officer?**

Yes. Simply reaching over and touching an officer with your fingers is a “battery upon a peace officer. “ Obviously, an officer can lay hands on you; but you should not initiate contact with them with any part of your body or belongings. In one recent case, a line of officers stood right in front of a crowd of protesters; the crowd moved forward a little and a protester at the front lost his balance; he set his hand on the forearm of one of the officers, to keep from falling down—and he was charged with battery. Although such charges can be fought in court, as well as with solidarity tactics, it’s best to be very careful to avoid unnecessary contact.

‘There is one possible exception to this: one appeals court in California held that a person who refuses to give his name when being booked on felony charges is resisting arrest. But other courts might rule differently. In any case, people being booked on misdemeanor charges are not resisting arrest if they refuse to give their names. And refusing to give information other than your name is not resisting arrest.

## **What should I say to the police, the sheriffs or the FBI?**

Whenever law enforcement officials ask you questions beyond name and address, it’s legally safest to say these magic words: ‘I don’t want to answer Questions: I want a lawyer. “ These phrases invoke the constitutional rights which protect you from police interrogation.’ - It’s a kind of charm. Once you say the magic words, the authorities are supposed to stop questioning you. If they don’t stop, just keep repeating the magic words, like a kind of legal mantra.

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 might misquote you or lie altogether about what you said. So it’s good to make a habit of saying only the magic

words, and letting everyone know that this is your policy.

Of course, we all want to educate the law enforcement authorities about political issues. But we can do that by handing them a leaflet. It’s pretty silly to think that we can win at word games with the police or FBI, and turn their interrogation into a political dialogue. Questioning witnesses and suspects is what they do for a living. Dollars to donuts, they will pretend to be quite interested and sympathetic to your cause, while gathering information which might convict you or others of a crime. It won’t seem like an ‘interrogation’—it will feel like a casual conversation or friendly argument. So don’t be sucked in. Just tell them, “I don’t want to answer questions; I want a lawyer.”

Know that the authorities are legally allowed to lie, when they’re investigating! So they may tell you that you need to answer their questions or bring them some documents, in order to “clear” yourself or your friends. This trick is certainly as old as the redwoods. Insist upon verifying this with your friends or with a defense lawyer who can prove s/he has had direct contact with your friends.

Sometimes the authorities tell you that it’s okay to answer their questions because you’re not under suspicion, you’re just a witness. It’s awfully easy to go from being a witness to being a suspect, once you start answering questions. Just say the magic words.

You have the right, under the Fifth Amendment to the US Constitution, not to be forced to say things which would incriminate you (help prove you guilty). And you have the right, under the Sixth Amendment to the US Constitution, to have a lawyer present when the police are questioning you. So if you invoke either of these rights, the police have to stop questioning you.

Be particularly suspicious if you are in custody and an officer (or an unfamiliar person claiming to be a defense lawyer) comes and tells you that everyone else has agreed to a particular deal, or everyone else has agreed to leave jail. Demand to see a trusted lawyer or

another activist, to verify this information. If you don't think you'll remember the magic words when you need them, write them on your forearm, preferably with something, which won't wash off too easily.

### **What if the police don't read me my rights?**

They don't actually have to, unless (1) you've been arrested and (2) the police actually want to ask you questions other than your name and address. The police are not likely to question you if you engaged in a mass action. They may try to question you if you were part of a smaller action. Anytime the police ask you questions, whether or not you've been arrested, and whether or not they've read you your rights, it's best to say the magic words: 'I don't want to answer questions; I want a lawyer.'

### **What happens during booking, and how much do I have to cooperate?**

Booking is the process in which the police take your photograph, your fingerprints and information such as name and address. They usually take your property, too, and are supposed to give you a receipt for it. Field booking happens at the scene of the arrest, is sometimes not too thorough, and is usually followed by citation release. By contrast, booking at jail is usually pretty thorough, often involving body searches. If you're not making bail right away, the jail authorities take your clothes and other belongings, and issue you a uniform. Refusing to give information at booking is not a crime. It's perfectly legal to withhold any or all information, because you have the right to remain silent. You can just say the magic words: 'I don't want to answer questions; I want a lawyer.' Remember that giving false information is illegal and has occasionally resulted in extra charges. Physical non-cooperation is also illegal, but somewhat less serious. Some protestors have smudged their fingerprints, made funny faces during the photography, and engaged in other nonviolent acts. We are not aware of anyone who was actually convicted of resisting an officer for having done this, at least when solidarity is a factor. At the risk of pointing

out the obvious, if you decline to give the police any information, but accidentally leave your wallet in your pocket, your plans will be foiled.

### **What if I give a name other than my legal name?**

It is a misdemeanor to give a false name to a police officer, but only if you're doing it with the specific intention of avoiding being identified or being subjected to legal proceedings. This seems to leave a loophole for those who use a false name with some other intention. For example, if you tell the police that your name is Charles Hurwitz, in order to have Charles get in trouble instead of you, you would be violating the law. On the other hand, if you give the name Charles Hurwitz in order to make a political statement, that might not be a violation of law. In that situation, it would be safer if you explained that this was not your given name and laid out your political reason for using it. You could say something like: 'I'm using the name Charles Hurwitz today, which is not my given name, in order to show that the real criminal in this case is the man responsible for massive embezzlement from the public and environmental crimes including destruction of old-growth redwood forest ecosystems.' Activists considering this tactic should be aware that it is based on a legal theory which has not yet been tested in court.

### **Where would we be locked up, if we're actually detained?**

Normally, if people are kept in custody more than a few hours, they're taken to jail. In Humboldt County, CA, there is a new jail, built for the Headwaters protesters, designed to hold 300 prisoners, but it's already pretty full. If a great many people were arrested and the government really wanted to keep us all in custody, the authorities could commandeer a building, such as a gymnasium or empty school, or they could erect tents, for use as a temporary jail. Or the police could just end up letting everyone go, even if the arrestees didn't cooperate with the citation process. It's been known to happen.

### **What about phone calls from jail?**

We're each entitled to three completed local phone calls, once we're booked. Sometimes, the jail telephones are rigged so that you can only make collect calls. All jail telephone calls can be monitored, including calls to lawyers, and there's no telltale beeping or other indicator. So if you are calling from jail, you must not discuss anything which is supposed to be a secret! If necessary, work out codes with your affinity group before you're arrested, so that you can refer to private matters during a jail phone call. Make sure to call your affinity group, to let them know everyone's all right or that someone has "disappeared" or is having a problem. If you can't remember important phone numbers, write them on your body somewhere—the authorities may take away any papers you brought with you.

### **After I'm arrested, when do I get to see a lawyer?**

That depends on how soon and how firmly we ask for one. If we are in a large group and refuse to cooperate until we see a lawyer, the police or jail authorities will usually let one in to see us. Even if we haven't been booked yet, and are just sitting on a police bus, we can probably insist on having a lawyer let in to talk to us.

During an action, lawyers are useful chiefly for passing messages between groups of protesters who are being detained in different places or different parts of a jail. Since people need to coordinate, in order to do effective jail solidarity, different groups will want to be in communication with each other. When a lawyer arrives, we have to make sure to use good meeting techniques. It's critical to have a facilitator (other than the lawyer), to organize questions and proposals. We control the decision-making process—not the police or the lawyers.

Sometimes, the police or jail authorities lie and say there isn't a lawyer there for us. Also, the authorities may insist that we give them the name of a specific lawyer. The best solution, unless you know for sure that there's a

particular lawyer waiting to see you, is just to keep insisting that the authorities bring you a lawyer. Very often there's a lawyer waiting anxiously to talk to us, who won't be allowed in until we exert pressure.

### **What if we're having a meeting on the bus, in jail or in the courthouse, about solidarity issues, and the authorities come and tell us we have to go somewhere?**

We must never, ever let the police, the jail authorities or any lawyers push us into rushed decisions. If we're being rushed, we just have to bargain for more time. After all, it's simpler for the authorities to give us another 15 minutes to come to consensus, than for them to carry a bus-full or room-full of limp bodies.

### **When do I go to court for the first time, and what do I do when I get there?**

If we're in custody, the authorities are legally supposed to bring us to court within two business days. However, the authorities in Humboldt County have been screwing around and taking as long as six days to bring activists to court. Solidarity tactics and litigation may have to be used on this issue.

If you've been released, then your first court date should be written on your citation or release form. Sometimes the authorities try to release us without a date, saying they'll send a notice with the date later. That makes it easy for the authorities to process everyone and/or to prosecute some but not others. If you're being released on citation or otherwise, demand to have the same court date as everyone else.

At the first court appearance, we usually deal with release issues: bail, bond or OR (see above). We also usually say whether we're going to represent ourselves, or have an attorney already, or want the court to appoint one. And we find out what the charges are and enter a plea. Sometimes these three processes happen at separate hearings, called respectively a "bail hearing," "appointment of

counsel, “ and “arraignment. “ Sometimes they all happen at the first hearing.

Remember that you’re only entitled to have the court give you a free lawyer if (1) you’re indigent, and (2) you’re charged with a crime for which you could be sent to jail. Indigent means low-income, and you have to show that your necessary expenses eat up all your income. Crimes for which you could be sent to jail are most misdemeanors and all felonies; infractions do not require jailtime. Lately, the courts in Humboldt County have been demanding that indigent defendants pay a \$25 administrative fee, in order to get a free lawyer (unless the defendant can prove that s/he has no money at all).

Know that the charges which the police write down when they arrest us are not necessarily the charges which the prosecutor uses. The police’s charges are just a suggestion. It’s the prosecutor who decides the real charges, and s/he can change them up until we actually start trial. Charges are a matter for negotiation using solidarity.

In order to enter a plea, you first have to decide whether there is enough information in the “complaint” (the document from the prosecutor, which lists your charges) for you to make a decision. If there isn’t, then you make a “demurrer” (pronounced demur). A demurrer is generally just an opening move. You’d want to talk to a lawyer to see whether there’s a valid legal or strategic reason to make one. Once you’ve past the stage of demurrer, you need to enter a plea.

If we’ve negotiated an adequate deal with the judge and prosecutor, we plead out. You can enter a plea of guilty, nolo contendere or an Alford plea. Nolo contendere is a Latin phrase meaning, “I don’t contest [the charges].” An Alford plea is when you plead guilty for practical reasons, even though you believe you’re innocent. (Mr. Alford had a choice. He could plead guilty and get life in prison. Or he could plead not guilty and go to trial. If

he won, he’d be free. But if he lost, he’d be put to death. Even though he knew he was innocent, he didn’t feel that he’d have very good odds at trial. So he took life in prison, rather than gamble at the tables of justice.) Some judges resist letting defendants plead nolo contendere or make an Alford plea. This can be a subject for negotiation, too.

If we haven’t got a deal we can accept, or we feel like litigating, we plead not guilty and go to trial. You can also stand mute, that is, refuse to answer when the judge asks how you plead. Judges are required to take silence as a plea of not guilty. A third option is not really answering the judge’s question the way s/he expects, by saying something like: “I plead guilty on behalf of Charles Hurwitz...” or “I plead for the trees...” Judges usually end up interpreting these creative pleas as not guilty. They may dialogue with you to try to get you to plead in the normal way.

Once we plead not guilty, we’re on our way to trial. And we have one more important decision to make at the arraignment hearing. We have to say whether or not we want a speedy trial, which is our constitutional right. We get a trial within 30 days if we’re in jail, and within 45 days if we’ve been released. Demanding a speedy trial, if there have been many arrests, would totally jam the courts. On the other hand, it wouldn’t give our lawyers much time to write motions and do other legal maneuvers. This is a decision to be discussed with the attorneys. Most attorneys are used to waiving the right to a speedy trial, since they usually want plenty of time to file motions and prepare for trial. But that may not be the strategic move in a situation in which there are massive numbers.

Even though we start out going to trial, we’re not committed. We can change our plea from not guilty to guilty at any time (but we can’t change the other way, from guilty to not guilty). We can also change in either direction about whether we want a speedy trial. There’s always a great deal of plea bargaining between arraignment and trial. Pleading not guilty is

often merely an opening move, to start the bargaining process.

If we haven't yet got a negotiated deal, and we're not staying in jail, there will be a process for keeping everybody informed of what's going on. It's up to each of us to make sure we're on the right mailing and phone lists so that we're kept up to date.

### **How can I plead not guilty, when I deliberately let myself be arrested?**

Well, do you feel guilty and ashamed of what you did, or are you proud of your action?

If what you did was a right thing, then it would-be inconsistent for you to be punished for it. Gandhi, who put a lot of thought into this, pled not guilty when he was brought to trial.

Many people misquote Gandhi, on the issue of submitting to punishment for civil

disobedience. You'll hear judges and prosecutors, for example, saying that protestors should "submit cheerfully to the highest penalty." Of course, that statement is taken out of context. What Gandhi was really doing was presenting the judge with a moral dilemma: either condemn what I did and punish me, or (since you claim you agree with me) set me free. He was confronting the hypocrisy of judges who say, "I admire you and agree with your goals, but it's my duty to follow the law and find you guilty."

"Nonviolence implies voluntary submission to the penalty for noncooperation with evil. I am here, therefore, to invite and submit cheerfully to the highest penalty that can be inflicted upon me for what in law is deliberate crime, and what appears to me to be the highest duty of a citizen. The only course open to you, the judge and assessors, is either to resign your posts and thus dissociate yourselves from evil, if you feel that the law you are called upon to administer is an evil, and that in reality I am innocent, or to inflict on me the severest penalty, if you believe that the system and the law you assisting to administer are good for the people of this country, and that my activity

is, therefore, injurious to the common weal." (M.K. Gandhi)

### **When does the trial happen and what do I do at it?**

If we didn't waive time, then trial happens in 30 or 45 days (see above). If we did waive time, trial might not happen for months. There may be many hearings and motions (legal arguments) made before trial actually begins.

At the trial itself, you're entitled to testify, if you want to. The judge may try to forbid us to talk about anything political, on the grounds that it would be irrelevant. But when enough people are involved, this could become a matter for negotiation. Clever lawyers may also be able to get around the judge's prohibitions, but there's considerable precedent (published analyses of other trials, on which judges rely) supporting the notion that judges can forbid discussion of political matters at trial. You should be able to put on witnesses who saw what happened at your arrest. You could also put on witnesses to testify about your good character and reputation for honesty.

You might be able to put on expert witnesses to talk about ecology, etc., but the judge would probably try to forbid them, since they'd be labeled political and irrelevant. You also have the right to cross-examine the witnesses against you, who would probably be police officers. And you get to make opening and closing arguments. Of course, if you are represented by a lawyer, it's the lawyer who handles witnesses and make the opening and closing arguments, etc.—you would just get to testify. Sometimes, judges allow defendants to represent themselves (pro per) while having a lawyer as co-counsel, so that the defendant can talk when s/he likes, but have the lawyer take over if necessary. Judges generally don't like this idea, but of course it can become a matter for negotiation if there are enough people.

Remember that you get a jury trial only if you're charged with a misdemeanor or felony.

If you're merely charged with an infraction, you just get a "bench trial" (a judge trial). At a bench trial, the judge decides the verdict, as,

well as deciding what will be allowed as testimony and evidence. Sounds fishy, eh?

At the end of the trial is the verdict: guilty, not guilty, or a hung jury (if you got a jury).

If we've been found not guilty, we party. If we've gotten a hung jury (the jury couldn't come to consensus on the verdict), then the prosecutor gets to decide whether to retry us, or dismiss the case, or offer us a deal. Often, prosecutors just give up at this point. And if we're found guilty, then the judge sentences us. The judge can either sentence us immediately after the guilty verdict, or set a separate hearing just for sentencing.

### **When do I actually have to go court, instead of having a lawyer appear for me?**

Unless we've used solidarity to negotiate some other procedure, we each have to be in court for the arraignment. The judge needs to hear from you personally whether you're pleading guilty or not guilty. If you miss a scheduled hearing, the judge can issue a bench warrant for your arrest. Then later, if you got stopped for a traffic violation, for example, the police could take you to jail because of that bench warrant. Excuses which judges may accept for not appearing are things like funerals or medical emergencies, not school or work. Sometimes, we accept a deal at arraignment, so that could be both your first and your last appearance. If you start out as not guilty, and then plea bargain to an acceptable deal, you usually have to come in to court to change your plea. But you might include in the deal the condition that you can change your plea in writing or through an attorney. Naturally, if you do have a trial, you should be in court for every day of it. And if you go all the way through trial, and lose, you may have to come back for a sentencing hearing (unless the judge sentences you immediately).

### **What happens at sentencing?**

We pack the courthouse. We invite our affinity groups and the media. We make speeches because we have the 'right to allocution.' This sentencing statement is normally a chance to beg for mercy and explain mitigating factors—but we use it as a

chance to discuss political matters, especially if we didn't get to at trial.

### **What if I'm currently on probation or have an outstanding warrant?**

If you're on probation, parole or have a warrant out for your arrest, you have an obligation to inform your affinity group before doing civil resistance. Obviously, if you want to take the risk of violating the conditions of your probation or parole, or of being kept in custody because of a warrant, that's your choice. But that means you're likely to be treated differently from everyone else—i.e., kept in jail. So you need to discuss with the group whether you and/or they want to apply solidarity tactics in this situation. Needless to say, it makes sense to pay off traffic tickets which have gone to warrant, before participating in the action.

### **How do I handle disabilities so I can participate fully in the action?**

Make sure your affinity group members know about any access issues you face. For example, if you use a wheelchair and will require assistance with non-accessible bathrooms, your affinity group needs to know, so they can arrange to have people available to act as attendants. If you have a hidden disability, your affinity group needs to know that, too. For example, if you have dyslexia or seizures, your affinity group members need to know how and when they can help you. (Jails often separate those of us with obvious disabilities, like people who use wheelchairs, putting them in the infirmary, where they're generally neglected.) It's an important solidarity issue that we refuse to let the authorities separate people with disabilities.

### **How do I handle medical needs so I can participate fully in the action?**

If you have a potentially dangerous medical condition, wear a "medic-alert bracelet. People with asthma, diabetes, seizures, etc. should wear a bracelet while they participate in the action. This will make the police and jail staff take you much more seriously if you start to have difficulties.

The only way to ensure receiving medication while in jail is to bring a recently dated doctor's letter explaining your requirements. Make four copies of the doctor's letter. Keep two copies of this letter on your person (one to keep and one to give to the jail medical staff), leave the third copy with your affinity group supporters, and leave the fourth copy with Jail Support at the rally or base camp. (The point of all these copies is so your supporters can help you if the jail staff takes your letters away and loses them.) If you use prescription medicine, bring it with you in its original container, with the pharmacy label on it. The police or jail staff will still probably take away your medication at some point, but at least you'll have it up until they take it away. Once you're in jail, the medical staff there is required to supply you with your regular prescription medications. The jail staff normally only dispenses medications from their own infirmary, since they won't trust that what you brought in is the real thing. Sometimes they try to substitute a similar medication for what you normally use. If this is a problem, have your doctor specify "no substitutions" in his/her letter. A big difficulty which we usually encounter is delay in getting medication. Often there is a big gap—sometimes 24 hours or more—between getting arrested and starting to receive regular doses of medication. Try to plan for this by taking your medication just before arrest, and by keeping your next dose somewhere safe and handy. Also, don't take all your medication to the action—leave some at home. The police and jail should eventually give back any medications they took from you, but sometimes they lose them or there's a long delay.

### **Do I have to tell the authorities whether I'm HIV+?**

You do not have to tell the police or the jail authorities whether you're HIV+. Of course, if you're in jail and you don't want to interrupt your treatment regimen, you'll have to tell the jail medical staff. On the other hand, if you can manage without medication for awhile, you don't have to reveal your HIV status. But

be aware that if the police claim that you somehow transferred body fluids to them, they may get the judge to order that you have a blood test. And the results of that test would then be revealed to others.

### **Can I get a special diet in jail, or vitamins and herbs?**

They're not going to give you regular vitamins or herbs or homeopathic medicine.

Sometimes they'll provide a vitamin supplement if you're pregnant or anemic, but you have to get a doctor's orders for that. As far as diet is concerned, you have a legal right to kosher food if you're Jewish and to a non-pork diet if you're Muslim. If you have glucose, lactose or gluten intolerance or severe food allergies, get a doctor's letter (and don't count on the jail kitchen staff being able to follow directions). Vegetarians are generally told, "Just don't eat the meat." Vegans, fruitarians and macrobiotics are completely out of luck. The best advice is to eat well before the action and do your best to manage with the regular jail food.

### **What about contact lenses in jail?**

It's generally much simpler to wear glasses to the action, if you have a pair. Jails usually don't let you bring in contact lens solution, because they can't be sure what's really in it. The jail may provide its own solutions to you, but they might not be what you need. If you have the kind of disposable contacts which you can wear for two weeks without removing, that's probably the best option. If you're in jail longer than that, your supporters will probably be able to make some kind of arrangements for you.

### **What would they do with minors (people under 18)?**

Those of us who are obviously minors are almost always separated from the adults upon arrest. Minors are rarely ultimately charged, but in order to be released, there has to be a parent or designated adult available to pick us up. Use the juvenile consent form (included in this packet), to make arrangements to

designate an adult—this will require a parent’s signature and must be done in advance! Make sure to have multiple signed copies of this form, and keep one with you, one with your affinity group, and one with Jail Support at the rally or base camp. Be aware that the parental consent form may not be accepted by the authorities, and they might insist on having your parent or guardian come get you after all. Having your parent or guardian reachable by phone is highly advisable.

### **What could happen to people who aren’t US citizens?**

Those of us who are not native or naturalized US citizens face a very real risk. Even if you are a resident alien, an arrest (let alone a conviction) could result in deportation, though you may have lived in the US most of your life. If you are merely here on a temporary visa, your risk is higher. And if you are undocumented, your risk is extremely high. Most law enforcement officials are quick to turn over to the INS those they suspect of being non-citizens (especially people of color and those of us who speak English as a second language).

Will getting arrested for civil resistance prevent me from getting jobs or getting into college?

If you have the qualifications for the job or school, a civil disobedience arrest is not likely to stand in your way. For one thing, we may not even be convicted (and most employers and schools only ask about convictions). And secondly, many institutions are actually interested in people who have consciences. (Two of the people who worked on this handout did civil resistance and wrote about it in their application essays for Harvard and Yale. and both were accepted.) Besides, we should ask ourselves: would we really be happy in a job or school that was so conservative that it would exclude us for having engaged in principled civil resistance?

### **Could we lose our licenses (medical, teaching, etc.)?**

Many teachers, lawyers and health care professionals have engaged in misdemeanor-level civil disobedience. We are not aware of any who have actually lost their licenses, although some have been hassled by their respective bureaucracies. Most licensing administrations are tolerant of minor acts of conscience.” However, felony convictions, as opposed to misdemeanor convictions, could well result in temporary or permanent suspension of professional licenses.

### **What if the police or FBI come to me with an arrest warrant or a search warrant?**

If police come to the door with an arrest warrant, step outside and lock the door. Police are allowed to search any room you go into—so don’t go back into your home to get your wallet or use the bathroom. If they do have an arrest warrant, hiding inside isn’t likely to help, so you might as well go, without letting them in to search.

Do not consent when the police ask to enter your home without a search warrant. Don’t let them ‘invite themselves in.’ Make sure to say, ‘You do not have my consent to enter or search this house.’ If police say they do have a search warrant, take it and read it to see whether it’s real.

Look to see that it’s signed, and has your correct address and a recent date. If the warrant is no good, tell them to go get another. (The police may threaten to tear your home apart if they have to get another warrant, but the search will be destructive anyway, even if you let the police in immediately.) There are several exceptions which allow police to search homes and vehicles without a warrant. And of course they will tell you they don’t need a warrant. But nonetheless, you should say: “I don’t consent to your search.” It can’t hurt. And it may be that the police were wrong about their right to search, in which case any evidence they found might be suppressed. But if you cave in and consent to let them search, then they definitely don’t need a warrant.

**Is it true that police and FBI agents are allowed to lie, if you ask whether they're law enforcement officers?**

It's sad but true, that there is no foolproof test to tell whether you're dealing with law enforcement personnel. It does no good to ask, "Are you a cop?" Police are allowed to lie about being police. Narcs are allowed to do drugs. And, legally, this is not considered 'entrapment.'

Not only that, but the police and FBI often use informants. Informants are usually people who have criminal charges pending against them, and the authorities promise to let them off the hook if they'll snitch. Informants can be very deceptive, since they usually don't look or talk like cops. Our best defense against infiltration is that we're so decentralized. It's virtually impossible for the authorities to snoop on every affinity group, each doing its own thing. Also, we have the nonviolence guidelines. An agent provocateur can't push us into doing something which is contrary to the guidelines.

And finally, an undercover agent can't derail a major consensus by blocking. A block is a "vote of no confidence." The person who's blocking is saying, "I will leave this group unless everyone turns down the proposal which is on the floor." So the group can still go ahead and consense to the proposal. It just means that the person who blocked may decide to leave the group.

**What is the role of a lawyer in a civil disobedience?**

Lawyers are available; however, in a mass civil resistance setting, our best protection is in our solidarity, not in our attorneys. We use lawyers mostly for communicating between groups of protestors who've been detained in separate places, or for dealing with problems like getting medication in jail. Lawyers can be helpful in negotiating plea agreements—though it's good to have direct dialogue with the judges and prosecutors ourselves. And, of course, lawyers are good for helping us do trials. But we try to resist the temptation to turn to lawyers for advice on issues which are

really political, rather than legal. This can be harder than it sounds, especially when we're dealing with frightening or unexpected events (and every civil resistance action has its scary moments). Fortunately, most areas have plenty of activists who have been involved in many civil resistance campaigns, who can help you discuss your choices and legal strategies. If—after you've read all this—you have legal questions you need answered, get all your research done in advance of the action.