

# **ACTIVIST LEGAL SUPPORT MANUAL**

Resources and information to help activists, campaign  
organisers, lawyers and legal workers provide effective activist  
legal support



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Based on the Activist Legal Rights website [www.activistrights.org.au](http://www.activistrights.org.au) developed by the Fitzroy Legal Service, 2004

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## ABOUT THIS PROJECT

The Activist Rights website has been designed as an online resource base for activists, organisers, lawyers and legal support teams in Victoria. It is linked with sites in other Australian states and territories and with the Complete Activist, a website produced by the National Association of Community Legal Centres.

This manual is based upon and closely linked with the website as a downloadable resource. This project draws from the insights and experiences of both activists and lawyers. In compiling this site we have sought the opinions of many activists, progressive lawyers and others involved in providing activist legal support.

The three main goals of ACTIVIST RIGHTS: Legal Information and Resources are:

1. To provide comprehensive, accurate and accessible legal rights and activist legal information that can be used by a wide range of Victorian and Australian activists;
2. To strengthen the capacity of activist organisations to develop effective activist legal support structures and approaches to the police, courts and legal system;
3. To strengthen the capacity of community legal centres, progressive lawyers and legal support teams to support activists who are facing the police and legal system.

## RESEARCH AND CONSULTATION

Many people were consulted in the development of this website. In 2004 we conducted a series of public consultations in Victoria and held over 30 meetings with activists, organisers, legal workers and lawyers. A 16-person Project Reference Group was formed to oversee the project in January 2004 and met until the completed website was launched.

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## THE MANUAL ALSO CONTAINS MATERIAL ADAPTED FROM WORKS:

**Organising support for arrestees, Organising in Jail and Coming out of jail stronger**, have been reprinted with permission from Starhawk [www.starhawk.org](http://www.starhawk.org) and adapted for the Australian context.

**Organising Legal Support – A guide for organisers** has drawn from and adapted material from David Mossop and his article: *Legal Organisation and Nonviolent Action* published in *Nonviolence Today* No. 16, August – September 1990.

**Should I be arrested?** Section is adapted from an article by Robert Burrowes that first appeared in *Nonviolence Today* No.39, July/August 1994.

Much of the material in the **Legal Support Team Resources** section was adapted from or inspired by material produced by the Midnight Special Law Collective [www.midnightspecial.net](http://www.midnightspecial.net)

**Political Surveillance – a guide for activists** was adapted from a guide by Linda Lotz of the American Friends Service Committee. The original article can be found at <http://www.publiceye.org/liberty/>

The **Voluntary and empowered Risk** section, by Dimity Hawkins, contains adaptations from the World Wide Wonder Women handbook: "A Grrrls Own Guide to Protesting Globalisation – September 2000" .

**Arrestee/ Injured Person Instruction Sheet** and the **Arrestee Tracking Sheet** by Dimity Hawkins are based upon sheets produced by the S11 Legal Support Team, Save Albert Park and the Jabiluka campaign.

## ACKNOWLEDGEMENTS AND THANKS

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The development of this Manual is the work of Anthony Kelly who was the principal editor and project worker from January – September 2004.

No discussion of activist legal rights is valid without acknowledging the centuries of Aboriginal struggle against genocide and severe political and legal repression in Australia.

All activists in Australia today owe a huge debt to Aboriginal activists throughout our history who fought for basic human rights, social, legal and political change. Aboriginal people were the first in Australia to face the full force of British 'common law' and this project acknowledges the legacy of Aboriginal activists everywhere.



## FACING THE POLICE AND LEGAL SYSTEM

This manual contains resources and information to help activists, campaign organisers, lawyers and legal workers provide effective activist legal support. It is a companion document to the website [www.activistrights.org.au](http://www.activistrights.org.au). Further legal information, guides and downloadable handouts are available on this site. It is recommended that you use this manual with information provided on the website.

Facing the police and legal system due to your political beliefs can be very difficult, costly and frightening.

The stigma of being involved in 'unlawful activity', the risk of police violence or arrest, the potential costs and consequences of charges or a criminal record, the threat of jail, all serve to deter people from becoming active on important issues. Many activists also drop out of movements or cease taking part in protest actions as the cost and consequences of police and legal action become too great.

Too many activists are left traumatised by police action, in debt due to legal costs or isolated in long-running court actions when they are 'abandoned' by campaigns or activist groups. Resources have been drawn from around the world and from our own experience here in Australia to help activists, organisers and legal workers to better support activists facing the police and legal system.

The resources in this manual are for new and experienced activists, campaign organisers and for legal support workers and lawyers. They are designed to be used in organising campaigns and actions, and to be distributed at trainings and at actions.

### INFORMATION, SUPPORT AND SOLIDARITY

There are three core aspects of Activist Legal Support: information, support and solidarity.

**Legal information** is best provided by lawyers or legal practitioners. **Support** is best provided by a well-organised Legal Support team. Other activists can only really provide **solidarity**. All three of these are crucial in good activist legal support.

#### Information

It is vital that activists have access to accurate legal information about their rights and the consequences of their actions and activities. Providing clear and accurate legal information is best done by progressive lawyers but can be distributed by organisers or legal support teams.

#### Support

This website hopes to support activists and also to provide resources for campaigners and legal support teams to help develop effective activist legal support.

#### Solidarity

Solidarity is looking after each other when facing the police or legal system. Legal solidarity describes a set of activist tactics to support and protect people when they are being held in police custody, in jail or facing court. Legal solidarity tactics have been used effectively for decades in the civil rights, peace, environmental, and global justice movements in Australia.

Individual and collective tactics of non-cooperation can be used to protect targeted or vulnerable people in the campaign, meet demands and maintain the combined strength of activists after arrests occur.

## **CLASS, RACE AND GENDER**

Some activists in Australia experience higher levels of police violence and legal threats or may be less able to cope with legal repercussions. Activists who are Aboriginal, Muslim or from an Islamic country, activists who are gay, lesbian or queer, or have a criminal history may be particularly targeted or vulnerable to police and legal repression.

Activist legal support needs to recognise that white, middle class or educated activists can be privileged in the legal system, and that others are particularly vulnerable to violence or discrimination. Support and solidarity across lines of difference and discrimination is crucial if all activists are able to withstand police and legal repression.

Most people in detention do not choose to be arrested, and incarceration is a tool of the powerful most frequently used against those who are poor, non-white, or illiterate. If we choose to be arrested as a direct action strategy we also must acknowledge this in our relations with other people who are in detention.

Mass arrests can also cause crowding in cells and this can make experiences of detention even harder for other inmates. This happened in Darwin at the height of the Jabiluka Blockade. Some Aboriginal women were transferred to prisons outside Darwin, which made it impossible for their families to visit. The women asked the Jabiluka arrestees to accept bail and thereby enable their return to Darwin prison.

It is also important to recognise that solidarity across lines of class, race and gender can often be paternalistic. Gary Foley (1999), for example, writes of the repeated problems of patronising attitudes and paternalism amongst white solidarity activists who support Aboriginal struggles. But he also writes of the principles for "successful cooperative action ... between Koori [south-eastern Aboriginal] community activists and non-Koori supporters", which have also been in evidence in some local campaigns, but also since the 1972 Aboriginal Tent Embassy.

Solidarity activists in these campaigns "did not seek a say in how the protest was run ... [and] were more aware of the need for Koori people to be determining their own destiny politically, and they were prepared to stand with Koori activists when the crunch came". Foley urges non-Koori supporters to make sure that they join a group that "genuinely supports Koori control of Koori affairs and is in some way affiliated with, or taking guidance from, the local Koori traditional owners and/or local Koori community." (Foley 1999). (From Anderson 2002.)

Organisers, activists and legal support workers need to respond to political and social repression as core to activist legal support.

These are all things that activist campaigns must overcome if they are to involve more people in the campaign and support people who are already a part of it.

## **FEAR OF THE POLICE**

Fear of the police and legal system is one of the most effective social control systems that the government has. When facing any sort of police or legal sanctions, activist campaigns and movements must develop ways to help activists overcome fear of police and the risk of charges, jail and violence.

## **OVERCOMING REPRESSION**

It is important to distinguish between 'political repression' and the normal workings of the legal system.

In Australia, most activists who are arrested, charged and convicted are not targets of systematic political repression. We just face the normal, everyday workings of a conservative and institutionalised legal system, a system of police, courts and judges that has trouble recognising civil disobedience and protest as legitimate. We get arrested and treated like anyone else who has broken the law. It's not nice, but it's not political repression.

Political repression, however, is the deliberate targeting of political dissidents designed to prevent, undermine or stop their actions. It can involve being recognised and monitored by sections of the police, security forces or government as a target, and includes a range of tactics designed to hamper our ability to continue our work as activists.

Political repression takes many forms but can often be exercised through the legal system. Political dissidents have always been the target of government surveillance and repression. It is important to take these attacks seriously and resist them.

It is important not to allow fear or the threat of repression to scare us away from political participation. Stories about vast conspiracies and elaborate surveillance technologies can create an atmosphere that discourages activism. This is part of the repression and is the first element that needs to be resisted.

Government harassment of political activists clearly exists today, violating our fundamental democratic rights and creating a climate of fear and distrust that undermines our efforts to create political change.

It is valuable to learn from the attacks on social justice movements in the United States of America that came to light during the 1960s.

Largely hidden at the time was a vast government program to neutralise domestic political opposition through "covert action" (political repression carried out secretly or under the guise of legitimate law enforcement). The 1960s program, coordinated by the FBI under the code name "COINTELPRO," was exposed in the 1970s and supposedly stopped. Notwithstanding this exposure, there are concerns that such covert action persists.

For more information about COINTELPRO go to the PUBLIC EYE site at <http://www.publiceye.org/liberty/>

In Australia, we have a different political framework and system of police and security forces. But the targeted surveillance and harassment of political activists does occur here.

We have learnt from activists in highly repressive regimes that the goal of state terror is to isolate and separate social movements, and that in order to withstand such political harassment and violence, activists need to develop strong and resilient support networks.

Julia Hernandez, former director of Tutela Legal, a Catholic Legal Support office in El Salvador, asserts that that most critical factor enabling people to overcome fear is their solidarity with others in their organisations. (Mahoney and Eguren, 1997)

For more information about the history and theory of political repression go to the [PUBLIC EYE](http://www.publiceye.org/liberty/) site at <http://www.publiceye.org/liberty/>

For other discussions go to <http://www.creativeresistance.ca/toolkit/2000-nov-01-organizing-in-the-face-of-increased-repression.htm>



## ORGANISING LEGAL SUPPORT – A GUIDE FOR ORGANISERS

When planning any political action or protest, whether it is a full-scale blockade of a military base or a street stall, consider and plan for police or legal consequences.

Well planned and effective activist legal support can not only be crucial in helping a campaign withstand legal or political repression, but can also serve to open up greater political space for the wider movement and for activists in the future. Asserting and defending our rights in one campaign helps all activists in all campaigns.

### IMPLICATIONS FOR A CAMPAIGN OR ACTIVIST GROUP

The law is intimidating. However it is essential that those organising protest actions come to grips with it early in the organisational process.

Legal organisation and support becomes particularly important where arrests are planned.

Activist campaigns in Australia have generally three options when facing the consequences of arrests and charges as a result of the campaign:

1) "**Abandon**" those arrested to organise their own defence. Although very common, this approach, to some extent, represents a betrayal of those willing to risk arrest. In organising an action in which people may be arrested the organising body does take on some responsibility. Even where the "organising body" is diffuse, autonomous or network based, people involved see their actions as part of a wider political struggle. Abandoning activists who have a different political perspective, got arrested for the "wrong" reasons or because they were "too militant" is also common.

2) "**Passing off**" the responsibility for the defence of those involved to another organisation such as community legal centres. The prospect of taking on large numbers of arrestees, with little or no reward, is not particularly attractive for under funded community legal centres. While an informal network of sympathetic legal workers may provide services in the case of relatively small numbers of arrestees, in larger scale actions or campaigns a coordinating body is required.

3) **Take on responsibility for the legal defence of those arrested** and invest the resources of the organisation in their support. For organisations with limited resources this is difficult but possible. Some may argue that providing legal and court support would be diverting resources from the "real" campaign goals. Well organised activist legal support can help strengthen campaign goals and help create more sustainable and radical campaigns.

In Australia, a mixture of the above practices has been evident. If direct action is to remain an effective option in political issues then abandoning activists to face the legal consequences of political action is not a realistic option, despite how easy it at first appears.

### INVOLVING LAWYERS IN THE PLANNING

Progressive lawyers and activist legal workers should be involved as an integral part of the planning process for protest actions and campaigns.

If there is a chance of community legal centres being utilised at a later date, it may be a good idea to meet with your local centre and inform them of the campaign or action.

Involve legal workers as early as possible, not only after people have been arrested and charged.

If possible, organise a lawyer to be guest speaker at an organisational meeting so that questions can be asked by the group as a whole. Or a legal training could be organised in the lead-up to the action. See [Legal training for activists](#). Don't expect lawyers to do this for free or as a matter of course, and even if they do, don't expect the advice to continue. However you may be able to negotiate an arrangement that will cost nothing for your group.

From this may arise interest from individual lawyers who may choose to help with the [Legal Support Team](#). However if nothing else this will cover the introductions between the lawyers, legal centres and activists.

## **EDUCATE YOURSELF ABOUT THE LEGAL SYSTEM**

A basic knowledge of the legal system can be useful for planning campaigns and actions. See [www.activistrights.org.au](http://www.activistrights.org.au) and go to the DIY Legal Research section.

## **SEEK LEGAL ADVICE**

If you are not sure, a good start is [www.activistrights.org.au](http://www.activistrights.org.au)

When you seek legal advice, attempt to find answers to these questions:

Whose jurisdiction is the protest site under? Will the State or Federal police be there? Which police command will be involved?

Is the protest site on public or private land? If it is private who is the owner? Is the protest on Commonwealth land?

What Acts or legislation are relevant to the action you are planning? Are there local by-laws which may impact?

What potential charges could be applied to those involved in the action? What are the maximum and likely penalties for these charges? What is the history of these charges being laid by police at similar actions?

What sort of civil litigation is the campaign or organisation vulnerable to?

What sort of legal support can be arranged for activists involved?

Once you have all this information it is possible to plan for activist legal support.

## **ARRANGE A LEGAL SUPPORT TEAM**

Legal Support Teams are organised groups of activists, legal students, legal workers and lawyers who provide a range of activist legal support work before, during and after the action.

If arrests are anticipated – Organise a Legal Support Team. If the action is small and involves only a few people, good activist legal support and back up is still vital.

If the action you are planning is large then arrange for a Legal Support Team well in advance. See [Setting up a Legal Support Team](#).

[Legal Support Team resources](#) can be found in this section.

The team can co-ordinate legal information, legal briefings and training, and also work on site to provide arrest support as people are getting arrested or police action is occurring.

A Legal Support Team may not be able to provide long-term legal representation for activists so a network of supportive lawyers is still important.

## LEGAL BRIEFING AND TRAINING FOR ACTIVISTS

Organise a legal briefing or training for activists who are to be involved. Everyone has the right to know the risks.

At the very least, arrange for relevant and accurate legal information on police powers, activist rights, and common charges for participants in the action. It is your responsibility to ensure everyone is informed of the consequences of being involved in the action.

Copy this information into campaign handbooks or newsletters and distribute to participants before and during the action.

For a sample Legal Training Agenda See [Legal training for activists](#)

## POLICE LIAISON

Police liaison before an action is something that the campaign or activist group will need to consider early.

Many actions depend on high levels of secrecy for their success and prior liaison with police is not possible. If your action relies on secrecy be aware of issues around [surveillance](#) and [infiltration](#) by police.

Some activists have strong political standpoints about any sort of communication with police and cite how police liaison can be manipulated by police to control a protest.

Other activists say that prior police liaison can help to minimise the risk that police will overreact to an action and can be useful in reducing the risk of police violence. For some activists, prior disclosure is a strategy aimed at creating dilemma situations for the government.

Liaison can serve to present a respectable face to police, build trust to gain important information, gain negotiating time and space and allow negotiation on minor details of the action without disrupting the entire protest.

Many actions that are publicly promoted, such as marches and rallies, will not be secret and prior police liaison may be undertaken to negotiate details such as traffic control, sound systems or where arrested people may be taken.

If you do decide to liaise with police before an action, ensure that you meet the relevant 'Operations' commander and always make sure at least two people undertake the role of police liaison in order to minimise the risk of miscommunication and manipulation. It is not necessary to have a lawyer to do the police liaison but having a lawyer present can sometimes be helpful.

## Police liaison on-site

Police liaison on site is also important. Have two people to liaise with police when they arrive to ensure that they do not over react to a situation. Ask for the Forward Commander. Good liaison can reduce the risk of police violence and serve to find out what police intend to do and where arrestees will be taken.

If you do not plan for any police liaison on site, consider what will happen as police talk to anyone at the action or target perceived 'leaders' for liaison.

If people are 'locked on', up tree platforms, tripods or blockading, some form of police liaison is important for safety reasons.

## Guidelines for police liaison

All police liaison should have the authority and permission of the activist group;

All police liaison should be done in pairs of people – never liaise with police alone;

Liaison should be with the commanding officer and operational commander of the relevant police unit. This may take some research. Be aware of public relations officers who have no authority. Always ask for the operational commander who has direct control over the officers at the protest site;

Be clear about how much authority you have to speak, negotiate or mediate on behalf of your group and don't overstep it;

Prepare what you will say and what information you will or will not provide beforehand. Check with the activist group that all this is okay;

Be courteous and respectful of police to gain trust. Also demonstrate that you deserve to be treated respectfully;

Be aware of what you can negotiate about and what is non-negotiable (i.e. the position of the banner may be negotiable but the line of people blockading are committed to staying and this is not);

Be aware that police may treat women, or people of colour, differently, and may defer to or listen only to men;

Be aware of police promises, bluffs and threats. You may get coerced into abandoning all or part of the action. Check out what the police actually mean and clarify their points if you are unclear;

Make sure all the information, including threats and promises, is communicated accurately and clearly back to the activists;

Do not be afraid to highlight inappropriate police behaviour, police violence or excessive force, you may be the only people who have access to the commanding officer; See [Complaints against the police](#)

## ARRANGE A LEGAL (HUMAN RIGHTS) OBSERVER TEAM

Legal or human rights observers act as an independent third party, observing police behaviour in order to keep police accountable for their actions. Legal observers can write incident reports describing police violence and misbehaviour and compile reports after the event. As observers, they are more removed and thus better able to objectively and independently describe events.

For further information about setting up or contacting an existing Legal Observer Team contact [Pt'chang](#) Nonviolent Community Safety Group in Victoria or UTS Community Law in NSW.

If a Legal Observer Team is not possible, arrange for people to video, record and take notes during the action. Download and use the [Arrest Watch Report Forms](#) on the website or at the end of this manual.

## ARRANGE PHOTO AND VIDEO COVERAGE

Photo and video coverage of the action can help to deter police violence and provide valuable evidence later. But note that police can act violently in order to seize cameras or tape. Violent assaults on photographers or independent media by police do happen.

**Cameras:** You can take any person's picture without their permission. The camera just has to be visible. The camera is a powerful weapon. At rallies and demonstrations they are essential.

Use them to:

provide some deterrence to police brutality;

take pictures of the licence plates that you want to record;

take pictures of the police, both plain clothes and uniformed. Later witnesses may want to identify the officer;

take pictures of those you only suspect are police. They may show up later in more interesting circumstances; See [Political surveillance – a guide for activists](#)

take pictures of those who seem to be provocateurs;

take pictures of any "incident", including arrests. These can be useful for media and in court;

stand back and get shots of the whole area and general layout. This helps in court too.

Plan to prevent police from seizing your camera, disk or tape. If you have a useful image, keep it safe from police and make it available to those involved in the Legal Support Team.

However, when there are many cameras it is possible to get pictures of these "accidents" where cameras are destroyed or of the police officer posing his palm for a photograph.

Bring enough film, tape or disks! Preserving the photographic evidence for the court is critical. The main problem is that of "continuity". In the court it is necessary to show a continuous chain of possession of the film, negatives and prints. This must be done to counter any suggestion that these items have been tampered with.

It is necessary to have the negatives so that it can be established that the prints are in fact derived from the negatives etc. Also, it must be shown that the prints made were not selected to avoid the more damaging evidence (or to provide only the damaging evidence).

Remember that footage you record can be evidence that cuts both ways. If accurate, the footage will reflect the conduct of all participants at an action, eg. police, activists, violent and nonviolent.

## **Independent media**

It is useful to develop a relationship with people in independent media so that you can have access to the film if needed. Note that police may also have camera units present. Make sure people in the action know that they will be filmed so they don't mistake an independent media person or legal observer for a police camera operator.

Note that you will generally have to call to court the person who took the image if you want to use it as evidence.

## **MONITORING ARRESTS**

If anyone is arrested at the action, the Legal Support Team should be carefully taking notes of their arrest and monitoring their location and well-being at all times. Download and use the [Arrest Watch Report Forms](#) and the [Arrestee Tracking Sheet](#) on this site. It is vital that everybody is accounted for.

Legal Support should repeatedly contact the police to monitor the situation, until the person is released.

If a lawyer is available to do this monitoring police are sometimes more cautious, but any Legal Support person can effectively monitor the arrestee.

Preferably, the lawyer should attend the police station, so that any "interview" with the arrested person can also be monitored. However a lawyer's phone contact with police on behalf of the arrested person is also valuable, and any police refusal to allow a lawyer access to their client may be used in evidence later on.

Let police know the arrested person has friends and Legal Support who will constantly monitor that person's situation (even if this may irritate police) until the person is released.

This contact will make police more careful in several ways: more careful about violence in the cells, more careful about concocting evidence, and more anxious to get rid of their embarrassing prisoner.

## **LONG TERM SUPPORT FOR ARRESTED ACTIVISTS**

For those arrested, charged or injured by police, the consequences of participation in the action may extend well beyond the action itself. If activists are arrested and charged as a result of this action, then activist legal support may need to continue for months if not years after the action.

One of the most difficult features of the legal process is the time it takes to reach a decision. A not-guilty plea in magistrates' courts will generally take many months before a decision is reached. However if the case goes to appeal, even minor matters can take years before they are resolved. The presence of on going legal/organisational support is essential.

The responses to criminal charges may also affect the aims of the action itself. Will it build or undermine support for the campaign? Will a plea of guilty or a court loss create a precedent for future actions? How will this court case affect the campaign strategy?

Because court cases can be a long, intimidating and isolating experience for activists, support and solidarity is vital. It may be important to plan:

Legal support and representation, arranging for pro-bono legal representation and finding the best barrister for the cases;

An Arrestees Support Group to keep everyone on charges together to plan and support each other;

Benefits and fundraisers to raise legal costs. These can also raise awareness about the campaign;

Use of the media around the court appearances to highlight the issues, media conferences outside the court;

Celebration and debriefing for the activists after the court case, whatever the outcome;

Support before, during and after a jail term for some or all of the activists;

Thanks to David Mossop and his article: Legal Organisation and Nonviolent Action published in Nonviolence Today No. 16, August – September 1990

## VOLUNTARY AND EMPOWERED RISKS

Because activism is not "out of the box", it is up to you to decide if you, as organiser or participant, feel any responsibility for those you bring with you to an action.

Often there is no one team or group organising around protests, and no one accepted principle on which to base actions.

This can be both exciting and empowering for you and frustrating for the media and police who want to speak to a recognisable leader or spokesperson. But it also brings with it a larger responsibility for personal action.

A principle for good legal organisation is to ensure that everyone who participates has made a voluntary, empowered and informed choice.

### Inform

Assist people to make informed decisions, so:

inform those participating in a protest of the issues in clear simple materials that are based on fact, not speculation. Where possible, offer these in community languages also. Knowledge is power so use it wisely.

inform participants of their rights – refer them to resources such as the Activists Rights website or encourage them to speak to their local community legal service or lawyer if they have concerns.

inform participants of possible consequences for their actions; for example, if you are reasonably sure that a peaceful action could escalate into a confrontation or possibly an arrestable situation, let them know so individuals can make an informed decision.

### Consider providing:

**training before actions** – this is a good way to make sure people meet each other and understand issues before big actions. It can be a valuable way to establish affinity groups too.

**adequate protection where possible**, with things such as shelter, a map of the area, and clear access and exit points to the protest.

**legal assistance** – again, if you can't organise legal assistance on site, encourage participants to take this on themselves by referring to resources like the Activist Rights website or [community legal centres](#).

**medical assistance** – even providing a clearly defined area which people can go to in case of medical emergencies and encouraging those who have some first aid or medical training to rotate on shifts can be adequate.

**debriefing after the actions** – this can be very valuable and necessary, especially for those who may have been arrested or hurt, or for whom this was a "first time" experience. It can also be a great learning tool for organisers to hear what "worked" and what didn't according to those who participated.

### Respect

Respect the limitations people set – if they don't want to get involved in an action, try to find other roles for them. Every person has the right to choose how they will participate.

Respect others – ensure your actions are not going to harm, degrade or endanger other people taking part in actions, or innocent bystanders.

Don't forget to be aware of and respect the environment around you too.

## **Responsibility**

Most importantly, take responsibility for yourself and make it clear that all participants should do the same. Each person is responsible for their own life, experiences and behaviour. This extends to taking responsibility for one's participation at a demonstration, protest or rally.

This means taking on any legal ramifications for your actions, and making sure you have made yourself known to the legal support team if you have any concerns about getting involved in arrestable actions.

In an action, it can also mean informing others around you of any relevant medical details, pointing out any dangers, being sure that people standing with you have heard police warnings or are informed of any developments. Fundamentally it means owning your action and choices.

## **And remember:**

If you don't protest injustice when you can, you may find yourself unable to.

Read about the [S11 Legal Support Team](#) and [Activist case studies](#) as a further resource.



## **ORGANISING SUPPORT FOR ARRESTEES**

When we take action against an unjust system, we often find ourselves facing the possibility of arrest.

At times, risking arrest may be a planned part of our action: in other situations we may deeply desire to avoid it. Nevertheless, activists get arrested. Planning, preparation, support and solidarity can help us protect each other and continue to build our movement.

### **HAVE A SOLIDARITY STRATEGY**

Solidarity refers to how you act together in the face of oppression to strengthen and build your movement.

Some jail solidarity strategies and court solidarity strategies involve using the strength of numbers to pressure the system into assuring equal treatment for all, and into accepting demands that they reduce or drop charges. Activists have employed a variety of tactics to ensure that the police keep them in jail, where they cost the system the most money and trouble. Activists arrested in certain actions have also all pleaded not guilty so as to clog the court system.

These strategies require planning, preparation, and the commitment that arises from the group's decision making process. They work well in situations where there is some social restraint on police brutality, and when people's differing needs and life circumstances are respected.

Guilt free solidarity can empower the people who take part in it: but it is also exercised at a cost. Even in the US and Canada, political prisoners have been brutalised, tortured and even killed. Regular prisoners face these dangers every day.

In countries and situations where there is less restraint on the police, where people are being severely beaten, brutalised, or potentially murdered in jail, solidarity may best be exercised by putting pressure on the system from outside.

### **PLAN FOR THE POSSIBILITY OF ARRESTS**

Ideally, have a legal support team in place, with lawyers and legal workers trained to understand the principles of solidarity. At the very least, know some lawyers you can call on for emergency help.

Inform people. Trainings and preparations should include basic legal and jail information. Legal briefings can be offered before the action. Handouts with basic information and phone numbers can be available at the action.

Know what your solidarity strategy is, and include information about it in trainings and preparations.

Know who your political allies are that you can call on for support. Unions, NGOs, sympathetic politicians, Green Party members, religious groups and progressive mayors may not be willing to go out on the streets with you, but are often willing to help get people out of jail, or to pressure authorities to provide decent treatment.

### **PRACTICAL SUPPORT STRUCTURE**

Before going to an action where arrest is a possibility, each person, or each affinity group, should arrange a home support person who expects a call at an agreed time. If that call is not made, they will assume their action buddy has been arrested, and will begin to mobilise support. They should have full information on each person they're supporting, including passport numbers or driver's licence numbers, health issues, legal issues, etc. This is a great way to involve people who cannot do an action due to home

commitments, age, physical challenges, or simply fear. Have that number memorised. It might also be good to have a second, fallback number.

Have a general support number that people can call to report information about who has been arrested, how people are being treated, etc. Ideally, have two. Make them separate from the number for the lawyers themselves – this phone needs to be kept free as much as possible in case people call from jail. Memorise the general support number or write it on your arm in indelible ink before the action.

Ideally, have another number that friends and relatives outside of jail can call for information. Make sure support people have it and are also in contact with each other.

As soon as you are arrested, begin to extend your network of support to those who did not plan on arrest. On the bus, in holding cells, in jail itself, offer moral support, practical support, and basic information on legal rights and on strategy.

In jail, collect as much information as you can about who has been arrested. If you are allowed to make phone calls, the first person who calls should convey as much of that information to those outside as they possibly can. Remember, calls can be cut off at any time. And expect all calls to be monitored by the authorities.

It's generally easiest to reach your personal support people from jail and give them the information to pass on to the Legal Support Team, which may be busy or even blocked. But have both.

## **WHAT SUPPORT PEOPLE CAN DO**

Make the authorities aware that they are being scrutinised! Call or appear in person to demand information about specific prisoners. Knowing that someone will do this for you will help you avoid panic and despair.

Mobilise political support: This is your best protection in jail!

Call, write letters, send faxes and emails to jail authorities, police authorities, politicians, etc.

Mobilise others to do the same. Start close to home, with the politicians' own constituencies.

Through the internet, it's easy to mobilise international pressure. Be sure the phone numbers, fax numbers and emails you provide work internationally.

Conduct a vigil at the jail itself.

Inform the media. Call a press conference, give interviews, talk on the radio, arrange interviews of released prisoners, write letters to the editor. If the general media won't cover the issue, contact Indymedia at <http://melbourne.indymedia.org/>

Organise support demonstrations at home, at embassies abroad, at government offices, etc.

Contact people who might have influence with the authorities. Is your aunt's second cousin a government minister?

Call on your political allies and enlist their help and support.

Contact international organisations such as Amnesty International.

Mount legal challenges.

## **SUPPORT FOR THE NEEDS OF PRISONERS**

Providing supporting for the needs of prisoners may include:

Arranging legal defence and raising money.

Calling a prisoner's family, friends, job, school, etc.

Feeding cats, walking dogs, caring for children, paying overdue bills, etc.

Arranging for visits by chaplains or for religious services. (In jail even the most hard-core atheist will welcome these as a diversion!)

If prisoners are in for a long time, supporters may visit, write letters, post money in prisoners' jail accounts so they can buy supplies at the commissary, etc. as the situation allows.

Being there to pick them up, greet them, feed them and provide comfort when they get out.

Arranging medical care if needed.

Providing emotional support, counselling, and help in debriefing afterwards.

Remembering to support people who have been unexpectedly arrested.

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## LEGAL PROCESSES AS CAMPAIGN TOOLS

There are a number of legal remedies that may be appropriate tools to assist to achieve the aims of a campaign.

Some legal processes are simple and can be carried out with limited assistance from lawyers, whereas other options are more complicated and may require significant legal expertise and financial resources.

The following are some suggestions, and more details about how to proceed are given in more detail elsewhere on this site.

### Complaint mechanisms

Lodging a complaint with the Equal Opportunity Commission or the Human Rights and Equal Opportunity Commission is a relatively easy and cheap means of addressing an issue of discrimination.

In June 2004, a formal complaint against the *Sydney Morning Herald* for its use of the terms 'illegal immigrants' and 'illegal entrants' to describe asylum-seekers was upheld by the Australian Press Council. The complaint was initially against the *Sydney Morning Herald*, but the Australian Press Council has also agreed to formulate general guidelines for Australian press against the use of these terms for asylum-seekers and refugees.

Mira Wroblewski, a refugee advocate who proceeded with the complaint said: "The term 'illegal' is used by the Government to vilify these people and to justify their treatment. It is one of a number of fear tactics being used to keep this government in power. I believe that the media should use the more accurate and respectful terms 'asylum-seekers' or 'refugees' to describe people who come to seek our help. They are not criminals. This has been supported by the Press Council decision."

Complaint mechanisms exist to cover many government departments, such as the Australian Broadcasting Authority, Australian Competition and Consumer Commission and the police. Private industry has set up similar schemes such as the private utility and Banking Ombudsman offices.

These mechanisms are easy to use and usually free. Although complaints may need to be lodged by individuals, a large number of complaints can force a rethink of common practices and thereby achieve systemic change.

Administrative law remedies in areas such as planning and environmental law, tenancy and social security may also be worth exploring where a government decision is involved.

### Freedom of Information

Freedom of Information applications are becoming increasingly useful in gathering information about government practices.

### Civil proceedings

Civil legal proceedings against individuals, governments or companies may be appropriate in some circumstances. Consider lodging a complaint in the Magistrates' Court where a relatively simple decision is required quickly.

### Law reform

Law reform processes such as public inquiries occur at all levels of government, and provide an opportunity to present arguments and stories about issues of public importance.

## **FACING THE POLICE**

Police tactics and behaviour at a protest can have a significant impact on its outcome. Strategies that take into account police use of force, arrest and possible use of violence need to be developed when planning an action.

Well organised legal strategies and activist legal support structures are vital when planning any kind of action that may face a significant police response.

Some argue that the legal system is designed to break us down and dehumanise us. Organising for your affinity group or larger organised demonstration to have a Legal Support Team is another step towards empowering people to feel safe and sure about protesting.

It is vital to understand that police power operates in different ways depending on who is targeted.

Your race, gender, class, sexuality, ethnicity and disability can all be factors in how the police choose to behave towards you.

Because police are part of the machinery of the state, the power they exercise can often be arbitrary. Police will not always act as expected – that is, according to the law or their own regulations.

Police strategies can vary depending on the nature of your actions, the political climate, the media, etc. It may be possible that police exert force to control an action rather than simply arresting. Using force can sometimes be a more efficient strategy for the police than arresting people in large numbers.

As a result, it is important to know your rights and hold the police accountable for their behaviour.

### **SOME THINGS TO KEEP IN MIND**

Remain calm as much as possible when dealing with police.

Behave as if you expect to be treated with respect. If you represent people at a mass action, insist on speaking with the senior officer present.

Be prepared to negotiate with police, but be firm and stick to the basics of your plan of action. Some compromise with police may not be detrimental to the action so long as it doesn't compromise the basic aims of the action.

Police may renege on agreements at times (because they are acting under orders or because their good faith with you is not a priority) and arrest may come unexpectedly. Be prepared.

Police officers have different ways of interacting with protestors. Some are insulting, others are quite friendly. In either case, a part of their job is to collect evidence against you. Don't let an insulting cop provoke you into a justification for your action or a friendly one draw you into a conversation about it.

Police power can be based on bluff, bullying and intimidation. Police insisting on your "cooperation" mean that they want your obedience. Knowing that police power can be challenged whilst retaining a basic human respect for police can be vital.

### **SAFETY TACTICS**

When you have an unexpected encounter with the police or with any other law enforcement agents, you will be safer if you pay attention to your body language.

Do not make any sudden movements.

Keep your hands in view and open (so it's clear that you're not holding anything or making a fist). Do not reach into pockets or bags, unless instructed to do so. If the police ask to see identification, tell them where you keep it before you start to get it out.

Never touch the police or their equipment (vehicles, weapons, radios, flashlights, animals, etc.)

Breathe deeply, speak slowly, and relax your shoulders and knees. This will reduce the officer's fear that you may be about to attack or run away. Relaxing under these circumstances is harder than it sounds, because your body usually produces adrenalin when confronted by police. Adrenalin makes you breathe, move, and talk more quickly. You have to concentrate to slow down, because you're probably going a bit faster than you realise.

Make eye contact, to indicate sincerity and maintain a respectful facial expression and speak politely. Again, this is harder than it sounds, because most of us feel angry and/or scared when we're dealing with police. If you're perceived as displaying "attitude," the officer will usually try to humble you—then you'll get angrier and so will the officer, a vicious cycle. Your best bet is to control your expression and tone of voice from the outset.

## **KEEPING RECORDS**

If there is even a slight possibility of any ongoing legal action, either as a result of arrests or to use in an action against police misconduct, it is of great importance to keep records. These may include seeking medical attention immediately, taking photographs of injuries and making a personal and detailed written record of what happened.

You should include any conflicts you have with arresting officials, the time and date of the incident, how many arrests took place and names of police officers involved where possible.

Also record names and contact details of all other activists involved and any independent witnesses. Where possible, have witnesses also make a personal and detailed record of what they saw.

If there is a court case, these records may become admissible as evidence. Make the notes within minutes of the events, including the time the note or tape was made. If possible, get someone else to verify the time in writing or on the tape. Do not notify the police that you have made this record.

Try to record details of the incident in objective or value neutral language. Do not use highly subjective or value laden language. This may be important in court when assessing the credibility of your observations and recollections.

## LEGAL SOLIDARITY TACTICS

### WHAT IS LEGAL SOLIDARITY?

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 global justice movements, among others.

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 these 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.

People should be ready to use solidarity to take care of everyone, but should be especially on the lookout for people who may be more likely to suffer discrimination: women, minors, people on temporary protection visas, Aboriginal 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 tactics to demands 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 (police, 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.

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 the guard's 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 jeopardises all future negotiations.

Below are lists of common demands and tactics that have been used in police custody and courts.

Some demands in police custody:  
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 solidarity/non-cooperation tactics that have been used include:  
not bringing ID and refusing to give name or address  
refusing to sign bail  
chanting, singing or dancing incessantly  
refusing to follow orders  
going limp  
stripping

Groups should 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 for it to be effective. *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.

Though one of the most visible and potentially empowering aspects of Legal Solidarity is physical non-cooperation in custody, 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 police and guards has occurred and is dangerous. By using non-cooperation tactics, you risk aggravating police and guards. Activists can really get hurt. In addition, physical non-cooperation (e.g. going limp) could result in charges of resisting an officer.

Non-cooperation need not 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.

Some activist groups that have been in jail and nameless have found that they:

stay together;  
clog the jails;  
can keep known organisers and legally vulnerable people from being targeted for mistreatment or more severe charges;  
make the paperwork hard; and  
appear 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 to remember because the prosecutor has the power to negotiate or even drop charges. A court also has the power to consider the extent to which you cooperated with authorities during the course of the investigation and the extent of your remorse (if any) for the crime committed.

Court Solidarity involves people working together to fight their legal battles in court. Some activists have found that strength of numbers before the court has been successful in:

getting everyone's charges dismissed, or  
negotiating a reduction or alteration to charges that is agreed to by everyone, will cover everyone and will not have a harsher impact on targeted individuals, or



vigorously fighting individual cases and working as a group to help everyone mount a strong defence.

## 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:

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.

The activists begin using Court Solidarity by having the legal team communicate the proposed demands and the Court Solidarity tactics (pleading not guilty, demanding a jury trial, etc.) to the prosecutor.

The prosecutor agrees to negotiate -OR-

After a few days, it becomes clear that Jail Solidarity isn't being effective, 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.

## 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 negotiate charges individually, had to leave jail, or couldn't get arrested to maintain their connection with the rest of the group. Activists have used various methods to organise jail and court support.

## VOLUNTARY AND INDIVIDUAL DECISIONS

The use of Legal Solidarity tactics 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 they have "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.

You may wish to resist pressure from the police, jail authorities or any lawyers to make rushed decisions. If you're being rushed, bargain for more time. After all, sometimes it has been simpler for the authorities to give 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 information provided by the police and even lawyers regarding the conduct of other activists is inaccurate. These may include information 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 trust that everyone else is doing the same.

## FASTING

Fasting in jail can be a powerful tactic, but it's *very* dangerous and should be used only as a last resort and when well researched. People with current or chronic medical conditions should not fast. Previous or

current heavy drug or alcohol users also should not fast. You should clearly understand the medical implications of fasting. When in doubt, *do not fast*.

Some activists have reported that the effects of fasting can be felt in less than 12 hours. Effects reportedly 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. In light of these effects a few people could refrain from fasting so they can act as caretakers and facilitators.

Your body goes through an intense detoxification process during a fast. Here are suggestions by activists to minimise 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 them (e.g. after someone passes out twice, they have to stop fasting).

Even when only one person is fasting in jail, it has worked well when decided through consensus with your affinity or legal support group. If demands are attached to the fast, question whether the demands can be met in the time you are willing to fast.

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

Much of this section is based on materials written or compiled by Katya Komisark and can be found at the [Midnight Special Law Collective](#) website.

## ACTIVIST STRATEGIES FOR COURT

There is no one correct strategy when approaching the court, but activists need to give thought to approaching the court and the legal system.

For detailed information about preparing for court and court structure and processes see: [www.activistrights.org.au](http://www.activistrights.org.au)

Some activists choose to ignore the court completely or simply treat it as a nuisance getting in the way of the campaign activism.

Other activists see court as an integral part of action and which can be planned as a politically useful and effective part of the campaign.

However you see court – if you are facing court it is worth putting effort and planning into your approach.

### PLEADING GUILTY OR NOT GUILTY?

The plea that you enter can be a difficult political choice. It should be considered in the context of the aims of the action and your ability to conduct a court case and deal with the range of possible penalties.

#### Pleading guilty

Many, if not most, activists tend to plead guilty because it can be easier, involves little or no organisation and need not involve legally trained people. This is the dominant reason why people plead guilty to summary offence charges arising out of nonviolent actions.

Entering a guilty plea at your mention date means that the case will be heard and determined quickly and hence you will not be burdened with a drawn out court case. If you feel that you can achieve more by investing energy elsewhere there is a strong case for a pragmatic plea of guilty.

It is important to note that a plea of guilty will (in the absence of various other factors) ensure a criminal record.

By cooperating with a system which operates on the basis of a large proportion of guilty pleas it might be reasonable to expect a lighter sentence, although this depends largely on the magistrate who hears the case and the charge faced.

Despite the relative ease of pleading guilty, some degree of legal support is still required if people are to minimise the penalties imposed and enter pleas in mitigation of sentence. If at all possible those charged should be present and represented at their hearing.

The courts operate on the basis that most people will plead guilty to the charge/s laid against them. Some activists say that pleading guilty supports the system and allows police, on occasion, to get away with the most outrageous charges simply because they were never forced to prove them.

Other activists say that pleading guilty to a charge, by its very nature, recognises the validity of the law and the system of criminal justice.

At a personal level a plea of guilty can be seen as an acceptance that what was done was indeed criminal and worthy of punishment by the state. That is, of course, unless you do not recognise the legitimacy of the state. If this were the case then the most logical course would appear to be the entry of [no plea](#).

## **Pleading not guilty**

Many activists feel that by pleading not guilty they can question the validity of laws that they are alleged to have broken.

At a political level a plea of not guilty is effective in two ways. The first is that the police have the onus to prove the offence with which they have charged you. In mass actions this requirement alone may seriously overburden the court system. The successful defence of a small number of those charged may also be successful in forcing the prosecution to drop charges against other arrestees which cannot be successfully prosecuted.

The second advantage of a not guilty plea can be publicity. If one of the aims of the action was to gain publicity for an issue then the successful defence of those involved will gain further favourable publicity for the issue. The defence in such cases can be seen as the second half of the symbolic victory of the action.

A not guilty plea is only useful if the case can be won. If people intend to plead not guilty there is little point in doing so unless sufficient effort is put into their defence to give it a good chance of success. The risk of the not guilty plea is that of higher penalties and the imposition of costs on those found guilty. This is the disadvantage of pleading not guilty, it requires organisation if it is to be successful.

## **No plea**

The entry of no plea by a defendant will be considered by the court as a not guilty plea.

Refusing to enter a plea or remaining silent when asked is an extension of non-cooperation with the legal system. If you also refused to cooperate with the police when you were arrested this may be a consistent approach. This could be effective at both a personal and on a broader political level.

However, the entry of no plea by a defendant who refuses to recognise the validity of the system of justice will almost inevitably lead to a finding of guilt because (presumably) the only evidence presented will be that of the prosecution.

## **MAKING POLITICAL STATEMENTS IN COURT**

In court, there is often an opportunity for individuals to make their own statements about why they chose to be arrested. See [www.activistrights.org.au](http://www.activistrights.org.au) for detailed legal information about appearing in court.

The conventional legal wisdom is that the court hears only one limited matter – the charge before it – and does not enter into social or political debate, but carefully constructed defences can often be heard even if they have limited chance of success.

Though the court purports to be neutral, judges and magistrates may conduct proceedings and apply the law in slightly different ways. There are no guaranteed outcomes and often, depending on the magistrate, results will be very different. Someone charged with the same offence as you may get a very different outcome.

Some judges and magistrates are more likely to be sympathetic to your cause and hear your argument than others. The court can be a forum for airing your political opposition, but it can also silence your motivations. It's important not to put too much expectation on the outcome of a court case and to ensure it is not the only strategy you are putting energy into as a campaign.

Alternatively, you may have decided that the court case has wider implications, and you want to use it as another platform for your activism. In some situations this will be successful, in others it will backfire and you will receive a heavier penalty.

Lawyers, focusing on what they believe will influence the magistrate or judge the most, generally minimise what they see as political content. Make sure you have a clear understanding with your lawyer about what is important to you during the court process.

## Statements in mitigation

Many activists do this by pleading guilty and making a speech when asked for comment in mitigation before sentence is passed. In this case the choice to plead guilty is tactical rather than philosophical. Arrestees may take the same approach but plead not guilty and make their statements from the witness stand.

Pleading guilty explicitly recognises that a crime has been committed according to the law.

By pleading not guilty activists stress that they believe they have committed no moral wrong.

## Political messages as evidence

You may be able to give direct evidence relating to the charge against you whilst incorporating your own political statements in a form that makes them relevant to the issues of your defence. You can ask your lawyer about arguments that may allow you to use international law as a moral defence, call other activists or even scientists and others as 'expert witnesses', or use information about your protest as evidence.

Melbourne lawyer Len Linden argued before the Court of Appeal of the Northern Territory an appeal which arose out of an alleged trespass at the Joint Defence Space Research Facility near Alice Springs (commonly known as "Pine Gap"). In defence to the charge, he raised the alleged illegality of nuclear weapons by international law. He suggested that the Facility was tainted with that illegality. The defence, however, was rejected.

[http://www.austlii.edu.au/au/cases/cth/high\\_ct/unrep264.html](http://www.austlii.edu.au/au/cases/cth/high_ct/unrep264.html)

## The Nuremberg defence

In the Nuremberg trials the Nazi leaders defended their actions on the grounds that they were following orders. This defence was rejected by the tribunal. It was found that men and women, whether military or civilian, have a duty to resist orders from above if those orders require them to commit crimes against humanity.

Another activist defence case involved the use of literature on the Nuremberg trials, which states that any person who, "with actual knowledge that a crime against humanity (or war crime or crime against peace) is being committed, and having such knowledge, was "in a position to shape or influence the policy that brings about initiation or 'continuation' of the crime" to the extent of his ability...will be responsible if he could have influenced such policy and failed to do so". [Martin J. Limbo v. Little 65 NTR 19 at 45](#), quoting from Frank Lawrence, "The Nuremberg Defence", 40 Hastings L. J. (1989).

From this "Nuremberg defence", Len Linden claimed that international law places a personal responsibility upon him as an individual, to do everything possible to prevent such crime not only if he knows that such a crime is being committed or planned, but also if he suspects that such circumstances exist.

## PUBLIC STATEMENTS OUTSIDE THE COURT

Political statements can be repeated effectively outside court, through public speaking or media conferences on the steps of the courthouse, for instance. This needs to be well-organised in order to get maximum media attention. But you also need to consider the impact upon the court case itself.

It is well worth consulting with your legal representatives. Magistrates have no real power of contempt outside their own court rooms and contempt actions have generally only been laid after public comments very close to a jury trial.

Public comments about the political issues surrounding a protest action, or about police behaviour at that action, can still be made. The fear of getting charged with contempt can deter important public comment.

## **Contempt of court**

The laws of contempt are designed to protect the principle of the right to a fair trial. In general the law of contempt prevents the publication of material that is prejudicial about matters that will be or are currently before the courts. In popular parlance the purpose of contempt law is to minimise the likelihood of 'trial by media'. Types of information which are considered prejudicial include:

details of prior convictions;  
the creation of an adverse impression of the accused;  
statements about guilt or innocence of the accused; and  
in cases where identification of the accused is in issue, the naming of the accused or the provision of other means by which the accused may be identified.

There is a limited form of defence of 'public concern'. However, the closer the comment is directed to the actual subject matter of the trial the less likely it is that this defence will be available. The defence is intended more to protect the publication of material in the context of ongoing public debate about the broader issues, where the risk of prejudice to a trial is incidental and unintended, rather than discussion of the specifics of any particular trial.

Contempt law is against any public comment on an issue that is before the courts and is to be decided by the courts. Notice, though, that the issue to be decided is often a narrow one (did a person commit a particular offence), and does not prevent public discussion of the background or wider context of the events concerned.

So for instance, the charging of a demonstrator at an environmental action does not prevent others from criticising police operations at that demonstration, or from talking about what the action was all about. However, some lawyers advise against public comment that in any way relates to a court case.

People are not prosecuted for proclaiming their innocence of a charge, which is their right.

## **TOTAL NON-COOPERATION**

This has been used as a strategy for dealing with the courts as a way of protesting against the unjustness of state institutions. It has been based on either a political/moral refusal to work with the system or a pragmatic choice to try and make the state pay.

Refusal can include refusing to attend court at all. You can then either wait to be arrested and taken to jail or present yourselves to a police station after a warrant has been issued for your arrest and volunteer to be locked up on that particular day.

You need to consider the fact that this approach will almost certainly result in you forfeiting bail as well as having to pay any fines issued against you (or serve the equivalent amount of time in prison).

A different form of refusal can be to refuse to speak or refuse to enter a plea (used by [Greenham Common](#) women in the United Kingdom). This means that you refuse to say whether you plead guilty or not guilty. The court will basically treat you as having pleaded not guilty.

One group of activists, arrested at Nurrungar military base in 1991, refused to attend court but handed themselves to police in a group to serve their sentence at a convenient time. In this way they were able to maintain control over when and how they dealt with the legal system.

## **COURT AS A PROTEST SITE**

Court rooms have been used by activists as a protest site throughout history.

Protest has been brought into the courtroom in countless creative ways. Activists have dressed up in costumes, unfurled banners, stood and turned their back to the court, worn blindfolds or refused to address the court when asked, gone limp when moved or just shouted out the injustice for all to hear.

When considering any sort of protest in a court room it is vital that you consider that:

You may face contempt charges.

The penalties you receive are likely to be more severe than they otherwise would be.

You may affect the case of other activists on similar charges or from the same group.

## **FISHING EXPEDITIONS**

The court has sometimes been used as a way of getting information that is otherwise unavailable, by cross-examining officials or calling for documents. This approach was successfully used in the McLibel case against McDonalds in the UK.

However this can be time consuming and expensive, so it's useful to consider other ways of accessing information (eg, Freedom of Information, etc).

Court can also be a way of getting alternative information into court and onto the public record, particularly if good media is used.

It may be possible to call for documents or witnesses dealing with the subject of the original action or to read them into the court record yourself. For example, in explaining why they felt they had to trespass at Nurrungar, some activists spoke in court about the functions of the base and its role in US war fighting strategies.

## **LEARNING**

Court can be an opportunity to learn: activists can work individually or (more powerfully) together to find out about how the courts operate and what the applicable law is. However without appropriate preparation, support and strategy, it can be a harsh lesson.

Section by: Sam Sowerine.

Adapted from Greg Ogle and Mary Heath's article, 'Approaching the court' and the OUR RIGHTS Activist Rights Handbook.

## **POLITICAL SURVEILLANCE**

Organisations involved in controversial issues, particularly those who encourage or assist members to commit civil disobedience or direct action, should be alert to the possibility of surveillance and disruption by police or federal agencies.

Surveillance is the art of monitoring the activities of persons or groups without them knowing they are being monitored. Surveillance has been an intrinsic part of human history but modern electronic and computer technology have given surveillance a whole new means of operation. No longer must it be practised by agents, it can be automated using computers. No longer do people have to be watched – their own activities create records that describe their activities.

In Australia many individuals and organisations have been spied upon, wiretapped, their personal lives disrupted and their organisations infiltrated, in an effort to undermine or draw them away from their political work.

Good organisers should be acquainted with the history of political surveillance and infiltration in Australia, and with the signs that may indicate their group is the target of an investigation.

### **DO NOT LET PARANOIA IMMOBILISE YOU**

Overreaction to evidence of surveillance can be just as disruptive to an organisation as an actual infiltrator or disruption campaign. You are not paranoid – assume that they *are* watching you. Just stay calm about it.

This guide is a brief outline of what to look for – and what to do if you think your group is the subject of an investigation. This is meant to suggest possible actions, and is not intended to provide legal advice.

### **POSSIBLE EVIDENCE OF GOVERNMENT SPYING**

#### **Look for:**

Visits by police or federal agents to politically involved individuals, landlords, employers, family members, or business associates. These visits may be to ask for information, to encourage or create the possibility of eviction or termination of employment, or to create pressure for the person to stop his or her political involvement.

Uniformed or plainclothes officers taking pictures of people entering your office or participating in your activities. Just before and during demonstrations and other public events, check the area including windows and rooftops for photographers. (Credentialling press can help to separate the media from the spies.)

People who seem out of place. If they come to your office or attend your events, greet them as potential members. Try to determine if they are really interested in your issues – or just your members.

People writing down licence plate numbers of cars and other vehicles in the vicinity of your meetings and rallies.



## **TELEPHONE PROBLEMS**

Electronic surveillance equipment is now so sophisticated that you should not be able to tell if your telephone conversations are being monitored. Clicks, whirrs, and other noises probably indicate a problem in the telephone line or other equipment.

For example, the United States National Security Agency has the technology to monitor microwave communications traffic, and to isolate all calls to or from a particular line, or to listen for key words that activate a tape recording device. Laser beams and "spike" microphones can detect sound waves hitting walls and window panes, and then transmit those waves for recording. In these cases, there is little chance that the subject would be able to find out about the surveillance.

Among the possible signs you may find are:

Hearing a tape recording of a conversation you, or someone else in your home or office, have recently held.

Hearing people talking about your activities when you try to use the telephone.

Losing service several days before major events.

## **If you find evidence of surveillance**

Hold a meeting to discuss spying and harassment.

Determine if any of your members have experienced any harassment or noticed any surveillance activities that appear to be directed at the organisation's activities. Carefully record all the details of these and see if any patterns develop.

Review past suspicious activities or difficulties in your group. Has one person, or several people, been involved in many of these events? List other possible "evidence" of infiltration.

Develop internal policy on how the group should respond to any possible surveillance or suspicious actions. Decide who should be the contact person(s), what information should be recorded, what process to follow during any event or demonstration if disruption tactics are used.

Consider holding a public meeting to discuss spying in your community and around the country. Schedule a speaker or film discussing political surveillance.

Make sure to protect important documents or computer disks, by keeping a second copy in a separate, secret location. Use fireproof, locked cabinets if possible.

Implement a sign-in policy for your office and/or meetings. This is helpful for your organising, developing a mailing list, and can provide evidence that an infiltrator or informer was at your meeting.

## **APPOINT A CONTACT FOR SPYING CONCERNS**

This contact person or committee should implement the policy developed above and should be given authority to act, to get others to respond should any problems occur.

The contact should:

Seek someone familiar with surveillance history and law, such as Liberty Victoria, or a community legal centre. Brief them about your evidence and suspicions. They will be able to make suggestions about actions to take, as well as organising and legal contacts.

Maintain a file of all suspected or confirmed experiences of surveillance and disruption. Include: date, place, time, who was present, a complete description of everything that happened, and any comments explaining the context of the event or showing what impact the event had on the individual or organisation. If this is put in a Statutory Declaration and signed, it can be used as evidence in court.

Under the *Freedom of Information Act* and the *Privacy Act*, request any files on the organisation from Commonwealth agencies and departments. File similar requests with state police, if your state Freedom of Information Act applies.

## **PREPARE FOR MAJOR DEMONSTRATIONS**

Plan ahead; brief your legal workers on appropriate state and federal statutes on police and federal officials spying. Discuss whether photographing with still or video cameras is anticipated and decide if you want to challenge it.

If you anticipate surveillance, brief reporters who are expected to cover the event, and provide them with materials about surveillance by your state police in the past, and/or against other activists throughout the country.

Tell the participants when surveillance is anticipated and discuss what the group's response will be. Also, decide how to handle provocateurs, police violence, etc. and incorporate this into any affinity group, marshal or other training.

### **During the event**

Carefully monitor the crowd, looking for surveillance or possible disruption tactics. Photograph any suspicious or questionable activities.

Approach police officer(s) seen engaging in questionable activities. Consider having a legal worker and/or media person monitor their actions.

## **IF YOU SUSPECT SOMEONE IS AN INFILTRATOR**

Try to obtain information about their background: where they attended high school and college; place of employment, and other pieces of history. Attempt to verify this information.

Check public records which include employment; this can include voter registration, mortgages or other debt filings, etc.

Check listings of Australian police academy graduates, if available.

## **Once you obtain evidence that someone is an infiltrator**

Making accusations about someone may constitute defamation if the accusations are unfounded. Making unfounded accusations may also have the effect of isolating someone who may have been highly committed to your campaign. Get your facts straight and consider these issues carefully.

Confront him or her in a protected setting, such as a small meeting with several other key members of your group (and an attorney if available). Present the evidence and ask for the person's response.

You should plan how to inform your members about the infiltration, gathering information about what the person did while a part of the group and determining any additional impact they may have had.

You should consider contacting the press with evidence of the infiltration.

If you can only gather circumstantial evidence, but are concerned that the person is disrupting the group:

Hold a strategy session with key leadership as to how to handle the troublesome person.

Confront the troublemaker, and lay out why the person is disrupting the organisation. Set guidelines for further involvement and carefully monitor the person's activities. If the problems continue, consider asking the person to leave the organisation.

If sufficient evidence is then gathered which indicates they are an infiltrator, confront the person with the information in front of witnesses and carefully watch reactions.

## **REQUEST AN INVESTIGATION OR MAKE A FORMAL COMPLAINT**

Report telephone difficulties to your telephone company. Ask for a check on the lines to assure that the equipment is working properly. Ask them to do a sweep/check to see if any wiretap equipment is attached. (Sometimes repair staff can be very helpful in this way.) If you can afford it, request a sweep of your phone and office or home from a private security firm. Remember this will only be good at the time that the sweep is done.

File a formal complaint with Australia Post, specifying the problems you have been experiencing, specific dates, and other details. If mail has failed to arrive, ask the Post Office to trace the envelope or package.

Request a formal inquiry by the police, if you have been the subject of surveillance or infiltration. Describe any offending actions by police officers and ask a variety of questions. If an activity was photographed, ask what will be done with the pictures. Set a time when you expect a reply from the police commissioner. Inform your local member of parliament and the media of your request.

If you are not pleased with the results of the police reply, file a complaint with the Police Ombudsman. See [www.activistrights.org.au](http://www.activistrights.org.au) for Complaints against the police.

Demand a full investigation. Work with investigators to insure that all witnesses are contacted. Monitor the investigation and respond publicly to the conclusions.

## **INITIATE A LAWSUIT**

You should consider getting legal advice about the potential to bring civil proceedings. Before embarking on a lawsuit, remember that most suits take many years to complete and require tremendous amounts of organisers' and legal workers' energy and money.

## **ALWAYS NOTIFY THE MEDIA**

Keep interested reporters updated on any new developments. They may be aware of other police abuses, or be able to obtain further evidence of police practices.

Media coverage of spying activities is very important, because publicity conscious politicians and police commissioners will be held accountable for questionable practices.

This section has been adapted to the Australian context from an article by Linda Lotz of the American Friends Service Committee. The original article can be found at <http://www.publiceye.org/liberty/Whatbugs.html>

## SETTING UP A LEGAL SUPPORT TEAM

This manual was created to help organisers form an effective Legal Support Team for a large action.

It is a general overview of places to begin discussion and work. Read Legal Support Team roles for a look at the details and logistics of a legal support team.

It is worth using the International Covenant of Civil and Political Rights (ICCPR) as the basis of the Legal Support Team's mandate.

### QUESTIONS TO CONSIDER

- ?? How will the legal team make decisions?
- ?? How will the legal team be accountable to the larger group?
- ?? What are the goals of the legal team? What assumptions are implicit that need to be made explicit?
- ?? Who are you committing to provide legal support for? (e.g. anyone arrested in conjunction with the action, only those participating in legal solidarity, only those whose tactics or charges fall inside the "action guidelines", etc.)
- ?? What are likely police tactics (e.g. police picking people up in small groups after the action, rather than in mass during the action)? What are possible strategies to deal with these tactics?
- ?? Are there proactive legal or political steps you can take to thwart police or government harassment and repression? (e.g. intervention orders, putting the police on notice, media blitz, human rights observers etc.)

### LAWYERS

It's crucial to establish good relationships with the local legal community.

Connect with progressive legal organisations, as well as public defenders. Also, if you don't already have ties in the local legal community, ask local activists which lawyers might be interested and who can help the legal team network.

Arrange a group meeting with all the lawyers who are interested and all members of the legal support team.

Lawyers are usually busy, so the earlier you can let them know what kind of help you will need, the better.

Make sure everyone's commitments are clear so that you know what to expect and they don't feel put out. Don't expect lawyers to come to every meeting or training, but let them know what is happening and that they are welcome to come.

Communication is key. Be friendly and respectful and make them a part of your team.

## **ISSUES TO FLAG**

Make sure legal team members and volunteers don't always get stuck doing the same mundane tasks. This is especially true with the Away Team (the people who go out into the streets, jails, and courts), which can be fun and exciting, versus the Office Team (the people who take all of the calls and process all of the information), which can be frustrating and stressful.

The legal team can only be effective if everyone has good information. Share information effectively between Away Teams and the office as well as within the office.

Most lawyers are used to working hierarchically. There are sometimes issues with control and power dynamics between activists and lawyers. This can be a big problem when it comes to decision-making and information sharing. Be sure to identify and deal with any issues before the action.

## **VOLUNTEERS, STUDENTS AND PARA-LEGALS**

Volunteers are critical for the success of your Legal Support Team. Here are some tips:

Think about how you plan to train volunteers and incorporate them into the office. Do recruitment and get them involved early on so that you'll have enough people. Coordination/scheduling of volunteers is difficult, and should be done as much in advance as possible. The legal support office or tent can be hell, and people can get burned out quickly. Show your appreciation, let people take breaks, and vary their tasks.

## **TRAININGS**

Be prepared to give trainings on Know Your Rights, Legal System 101, Legal and Video Observing, and Legal Solidarity (if you're using it). See [Legal training for activists](#)

## **LEGAL/JUDICIAL RESEARCH**

Research the state or commonwealth legislation regarding specific charges and offences relating to the campaign or action planned. Produce educational materials for training and legal briefings.

This section is adapted for the Australian context from the Midnight Special Law Collective paper. The original can be found at [www.midnightspecial.net](http://www.midnightspecial.net)

## LEGAL SUPPORT TEAM OFFICE

It is important to have a well-organised and co-ordinated office to run complex legal support. These ideas and suggestions are based on the S11 Legal Support Team and also from large global justice actions in the USA.

Your Activist Legal Support Office may well be in a tent or vehicle if the action is taking place outdoors or in an isolated area. The same ideas and principles apply.

### Research

Information on courts, jails, police stations including phone numbers, addresses, hours/days open, and person to speak to or ask for when calling and if they're friendly or helpful. Also get directions for both public transportation and driving.

Action contact information: convergence centre, medical team, communications team, etc.  
Medical contact information: phone numbers and addresses of local hospitals and free clinics  
Information on what streets will be closed, what detours are available, etc.

### Office layout

It's a good idea to think about how you would like the office set up before you do it. Some things to think about:

Where to put wall charts so that all volunteers answering phones can see them

How to arrange multiple desks with multiple phone lines that enable all people answering phones to talk without bothering and hear without being bothered.

Finding a quieter space for the computer that's not too removed from the rest of the office

### Wall charts

The legal office can use wall charts as part of the information sharing system. The update charts should be on the wall and accessible, so the info coordinator can update them. If your office doesn't have much wall space, you can make small charts for the contact info and tape them to each desk. Here are the charts you'll need to have before the action starts.

Street and jail update charts

- ?? Legal team update
- ?? Government contact numbers — phone, fax, addresses, email and websites, if available of jails, courts, judges, mayor, police, police commissioner, prominent state and city officials, influential private citizens
- ?? Legal contacts – Liberty – the Victorian Council for Civil Liberties, community legal centres, any other civil liberty organisations
- ?? Legal team contact numbers (note which numbers should not be given out)
- ?? Action contact numbers – convergence, safety team, communications team, medical team etc.
- ?? Medical contact information – local hospitals, free clinics, street medic centre
- ?? Fundraising information - where people can send money for the legal team
- ?? Where is everyone? Have a chart of courts and jails and post it with the names of lawyers and legal team members that can be moved to show where they are.

## Call logs

Make sure you have lots of notebooks on hand – at least two for each volunteer and legal team member. On the inside cover, write a sample entry to remind volunteers of the information that is absolutely necessary.

On the back cover, write a key for highlighted categories.

Find a safe place to keep the notebooks.

## Maps

It's helpful to have a very large map on the wall with location of blockades, one way streets, detours, locations of jails and courts, etc. marked clearly.

Have lots of regular street maps (preferably marked as well) to send with legal teams and runners who need to navigate the city.

## Contact lists

There are some contact lists that shouldn't be posted on the wall, but to which members of the legal team should have easy access. The information might be in a database, but it's helpful to have it printed out, too, particularly since whoever needs them will often have to call down the list. These lists include:

- ?? Volunteer contact information
- ?? Lawyer contact information
- ?? Legal observer contact information.

## Office supplies

20-30 notebooks  
Pens, highlighters, markers  
Butcher paper or 3' X 5' pads  
Printer paper  
File folders  
File cabinet  
Masking tape  
Push pins  
Paper clips/binder clips  
Stapler and staples  
Post-it notes  
Phones  
Clocks

## Documents

All documents should be copied electronically on disk, on the hard drive, and on a zip disk if possible. Hard copies should be produced and copied according to the particular need for each document.

[Arrestee / Injured Person Instruction form](#) (have hundreds available; each desk/phone should have a stack)

[Arrestee Tracking Sheets](#) (numbers depend on how many people are arrested; most should be sent with the legal team member going to do outtake at the jail but some should remain at the legal office for people who we might miss).

Printed reports from databases (each desk should have at least one copy of arrestee database, which will have to be printed each time it is updated; each desk should have at least one copy of the legal support person database.

Copies of any media releases (one or two copies of this will be adequate, one for the flak and other legal team members working on media).

## Databases

Secure and well-maintained databases can be crucial for keeping track of mass arrests, injuries or police complaints.

Database for arrestees:

- ?? Name/nickname
- ?? Affinity group
- ?? Legal support person with contact info
- ?? Arrest time
- ?? Arrest location
- ?? Where detained
- ?? Booking number
- ?? Gender
- ?? Date and time of first and subsequent contacts with legal team
- ?? Asked to see legal team/lawyer? How many times? When?
- ?? Medical info
- ?? Notes

Lawyer database:

- ?? Contact numbers for attorneys
- ?? Each attorney's availability/schedule
- ?? Time and date dispatched
- ?? Location dispatched to
- ?? Activist dispatched with

Legal observer database:

- ?? LO name
- ?? Contact info
- ?? Availability/schedule

Legal support person database:

- ?? Affinity group
- ?? Legal support person name
- ?? LSP contact number

## Photocopies

Training materials  
documents

## Volunteer responsibilities

- Sign a non disclosure agreement
- Work a \_\_\_ hour shift
- No sleeping at the office (except if you're working a graveyard phone shift)
- If you're in the office, you are working
- Know security protocol and follow it
- Let people know what you'd like to do, what you don't mind doing, what you need from them
- Let people know if you're tired, discouraged, stressed, or burnt-out
- Let people know when you need information or help accomplishing a task.



## **Legal team responsibilities to volunteers**

Maintain a healthy office environment

Make sure volunteers aren't stuck doing work they hate

Keep volunteers informed about office procedure and what's happening in the streets

Check in to see how volunteers are feeling and how office procedure can be improved

Do an exit interview when volunteers leave to see how they felt about their experience and what they would change about office procedures.

## LEGAL SUPPORT TEAM ROLES

### OFFICE ROLES

The Legal Support Team Office can also be a tent or vehicle if the action is outdoor or isolated.

### Information Coordinator

The job of the IC is one of the most challenging. It involves:

- ?? Having a good overall sense of what's happening both in the streets and in the office,
- ?? Knowing how the office systems are set up, how they are working or not working, and changing them in order to make them more effective,
- ?? Determining what info has been sufficiently corroborated and should be put on the Street Updates wall chart,
- ?? Coordinating volunteers, and
- ?? Handling difficult situations, possibly including but not limited to: irate callers, person shortages, reticent lawyers, needy arrestees, and confused, sleep-deprived, or slacking volunteers.

Also, in large, complex actions:

- ?? Communicating between the Legal Observer Team and the legal support team office,
- ?? Calling and dispatching lawyers with a legal team member (Away Teams),
- ?? Taking calls from the Legal Team (if there is a designated line for them to call),
- ?? Deciding what information needs to be conveyed to lawyers, and
- ?? Prioritising lawyer visits (to where, to whom).

One of the hardest things to do efficiently is to get important information from the phones to the update charts. Whatever you as the IC decide, the most important thing is that you communicate with the volunteers about what they should be doing to help you facilitate the flow of information. In large actions, it is helpful to have at least two ICs, with at least one in the office at all times.

Other information systems you may want to think about:

- ?? How and where to compile arrestee questions, requests and messages 1) for lawyers and 2) for others
- ?? How to make sure important information gets communicated between lawyers and the legal team
- ?? Where to keep Police Complaint Reports and other sensitive information
- ?? How to make sure the AG legal support person information is being updated.

### Office support

It is important to keep people alive and healthy. This often gets overlooked. The Office Support makes sure:

- ?? People are eating and sleeping
- ?? There is food in the office and meals prepared
- ?? The office is a relatively sane, calm and orderly space
- ?? The office rules are followed.

### MEDIA MANAGEMENT

In a mass action scenario, the legal office will receive a lot of media calls. Because whatever we say to the media can be used against us and against those arrested, the legal team must be very careful when

talking with the media. Volunteers should refer all media calls to the flak or an available legal team member.

All members of the legal team should:

- ?? Reach agreement about what information should be communicated when and by whom,
- ?? Go to a media training,
- ?? Feel comfortable with referring calls to the media team for the action or asking journalists to call back at a later time (especially when the office is busy).

## “AWAY TEAM” ROLES

### On the streets

It's important to have legal support team members or representatives on the streets in order to:

- ?? Build trust and confidence in the legal support team
- ?? Troubleshoot — go to places where civil disobedience and/or mass arrest is occurring in order to act as a police liaison (*only* if there isn't one already), take notes, and be reliable witnesses
- ?? Pass out stickers and other legal info
- ?? Give updates to activists on numbers of arrests, and activity in courts
- ?? Call legal office with updates from streets!

\*Note: It's nice to have lawyers on the street with legal support team members, but it is not crucial and should be the lowest priority in assigning lawyers to tasks. Also, lawyers sometimes get worried about becoming witnesses to cases they may work on later.

### Jail visits

Depending on the city and the circumstances you are in, activist legal team members may or may not be able to do jail visits with lawyers. If they can, they will be able to:

- ?? Get pertinent but legally sensitive info from arrestees
- ?? Give arrestees emotional and moral support
- ?? Build trust and confidence in the legal team and in each other
- ?? Share information from other arrestees
- ?? Share information about action on the streets, about activity in the courts
- ?? Call legal office with updates from jails!

If arrestees are using Jail Solidarity, legal pairs can:

- ?? Arrange group meetings
- ?? Arrange group negotiations
- ?? Facilitate communication amongst all arrestees about strategies, tactics, demands, and negotiating positions
- ?? Call legal office with updates from jails!

If activists cannot go into jails with lawyers, there are other options. The legal team might choose to send a member down to the jail to meet with the lawyer before and after the visit. They might also choose to get people in to do jail visits one-on-one. The purpose of these would not be to discuss their case or specific situation, but to give moral and emotional support to the arrestee.

### Outside the jail — jail pick-ups

Give emotional and moral support to activists being released from jail  
Build trust and confidence in the legal team and in each other

Have everyone released fill out detainee forms  
Have everyone fill out police misconduct reports  
Photograph/videotape and document injuries  
Take statements on tape recorder  
Give people being released information about free clinics, continuing contact info for the legal team, and other info they might need  
Call legal office with updates!, and  
Help people find rides home, help organise a jail vigil, etc.

## **Courthouse/bail hearings/mentions**

Get as much information about defendants as possible including:

- ?? name
- ?? case number
- ?? charge
- ?? plea
- ?? arraignment, mention or other hearing date
- ?? conditions of release
- ?? bail
- ?? judge
- ?? prosecutor
- ?? courtroom number
- ?? Give emotional and moral support to defendants and their friends
- ?? Help build trust and confidence in the legal support team
- ?? Network with lawyers, and
- ?? Call legal office with updates from courts!

## **NEGOTIATION**

If practicing Jail or Court Solidarity, a legal team member might be needed to help with negotiations. As a member of the negotiation team, they would:

- ?? Help convey to the prosecutor the positions of the activists
- ?? Make sure lawyers are accurately representing the positions of the activists
- ?? Help convey the strength of solidarity and the trust and confidence the arrestees have in each other
- ?? Call legal office with updates!

## **ABOUT INFORMATION SHARING**

Information sharing is one of the most difficult things to do effectively in a legal support team.

Information sharing is challenging within the office and also between the legal away teams and the legal office. Having office systems set up in advance and well-trained volunteers will greatly help internal information sharing. Daily meetings, good mobile phones, and designated check-in times are ways that might facilitate information flow between away and office teams.

## LEGAL TRAINING FOR ACTIVISTS

This section contains a sample agenda for a short activist legal training and links to other training resources throughout the site. Use other handouts on this site as required.

### Trainings

When it comes to disseminating skills which allow activists to be safe, more effective, and make informed decisions, role-plays are a highly effective training method.

Good activist legal training includes a series of brief role-plays, where trainers take the role of police officers and participants play the role of the activist.

Each role-play is accompanied by a brief discussion, and a question and answer session, before moving on to the next role-play. The format keeps the audience's attention, and drives each lesson home.

A simple training can include 10 such role-plays in about two hours.

As a Legal Support Team or legal trainer you can expand your menu of role-plays to encompass an arrest at a protest, police attempts to intimidate activists into giving up their rights, and others. Police attempts to move a stall, police attempts to use bluff and threats when questioning an activist, police attempts to search an office or home.

It is important to work with activists and lawyers to make sure your information is authentic and accurate. The strength of activist legal trainings is that we can make a unique training for a group's specific needs without having to create an entirely new workshop.

Each group we train has different needs and experience levels so strive to tailor each training accordingly.

### SAMPLE TRAINING AGENDA

#### Booking role-play (20 minutes prior to start time)

As people enter the space for the workshop, have two volunteer 'police' question and 'book' the participants as they come in the door. 'Police' should use 'bluff' and state that they will be arrested if they go inside – 'Police' should attempt to get participant's name, ID, searching them, etc. This should be as realistic as possible (perhaps costumes, notebooks, etc.).

#### Introduction and go-round (10-20 minutes)

Have participants introduce themselves, debrief the role-play, and describe what they would like to get out of the workshop.

#### Information, solidarity and support (10 minutes)

Facilitators to briefly introduce and describe three core principles of activist legal support:

[Information, support and solidarity.](#)

Legal **information** needs to be accurate, comprehensive, accessible and useful.

Activist legal **support** should be well-planned, capable and effective to meet the level of legal or political repression that we face.

**Solidarity** involves a broad range of behaviours and tactics to take care of each other and support one another.

We have more power when we act together than when we act alone. Solidarity is the way we protect each other in our struggles, share the consequences and mitigate the suffering we encounter when confronting oppressive power. The purpose of solidarity is to build our movement, and to embody our mutual care and concern for justice.

Starhawk, *Solidarity: A Rough Guide*

Rights and freedoms to protest (10-20 minutes)

Group to brainstorm human, civil, political, common law rights that they are aware of. Trainers to highlight others. Discuss or distribute summaries of the ICCPR.

Facilitator to begin discussion:

Obviously, there is a difference between our rights in theory and our rights in practice – it is up to you decide when and how you wish to assert and exercise your rights.

In general, when interacting with police or other agents of the state, it can be useful to assert your rights when you feel they are being violated, but fighting or arguing with them is often pointless and may make you the target of greater repression.

Discuss ways of asserting civil and political rights: doing the protest or rally, using legal or human rights observers, via police liaison, inform media when rights infringed, fighting the violations of rights afterwards in the courtroom, or in the ‘court of public opinion’.

### **Activist legal support (30 minutes)**

Ask group to brainstorm on paper or split into small groups to develop activist legal support needs for each of the headings below: It may be valuable to use current campaign or action to focus discussion.

**Before arrest** – prepare with your affinity group to have a legal support person who will be in contact with the legal team, inform yourselves about the law, plan for the possibility of arrest and consequences, and any non-compliance tactics you may want to use (e.g. response to arrest, leaving ID with the support person).

**During arrest** – focus outwards – notice who is witnessing the arrest, what are the circumstances, think of ways to support the people being arrested, stay calm and maintain dignity.

**After arrest** – Get in touch with the legal team, report the arrest, write down information (times, badge numbers, etc.) as soon as possible.

**Before detention** – think about the things you may need in detention (medicine, etc.), the people who should be contacted (family, work...) or things that should be done (feeding pets...).

**During detention** – communicate with the people who you are detained with and support each other, identify vulnerable members of the group and try to find ways to protect them from oppression. Use group decision-making to decide if you want to engage in non-compliance (e.g., refusing to identify, passive resistance, refusal to wear clothes, hunger strikes, etc...) or other tactics, and what the goals of such tactics are. Don't pressure others into using non-compliance tactics. For people on the outside, this means not forgetting about people on the inside, and letting them know we are there for them, even if they are in for a while.

**After detention** – don't be afraid to talk about your experiences – detention can be traumatic, and you may not feel the effects right away. Be there to support others when they leave detention.

**Court solidarity** – the trial can be a long and isolating process, especially if you plead not guilty, and you will need to support each other throughout both inside and outside of court. This will also involve helping to

raise funds for defence, and helping to keep track of everyone as they go through the system. There is nothing more depressing than being the one person in a large group who happened to get charged with a political "crime", and finding yourself alone during your court appearances. Be there to support your brothers and sisters.

### **Interaction with the police (15 minutes)**

Use a short role-play to start off discussion of police powers and your rights.

Roleplay: interacting with police – police officer approaches activist and tries to get information, ID and search bag, pockets. Let group suggest what the activist's rights are.

Speaking to police

Points to make:

In general, you are under no obligation to speak to police officers or to answer their questions (certain exceptions, such as when driving...).

Ask if you are under arrest, if not, make it clear you wish to leave, try to walk away.

Right not to be arbitrarily detained or imprisoned.

Right to remain silent.

Remember: it is probably better to say nothing than to lie to the police – lying can lead to charges of obstruction. The police are trained professionals and have many techniques for gathering information that may not be obvious to you. Any information you give them can and will be used against you (both in court and outside of court), even seemingly unimportant comments help them to make connections between people and groups in our movements, or to become more familiar with our modes of communication.

Even if, for whatever reason, you decide to talk to the police, do not talk to the police about others – let other people decide if they want to share information about themselves with the police.

### **Identification (10 minutes)**

There is no obligation to carry or show identification, EXCEPT:

if you are driving a motor vehicle you must show licence, insurance, registration – passengers do not need to identify themselves.

if you have committed an offence, you are under obligation to identify yourself – refusal can lead to charges of obstruction and/or failure to identify and you can be arrested or detained until you identify yourself.

if you are in a location not accessible to minors (bar, restricted movie, etc.) you may have to show proof of age.

Police officers are under the obligation to identify themselves, at least by giving you their name, station and badge number. Don't hesitate to ask them to identify themselves, and write down the number (or memorise it).

### **Search and seizure (15-20 minutes)**

Police search role play:

Two or more police arrive at the front door of your office for a noise complaint.

Go out onto the sidewalk, speak to them on public property – they have no right to come onto private property without consent unless:

- ?? they have reasonable grounds to believe a crime is in progress
- ?? they are in hot pursuit of a suspect/escapee, or
- ?? they have a search warrant.

If they have a search warrant, ask to see it as well as their identification – write down names and badge numbers, and call your lawyer as soon as possible. Make it clear that you do not consent to the search, but do not interfere with the search (you could be charged with obstruction). Keep a list of anything they take with them or damage.

The police do not have the right to search you or take your stuff unless:

- ?? you are under arrest
- ?? they have a search warrant, or
- ?? they have reasonable grounds to believe you have an illegal weapon or narcotics in your possession (the way you look, talk or dress and the company you keep are NOT reasonable grounds for a search).

Always refuse to give consent to a search – make it clear to the police and to any witnesses that you are refusing. If the police believe they have the right to search you, they will do it anyway, but your refusal may make anything they find inadmissible and may allow you to pursue sanctions against the officers for illegal search and seizure.

Although you should always refuse a search (even if you think it might be lawful), it is rarely a good idea to physically resist a search. You technically have the right to defend yourself against unlawful searches, but police have the right to use necessary force to make you comply with a search if they have reasonable grounds to believe it is lawful. It is usually safer to let the police search you and then fight about this in court.

In particular when it comes strip searches, you have the right to be searched by an officer of the same sex, and in relative privacy. Strip searches should not be used as a form of intimidation or punishment.

### **Arrest and detention (10-20 minutes)**

The police can arrest you if:

- ?? they have a warrant for your arrest or are aware that a warrant for your arrest is outstanding, or
- ?? they have "reasonable grounds to believe" that you have committed an indictable offence.

Everyone has the right on arrest or detention:

- ?? to be informed promptly of the reasons for their arrest;
- ?? to retain and instruct a lawyer without delay and to be informed of that right; and
- ?? to have the validity of the detention determined by way of habeas corpus and to be released if the detention is not lawful.

### **Right to silence (10 minutes)**

Trainers to discuss and reiterate the following points:

1) The police are trained professionals who have many little tricks to try to make you talk. You have to insist that you do not wish to discuss anything about the charges. Moreover you will be unwise to get into discussions about other things. Don't assume that casual discussions are not a way to gather information about you or the charges. In the cells do not discuss your case with anyone.

2) You should remain silent. And request to speak to your lawyer immediately. Do not waiver. Do not sign any declarations. Do not discuss anything about your case. Do not even discuss an alibi.



3) Choosing to exercise your right to remain silent will NOT be held against you by the court, although the police might try to convince you otherwise.

4) Also, don't ask other people about their cases, and remind them not to talk if they start to tell you things you don't need to know.

You might decide not to identify yourself. Or you may decide to identify yourself but not to provide your home or work place address. There can be very practical reasons why you would not wish the police to have this information. If you refuse to provide this type of information then you will likely be held for a bail hearing in the court.

Bail and bail resistance (10-20minutes)

Discuss the purpose of bail. Clarify the difference between 'own recognizance' and monetary bail.

Explain the common police strategy of placing special conditions on bail. And discuss the tactic of bail resistance, the collective refusal to sign bail till a certain demand is met, such as the removal of a bail condition. See [Release on bail](#).

Distribute copies of handout: [Police powers and your rights](#) – available at [www.activistrights.org.au](http://www.activistrights.org.au)

### **Should I get arrested? (20-40minutes)**

Use handouts; [Should I get arrested?](#) And [How will a criminal record affect me?](#)

In small groups or in pairs ask participants to discuss their fears and concerns about the possibility of getting arrested and charged.

Facilitate discussion:

Some activists choose to disobey or break a law as an act of [civil disobedience](#): the deliberate, open and peaceful violation of particular laws, regulations or instructions which are believed to be morally objectionable or unreasonable.

Other activists go to great lengths to avoid arrest or see arrest as an unfortunate consequence of taking part in an action. Arrest can effectively remove you from the action, make you vulnerable to police abuse, and tie you up for months in court action.

Whatever your views on getting arrested, before participating in any political action that involves the risk of arrest, two questions are worth considering.

Will getting arrested at this action help to achieve the campaign's strategic aims?

And are you willing and able to withstand the personal consequences of arrest and possible charges and convictions that may result? This question can only be answered by reference to your own conscience. And this may require considerable deliberation on the consequences and impacts.

Also highlight the length of the process: if you plead not guilty, your trial and appeals could last for years (literally!) – many people plead guilty just to save themselves the hassle.

### **Common charges (20-40 minutes)**

Ask group to brainstorm offences and charges that they have heard of or heard other activists have received.

List on board the most common offences or charges and offences relating to this particular campaign or action.

Distribute handout on [Common charges and offences](#)

Also distribute handout on [Possible penalties](#)

### **Being a legal support person (20 Minutes)**

Distribute the handouts: [Legal support person info sheet](#) and [Organising support for arrestees:](#)

Discuss the roles of a legal support person and highlight current campaign legal support structures such as the Legal Support Team, arrest support, access to lawyers etc.

Discuss importance of solidarity strategies and support structures.

Legal Support Team phone number (5 minutes)

Distribute appropriate numbers; copies of [Activist legal rights – a short guide](#) or arrest **palm cards**.

Also suggest having the legal support number in permanent marker somewhere on your body.

### **What to leave behind (10 minutes)**

Trainer to ask group: “What would the police really like to find on you if they could?”

Highlight importance of:

- ?? leaving any illegal drugs behind;
- ?? remembering what might be construed to be a weapon ;
- ?? making your decision on what I.D. to leave behind (if not all);
- ?? leaving behind your address books and any other papers that you don't want the police to see.

### **Evaluate and close (10-20 minutes)**

Evaluate training workshop by a quick go-around, “One thing you learnt that you didn't know previously” and thank participants.

*This agenda has been adapted from an agenda of the [Libertas Legal Collective](#).*

## LEGAL SUPPORT PERSON INFO SHEET

There are a lot of roles the legal support person can fill. Below are some examples. Don't feel like you're disqualified if you can't do them all. Just let your affinity (or wider) group know your limits so they can plan ahead and maybe someone else can help be the legal support person with you.

The Legal Support Team form may be useful too – you can print it out and use it for each person in your group. Please keep these forms confidential and return them to the individual or hand them on to their lawyer if they request.

### BEFORE THE ACTION

If people are going into a known arrestable situation, know as much of people's info as they're comfortable giving – including real full name, arrest history (not just activism related), outstanding warrants, responsibilities they need covered if arrested, emergency contacts. If people are unsure whether they may be putting themselves in an arrestable situation, ask them to consider these things beforehand anyway and make it clear that they should get this information to a legal support person as soon as possible.

Arrange ahead of time, *and let ALL of your affinity group members know*, a local number that accepts collect calls from jail where you can be reached, or that you will be checking regularly and frequently.

Know or find out people's medical info: do they suffer from asthma, heart problems, allergies; do they require prescription medications; and record their doctor's name and phone number.

Have access to people's IDs, bail money (or sources of bail money – friends, parents, etc.).

### DURING THE ACTION

***DON'T GET ARRESTED.*** Your role as a legal support person is vital for those who are arrested and you are much more use outside than in!

When people are arrested ask the senior police officer on site to let you know where they will be taken to be processed and also what charges they may be facing. Inform them (if you have been told to) of any medical issues arrestees may have. They may split up the arrestees or may take them to a distant police station for processing, so be ready to travel.

### TAKING NOTES

You must anticipate, because once the action starts you will not necessarily have time to get enough down. As soon as possible after an incident or arrest (whether your own arrest or someone else's), sit down and write out everything you remember about the incident – particularly details like times, locations, movements, statements or conversations, etc. You will be surprised how quickly you can forget details, and the trial may not be for another year or two. Use the Arrestee/injured Instruction Sheet and Arrest Watch forms available at the end of this manual or from downloading them from [www.activistrights.org.au](http://www.activistrights.org.au)

## **Observation paper and pen: use them to:**

- ?? write names of arrested persons and their phone numbers, their friends' phone numbers, their condition before they disappeared from the scene, the words spoken by police during their arrest, their words, the number of the car or wagon they are put into, etc.,
- ?? write down police badge numbers and or descriptions of police involved in the arrest (of those that are aggressive, those who make arrests or are just on the scene, since sometimes there may be testimony from police who were not in fact at the scene at all. Of course, photographs and sound recordings are also useful;
- ?? record significant conversations;
- ?? record licence plates of vehicles (and/or squad car numbers if police vehicles) and the description and location of vehicles.

If you are witnessing the arrests yourself, take detailed notes of who has been arrested, the numbers or identifying information of arresting officers, times, and any excess force used in the course of the arrest. Be sure to write this out later as a statutory declaration if necessary.

## **AFTER AN ACTION**

If you are working with lawyers, please inform them of any arrests and provide all details of where the arrestees have been taken, what charges they may face, etc.

Keep security and confidentiality at the forefront of your mind. Remind people calling that phones may be tapped (the jail's and/or yours).

Get (and keep track of) arrested people's booking and arrest numbers and upcoming court dates.

If and when you hear from your friends in jail, contact the rest of your affinity group and others the arrested folks want informed of the situation. Update those people regularly, even if nothing's changed.

Be able to arrange travel home for your arrested friends. This can mean arranging a friend with a car, collecting money for public transport, or providing their own transport outside the police station following the arrest.

Be available until everyone in your affinity group is out of jail.

Be able to get messages from the outside world to your arrested friends. This is a HUGE morale booster.

Start a call-in or write-in campaign. Call your local member of parliament, the police commissioner, and radio talk back lines to explain what has gone on and to let people know how many people have been arrested. Write a letter to the editor of papers like the Age, the Herald Sun or local press highlighting any issues that came about because of the arrests, including denouncing police harassment, misconduct, unlawful arrests, and/or the attempt to oppress and silence people.

## **ONCE PEOPLE START GETTING OUT OF JAIL**

Copy (and keep track of) everyone's paperwork from the police (arrest reports, etc.), jail (booking info, property reports) and court (hearing dates, info on charges, etc.).

Remind people about their upcoming court dates by calling, mailing and emailing them.

Have extra Police Complaint forms for your affinity group members to fill out at the action, or after.

They also lay the groundwork for suing the police. Get your complaint reports to the legal team (sometimes they need to be hand delivered).

Adapted from material developed by the Midnight Special law Collective:

[www.midnightspecial.net](http://www.midnightspecial.net)





**AFTER RELEASE:** Do you have copies of:

- ? arrest report
- ? statutory declaration of arrestee
- ? court/hearing dates
- ? bail conditions
- ? police misconduct form

Did the arrestee fill out a statutory declaration or a Police Misconduct Form once released?

- ? No
  - ? Yes: details:
- 

**ADDITIONAL NOTES:**

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## ARREST WATCH REPORT FORM

**Name of observer:** .....

**Address of observer:** .....

**Contact phone numbers:** .....

**Affiliated organisation:** .....

**Date:** ..... **Time:** .....

**Incident Description:** .....

**Location:** .....

**Description of what the observer witnessed:** .....

.....  
.....  
.....  
.....  
.....  
.....  
.....

**Was someone arrested or injured during this incident? If so whom?**

**Name:** .....

**Address:** .....

**Phone:** .....

### Evidence

**Other witnesses** Yes / No

If yes (details) .....

.....

**Photographs** Yes / No If yes (details) .....

**Video evidence** Yes / No If yes (details) .....

**Other** .....

