

# Legal Solidarity Workshop

3-4 trainers, 4 hours

**Wallcharts** – Workshop agenda, consensus process, arraignment rap, court solidarity tactics, a few blank sheets for brainstorming

**Props** – **Handouts**, role play cards, tape (to mark injuries), batons, cop hats, flex cuffs

## I. INTRODUCTION (5min)

- We're MSLC. We're not lawyers — we're activists with experience working with the law.
- Intro questions to gauge the experiences of the participants. Sample Qs: Stand up if you've been to a protest; used consensus decision making; facilitated a meeting; been arrested; used Legal solidarity
- For us, the meaning of solidarity is taking care of each other through group decision-making and action. In this training, we are focusing on using solidarity in the legal system.
- Legal Solidarity strategies work best when there are a large number of people and when these people are unified and committed. What qualifies as a large number is relative — for example, it takes far fewer people for effective Court Solidarity than for effective Jail Solidarity.
- There is a lot of information we want to get through, as you can see by the agenda. If you have a question, look to see if it might be answered later in the training. If you have a question that doesn't fit or we haven't answered, we'll be happy to answer it at the end of the workshop.
- Most people arrested won't have gone through this training so you will be training them on the bus or in jail. Consider this a trainer training.
- We use role plays to give you the experience of being arrested, being in solidarity, etc. without actually getting arrested. You'll learn better and remember more when you fully participate in them. We want you to have fun in the role plays, but we also want you to take them seriously.
- Some of our role plays are physical, and the scenarios can be scary. If you don't want to participate, PLEASE TELL US. It's no problem for someone else to be in a role play instead. We also have tape you can put in big strips on parts of your body that are injured.

## II. TALKING TO COPS (5min)

- When interacting with the police, there's no such thing as a casual conversation. Anything you say to a cop, under any circumstances, can be used against you and your friends.
- Cops lie. They may say things like: "This is just between you and me," "You have to tell me this," "If you don't tell me, I'll have to arrest you."
- **You never have to talk to a cop.** The only time you have to say anything is when you give your name and address during booking, after you're arrested. We don't provide even this information if we choose to use Jail Solidarity as a legal strategy.
- The safest thing to say to a cop, in "casual conversation", during arrest and after, is the Magic Words: "I am going to remain silent. I want to see a lawyer." [everyone says it together]

### III. ARREST ROLE PLAY (10min)

**Roles:** Two cops, four participants

**Props:** None

**Scenario:** Participants are locking arms in front of the GAP. The cops come and say things like, “ We’re not going to arrest you, we just want to ask some questions. What group are you with? How long do you plan to stay? Who’s in charge?” The cops then arrest the person in charge and say they’re charging her/him with inciting a riot. Cops do NOT read Miranda rights.

#### Debrief (5min)

- Cops don’t have to read you your rights – only if you are arrested *and* they want to question you. The “leader” is digging her hole deeper – discuss why (admit you know you’re breaking the law, admit prior offenses, etc.)
- Are things ever easier when you talk to the cops? Maybe. You might make your situation a little better by talking to the cops, but most likely you'll make it a lot worse. Attorneys say that a high percentage of cases are lost because the client opens his/her mouth.
- What should you say? The Magic Words “I am going to remain silent. I want a lawyer.”
- Repeat roleplay – this time participants don’t point out the ‘leader’ and when one is arrested, she says the Magic Words.

### IV. LEGAL SOLIDARITY (35min)

#### A - Definition (10min)

- Ask: has anyone been arrested in a non-protest context: How was it? (Isolating, scary, etc.)
- Legal Solidarity is a strategy by which we protect each other through group decision making and action.
- Jail and court are designed to be isolating, but by working together we can be in a position of power, even in small groups.
- We use Legal Solidarity to keep us safe — not only in the moment, but also by keeping vulnerable people from getting singled out for harsher treatment in jail and court
  - Explain how some are targeted (e.g. trans, "leaders", people of color, etc.)
- A great way to take care of each other is to negotiate a plea bargain that will cover everyone and will not have a harsher impact on non-U.S. citizens and people with previous records or strikes.
- We'll talk more about what this plea bargain might look like later on
- Distinguish Jail & Court Solidarity – Jail Solidarity is mostly non-cooperation, where Court Solidarity is mostly using your constitutional rights and coordinating with each other. Though your tactics will be different, your ultimate goal in Jail and Court Solidarity is the same — to protect each other.

#### B - Tactics and Demands (15min)

- A demand is something you want. A tactic is something you do in order to get a demand met.
- Brainstorm some demands that you might have if you're in jail or on a bus
  - give an injured or ill person immediate medical attention

- bring some water
- return a person who has been separated
- allow group visits with our legal team
- Demands change depending on where you are in the process (e.g. on the bus, a demand might be to get booked in fives or tens to keep safe)
- Brainstorm some tactics in Jail Solidarity
  - chanting, singing or dancing incessantly
  - refusing to follow orders
  - going limp
  - doing the opposite of what they tell you to do (they say stand up, you sit down, they say sit down, you stand up)

Note: physically non-cooperating could possibly result in resisting arrest charges. However, in our experience these charges disappear. Also, you could get beat up.

- Go over going limp safely and practice
- This is just a small sample of possible tactics and demands. Let your creativity and the situation guide you. We will always be more creative than the system.
- Non-cooperation tactics are often very effective when used by a large group. One person not giving her name and going limp every time she is moved is an inconvenience. 100 people doing the same is a logistical nightmare
- Be proactive (e.g. find out who's vulnerable and move them to the back of the bus, switch clothing, etc.)
- Match your tactics to your demands—make sure the tactic chosen effects the person who can meet your demand (e.g. don't say you'll chant until you get a universal plea bargain from the guard - he can't give it to you. You could use this tactic to demand some water or a phone call.)
- If a tactic isn't working, escalate, but make sure you don't burn yourselves out or exhaust your tactics for less important demands (prioritize!)
- Don't bullshit. If you don't follow through on your promises, the cops won't believe you in the future, and this will undermine your collective negotiating strength.

ShoutOut: Trainers present scenarios and participants shout out tactics and demands.

### C. Communication (5)

- You must communicate your tactics and demands to someone (guard, prosecutor, etc)
- Tell them "We want <demand>, and we're going to <tactic> until we get it!"
- Be clear. Use a spokesperson so that only one person is talking at a time.
- Rotate the spokesperson so that she doesn't get targeted.

### D. When you have to get out of jail (5)

- Sometimes, people can't commit to stay in jail.
- Legal solidarity is taking care of each other through group decision-making and action, not staying in jail for a set amount of time. If you can't stay in jail or can't get arrested [for whatever reason], you should be supported.
- Pressuring someone to stay in jail is not taking care of that person. Instead of strengthening solidarity, this goes against its basic principles. The same goes for forcing people to use tactics that they're not

comfortable with.

- You don't need everyone to participate in a tactic for it to be effective, but you do need everyone to feel supported to achieve the goals of solidarity.
- There's a lot of support work to be done outside jail, like volunteering in the legal office, organizing a phone call campaign or a jail vigil, etc. Check out our Legal Solidarity Zine for more info.

## **V. BUS ROLE PLAY (20min)**

**Roles:** 2 or more cops, 15-20 participants

**Props:** flexcuffs, batons, cop hats, nail clippers

**Scenario:** All activists are cuffed and on a police bus. They haven't had water in hours. A person has asthma and needs his inhaler. When cops first come on bus, they try to take the asthmatic off. The roleplay ends when participants use consensus to choose and prioritize tactics and demands, then effectively communicate them and escalate as needed.

**Note:** This roleplay is subjective. Trainers must be familiar with solidarity tactics to know when to end it.

### Debrief (10min)

- What worked? What didn't?
- How was your decision-making? Did people feel comfortable with the decision?
- How was communication? Do you think it was effective?

## **-----5 minute BREAK----- (10min)**

## **VI. BOOKING (10 min)**

- By the time you get to booking, you'll be exhausted, hungry, thirsty, and possibly confused. This means you are more likely to cooperate out of habit. DON'T. You might choose to cooperate because it's strategic, but do not cooperate out of habit.
- During booking, cops will ask you questions (like your name and address), take your picture and fingerprints. They may also ask you detailed questions about what you were doing. If you want to cite out, answer their questions about your name and address, but nothing else.
  - Citing out means they will release you on the condition that you sign a citation, which is a promise to appear in court. You know that it's a citation because it will say near the bottom "This is not an admission of guilt".
- Regular booking is thorough, possibly involving strip search
- Mobile booking will probably be cursory and they'll try to cite you right there (if it's not a felony)
- What not to have if you get arrested:
  - "weapons" (including leathermen, small knives, etc.)
  - drugs (yes, including pot)

- your contact list or planner
  - *any* ID (if you are doing Jail Solidarity)
- Brainstorm resistance tactics for booking (no name, funny face, fingerprints, going limp, etc). **DO NOT GIVE FALSE INFO TO THE COPS** — this can lead to additional charges.
  - For minor offenses, the police will usually cite you out after holding you for a few hours.
  - If you are using the tactic of not giving your name, they cannot cite you out and must hold you in jail.
  - Cops & sheriffs might threaten to use force, or actually use it, if you resist.
  - You don't have to sign anything, even a property form -- they are supposed to give you your stuff back whether you sign the form or not.
  - Go over other conditions of release (OR, Bail)

## **VII. BOOKING ROLE PLAY (10min)**

**Roles:** 2 - 3 cops, 4 participants

**Props:** camera, cop hats

**Scenario:** Book 5 or so participants. The 1<sup>st</sup> should cooperate fully. The next should experiment with using non-cooperation (Tell them they are trying to get a separated friend back with the group)

## **VIII. ARRAIGNMENT (10min)**

- You begin using Court Solidarity when you are arrested and say the Magic Words, “I am going to remain silent. I want a lawyer.” You continue to use it while you’re in jail and at arraignment, (your first court appearance) by not waiving any of your rights.
- Arraignment/ court appearance can be the scariest part. Explain why (your decisions here have long-reaching impacts, much less obvious what to do, etc)
- When you use Court Solidarity tactics, you say this (or communicate it to a lawyer you trust):
  - plead not guilty
    - this forces them to hold many trials, clogging the court system
  - insist the court appoint a free attorney to represent each defendant
    - this creates a vast amount of paperwork for the court and prosecutor, as well as a huge expense
  - insist on a speedy trial
    - this forces them to bring everyone to trial within about 30 to 90 days (depending on jurisdiction) of your first court appearance. Otherwise they can schedule trials to start long after, at their convenience.
  - You also fight the case vigorously before trial by submitting a lot of motions and requiring lots of hearings in court
    - this puts strain on the court bureaucracy and prosecutor

## IX. ARRAIGNMENT ROLE PLAY (10min)

- Arraignment is when they actually let you know what you are being charged with. In the past, arraignments have been held *before* people got to jail in an effort to diminish numbers in Solidarity.
- Prosecutors, cops, judges, lawyers – may all lie

**Roles:** judge , defense atty

**Props:** None

**Scenario:** The cops had told the activists they had 4 felonies and 7 misdemeanors. Now at arraignment: An unknown defense attorney hustles them into the courtroom. They find they are charged with 2 misdemeanors (Unlawful Assembly & Refusal to Disperse). Judge tells each person that “this ‘solidarity thing’ isn’t happening — most of your friends have gone home and you should go home, too”. Defense attorney claims to be a member of the legal team and reports “that ‘solidarity is off, you should all cite out’.” Participants must resist the lies and assert the Court Solidarity Tactics. Then the judge asks them to waive their rights.

## Debrief (10min)

- Legal team will try to communicate with you
- Everyone may be lying, so only trust the people that you , er, trust
- You won't be in jail for a month
- This is a personal decision - you can cite out if you want and you'll be supported
- If you cite out, contact the legal team so they can keep you updated on plea bargains and changes in legal strategy.

## X. LEGAL TEAMS (10min)

- What legal teams are — activists, law students, legal workers and lawyers
  - Lawyers are not in charge. Be careful of power dynamics. Lawyers are used to being in control. Don't let them make political decisions for you, but be diplomatic because we need to have good relationships with them and chances are they are trying to help
  - The legal team is not in charge, either
- Brainstorm what this legal teams does: Provide communications between people in jail, track people through the system, offer legal info (but unless they're lawyers, not legal advice), negotiate if necessary, do legal logistical stuff like writing motions
- Brainstorm what we don't do: Make political decisions, make any decisions for people in jail when not empowered to, pay bail
- Contacting the legal team
  - One person should give information for everyone in the holding cell and everyone on the bus, if possible: nickname, affinity group, booking # and/or bracelet #, charges, what location they were arrested at, etc. This reduces the # of calls we get and keeps the lines open for other people in jail.
  - If calling from jail, phone calls will be monitored and/or recorded (don't mention alleged crimes, immigration status, etc.)

- Mention anyone singled out or those obviously at risk (but not by name)– esp. trans folks, injured, well-known organizers, "punks" or people dressed in black, people on probation, people threatened with more serious charges, etc.
- Have a legal support person!
  - This person should have a contact # where they can be reached, and let the legal team know what it is. That # should be the second one you call, after the legal team.
  - This person should be in contact with your family and friends and let them know what's happening to you, so the legal team doesn't have to. This person has your ID & \$, because it is extremely difficult for the legal team to get these things for you
  - Check out our Legal Support Person Handout

## **XI. JAIL ROLEPLAY (15min)**

**Roles:** 2-3 cops, 1 lawyer

**Props:** batons, hats,

**Scenario:** People are being held in the temp space at pier 27. There are no phones. No water. No food. No bathrooms. They've been there for 9hrs. The legal team is trying to get in to see them. The goal is to get the legal team in to speak to them in a group.

**Cops:** Say you can only allow individual jail visits. If they escalate, allow group visits

**The group must:** use tactics and escalate, use clear communication, decide when to stick to guns & when to compromise.

Once in, lawyer doesn't quite get solidarity and tries to take charge & get them to cite out, or tries to tell them what to do. The goal is to get information from the lawyer and ask the lawyer to deal with the conditions of confinement.

### Debrief (5min)

- autonomy
- use legal team effectively - share info among groups of arrestees, deal with emergencies & 'conditions of confinement'. Not to make decisions. Be nice but firm to lawyers.

## **XII. TOUGH TRUTHS (10min)**

These are "tough truths," what we've seen happen in our experience but are not meant to discourage you from doing everything you can do to protect each other.

- (1min) Fasting is very dangerous! It should be your *last* resort!
- (1min) Once people are removed from the group by the feds, INS, etc., they're unlikely to be returned
- (1min) They will target and isolate people, for all the reasons we've mentioned, but also for acting like you know what you're doing. If you are obvious when telling others about Legal Solidarity and their rights, you could be identified as a leader and a troublemaker, and could risk isolation.
- (1min) Brutality at the hands of cops and guards is real and dangerous. Activists can really get hurt. By using non-cooperation tactics, you risk pissing the guards off.

- If you are abused, brutalized, threatened or harassed in any way, remember the information around the incident (names, badge numbers, what was said and done, witnesses, etc), call this info in to the legal team, and fill out police misconduct reports when you get out – one per incident.
- (6 min) Felonies, non-US citizens, people with priors or on probation . . .
  - People charged with felonies, non-US citizens, people with priors or on probation, etc. are almost certainly going to be a sticking point in negotiations
  - Remember that cops can lie about charges, evidence, etc.
  - Must decide if getting felonies included in the plea bargain is realistic – considering your numbers, outside support, etc.
  - If not, plan and commit to legal support for people charged with felonies – working with the long term legal team, raising money and awareness, etc.
  - It's better to come out strong with a solid long term plan than to trickle out scattered and disorganized

### **XIII. END GAME**

#### **A. Plea Bargain (5 min)**

- Does anyone know what a plea bargain is?
- It's an deal that a defendant works out with the prosecutor
- Basically, you give up your right to a trial. In exchange you get agreed upon charges and sentence.
- When you take a plea bargain, you plead guilty.
- 85% of cases are resolved through plea bargains. They *cannot* take many cases to trial.
- Here's an example: person A is charged with malicious mischief (felony), and vandalism (felony). The plea bargain is: they'll plead guilty to disorderly conduct (misdemeanor) and pay \$100 fine and be on probation for 12 months.

#### **B. NEGOTIATION (10min)**

It may not seem like it, but when a group of people bargain collectively, they have lots of power to get a good plea bargain. You will have to negotiate with the prosecutor to reach an acceptable. Ideally prosecutor comes to jail, but that rarely happens (note: if you *do* get the prosecutor face-to-face, you *must* have a lawyer from the legal team there to make sure the deal is legally sound.

- Review demands – credit for time served, no fines, and charges reduced to an infraction. Everyone gets the same charge and same sentence.
- Explain the difference between levels of charges and why infraction is optimal (won't have harsher impact on immigrants and those who have criminal records, won't result in a criminal record)
- Explain how to negotiate if there's no direct communication with the prosecutor
  - Have solid consensus about what you're willing to compromise on and what you're not (what kind of community service, how many hours, fines, etc.)
  - Communicate very clearly with legal team, because even people acting in good faith can make mistakes
  - Brainstorm why legal team might make mistakes: They're human, tired, have their own preconceptions of what's best for arrestees, etc.



- What can we do to help? Put what's consensed on in writing before the legal team comes, get regular report backs from them even if nothing's changed.
- Get any deal from the prosecutor in writing.

### C. MORE ON COURT SOLIDARITY (5min)

- Sometimes the prosecutor won't negotiate, or there aren't enough people to put pressure on the jails. This might be the time to leave jail and focus solely on Court Solidarity.
- You can use court solidarity if you have to cite out.
- You cannot use court solidarity if you plead guilty or no contest to your charges or take a plea bargain that has not been negotiated with the entire group.
- Review Court Solidarity tactics from arraignment
- Discuss other tactics
  - fight your case vigorously and file lots of motions
  - media work
  - lawyers all working together in a huge legal team, not dozens of individual teams

### **XIV. PLEA BARGAIN ROLEPLAY (10min)**

**Roles:** Prosecutor , Lawyer , Activist, all participants

**Props:** Butcher paper to write up proposals.

**Scenario:** Prosecutor will budge a little, but not all the way — will reduce most charges to infractions, but won't drop felonies, go lower than a \$20 fine because it's the law. Role play ends when participants come to an agreement — consense on compromise, go back to jail solidarity or move to court solidarity.

### Debrief (5min)

Must be able to compromise, must communicate well

- When negotiating a plea bargain, one of the terms you might set is that you will determine the order of release and that you want the legal team there to ensure that this order is followed. This is another way of protecting those who are most vulnerable.
- When people are being released from jail, use your tactics to demand that people are released in groups, and that certain people (those who are most vulnerable because of warrants etc.) be released in the first groups, so if they get stopped, everyone else can immediately use non-cooperation tactics to protect them.

### **XVII. ONGOING LEGAL SUPPORT (5min)**

- Go over list of things to do in handbook – jury watching, media work, helping lawyers, fund raising, etc.
- Some of the best volunteers are people who were in jail

### **XVIII. CHECK OUT EVALUATION (10min)**

# Role Play Cards

## III. ARREST ROLE PLAY

You are blockading the GAP as part of the Sierra Student Coalition, and person #4 is your leader.

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You are blockading the GAP as part of the Sierra Student Coalition, and person #4 is your leader.

You're the leader of the group. Give excuses after getting arrested: 'We thought it was just trespassing,' and 'We've done this before and nothing happened.'"

## V. BUS ROLE PLAY

You have asthma. You need your inhaler, which is in your backpack – which the cops took away when you were arrested.