

JUST CAUSE LAW COLLECTIVE

How to Use Jail/Court Solidarity

Jail/court solidarity is a combination of non-cooperation techniques and collective bargaining that groups of activists can use to take care of each other in the legal system. The leverage for solidarity arises because jails and courts, in order to run smoothly, rely on people to be passive and obedient. Jails expect prisoners to get in line and march where they're told. Courts expect defendants to sit quietly and give up their right to trial. Neither of these systems is set up to deal with large, organized groups of people who simply say, "No, I won't." So when activists non-cooperate and negotiate as a group, the authorities may be forced to agree to their demands. Of course, the demands have to be ones that the jail authorities or the prosecutor are capable of meeting. Jail/court solidarity will not bring about an end to nuclear weapons or corporate globalization.

Typical Demands

- All the people arrested for the same type of incident must receive the same charges and sentence, instead of some (such as leaders or Arab-Americans) being singled out for harsher treatment.
- A person in custody who's sick or hurt must be given immediate medical treatment.
- Someone who's been locked up separately must be returned to where the rest of the group is being held.

The demand must be clearly explained to the authorities, and then backed up by non-cooperation tactics, which can be physical or procedural.

Physical Non-Cooperation Tactics

- refusing to stop chanting, singing or dancing
- refusing to follow orders (if they say stand, then sit; if they say line up, then mill about)
- refusing to move at all
- refusing to wear clothes
- refusing to eat (but *not* refusing to drink)

In choosing non-cooperation tactics, it's important to leave room for escalation if the demands are not met. Refusing to eat (fasting) is normally the last tactic people use. It's one of the most difficult, but also one of the most powerful forms of non-cooperation. Because it's harder to communicate and make decisions well when people stop eating, at least one person in each group should refrain from fasting and act as caretaker for those who do fast. The "designated eaters" assist in facilitating meetings and in communicating with supporters, lawyers, media and the authorities. (Of course, it's silly to "dry fast," because negotiations often take longer than one can stay alive without drinking.)

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Procedural Non-Cooperation Tactics

- not bringing ID and refusing to give name or answer other questions (so the authorities have to keep people locked up)
- refusing to promise to appear in court (again so the authorities have to keep people locked up)
- demanding to have the court appoint a free attorney to represent every low-income defendant¹
- refusing to plead guilty (so the authorities have to hold trials)
- refusing to give up the right to a speedy trial (also known as refusing to “waive time”)
- having the lawyers submit lots of motions (written legal arguments, to which the prosecutor must respond) and requiring lots of hearings in court

Using Jail/Court Solidarity

Groups should consider in advance which solidarity demands and non-cooperation tactics they might use during the various stages of the action, in jail and in court. Activists who employ jail/court solidarity need to leave plenty of room for those who don't wish to join them. Not everyone can stay in jail or prepare for trial. But then, not everyone *has* to participate in order for solidarity tactics to work—it only requires enough people to leverage the negotiation. The strength of solidarity comes from the voluntary agreement of everyone who takes part in it, and from the support given to those who cannot take part.

Solidarity is particularly important when working in coalition, because it helps protect members who are likely to be treated worse than others, such as:

- non-U.S. citizens and recent citizens, especially those from Arab or Moslem countries
- people of color, LGBT people, and people with disabilities
- people who are seen as leaders
- people who go limp, who lock down, etc.
- people who dress punk or who wear all black
- people on probation or parole
- people with prior arrests or convictions

Jail/court solidarity requires that people have good meetings and take the time to listen to each other. Never, ever let the police, jail authorities, or lawyers push the group into a rushed decision. Activists can nearly always bargain for more time. After all, it's simpler for the authorities to give the group another fifteen minutes to come to consensus, than for them to carry large numbers of people who've all gone limp.

¹ People are only entitled to court-appointed lawyers if they're facing jail time. If a person's charged with an infraction, a crime for which the penalties don't include jail (for example, certain traffic violations), the judge will not appoint a free lawyer.