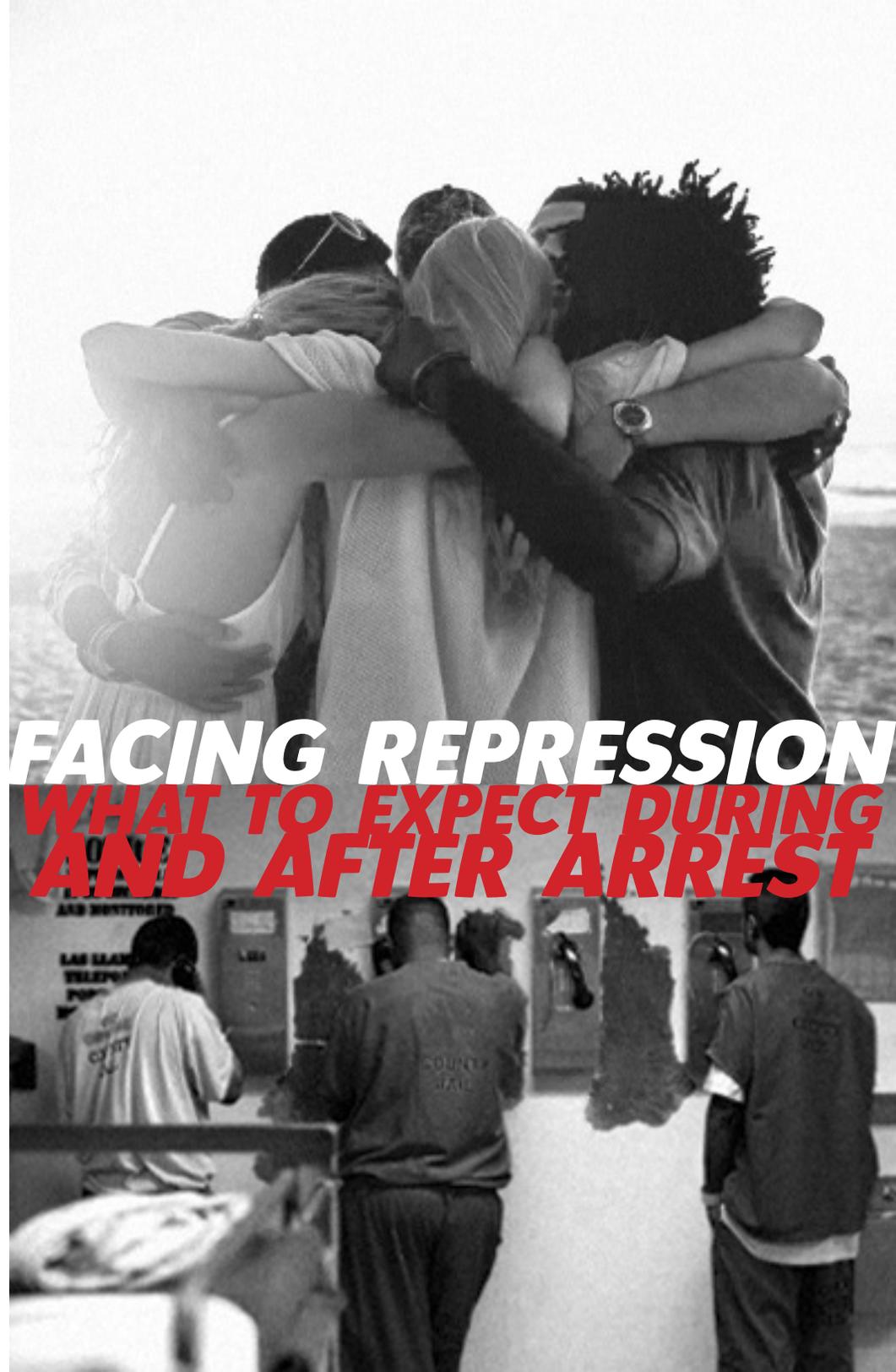


ANTICIPATING REPRESSION?

**YOU DON'T HAVE TO
DO THIS ALONE**

FTP.

FTP



FACING REPRESSION
**WHAT TO EXPECT DURING
AND AFTER ARREST**

REFERENCES & RESOURCES

- A TILTED GUIDE TO BEING A DEFENDANT - the tilted scales collective - <https://tiltedscalescollective.org>
- THE CRIMINAL LEGAL SYSTEM FOR RADICALS - the tilted scales collective - <https://tiltedscalescollective.org>
- REPRESS THIS! WAYS TO BE YOUR OWN ANTI-REPRESSION
- COMMITTEE - oakland anti-repression committee - oaklandantirepressioncommittee.wordpress.com
- KNOW YOUR RIGHTS! What You Need to Know - JustUs NYC Know Your Rights Series - info@justusnyc.org
- SURVIVAL GUIDE FOR UNDERSTANDING GESTAPO SWINE INTERROGATION MID GAMES - Harold H. Thompson & Boston ABC - Boston ABC@riseup.net
- KNOW YOUR RIGHTS - ACLU - <https://www.aclu.org/know-your-rights/immigrants-rights/>

PLEASE NOTE: We do not provide pro bono legal assistance, and cannot give specific legal advice. We are not lawyers. We do not directly provide legal observers or legal office support.

We will explain the timeline of events from arrest to trial - and share resources for deeper diving.

We will explain what to expect during this process both logistically and emotionally to help you feel more prepared in the unfortunate circumstance of your arrest.

TIMELINE

0. Grand Jury/Preliminary Hearing
1. Arrest - Transport
2. Going to Jail: Waiting & Booking
3. Arraignment & Bail Hearing
4. Release (if possible) - Or Enter Gen Pop
5. First Appearances & Pre-trial Motion Hearings
6. Lawyers, Proceeding in the case - Plea deal or go to trial.
7. Talking to Family and Friends and Getting Support

Most of this information was consolidated and streamlined for quicker consumption from pre-existing texts, we want those who wish to be well informed to dive deeper. Thanks so much to The Tilted Scales, Oakland Anti-Repression Committee, Boston ABC, ACLU, JustUs NYC for your work we heavily reference here.

of course, and guilt or innocence should never be part of the discussion of criminal charges. In these situations, defendants should clearly be careful not to admit guilt unless they are pleading guilty and should not talk about the details of the case in ways that could harm them or others. Yet there is a difference between talking about, for example, the illegitimacy of the laws being used to bring charges against you, the political motivations of the charges, or your rejection of the state's authority to impose laws and telling your supporters something that the state knows to not be true.

- **DO NOT HIDE WHAT YOU ARE BEING CHARGED WITH:** In a handful of cases, defendants have chosen to go public with being charged but have not specified what the charges are or what the alleged incidents were that led to the charges. This is a bad approach since the state is left knowing more about the situation than the people being asked to extend solidarity. An important reality of legal charges to keep in mind is that most court documents (e.g., indictments, motions, court transcripts) are public documents, so many of the state's allegations and evidence against you are made public even if you do not go to trial. There is a difference between talking publicly about the state's allegations and talking about information related to the charges that are best kept secret for your and others' safety and security.
- **DO NOT MAKE STATEMENTS THAT DAMAGE YOURSELF OR OTHERS:** Some defendants have made damaging or incriminating statements about their charges, whether online, to the media, during phone calls or visits in jail, or in court. Consider all statements thoroughly before making them, particularly when you have co-defendants or when other people could be charged with related crimes.

GRAND JURY OR PRELIMINARY HEARING

- This will often happen before you are arrested and without you present if the state has time to build a case against you. If you are arrested "spontaneously," the preliminary hearing may be combined with the arraignment (more on that in section 3.)
- The prosecutor must show that there is "probable cause" that someone has committed a crime to hold them after an arrest. This usually happens in one of two ways—either through a grand jury indictment or through a preliminary hearing.
- All felony cases in the federal system require an indictment from a grand jury (these can be bypassed for misdemeanors).
- If the grand jury finds that there is probable cause, they will then issue a formal indictment that charges the person with a specific crime or crimes.

DETAINMENT, ARREST & TRANSPORT

- Once you are in the presence of police (in custody, they knocked at your door, in the back of the police car) the single most important thing you can do right now is not talk to the police. It does not matter what you did or didn't do. It does not matter what you think they already know. This is what you can say:

"I'm going to remain silent. I would like to speak with my attorney."

Nothing else. I can't possibly stress this enough. If you only retain one thing from this text it should be this:

"I'm going to remain silent. I would like to speak with my attorney."

We will cover more about police and law enforcement tactics in the booking/waiting section.

- If a detective is at your door and you are not being detained you can take their card and have your attorney call them.
- Being detained is scary. You lose bodily autonomy and are treated often very roughly. They can and will demean you and if you are non-white, or non cis-hetero appearing you may receive even worse treatment. It is important right now just to remain silent. Unfortunately, this can extend to advocating for yourself or for another person who is in custody. (I would certainly not tell anyone to not do this outright, but doing so can make you a target in their eyes, do risk assessment to decide whether or not you want to do this. This piece of info comes from personal experience of being arrested and advocating for someone else, which tacked on time to the booking process and also added time being zip-tied).
- Cops rarely read you your Miranda rights. They don't have to, so don't be fooled into thinking that whatever you say will be thrown out of court because these rights weren't read to you.
- Expect hours of waiting in police vans or buses, handcuffed and without access to a bathroom, food, or water.
- On Immigration Status: Please note that if you are not a United States citizen, your rights may be substantially different. A single arrest or a plea to a misdemeanor may affect your ability to leave and reenter the United States or bar you from becoming a citizen. Please consult an immigration attorney with your specific situation and do not rely on your criminal defense attorney's knowledge of immigration law when discussing possible deals. You can also go to the ACLU's website and search "Immigrant's Rights" for an article on this issue.
- Information for Minors: Anyone who is under 18, or who looks under 18 and doesn't provide identification or age at the time of arrest, may be processed as a juvenile. The authorities will attempt to contact a parent or guardian. Providing the parents' or guardian's contact info upon arrest to the legal team or to a trusted lawyer can help accelerate the release process, when accelerated release is desired. Please be advised that minors are not usually released except into the custody of an adult. If the parent or guardian is arrested at the same time and there is no other legal guardian able to get them Child Services may come to take temporary custody.

For example, if you are a member of a revolutionary organization that is being investigated by the government, you are in a stronger position if you just say so. If you claim that you are being targeted because you work with youth or community gardens, or because of some aspects of your identity, later on you will have to explain that you are also a revolutionary and that this is the actual reason why you were targeted.

- **DO NOT FALSELY CLAIM THAT CHARGES ARE A FISHING EXPEDITION OR WITCH HUNT:** Often, people quickly call investigations, grand jury subpoenas, and criminal charges fishing expeditions or witch hunts when the reality is not so clear cut. Granted, the state will seize every opportunity to persecute political dissidents and collect intelligence on revolutionary communities and organizations. Law enforcement agencies will also set up sting operations and entrap people. However, the state gathering additional information through subpoenas, house raids, and interrogations after an incident occurs is different than the state simply trying to gather intelligence without much direction (i.e., a fishing expedition). Likewise, the state gathering additional information after an incident is different than the state casting a particular political group as the enemy and seeking individuals to take the fall (i.e., a witch hunt). All of these actions and motivations should be decried and resisted, of course. What is important is calling things what they are as best we can, even though we rarely know exactly what the state is trying to do.
- **DO NOT PROMISE TO GO TO TRIAL "NO MATTER WHAT":** Many defendants come out strong when charged, vowing to fight the charges to the bitter end. As the pre-trial proceedings get underway and they learn more about their legal situations, however, these stances can change. There is nothing inherently wrong in accepting a non-cooperating plea agreement—doing so could be the most strategic move just as easily as it can be a capitulation to the state. However, leading supporters to think they should stand in solidarity with you because of your dedication to going to trial, as opposed to the fact that you are being charged at all, can set you up for going back on your word should you ever decide to take a plea agreement.
- **DO NOT SAY THAT YOU KNOW NOTHING ABOUT AN ALLEGED CRIME WHEN THERE IS EVIDENCE THAT YOU DO:** Many times, defendants will claim that they know nothing about an alleged crime when there will be evidence (e.g., computer or cell phone records) that prove or suggest that they do. People choosing to break the law as part of revolutionary struggle should be supported,

- If you decide to do this please read the chapters in the tilted scales guide about media and goals first.

SUPPORT CREWS

- While you are awaiting trial, your friends and family and supporters will want to know what they can do to help you. This can be somewhat overwhelming, but you will need all the help that you can get.
- Make sure that anyone acting on your behalf is accountable to you and to what you believe to be your best interests. Be wary of anyone who is using you in the service of their own agenda, whatever it might be. This may be even harder, but be very firm with your family if they flip out and try to get you to cooperate with the authorities because they think that is going to get you out of trouble. It won't. Don't let anybody push you around, even if it is someone who loves you.
- Don't go it alone. Close ranks with the people that you trust with your life, and let them help you. Folks can help you raise bail and legal money, find and research and deal with lawyers, do outreach to put the word out about the case if you decide that is to your advantage, find and locate witnesses and evidence and expert witnesses if that is appropriate, turn people out to the courtroom at your trial and other appearances if that is what you want, secure endorsements from reputable community members, deal with the press in some way if necessary, keep you mentally, emotionally, and spiritually together, and about a thousand and one other things.

FRAMING YOUR CASE

- When setting your political goals for your case, ask yourself, "How do I want to position myself and my charges in relation to revolutionary struggle?"
- The most important premise at the foundation of any answer to this question is that cooperation with the state is never an option.
- You, your supporters, and your lawyer need to decide the best approach. You might see this as a wonderful opportunity to talk about the issues that are important to you. Some may fear that talking too much about their political beliefs would increase the chances of spending decades in prison. There is no right answer here.

ADDITIONAL PITFALLS TO PUBLICLY DISCUSSING LEGAL CHARGES, AND SOME SOLUTIONS

- **DO NOT DISTORT THE REASONS WHY YOU ARE BEING CHARGED:** Do not say that you have been targeted for reasons unrelated to the allegations.

GOING TO JAIL

- You will be in some sort of local or municipal police precinct or substation. Within about forty-eight hours of your arrest you will be given an arraignment.
- At some point after entry you will be "booked" which is often intensely bureaucratic and often humiliating procedure, and it is designed to be this way. They will collect legal information from you such as your name and some biometric data but what they collect can depend on a number of factors such as current charges and background. Some things you could expect: mug shot, finger prints, full body inspection, checking records for outstanding warrants, health screening, questioning, DNA test. They may ask if you have any tattoos, scars or other identifying marks in lieu of checking. All of these steps often do happen in an erratic order, and it is very reasonable to expect that you will be questioned by police at intervals during the booking process, all at once at some point, or some combination of both.
- The experiences involved in being arrested can be, and usually are, heavily impacted by positions which are marginalized by white supremacy or the cis-hetero patriarchy, IE being trans or a person of color. Expect to be treated differently in ways that reinforce oppressive hierarchies.
- Anxiety and disorientation is NORMAL, and the whole system is meant to work that way. Mostly it's going to be boring with periods of activity or interaction. (If you have any anecdote you can share as a "for example", now might be a good time) Check in with yourself in what ever ways work for you: body scans, grounding exercises, mindfulness, zoning out. Try not to let anxiety inform your actions.
- Expect anything that you say to ANYONE (police, cellmates, other people who may seem sympathetic) may be used against you, so remember to stay silent. Remaining silent protects you, your comrades, and your community. Do not talk about what happened or what you saw to anyone. Assume the cops have been listening to everything you have said. They will certainly listen to and record everything you say from the moment you are arrested until you are released from custody and away from the jail. That includes inside their vehicles as well as inside the jails (whether or not you're in a cell), and especially can include any conversation that seems "informal" or "trivial". It cannot be over emphasized how manipulative and coercive

the police are, they go to special cop school in order to learn these tactics.

- Expect even more hours of waiting in small, crowded cells sometimes without room to sit or lie down.
- Expect intimidation and harassment by the police. They are not your friends, and will not treat you with dignity or respect. The cops may continue to harass you until you are released from custody. This includes separating you from others during booking, calling you names and making fun of you. They can and often do act in racist, sexist, homophobic and/or transphobic manners.
- Police Lie. They will lie to you to scare you, to have fun at your expense, they will try to be your friend, or offer you privileges or and especially to extract information that they can later use to prosecute you and your comrades. The police will offer leniency, early release, or special consideration if you cooperate with them. They might frame their interrogations as an “opportunity” for you to tell your side of the story. Don’t fall for it. They might even threaten harsh penalties for not talking. DO NOT be intimidated. They don’t actually have the authority to do this. Remain silent; you are doing the right thing.
- If you are arrested with others the police may isolate and interrogate you separately. If any of you talk to the police, they will use that against you or others. Say nothing!
- Officers may lie to turn you against each other. They may use information they already have to make you think a comrade has snitched on you. Don’t be baited!

ARRAIGNMENT & BAIL HEARING

ARRAIGNMENT

- The arraignment is often the first time a person will appear before a judge. During this time, the person will be told the charges against them and informed of their right to representation.
- A Lawyer may be appointed to you if you have not yet secured one, so it can be a good idea to ask for representation.
- They will also be asked to enter a plea (e.g., guilty or not guilty). Regardless of your eventual legal strategy - you want to enter a plea of not guilty at this point.
- Often this happens while you are still in jail. But if you had been released, go to the courtroom noted on the summons at the set time. Get there early as everyone. Entering the

TALKING TO LOVED ONES

- Talking to your loved ones about your situation can be particularly tricky, especially if they do not share your politics or were not fully aware of your political activity and associations prior to your arrest. People in your life who are not close political comrades (e.g., chosen or biological family, work friends, school friends, lovers) will generally want to be reassured that you did not do anything wrong or that the charges you are facing are total lies.
- Your definition of doing something “wrong” and theirs may not be the same and you may not be able to talk about the details of your case in the ways they want. However, you may find that this is a chance for you to explain your politics more clearly than you have before and educate them on the broader context of your charges.
- This is not to say that there will not be strained relationships or tense situations.
- The challenge will likely be to connect with them on a personal level while protecting yourself legally.
- You may also need to exercise strict discipline in limiting conversations to safer topics, even when doing so leads to awkward conversations, letters, or visits. Do not be afraid to cut people off if it seems that they are headed down a conversational path that might be damaging to you or others.
- You can tag in experienced and trusted supporters to have difficult conversations for you.

IF YOU DECIDE TO MAKE A PUBLIC CAMPAIGN

- There can be lots of reasons to go public with your case. Maybe the state thinks they can make something seem like as simple as a law broken when it is actually a bigger social cause that may garner lots of public support! Support can put pressure on the District Attorneys and prosecutors.
- You, your supporters, and your attorneys will need to be careful about what you say to the press. Prosecutors routinely monitor the media and will bring media reports into the courtroom to use against you.
- Many defendants and defense committees have found it useful to have clear talking points about the political issues involved in the case when talking to the media to keep the focus on what is really important and to avoid making damaging statements. This can be especially importance since whether you choose a media strategy or not, prosecutors may pursue one to win in the court of public opinion and the mainstream media is often complicit in smearing folks prior to any trial happening.

that you are going to prison but not knowing for how long, or to what kind of facility, or to where can be incredibly nerve-wracking. It's important to do some intentional thinking about what might feel best to you during this time, and while it might feel appropriate to isolate try and avoid that impulse (while also taking space if you need to).

TALKING TO FAMILY AND FRIENDS AND GETTING SUPPORT

FIRST OFF

- DO NOT share any incriminating information about you OR others with friends and family - this will put them in a difficult situation where if there are questioned, visited, or subpoenaed. They could be compelled or willingly give up this information rather than lie or reserve their right to an attorney. This could happen because they are scared, or do not know their legal rights, if they are lied to (they will be) and think they are helping you - or if they respect law enforcement.
- Most of our time will be spent telling you to not to talk about your case. While that advice holds true, there are also important differences between talking about your charges in ways that are damaging to you or others and talking about them in politically and personally necessary ways. We have known many people who avoid thinking about and dealing with their case and handling this alone can be damaging emotionally so having support from friends or family can be important, and there are many instances why making a public campaign has been beneficial for the defendants outcome.
- You may not always want to do so depending on your overall situation and your goals (please read Chapter 2 of A Tilted Guide to Being a Defendant), but talking about what the state is alleging is most often necessary and beneficial to you. The state will generally benefit more from our silence about the charges we are facing than we will.
- Usually sticking to facts of the case is okay If you are not sure what is okay to talk about you can ask your lawyer.
-

courthouse one must go through security. You will be searched so do not bring any knives, sharp objects, or glass bottles. Get to the courthouse at least 45 minutes before this time so that you can get through security and talk to your attorney.

- If you miss your arraignment, the judge may issue a bench warrant for your arrest.

BAIL HEARING

- The bail hearing is often combined with the arraignment, but sometimes a separate hearing may be set, or there might be multiple bail hearings.
- Bail hearings determine whether or not a judge feels that someone meets the requirements to be released from jail pre-trial. These requirements include whether or not the person is a flight risk and whether or not they are a danger to their community. The judge can consider factors such as prior criminal history, the nature of the offense (e.g., was it "violent"? did it involve narcotics?), A person's financial resources, their physical/mental condition, and more.
- There is a lower standard of proof during a bail hearing. Social media pages have been used against defendants at bail hearings. A person may be released on their own recognizance, or they may be forced to post bail or bond or otherwise be returned to jail.
- A court employee (Pre-trial Services) may interview you, your family members, your employers, and people from your support group to establish whether you are a flight risk, have ties to the community, and will show up to your court dates. At these hearings, defendants can benefit from providing the court with evidence that a person is not a flight risk and not a danger to the community. This evidence can take the form of letters from family and loved ones to prove that the person has a close-knit family and strong, long-term ties to their community. A person can also call witnesses during a bail hearing, such as parents, employers, teachers, supervisors from volunteer agencies, etc. This is also a good time to bring up any medical conditions someone might have that would necessitate their release pre-trial. Make sure you have a note on the doctor's stationary about these conditions
- If someone is contacted by a person preparing one of these reports, it can be very helpful to provide them with information confirming what a wonderful person their friend is; however, people need to be extremely cautious with situations like this. They should absolutely NOT talk to law enforcement about their friend under any circumstances. People should confirm that they are, in fact, speaking with someone who is working on a PTS (Pre-

Trial Services) or OR (Own Recognizance) report. They should only answer questions to confirm things such as addresses, job histories, volunteer histories, and so forth.

- If a person is on probation or parole when they are arrested, they will have a hold placed on them, and you will not be able to bail or bond them out.
- People who have an Immigration Customs Enforcement (ICE) hold are also not able to be bailed or bonded.

RELEASE (IF POSSIBLE) OR ENTER GEN POP

5 POSSIBILITIES:

- 1. BAIL** - BAIL is the amount set at the court. You or whoever bails you out will receive this money back if you fulfill the courts trial requirements and do not flee.
- 2. BOND** - BOND is paid by a bail bondsman - this is usually more affordable for higher bail because the bail bondsman pays the whole fee and asks for a small fraction to be paid by whoever is paying to release you. You do not get this money back.
- 3. RELEASED ON YOUR OWN RECOGNIZANCE (OR)** - You can be released on OR if they can establish that you live locally, have ties to the community, and/or give a reason why you need to be out of custody (if you have a job, go to school, have children, are the primary caretaker for somebody, etc.). Regardless, you can still be denied OR, especially if you are charged with felonies.
- 4. CHARGES NOT FILED OR DROPPED** - It is possible that at this point the bureaucrats and law enforcement may “discover” that they don’t have enough “evidence” to arraign you at this time or there may be incentives for them to drop your charges. If so you will be released without bail.
- 5. DENIED BAIL** - Some people if they are deemed a flight risk or their charges make them “too dangerous” can be denied bail. If bail is not granted the first time around, you can keep trying.

AFTER YOUR ARRAIGNMENT AND BAIL HEARING:

- If you are not released either by being denied bail or just not being bailed out yet, you will be moved out of the temporary holding cells. You will be given some food, a hot shower, and eventually put into general population (Gen Pop). This place usually houses people who are

for fighting back against the state in the long term. In political cases, plea agreements can be tricky because of the implications they can have for you, your co-defendants (if you have any), other people facing similar charges even if your cases are not joined, and the broader movement of which you are a part. If you decide to take a plea, we strongly urge you to hold out for terms that are acceptable to you and do not damage your movement. Often the choice between a plea and a trial is the difference between difficulty postponed versus difficulty served fresh.

- You may feel pressure from you family, friends, supporters, attorneys to take this or that plea. Know that the first plea you are offered will not be the only one and you can often negotiate a better deal.
- A plea that involves still taking a felony charge is NOT A GOOD deal.
- Do not agree to testify against any co-defendants or political comrades who may be charged with crimes in the future in exchange for reduced charges, less prison time, shorter probation, and/or smaller fines for yourself. Do not implicate others in your statement of facts when you admit guilt or in your sentencing statement. The government wants you to sell out your comrades so they can divide and conquer your movement. Do not do it!
- Make sure you take a non-cooperating plea deal - this is broad and doesn’t get you off the hook of cooperation entirely - so if you are in this position read the Tilted Scales guide on plea deals for more guidance on how to advocate for yourself and your community.

TRIAL

- Felony trials can last anywhere from a couple of days to a couple of months, depending on the amount of evidence to be presented and the number of witnesses to be called. Most trials will not go longer than a couple of weeks. The first day of a trial is usually comprised mostly of jury selection. Then opening arguments are presented. The prosecution will present its case first (along with all of its witnesses), and then the defense will present theirs (if they choose to do so—defendants are not required to present any defense against the state’s allegations). The trial concludes with closing arguments, generally from the prosecution first and the defense second.
- Misdemeanor trials are bench trials in front of the judge with no jury and are significantly shorter.

SENTENCING

- If you are convicted, the next phase will be sentencing. This can be one of the hardest things to wait for. Knowing

witnesses. In short, do not assume the worst if you cannot afford a private attorney.

- Even so, be aware that public defenders often cannot pay as much attention to your case as they might like to because they typically have outrageously heavy caseloads. They also might not have any political context from which to understand your case, your politics, or your goals. Thus, you might need to do a lot more education for your lawyer and advocacy for yourself as a defendant than you would with a movement attorney. That is not necessarily a bad thing, and may smooth the way for someone else later on. If your attorney needs help understanding cases like yours, you or your defense committee can help them talk to lawyers with experience in political cases and point them to similar cases that might offer legal precedents or other helpful ideas and strategies.
- Private Attorneys: If you have access to the necessary resources, you can hire a private attorney. That is often incredibly expensive, although sometimes lower rates or flat fees can be negotiated. In smaller cases that require less time, or in cases that appeal to attorneys for their own reasons, you might be able to secure free representation (pro bono representation). In general, finding qualified attorneys to represent you pro bono in a complex criminal case is difficult because the amount of time and work involved can be all-consuming. Look for an attorney who has experience with political prisoners or politically motivated prosecutions. This may be more difficult in rural areas or smaller cities, but a lawyer's politics might shine through in places you do not always immediately think to look. Is there an attorney in town who has done work for undocumented people or for prison rebels? Is there one who has volunteered time on human rights campaigns in other countries? Networks such as the National Lawyers Guild, American Civil Liberties Union (shudder) or groups like the Civil Liberties Defense Center, Center for Constitutional Rights (or North Carolina's Emancipate NC) may be worth reaching out to help find a movement attorney who can do pro bono work in an explicitly political case.
- Your lawyer should be able to tell you what to expect what your options are, and what's next.

PLEA DEALS

- Since the vast majority of cases end through plea agreements, we would be remiss not to explore them here even though we believe that going to trial usually can present radicals and revolutionaries with more options

awaiting trial, serving relatively short terms, or finishing off the end of a sentence from the state penitentiary.

- You will be amazed at the utter lack of security culture among many inmates. You will hear all about the armed robberies that your cellmate got away with, how they have this big plan to get a shit-ton of this and that from his man. Do not partake in this. If the state wants you badly enough, they can always lean on somebody around you to see if you have been talking. If you have been, you have done their job for them, and you will hear about it in court.
- You can say what you are being charged with— that's already on the record—but not much else at this point. Talk about your politics if you want, but not your case.

FIRST APPEARANCES & PRE-TRIAL MOTION HEARINGS

- If you are not being held in jail until trial - you will have court dates assigned to you. It is important to arrive 45 minutes early. Having a trusted friend or support go with you can be really comforting. Having plans to do something nice afterwards is a good way to shake of the dehumanizing experience of the courtroom.
- Court dates that are just motions hearings are often very short and involve a lot of waiting. They also often are moved around and continued, especially during pandemic. If you go to trial it will often be months after the initial date that was set.
- When you first go to court, demand a public defender if you do not already have a lawyer representing you. Do this even if you want to hire a private attorney rather than sticking with a public defender. The court will have a process for determining who qualifies for a public defender based on income, but most courts have public defenders available to stand in with defendants at their first appearances, so demand that one is there with you.
- Chances are, you will not be able to talk at length with the public defender about your charges, but you should make clear that you are pleading not guilty and do not waive any of your rights in the trial or pre-trial process (e.g., you do not need to waive the right to a speedy trial even if you do not invoke that right explicitly). When you waive rights at this stage, they are generally waived for the remainder of the process.

- Additionally, some courts allow you to postpone all the legal proceedings that would have happened at your first appearance so you can find a lawyer. You can ask the judge for a continuance until you can find your own lawyer; even if the court you are in does not allow this, the worst the judge can do at that point is to tell you “no”.
- Pre-trial motions are filed by both the defense and the prosecution. The motions are submitted in writing (and often filed online); many are argued at a hearing before the judge. The motions address various issues that need to be hammered out before a case actually goes to trial. These can include issues like what kind of evidence can and cannot be introduced, who can and cannot testify, and on what grounds the case could possibly be dismissed altogether. For example, if a person was illegally wiretapped, or if there was no search warrant issued when the house was raided, there could be grounds to exclude that evidence from being used at trial. Motions addressing various discovery issues can also be heard during these hearings. Although they are usually tedious courtroom experiences, laden with lots of legal details and jargon, many important issues are decided at motion hearings.

LAWYERS, PROCEEDING IN THE CASE – PLEA DEAL OR TRIAL & SENTENCING

- Finding a competent attorney who can work with you on both the political and legal aspects of your case is no easy task. You should always request a public defender, at least for the short term.
- What you say to your lawyer is privileged. Make sure to establish attorney client privileged before divulging any sensitive information. Also encourage your lawyer to use encrypted communications services if possible.
- If you have special legal/political vulnerabilities, be sure your lawyer knows something about those challenges. For instance, if your citizenship status is complicated, if you are trans or gender-nonconforming, if you are a single parent in a custody dispute, or if you have some other extra risk in the legal system, be sure your lawyer understands the implications. Not only may you be treated unfairly by the courts and prosecution (indeed, you may have been targeted in the first place because of your race, gender, or other aspects of your identity), you may also be targeted

by staff and prisoners inside the jail. You could be placed in a “protective custody” unit (often meaning solitary confinement), which carries its own set of complications. Just because a lawyer might be sympathetic to these difficulties does not mean that they have experience helping their clients navigate them.

- If you anticipate that your case will be consolidated with others, ask how your attorney feels about working with your co-defendant’s lawyers as part of a defense team. While teamwork can be difficult and complicated, it also has numerous advantages, such as the ability to share resources (which can help cut costs), the chance to prepare a more unified and powerful strategy, and the obvious benefit that two (or more) heads are better than one.
- Your attorney must also understand, accept, and respect your total unwillingness to cooperate or ever provide any information about other people. More than likely, you will need to reiterate your principled stand to your attorney throughout your case.
- Most criminal cases are resolved through plea bargains, and many plea bargains involve giving the government information about other people. Attorneys often pressure their clients to cooperate with the state, either directly or indirectly.
- Although it is rare, attorneys have sometimes advised their political clients to cut off contact with other activists. This advice may come from a fear that the prosecution will build a case of guilt-by-association against you. Do not agree to this further restriction on your freedom! This is further very important, as the entire legal system is designed to isolate and destabilize the people who it is targeting, as a means of control. You and your attorney will have to figure out a way to defend you that does not require your isolation from your supporters and loved ones. Again, you may find that reminding your lawyer of your values, goals for your case, benefits of having a defense committee, and source of money to pay for their representation can be helpful.
- Many Public Defenders are highly skilled lawyers who can adequately represent you in court. Additionally, public defenders often have the essential qualification of hours in the courtroom. Mostly, they are drawn to this low-paying, difficult, demanding area of law by their zeal for justice. They also sometimes have access to free resources that a private attorney might have to pay for (which often translates into you having to pay for them). For example, a public defender or court-appointed attorney may get the state to pay for investigators, psychologists, or other expert