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written by the regional office staff of the Bay Area National Lawyers Guild



You are part of a visible community in Amerika that is always under suspicion. If you have long hair or if you aren't white, walking down the street may be enough to get you in trouble. *Don't wait until you get in trouble to know the laws.* Repression is increasing and no one is safe from it.

If you are not clean, you have even more reason to be careful. Knowing the laws and how to deal with the pigs won't necessarily keep you from being busted, but it may keep you from panicking, and help you get through a fight situation the best way possible.

Read this pamphlet several times; keep it

handy to look over or consult in emergencies. It is *not* a substitute for a lawyer's advice, but it does present a brief look at some important laws and possible situations you could be in. Compiled from 12 separate street sheets put out by the Bay Area National Lawyers Guild, this pamphlet covers questions of security, what to do when hassled by the pigs, gun laws, and what to do if you get busted. If you have any general questions or ones that specifically apply to you, you should call the National Lawyers Guild to get them straightened out.

*Know the laws.*

# TIGHTEN UP

As repression increases, so does the need for tighter security. The basis of security is a realistic attitude about your relationship to the state. John Mitchell has declared the Left as public enemy number one, and he means it; we have given him reason to. Security is serious business. Here are some guidelines.

## IN YOUR HOME

- Don't leave dope lying around. Keep it in a central place, so you can flush it down the toilet quickly.

- Keep your weapons hidden. Everyone in the house should know where they are and if they are legal and if they are loaded. People who are visiting and strangers do not need to know that you have weapons. Large stores of weapons should be in a very safe place, like in a house that could not be linked to the movement.

- Kim Il Sung says, "You should think of camouflage first of all when you build a house . . ." If you don't want to be hassled or are into secret activity, don't put signs or political slogans in your window—otherwise you are advertising who you are.

## IN YOUR CAR

- *Don't carry more dope than you can eat*, unless you know it's absolutely safe. Don't carry dope in your glove compartment or under the seat, because it is the first place that the pigs look. The best place to carry dope is in your underwear or in your shoe.

- If you don't want to be hassled by the pigs, don't put bumper stickers, NLF flags, or pictures on your car.

- Keep your lights and other parts of your car in good condition so you won't get stopped by the police.

- Pay parking tickets so you don't get busted on a warrant.

- If you are riding in your car with weapons, make sure that everyone in the car knows the laws, and that you have a spokesperson (usually the driver) if the pigs stop you.

## ON YOUR PERSON

- Again, don't carry more dope than you can eat. Do not carry it in your pocket, but remember that you want to be able to get to it quick.

- Don't carry *any* phone numbers (except a legal defense office's) or address books in demonstrations or situations where you might be busted (like postering, etc).

Don't sell dope to people you don't know. Don't buy dope from people you don't know well. Most people are busted on dope by informers and undercover narc agents.

#### BE CAREFUL WHAT YOU SAY AND TO WHOM

- Avoid information it is not necessary for you to know.
- Don't spread information that others do not need to know.
- Don't give out names to people you don't know.
- Never say anything that might implicate your friends in a crime, or imply that they know something about it.
- Don't talk about illegal activity or secret information with people you hardly know.
- Don't let anyone involve you in such a discussion, if you don't know them well.
- If you are suspicious of anyone, check out their back ground and references.

"Those who tell don't know; those who know don't tell."

Malcolm X

**DON'T ANSWER QUESTIONS ASKED BY THE FBI.** Legally, you are *not* required to talk to the FBI. *Ever.*

- If the FBI keeps bothering you, refer them to your lawyer.

- Don't look at any pictures that the FBI tries to show you.

- *Don't admit anything.* Don't confirm any information.

- If you have any reason to think that the FBI is investigating you, warn your friends, parents and employer if she/he is cool. Tell them that they are not required to say anything, and should remain silent.

#### ASSUME ALL TELEPHONES ARE BUGGED

- Avoid unnecessary mysterious comments.
- Never talk about dope or illegal activity over the phone.
- If you must talk over the phone, arrange a time when someone can call you from one pay phone to another. You might say, "We have a bad connection and I can't hear you. Can you call me back at this number?" That should be a clue to the person on the other end to go to a pay phone and call you immediately at the pay phone you are calling from.

#### BUGGING DEVICES

- Telephones can be bugged while they are *on or off the hook*. If you must talk in the house, keep the radio on, preferably to classical music which is the best interference, and talk lower than the radio.
- Your car may be bugged. If you must talk in your car, move in a wide radius, between tall buildings for the best interference. Keep the radio on, and talk lower than the music. Be extra careful if the people in the car should not be seen to-

gether. *Don't act suspicious.*

- *The phone company works with the police.* Be aware of telephone trucks parked outside your house or building. Notice if the phone company comes out to work on your lines. Be aware if the phone company is in the area often.

- *The best protection against bugging devices is to write simple messages down, but remember to burn them afterward.*

#### **ALL MAIL MAY BE OPENED AND READ. BE CAREFUL WHAT YOU WRITE.**

- If you must use the mail for certain communications, use a prearranged code and don't sign the letter.

- Use a public typewriter, such as one in a library, if you want to type something that you don't want linked to you.

#### **MEETINGS**

- *Don't meet regularly at the same place and time.* Change the time and place because people and pigs get suspicious when they see a group of people meeting at the same house a lot. You never know when the pigs might be watching your house, or when a neighbor might want to know what is going on.

- If a meeting should be kept quiet, then only the people who need to be there should know about it.

- To avoid conspiracy charges, don't talk about illegal acts with people, unless you know them very well.

- If a meeting must be out-of-doors for protection against bugging devices, it should be away from all buildings.

- Unless necessary, don't use people's last names.



## PETITIONS, LISTS, AND MAPS

- Don't sign anything that you haven't read thoroughly first.
- Don't put your name on a list unless you know what the list will be used for and who is going to keep it. If you don't want everyone on the list to have your name and phone number, it's best not to sign it.
- Don't let anyone mark your house on

a map with your address on it. It's a possibility that the map could fall into someone's hands who will draw the wrong (or right) conclusions.

There is no such thing as security paranoia. Things are getting heavier. Undercover pigs and surveillance are increasing. Always be cautious.

# HERE A PIG, THERE A PIG . . .

You're at home, or in your car, or on the street—and the pigs start to hassle you. They demand ID, push you around a little, threaten you to make you talk, and you're scared. And they keep on intimidating you because you don't know the laws, you don't know your rights, and you're not exactly sure what to say to them. You know you don't want to take any shit from them, but what's on your mind is how you can get out of that situation. *Know your rights. Know the law.* When the pigs come up against people who know a little about what's going on legally, then sometimes they are not so quick to run that intimidation game down on you. Be cool, be quick, and be confident.

## IN YOUR CAR

### YOU'RE DRIVING DOWN THE STREET:

1. Don't drive your car with headlights or taillights out, unless you are prepared to get hassled by the cops. If you've got dope in the car, have a warrant out on you for traffic tickets, or even if you drop *litter* outside your car, you are inviting a bust. The cops can pull you over for a traffic violation, and then bust you for something else. If the pigs see a concealable weapon in your car, they can examine it to see if it is legal and unloaded.

2. When a cop signals you to pull over,



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5. The pigs can legally pat you down for weapons. Unless they feel an object that could be a weapon, they cannot go through your pockets without arresting you first. If you are carrying a nonconcealed weapon the cops can check to see if it is legal and unloaded.

6. If they continue to ask questions, ask "Am I under arrest?"

7. If they say no, but continue to ask questions, say "I have nothing to say until I talk to my lawyer."

8. If they say yes ask "What are the charges?" If you are not under arrest and they search you say, "I do not consent to a search."

9. If the pigs bust you, they will search you.

10. Never sign anything.

11. Never confess to anything.

12. Don't try to run away unless you are *absolutely positive* you can escape.

13. The pigs and undercover agents are required to identify themselves. Remember if they do this or not.

14. Remember everything that happens. Get Badge Numbers.

15. Act cool and don't wiseass.

## AT HOME

### COPS KNOCK ON THE DOOR

1. Always keep your door locked.

2. When someone knocks on the door, ask who it is *with the door shut*.

3. If it's the police, *ask if they have a warrant.*
4. If they say yes, *ask them what for. Tell them to shove it under the door.*

**IF THEY HAVE A SEARCH WARRANT:**

5. You can let them in, if you want to, *or else they will bust in.*
6. If the cops find guns and the guns are legal, you should claim ownership. If the guns are illegal, *no one should say they belong to her/him.* Remember that the law says a legal gun *can* be kept loaded in your home.

**IF THEY HAVE AN ARREST WARRANT:**

7. The police should tell you who the warrant is for. If the police have reason to

believe that the person named on the warrant is in your house, they will probably bust in, even if you say they can't come in.

8. If the victim named in the warrant is in the house, the best thing to do would probably be to surrender. This is a political decision that she or he will have to make. If the victim surrenders, she or he should go outside the door, shut the door and lock it. This will prevent the police from inviting themselves into the house at the same time. They will have to bust in.

9. If the victim tries to escape, she/he might find cops at the back door or surrounding the house, which will mean heavier charges like resisting arrest or attempting to escape, so *be careful.*

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the house and she/he has not surrendered, they can look through the house where the person might be—in closets and under beds, but not in unreasonable places like drawers, etc.

If the police try to come into the house without a warrant, tell them, "You cannot come into the house." Get witnesses who hear you say that.

Everyone in your house should know where you keep your guns, whether they are loaded, and whether they are legal.

If the pigs come to your house with their weapons drawn, don't panic. Unless you know they have a reason to shoot you on sight, figure that the drawn guns are for purposes of intimidation and ignore them as best you can. You should agree with everyone in the house what you would do in a situation like this.

If the police come into your house—either legally or illegally—they are allowed to pat you down for weapons, and look in your immediate reach for weapons. Do not let them move you around, which will give them a chance to search other areas.

#### WHEN THE COPS BUST INTO YOUR HOUSE:

11. *Flush your dope down the toilet* (if your plumbing can stand it). Dope should

be kept in a central place so you can get to it quickly, but not an obvious place, in case you don't have time.

12. *Don't throw dope or illegal weapons out the window.* If the cops have the place surrounded, they will find them and bust you for it.

13. Once they are in the house, the cops can legally search everyone in the house for weapons and can search the *immediate* area around each person. Don't let the cops move you around or they will use this as an excuse to search more areas.

14. The cops can also look through the house for armed comrades once they are inside, *even if they got in illegally.*

15. Besides whomever or whatever the cops are looking for, anyone in the house can be busted for *anything illegal that is in plain view*, such as dope or illegal property. If the cops want to frame you, they will find or plant illegal property or dope and say it was in plain view.

16. If the cops find dope or illegal property and ask whose it is, *no one should say it belongs to her/him.*

17. *Don't talk. Don't talk. Don't talk.* You are only required to identify yourself by giving your name and address. If they ask more questions, say, "*I have nothing to say until I talk to my lawyer.*" (You can say that even if you don't have a lawyer because if you don't have bread, you're entitled to a free public defender.)

18. *Never confess to anything.*

19. *Remember everything that happens.*

20. *Get a good look at the cops and remember their badge numbers.*



## P. O. W.

### WANTED

If the cops want to bust you, they usually don't need a warrant to get you, but in some cases they will get a warrant to make the arrest more valid. A warrant is a piece of paper signed by a judge authorizing a pig to arrest the person named on the warrant. There are three kinds of warrants that name a specific individual:

**ARREST WARRANT:** This names a particular individual and states the crime that she/he is being arrested for. This kind of warrant is good indefinitely, sometimes up to several years after the alleged crime took place.

**BENCH WARRANT:** This is automatically issued for anyone who misses a court appearance. It is good indefinitely, so that any time someone does not show up in court she/he can be arrested on it any time she/he gets picked up, even if it is years later.

**TRAFFIC WARRANT:** This is for unpaid

parking tickets and also is good indefinitely. If you are busted by the pigs for something else, or stopped because there is something wrong with your car like broken taillights, you can be thrown in jail for outstanding tickets. You *must pay* the traffic fines to get out, or remain in jail a certain amount of time if you don't have the bread. Usually one day in the slammer is worth about \$5—well below the going rate at the minimum wage level, of course.

**Note:** There is one other kind of warrant not discussed here, that is a *search warrant*, which does not name a particular individual. It names a *specific place* to be searched, the items searched for, and a specific time (day or night) that the search can take place. In San Francisco, a search warrant is only good for 10 days after the judge signs it.

*If you think there is a warrant out for your arrest you should have a lawyer call up the pig department and check.*

*If you get to see a warrant, you should look for these things:*

- the specific person named
- when the warrant was issued
- what "crime" the person is supposed to have committed
- who signed the warrant and what particular pigs are authorized to use it

#### IF YOU ARE IN A PIG CAR OR PADDY WAGON:

1. *Don't talk.* No matter what you say, the pigs will use it against you, even if you think it's just idle chatter. You are only required to give your name and address. Any other questions should be answered with, "I have nothing to say until I talk to my lawyer."

2. You may get beat up. If it happens, assume a *self-defense* position. Lie on your side on the floor, tuck in your head and protect it with your arms. Draw your knees up to protect your vital organs. *Think about the Vietnamese.* Do not get up until you think the pigs are through or they may knock you down again.

#### TURNING YOURSELF IN:

If you find that there is a warrant out for your arrest *and you plan to stay in the area* where it was issued, there are two advantages to turning yourself in (instead of waiting until they catch up with you). First you can get out faster because you can plan for your bail ahead of time; and second, it looks good to the judge, and he may lower your bail or release you on your own recognizance. Other factors to con-

sider before deciding on whether or not to turn yourself in:

- what the warrant is for
- whether you have prior convictions
- whether you plan to stick around the area

#### IF YOU DECIDE TO TURN YOURSELF IN, THIS IS THE PROCEDURE:

1. Have a lawyer call the city jail to see if there is a warrant for you. She should also find out the charges and the bail. Also the lawyer should find out when the best time is for you to go in. In some places you can turn yourself in as late as 6 p.m. and still get credit for a whole day in jail. Every day counts.

2. Make arrangements to get bailed out before you go in, if it is possible.

3. Go in *with your lawyer.* Otherwise the pigs might say they picked you up.

4. It is usually better to turn yourself in to the judge at the required time, rather than going straight to the city jail. Your lawyer can then argue immediately for a bail reduction or release on your own recognizance. *Don't be late:* come at the exact time you are supposed to show up.

5. When you turn yourself in, bring cigarettes and money. *Don't* bring phone numbers, address books, or notebooks.

6. Find out when you turn yourself in when the arraignment is going to be so you can have your lawyer present.

## BOOKING YOU IN

Booking is the procedure of recording all the info about you and your bust in the police files, and of officially charging you with a crime. It is also the time for you to be fingerprinted and have your mugshot taken. It involves:

### INFORMATION

1. *Your name*—If you don't want to tell the pigs your name and you give a phony one, do not give the name of a relative or friend. Be aware that you can be busted for giving a phony name. If the pigs run a check on your fingerprints, and you already have a bust record, they can find out your real name.

2. *Your address*—You are required to tell your address to the pigs. They may check out the address you give, so be prepared.

3. *Other questions*—You are not required to answer questions about the people you live with, your job (although you may be asked to give an "occupation" when you are booked), drugs, weapons, your life, or your friends. Even a no answer can be used against you later, so refuse to answer without your lawyer present.

4. Arrest records, fingerprints, and mugshots will all be sent to the FBI and the State Bureau of Criminal Investigation and Identification. The CII does not record convictions, acquittals, or dismissals, *only arrests*. It doesn't matter to them if you are innocent of the charges: just the fact that you were busted makes you a suspicious character.

## YOUR PROPERTY

1. The pigs will take away all your property and seal it in an envelope. They may ask you to sign a receipt: read it first to see that all your property is listed. *This should be the only thing you ever sign in jail*. The pigs also may go through your things later looking for interesting objects, even though this is supposed to be illegal.

2. When you get out of jail, you are supposed to get all your property back. The pigs may give you a receipt and you exchange this for your property. *Do not lose this receipt* or it will mean extra hassle for you. *Get your things as soon as you get out*.

## PHONE CALLS

1. You are supposed to be allowed to make two *completed* phone calls within three hours of when you were brought into the jail. The pigs may stall you longer than this. Insist on your right to make your calls.

2. One call is supposed to be to your friends or family, and the second to a lawyer or bondsman. *You probably won't get two calls*, so use the first one for a lawyer and ask her to call a bondsman and your family. If you don't know a lawyer you can trust, call your family or friends and ask them to get a lawyer for you, or possibly the public defender.

3. Give this information to the lawyer or your friends:

- a. what station or jail you are in
- b. what the charges are
- c. how much the bail is (if you don't know these things, your contact can call the court clerk or the jail to find out)

d. who can be contacted for bail or recognizance bond—names, addresses, phone numbers

e. the name and number of your boss, if you are going to miss work and need someone to call in

f. where your children are if you need someone to take care of them

g. who was busted with you and whether you or they are injured and need a doctor

4. Do not say anything over the phone that you do not want the pigs to know. Remember that the phones are bugged. Do not talk about your bust.

5. The pigs will not supply dimes for your phone calls. When they take away your property, ask for your loose change if they do not give it to you. Otherwise, you may be able to borrow from someone around you. If you are going to a demo or somewhere you may be busted, be sure to carry some extra dimes.

#### YOUR "RIGHTS"

The pigs may tell you your "rights." They probably won't. They may try to get you to sign something saying that they have told you your rights. *Never sign anything.* This is what the law says the pigs must tell you:

1. You have a right to remain silent.
2. Anything you say may be used as evidence against you in court.
3. You have a right to have a lawyer with you when you are being questioned. If you don't have a lawyer of your own, you are entitled to a public defender.

## THIRD DEGREE

Sometimes the pigs will take you to jail for "questioning" without actually arresting you. Legally the pigs can do this although you are *not* required to answer any questions without a lawyer present. The pigs may also question you for hours after the arrest without booking you. In either case, they will not allow you any phone calls, and will not allow you to try and get a lawyer. *Refuse to answer their questions.*

#### TACTICS THEY USE:

1. Sometimes the pigs start out slowly, assuring you that it is only a "routine investigation." Soon the pigs will fire questions at you, trying to intimidate and confuse you. As you become more unsure of your story, they will begin to accuse you directly.

2. Another tactic that the pigs use is to tell you that they have talked to your family and friends and that they "have a good case" *on you*. The more the pigs know about you already, the more they will try to use your past against you.

3. Another very familiar tactic is the "hard cop—soft cop" routine. One pig gets tough with you while the other tries to be nice and tells the tough cop to go easy. "Soft cop" pigs ask questions in a real friendly way and say they are just trying to help you. Remember, you've got the support and love of all your sisters and brothers. Think about them.

4. Another way the pigs will try to get to you is by isolating you for a long time. Then they come in and try to get you to



*About the Public Defender:* When the judge asks if you have a lawyer, you say no if you don't. Also say that you have no money for one. He will then assign you a public defender. Take the p.d. for arraignment; you can always try to get another lawyer later. The p.d. can work for you, *if you keep aware of what he is doing*. Don't let him talk you into making a plea, or taking a deal.

2. If you have a lawyer who is only going to take care of your arraignment, but is not going to take your case, she should say to the judge that she is making a "special appearance." Then the lawyer will not be on record as taking your case and you will be able to change lawyers later with the least amount of hassle.

3. If your lawyer is late, *do not let anything happen* without her. Stand and tell the judge that you have a lawyer and that she is supposed to be there at that time.

State that you don't know why she isn't there, that possibly she is late, and that you would not like to proceed until she arrives. If they try to proceed without your lawyer, keep repeating that you have a right to counsel, and do not wish to proceed without your lawyer.

4. *Don't answer any questions that you don't understand*. You can always ask the judge to repeat what he said. Don't be afraid to do that.

5. The court clerk will read the charges against you. He will usually read them according to the numbers listed in the penal code. If he does not explain what those numbers mean, ask him. This will avoid confusion later about what you were charged with. *You have a right to know this information*. Listen carefully to what the clerk says. If you don't hear, ask for a repeat. If there are many charges, and you can't remember them, ask for pen and paper so that you can copy them down. At the arraignment your charges may be different than the ones you were booked

on; this is why you want to write them down. Ask your lawyer or the public defender whether the charges are misdemeanors or felonies.

6. If the judge does not mention the amount of bail, and you do not know what it is already, *ask what the amount of the bail is.*

### OWN RECOGNIZANCE (O.R.) AND BAIL REDUCTION

The purpose of bail is to insure that you will be there for your trial. Release on your own recognizance means that you have convinced the judge you will be here for your trial even though there is no bail to insure that. If you are released on O.R., you are let out *without bail*. A bail reduction argument is when you or your lawyer argue that the present amount of bail is too high for the crime you are charged with, and you want it reduced.

Both O.R. and Bail Reduction are based on these criteria:

- length of time in the area (residence)
- family ties
- employment
- prior record.

The judge will want to know certain details in relation to each of these categories as well, such as how long you have lived at your present address, how long at the previous address, how long in the city or area, how long have you been at your present job, what job did you have before that, etc.

If you are a student, the judge will be interested in whatever means of support you have as well as all other relevant questions such as how long until you graduate.

If you have a prior record, the judge will

want to know whether the convictions were for misdemeanors or felonies, and whether you made all your appearances. Basically, the judge wants to know all the ties you have that will influence you to stick around for your trial and not skip.

If the lawyer is handling your bail reduction argument (which can be made before or at arraignment, or at a special court appearance after arraignment), she needs a little time for you to tell her all this relevant information so she can make a good argument.

If you are handling your own bail reduction, you can do it at the time of arraignment because you know all this information already. You should tell the judge that you think the bail is too high for the "crime" that you are charged with (*do not say "the crime that you committed"*). Then tell him the information discussed above—how long you have lived here, etc.

One good tactic for your arraignment is to have a lot of people there besides your friends. The judge wants to see "respectable" members of the community there—employers, family such as husbands, wives, or parents, teachers, doctors that you know, anybody that can testify that you are a "responsible" person. The next best thing is letters that testify to your good character.

The result of all this is that the judge will then either reduce your bail, let you out on O.R., or keep the bail at the same amount.

7. The judge will ask you "How do you plead—guilty or not guilty?" Remember, *don't plead guilty*. You do *not* need to enter a plea at this time. It is best *not to* because you will want to consult with a lawyer or the p.d. for a longer period of

time than they will allow you at the arraignment. Tell the judge that you need time to consult with a lawyer before you enter a plea, and ask for a continuance of at least a week to give you time to consult with a lawyer. The judge will usually grant this request.

#### WAIVING TIME

The law states that you have a right to a speedy trial. For *misdemeanor* cases, you must be brought to trial within 30 days if you spend all that time in jail. If you are out of jail you must be brought to trial within 45 days of the time the charges were brought against you. For felonies, the time is 45 days if you are in jail, and 60 if you are out.

The judge will ask you if you want to waive time, that is, you do not wish to be tried within the time limits stated for a speedy trial. If you need time to prepare your trial adequately, secure a lawyer, or make a deal with the D.A., you may want to waive time. If yours is a hot political case, you may want to wait until the publicity has died down a bit. If, however, you want to get it over with quickly for some reason, like you're in jail without bail money, or if you think politically the climate is right for your case to come up soon, you may not want to waive time. However, it is usually best to waive time at the arraignment so you can think about it and possibly postpone it as long as possible. Then you can change your mind later if you want to. Remember, though, it doesn't make sense to ask for a continuance and then refuse to waive time.

8. Before you leave the courtroom you will be given a slip of paper with the date and time of your next court appearance.

Keep this slip so you don't forget. If you don't make the next appearance, a bench warrant will be issued for your arrest, and you could lose all your bail money.

9. Remember:

- the date of your arraignment
- the judge's name
- the place and the department
- the bondsman if you got out on bail.

This may be important later.

**Remember:** All of this will only take a few minutes. *Don't panic. Don't let anything happen that you don't fully understand.* Court is designed to intimidate you so that it can keep running quickly and smoothly. *You have a right to know what is going on! If you have questions, ask them.* If you want something repeated, say so. If things are going too fast, ask them to slow down. Don't get railroaded into saying things you don't want to because the proceeding is going too fast. Never admit anything, never say that you committed the crime. And don't talk about your case with the judge!

## WHEELING AND DEALING

Many lawyers and most public defenders pressure defendants to take deals so there won't be too many people demanding their legal right to a trial by jury and "clogging up the courts." A "deal" is when you plead guilty or nolo contendere (no contest) to the charges after your lawyer has bargained

in the back room (the judge's chambers) with the judge and the D.A.

**TACTICS THE D.A., YOUR LAWYER OR THE P.D., AND THE JUDGE USE TO PRESSURE YOU INTO TAKING A DEAL:**

1. The D.A. puts heavy charges on you, then promises to drop or lower them if you'll plead guilty to a few.
2. The public defender tells you he doesn't have the staff to adequately prepare your trial.
3. Your lawyer (if she's not a people's lawyer) hints that a jury trial will double her fee.
4. The judge intimidates you in court and then shows by his record that he will give defendants a much stiffer sentence if they are convicted by trial than if they accept a deal and don't "waste the court's time."

**SHOULD YOU TAKE A DEAL?**

Unless your organization has a flat policy on whether or not you should take a deal, you should be the one to make the final decision, after you and your lawyer have made a thorough evaluation of your case and your past record.

Generally, it is worthwhile to consider a deal under any of the following circumstances:

1. You've been busted on one or more felonies and the D.A. has enough evidence to convict you easily.
2. You've been busted on either a felony or misdemeanor that's easy to prove even without much evidence.
3. You've been busted on a light misdemeanor (like shoplifting) and have no



previous record and perhaps do not want to serve time. (however, a second conviction on petty theft like shoplifting may mean a felony on your record!)

4. You face multiple trials on several different busts which might all be consolidated into one sentence on a deal.

5. You were busted for a specific political act and have no organized support yet, but the D.A. offers you a good deal anyway.

**OR SHOULD YOU GO TO TRIAL?**

It is probably best to go through with a trial under any of these circumstances:

1. The D.A.'s case is weak, and you and your lawyer are thoroughly prepared.
2. You have a previous record which would make a prison sentence mandatory under a deal.
3. You want to delay the proceedings as long as possible, hoping the D.A. loses interest in your case (and hoping that maybe the D.A. will offer a better deal in the future).
4. You want to educate the jury and you

plan to organize around your case.

5. You're not sure whether you're going to be in town for your trial date but you want to have time to think about it.

#### WHEN TO DEAL:

You can make a deal any time from arraignment through the middle of the trial. The best time is after you have an idea of what the D.A.'s case is and before the judge sits through jury selection. On a felony it should be made before or during the preliminary hearing. Much of this depends on the practices in your city and on the judges involved.

#### TACTICAL SUGGESTIONS ON MAKING THE DEAL:

The deal-making can *only* be done by your lawyer along with the D.A. and the judge. If you are defending yourself, you won't get a good deal without a lawyer.

#### ALWAYS KNOW EXACTLY WHAT YOUR LAWYER SHOULD DO

She must know this information:

1. What the maximum and minimum sentences are on your charges.
2. Whether the charges are optional, that is, they could be considered as misdemeanors or felonies (this is up to the judge).
3. What charges the D.A. will drop and which ones he'll change from felonies to misdemeanors.
4. What kind of sentence is offered and *when you'll have to do the time*.
5. How long probation will be with what terms.
6. Whether you will have a choice between jail time or fine/probation/suspended sentence.

#### Important:

1. Always tell your lawyer what kind of deal you would like her to work for.
2. Always make sure that your lawyer tells the D.A. that she can't make any decision on a deal without consulting you first.
3. Always make sure that your lawyer gets a firm commitment from the D.A. on the sentence he (the D.A.) will recommend to the judge.

#### FINALIZING THE DEAL:

The deal is not finalized until the D.A. and your lawyer talk to the judge. The D.A. cannot give you a sentence; *he can only make a recommendation to the judge*.

#### Remember:

1. Before talking to the judge, your lawyer should ask to see the pre-sentence report (usually made by the probation department).
2. Your lawyer should go into the judge's chambers with some great letters of reference about you. She should ask that a court reporter be present to record the sentence that the judge promises if the judge will allow it.

#### IF YOU DON'T LIKE YOUR JUDGE . . . (and you probably won't . . .)

If your judge is clearly biased against you, you can ask your lawyer to ask the D.A. to get the case transferred to another court. The D.A. has the power to maneuver the calendar to get a mutually-agreed upon judge. But if the D.A. refuses, then you or your lawyer can challenge one judge and ask him to disqualify himself on the basis of prejudice. You won't have any say about who the new judge will be, and undoubtedly, you will get a worse judge.

## IN COURT:

1. When you and your lawyer reappear in court, the judge will ask you how you plead. *This will be agreed upon beforehand.* You will say either "guilty" or "nolo contendere."

2. The judge will then hand out the sentence. If the judge tells you *anything other than what you agreed upon, do not be afraid to say, "Your honor, that's not what we agreed on."* If the judge refuses to retract what he just said and insists upon a new unagreed upon sentence, your only recourse then is to *ask to change your plea* back to "not guilty" and request a jury trial. If he accepts your new plea, he'll set

another court date, which may be in his court or in another judge's. This should give you and your lawyer another chance to try to make a better deal.

Always make sure that you know exactly what is going on and that your lawyer does not do anything that you do not agree on beforehand.

This pamphlet is not a substitute for a lawyer's advice, but it does provide helpful information. Read it carefully; pass it on to your friends. Know the enemy.

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