

This is a production of the AntiRepression Committee of Occupy Wall Street Activist Legal Working Group.

The Dissident's SURVIVAL GUIDE



A FIELD MANUAL TO ENCOUNTERS WITH LAW ENFORCEMENT, CORPORATE SECURITY, AND OTHER HAZARDS

*Protect yourself, your friends, and your community
Know your rights and how to avoid risks
Know how to respond and what remedies are available
when your rights are violated.*



Be aware of the scare.

FEAR is the biggest weapon law enforcement uses against citizens.

Any community can be the subject of surveillance, targeted harassment, or political repression. Learn how to remain active and effective in the face of these tactics.

Don't be neutralized by fear, and do not fear each other.

SOLIDARITY KILLS FEAR.

This booklet is not comprehensive. For a more thorough resource, please find "If An Agent Knocks," at this link: ccrjustice.org/ifanagentknocks

This booklet is for informational purposes only and does not constitute legal advice. If you need specific legal advice please contact a qualified radical attorney.

The National Lawyers Guild: 212-679-6018

The Center for Constitutional Rights: 212-614-6464

The NYCLU: 212.607.3300

Sylvia Rivera Law Project: 212-337-8550

Urban Justice Center: 646-602-5600

ACTIVIST SECURITY STRATEGIES

"We are all unique; we are never alone. I can see things you cannot see, and you can see things I cannot see. We must try to see what is there together." -- Michael Holquist

Work with people you know and trust. Make sure that everyone you work with is taken care of. If anyone feels marginalized or threatened, it will be much easier for law enforcement to convince them to cooperate.

Ensure that people feel supported socially and materially, so that they have less reason to cooperate with authorities. Law enforcement can play on people's poverty, immigration status, mental health, and sexuality, or even threaten people's families to pressure them.

Solidarity means taking anti-oppression work seriously. Marginalized or vulnerable people cannot stand in solidarity with groups that do not take seriously the obligation to stand in solidarity with them.



WORK IN AFFINITY GROUPS

Work in your own community, or work in solidarity with existing community groups that have accepted your offer of assistance.

Don't talk about actions that you are planning with people who don't need to know about them, and don't talk about details with anyone, even after an action is over.

Do *not* create an atmosphere of distrust, and *do* help kill rumors before they spread.

A good rule of thumb is: If you didn't see it, it didn't happen.

about how and whether to publicize the proceeding, how to let the subject of the investigation know they are being investigated, and how to protect yourself in the event that your principled resistance leads to contempt charges.

Remaining Silent in Front of a Grand Jury

While you don't have an unconditional right to remain silent, nobody can force you talk. If you refuse to give testimony in front of a grand jury, you might be charged with civil or criminal contempt. If you are charged with civil contempt, you lack some protections that you would have if charged criminally, but the state is not allowed to punish you for not talking: it is only allowed to incarcerate you to try to convince you to talk. Once it becomes clear that you aren't going to talk no matter what, they have to release you!

If you are charged criminally, which is extraordinarily unusual, you regain some of your protections, but you may be sentenced as punishment. This is an extremely rare occurrence, and because it is basically just an intimidation tactic on steroids, the stronger you are in your resistance from the very beginning, the less likely it is that they will try it on you.

Many National Lawyers Guild attorneys are experienced in representing grand jury resisters.

The Terror of Authority

Dealing with law enforcement, the courts, and the corrections system, even for short periods of time, can be extremely traumatizing. You are not alone. There are good resources for self-care and places for you and your family to process through these experiences with others who have gone through similar things. Do not hesitate to reach out. You have a community, and your health and welfare matters to us. Experienced attorneys often work closely with emotional support professionals, and can direct you to appropriate resources, including licensed therapeutic service providers and community support groups.



INTRODUCTION

Though the recent revelations of our government and law enforcement agencies spying on, infiltrating and entrapping social justice activists and movements is alarming, it is nothing new. In the 1960s, under the guidance of J. Edgar Hoover, the FBI instituted a program entitled COINTELPRO (Counter Intelligence Program) with the aim to infiltrate, disrupt and dismantle the radical Black Power and civil rights movements, and many others.

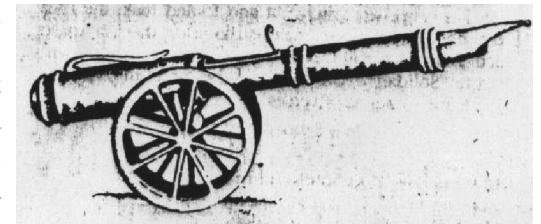
Under this program, the FBI sent death threats to Dr. King, fomented divisions between Black Power groups that ended in internecine murders, and coordinated with the Chicago Police Department to assassinate Chicago Black Panther leader Fred Hampton.

More recently, information about the Green Scare, or targeting of animal and environmental rights activists, has surfaced, emboldened by laws such as the Animal Enterprise Terrorism Act (AETA) which criminalizes the speech of animal rights activists, and the PATRIOT Act, which makes it easier for the state to engage in warrantless wiretapping.

The NYPD has also recently been outed as having worked with the FBI to infiltrate, spy on, and entrap the Muslim community through informants and predatory policing of these communities, again emboldened by the lax warrant and surveillance standards in the PATRIOT Act. Twenty-four international solidarity activists were subpoenaed and had their homes raided on the same few mornings in 2010. And every four years, federal agents openly visit or infiltrate activist groups planning to protest the Democratic and Republican National Conventions.

The latest in this domestic repression of activist movements and people of color comes in the form of new provisions to the National Defense Authorization Act (NDAA), which allow for the indefinite detention of U.S. citizens, and can be used by this and future presidents to militarily detain people captured far from any battlefield.

The NDAA's detention authority violates international law because it is not limited to people captured in the context of an actual armed conflict as required by the laws of war.



Don't Let the State Smash You First

One of the most common, and most easily avoided gateways to state repression of political activism is an unplanned encounter with law enforcement consequent to a relatively minor violation of the law.

Do your best to minimize unplanned contacts with law enforcement.

Don't let your important political work be neutralized by trivial violations.

Jumping a turnstile, smoking weed, or shoplifting may feel like everyday ways to subvert an oppressive system. But getting arrested for this kind of relatively minor violation can seriously undermine your more important work, and can lead to increased monitoring of your political activities. Whether it is worth it to you is a question you must answer for yourself. But if you are associated with a movement, remember that the political dreams of millions of people can be undermined by even sporadic instances of petty illegal behavior, giving rise to warrants, and scrutiny of both you and your associates.

Be Strategic

Getting caught in the criminal penal system can undermine your goal.

You may end up paying restitution to a corporation you were accused of trying to undermine, doing prison labor on behalf of the state, or sacrificing your efficacy (and your general well-being) as a result of being constantly monitored.

If you do become a target, or you are already a target, STAY STRONG.

Support your community and we will support you.

Autonomy from repressive state power requires solidarity with each other.

Honor and value all the people around you, in spite of disagreements; and they will stand in solidarity with you when you most need them.

In what follows you will find information that will help you to understand what the police do, and how to respond in ways that keep everyone safe. A big part of this process is community solidarity.



involved with or know about criminal activity to seriously disrupt, delay, or totally quell your lawful political dissent, or ruin the lives of people you know.

Grand Juries

A Grand Jury is a secret proceeding, where there are no attorneys, no judge, and no public. Many things about it, including its very existence and what is being investigated are secret, and those being investigated may not even know it.

A Grand Jury proceeding is intended to gather evidence for an indictment, but is often an excuse for prosecutors to go on a fishing expedition for all kinds of evidence and information relating to political dissidence, whether or not the prosecutor has any good faith belief that criminal activity is afoot. Grand juries are not screened for bias, so this is decidedly not a jury of your peers.

The prosecution can ask anything about anyone, and the jury can ask questions, too! A grand jury is a swell way for the government to gather information about you and people you know.



IF YOU ARE SUBPOENAED, CALL AN ATTORNEY AT ONCE!

Even though counsel cannot be present to cross-examine other witnesses, they can still provide important protections. For example, you are allowed to consult your attorney in the hallway after at least every few questions. An attorney can also advise you

GRAND JURY RESISTANCE IN ACTION

In Operation Backfire, seeking Earth Liberation Front indictments eight of the activists decided to talk. On average, those who spoke went to prison for an average of a year longer than those who refused to speak but were implicated by the eight informants. Of the twenty-four subpoenas of international solidarity activists in 2010, many who were editors of the Fight Back! newspaper, no one spoke. Only one of the twenty-four is going to trial, and none have yet been incarcerated.

CORPORATE SURVEILLANCE

Be aware that while the state is governed by the Constitutional prohibition against unreasonable search and seizure, corporations and private individuals are not. So if the government breaks the law to spy on you, they can't introduce the unlawfully obtained evidence against you at trial. But if someone else breaks the law to spy on you, and hands that evidence over to the state, then they can admit that evidence against you at trial. Be prepared by practicing good security culture!



FEDERAL AGENT VISITS

You do not have to let anyone into your home without a warrant. If they have a warrant to speak to you, step outside and close the door behind you. And remember, you have the right to remain silent, and to call an attorney.

Just because you think you have nothing to hide doesn't mean you should cooperate with federal agents. Law enforcement personnel are trained in how to get

you to talk, and every single question they ask is calculated. In some states it is not a crime to lie to police, but lying to a federal agent is always a crime. Lying to an agent, even about something inconsequential, gives them the power to threaten you with prosecution, and then offer lenience if you agree to give them information. They don't need evidence that you are

MOBILE AND ELECTRONIC SECURITY



"Never write when you can talk, never talk when you can nod, and don't put anything in an email, because it's death. You're giving prosecutors all the evidence we need."
-- Elliot Spitzer, former NY State Attorney General

Your phone is a tracking and recording device. Social networking sites can be mined by intelligence to disrupt your family, friends, lovers, and organizations.

Don't post anything about activities or friends that you wouldn't say to the FBI or the NY Post.

Familiarize yourself with the skills and information at www.safermobile.org

KNOW YOUR RIGHTS

While we recommend doing your best to minimize unwanted or unplanned contacts with law enforcement, it is simply a reality that it is not always possible to entirely avoid such encounters.

DETENTION & SEARCH

If you are approached by an officer, it may help you to give extremely basic answers to extremely basic questions (first name, your neighborhood, what you are doing). Keep your answers under five words. If they continue to question you, ask "Am I free to go?" If they say yes, then walk away. If they say no, ask "Am I being detained?" If they say that you are not being detained, then walk away. If they say you are being detained, you can ask why; they may or may not give you a valid reason. If you are in a group that is surrounded by officers, you can mic-check "Are we being detained?" This seems to be an effective way to get them to release you if they are penning you in without cause.

You can be detained without being "under arrest." In that situation they can pat you down to check for weapons, but they may try to search you, your pockets, or your bags. Resisting can lead to retaliatory violence or incarceration, which can have many long-term negative effects.

Instead of resisting, say "I DO NOT CONSENT TO THIS SEARCH," so that people around can testify that the search was performed without consent or a warrant. This will probably not prevent or stop a search. But it may mean that anything the search yields cannot be used against you at trial.

SILENCE IS CONSENT

If you say nothing, then anything found during the search can be evidence admissible at trial.

Say, "I do not consent to this search!"

IDENTIFICATION

If you are being detained, an officer can ask for your ID, and may detain you until they can verify your identity. It may be helpful to carry a picture ID that does not have a lot of information on it. If you are a non-citizen, you are supposed to have ID on you at all times.

Remain Silent; Don't Be Silenced!

You always have the right to remain silent. You must say "I am going to remain silent, and I want to talk to my lawyer." You must say you are going to remain silent, and then you must actually remain silent. Anything you say to the police, to someone in your cell, and even on the phone can and will be used against you. If you say anything, you must re-invoke your right to remain silent. Once you request a lawyer, the officers are supposed to stop questioning you. You have a Constitutional right to counsel. The only possible exception to these two rules is in front of a federal grand jury.

Never, EVER waive your right to counsel. Attorneys protect you and the people around you, by making sure you aren't questioned against your will. An attorney can help ensure the police don't coerce you into saying or signing anything that incriminates you or your friends, or results in you waiving your rights. If your lawyer suggests you cooperate with the police in a way that makes you uncomfortable, *you have an absolute right to request new counsel.*

You can reach radical legal help by calling the **National Lawyers Guild** at **212-679-6018**.

INVERT THE PANOPTICON

"The Panopticon" is an architectural concept that refers to a prison where inmates regulate their own behavior for fear that they are under constant observation by an unseen man in a central tower. Sound familiar?



But we cannot live in fear. Political speech is still strongly protected by the First Amendment. One way to protect political dissent is to turn the Panopticon around: film the police.

It is not yet legal in all states to film the police, but in New York, you have a right to do so. This is helpful for documenting police misconduct; it may also have some effect on police controlling their own behavior (reverse-panopticon!).

See Witness.org for helpful tips and links to livestreaming apps.

INFILTRATION and SURVEILLANCE

An informant is someone who may or may not be paid to tell law enforcement about your political allegiances and activities. They hang out and try to blend in with activists. It is really hard to know for sure whether someone is an informant, or whether they are just a disorganizer, and it doesn't necessarily matter. Both betrayal and accusing others of betrayal (often called "snitch-jacketing") are undesirable and disruptive behaviors.

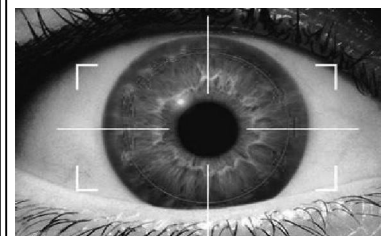
The fear that someone is an informant should not lead us to self-destruct. Practice good security culture. Work with people whose histories and lives are well-known to you, and whom you trust. Be careful with information. Not everyone needs to know where you live, or what you are working on. Don't boast! Serious activists are discreet and they are humble. Talking loudly about destructive or violent actions could end up getting you in trouble for something you did not do.

Don't fall for oppressive definitions of "weakness" and "strength."

Agents routinely use such ideas to goad people into committing crimes. If you are not susceptible to being "dared," or to caving in to pressure to prove your masculinity or commitment, then you are less likely to end up in a dangerous situation. If someone tries to induce you to commit an act of violence in order to prove yourself, it's generally a good idea to distance yourself. Even if they're not an agent, that kind of talk can be dangerous, and just as importantly, it is oppressive. Likewise, remember that security culture doesn't mean socially marginalizing people or being unkind. Do not let ideological disagreements between people end in mutual accusations of spying. Don't let repressive forces prevail as a result of your own fear and internal strife. Maintain good communication, mediation, security, and accountability practices!

IRIS PHOTOGRAPH

The NYPD has a practice of photographing the irises of



criminal defendants. This is a practice, not a law. You do not have to submit. They are not allowed to hold you for extra time if you refuse. If they threaten to do so, demand a phone call. Call the NLG immediately or demand to speak to a Legal Aid attorney. They will advocate for you, and make sure that you are not held longer for your resistance.