

Distributing FIJA Literature in Front of Courthouses

FIJA activists frequently stand on the public sidewalks near courthouses or the jurors' parking lot and distribute FIJA brochures to all passersby. If you are interested in a particular case, we encourage you to establish a presence at least two weeks prior to a particular jury trial, and continue at least a week after. This makes you a "part of the landscape" and keeps you from being associated with a specific case. Of course, you will also reach a lot more prospective jurors that way! Some activists tell us that the best time to be there is when the whole jury pool is first assembled (often on Monday mornings, 7:30 or 8:00 AM). At this time those summoned are not yet officially jurors, and the authorities are less likely to bother you. On the other hand, authorities sometimes confiscate brochures from prospective jurors as they enter the courthouse. For this reason, it has been suggested that a better time to distribute literature may be late in the afternoon, to catch people as they come out.

FIJA activists should make it clear that they are only passing out information of general interest to all citizens, and are not trying to influence any particular case. No case-specific literature should be distributed with FIJA literature to anyone who might be a prospective juror. FIJA literature, which informs jurors of their rights and powers in general terms and which seeks reform of the judicial process, is protected speech under the First Amendment. If other people are passing out literature protesting a case going on inside, fine. It is their right to protest, and the sidewalk is a traditional public forum for First Amendment purposes. (U.S. v. Grace et al, 461 U.S., 1983)

Literature distribution is most effective if you dress neatly and conservatively, smile, and are polite. A FIJA button in your lapel would also be appropriate. It is not good to engage in long debates with anyone, while dozens of people walk by without receiving your material – unless you have enough people to do it. Limit your interaction to a minute or less, and have a short, prepared delivery speech to use as you hand out literature.

Thousands of people have distributed FIJA literature at courthouses, the vast majority without any trouble. Although a few people have been hassled, we are unaware of anyone having been arrested and convicted when following these guidelines. There have been rare instances of individuals being arrested or convicted in situations where they did not follow FIJA's guidelines, such as by distributing case-specific literature while handing out FIJA literature. Another arrest and conviction was for refusing to cease literature distribution and leave the interior of a courthouse. A handful of "jury tampering" charges have been filed for simply passing out FIJA literature. Juries have so far refused to convict people so charged. (If you face contempt charges for violating an injunction, as things stand now, you do not get a trial by a jury of your peers. A judge decides if you are 'guilty' - often the same one who issued the injunction.)

Usually when the authorities decide there is not much they can actually do to stop brochure distribution, they stumble over themselves in their haste to dismiss charges or otherwise back down. Perhaps they come to realize that prosecuting you for jury tampering will mean giving FIJA brochures to your jury as evidence... and they realize that distributing political/informational brochures in a public place is a clearly protected First Amendment right. In addition, prosecutions are liable to generate a great deal of local media interest and exposure for FIJA's message – and this is the last thing judges and prosecutors want!

You're more likely to encounter trouble if you insist on distributing brochures inside the courthouse, but it has been done successfully. In any case, if the powers that be react at all, they are likely to warn you first and ask that you leave. In the event that this does happen, you can ask some questions as you comply with the request. For example, "I'm going to comply with your request, but isn't it my First Amendment right to distribute this information?" Or you may say, "I'm going to leave, but I would first like to get your name and contact information so that I may call you as a witness if I decide to challenge this order." You may also ask, "Where may I stand to distribute brochures?" If the person harassing you does not recommend another location, you may identify another location and ask "May I distribute literature in that location?" Some activists have refused to leave because they were trying to be arrested, but even so couldn't induce an arrest. However, this is not legal advice. These are just things we have observed.

The FIJA Media Disc with the Power Point Presentation "Called for Jury Duty?" and many FIJA documents and masters is now available. FIJA audio and video Public Service Announcements (PSAs) are available. These have run on stations across the country. Since PSAs from FIJA National are produced by a 501(c)3 organization (and we send documentation upon request, or you may be able to use this sheet for that purpose), many stations are willing to run them. You can also use local cable access TV to air FIJA videos and DVDs, which include not only PSAs, but various talks and programs on jury veto power. You can order them through the Supply Shop on our web site at www.fija.org or by mail or calling the office. Let us know of your efforts, and be sure to post any local or state news to the web forums. You can also contact us to do local interviews and for help writing letters to editors of local papers