

## *If You are Facing Charges*

**The following is not intended to substitute for competent legal assistance, nor is it to be construed as specific legal advice. However, we offer some observations which may be of general interest.**

Ask to sign the relevant paperwork for a jury trial immediately upon being charged. You can decide not to follow through later on, but it's not always possible to regain your right to trial by jury once it's been lost.

The prosecutor may pressure you to accept a plea bargain, perhaps by threatening to escalate or multiply charges if you do not accept, or by assuring you that if you go before a jury, and lose, the punishment will be much worse than if they make a deal.

You may wish to resist such intimidation, if you believe injustice is being done to you. Consider that if you plead guilty to breaking an unpopular law, you lengthen the time that you and everyone else will be subject to it, because neither you nor a jury will have an opportunity to express your opinion of it. And if your plea "bargain" includes a felony count, you're also giving up--without a fight--your right to vote, or serve on a jury, hold public office, or own a firearm.

The so-called "Informed Jury defense", in which activists make a deliberate attempt to educate your trial jurors in their right to judge the law itself, and to vote on the verdict according to conscience, is gaining in popularity and effectiveness. We see more and more "hung juries" and outright acquittals of individuals charged with violating unpopular (usually political, or victimless crime) laws, or who were subjected to unconstitutional police procedures.

The first phase is to create an awareness in the community about the real extent of the power that jurors wield; the next is to supply detailed information directly to the jurors who will actually hear your case. The first phase can be done by calling in to radio talk shows, writing letters to the editor, leafleting, advertising--whatever your time and money will permit. The second is best done by getting friends, family, or fellow fully informed jury activists to show up at the courthouse when your jury is being selected, to hand "True or False?" or other materials to the incoming jury pool--which usually means being there from about 7:30 to 9:00 am.

Occasionally, leafleters will be hassled by the authorities, but to date no one has been convicted of anything for passing out fully informed jury brochures. In *US v. Grace*, 1983, it was determined that the sidewalks around a courthouse are a "free speech zone", and it seems that the word has gotten around to most of the nation's courts, punctuated by the fact that in those few cases where arrests have been made, the authorities are now facing lawsuits...or perhaps it's merely that prosecutors have reasoned (correctly) that if they arrest fully informed jury leafleters, the leaflets will have to be given to the leafleter's own jury as evidence...

You can also spread information which argues that the law you're accused of breaking is a poor one, at the same time you inform people about jury power. Fully informed juries "combine well" with many "causes", especially those which involve reforming laws, although activists shouldn't take sides on any law.

You may be accused of an offense which does not invoke your right to trial by jury itself. There are future plans to deal with this gross violation of your individual rights, but for the moment there is little that can be done. If you plan to break a law of one kind or another and "fight for justice in the courts" on behalf of one cause or another, therefore, it will pay you to check ahead of time to see what kind of offense you'll have to commit in order to get a trial by jury--and then make sure that jury is fully informed.

And don't expect it to be easy to make your argument in court. You may not even be allowed to tell the jury why you did it, let alone what's wrong with the law or what the Constitution says. The jury will hear and see only the evidence and testimony allowed by the judge, and further restricted by the prosecutor. And you'll be facing jurors who have been both told and sworn by the judge to "follow the law as given", and told they "should" (sometimes even "must") find you guilty if the evidence supports a conviction.

Under these circumstances, about the only way to "inform" the jury, once in court, is to hint at their power during voir dire (jury selection), then explain it during closing arguments--at least until the gavel slams down and you're threatened with contempt of court if you or your attorney continues! Take heed: contempt of court charges do not entail a trial by jury, just a show-cause hearing and judgment by the bench!

You're not so likely to be stopped or threatened with contempt if you use part of your jury selection time, opening and especially closing remarks to remind your jurors about their role as the "conscience of the community", how the jury is an important player in our system of justice, that the jury stands as an important buffer between the accused person and the power of the government, and that these are the reasons America uses jurors, not computers, to judge a case.

In short, without hitting the nail on the head and therefore being silenced, you're saying things which can help the jurors gain self confidence and a sense of power and independence--and gambling that some of them may begin considering about why they're there. Besides, everything you're saying is not only true, it shows your respect for the jurors and the jury system, which is something the prosecution is not likely to do.

Finally, if in fact justice in your case means exoneration, then we wish you every success in your defense.