

DEMONSTRATION INFORMATION SHEET  
SEATTLE COALITION AGAINST APARTHEID

Information around your participation in the South African consulate demonstration is set forth below. BE SURE THAT YOU HAVE COMPLETED AND TURNED IN THE DEMONSTRATORS INFORMATION SHEET before the demonstration.

I. Criminal Offenses: Possible criminal charges against those participating in civil disobedience are:

- A. Criminal Trespass, misdemeanor with maximum penalty of one year in jail and \$5,000 fine;
- B. Malicious mischief, misdemeanor if property damage under \$250; felony if damage exceeds \$250;
- C. Pedestrian in roadway, traffic infraction subject to fine;
- D. Assault on a police officer, a felony punishable by a maximum of 5 years imprisonment and a \$10,000 fine (increased penalty if bodily harm to officer or weapon involved.)
- E. Burglary, felony punishable by a maximum of 10 years imprisonment and a fine of \$20,000. (The difference between criminal trespass and burglary is the intent to commit another crime).

The police have been charging demonstrators with criminal trespass and it is expected that the charge will remain the same.

II. Recent past developments: In December and January, over 50 persons have been arrested at the South African consulate in Seattle. Until now, the charges against all those arrested have been dismissed at arraignment. The City Attorney Doug Jewett has stated publicly that future cases will not be dismissed and will be prosecuted.

III. What happens if you are arrested: PLEASE CARRY PICTURE ID. DO NOT CARRY ANY WEAPONS (INCLUDING KNIVES WITH BLADES OVER 3 IN.) OR DRUGS (INCLUDING PRESCRIPTION DRUGS IN OTHER CONTAINERS). DO NOT TOUCH OR ARGUE WITH POLICE OFFICERS.

The persons arrested recently have received citations from the police and have been released without being taken to the police station. It is anticipated that the police will continue to follow this procedure. A citation is a piece of paper charging you with an offense. Signing a citation is not an admission of guilt, but only a promise to appear in court. If you refuse to sign it, you will be taken to jail. Some demonstrators have been issued their citation at the city jail after arrest; others were issued citations near the consulate after arrest.

Once at jail, either because you have refused to sign a citation or because of a change in the police arrest policy, you will be interviewed by a personal recognizance (PR) screener. That person will obtain information from you concerning your residence, employment, family and prior convictions. You should have the name of a reference person who will be available to be contacted by telephone to verify this information. The PR screener will check to see if there are any outstanding warrants (including traffic tickets) against you. If you lie to the PR screener, you may not get PR. The term PR, standing for personal recognizance, will allow you to be released without bail if you promise to appear and the screener determines that you are likely to honor that commitment.

If you are found not eligible for PR, bail will be set for misdemeanors according to a schedule posted in the jail. For felonies, bail is set upon your first appearance in court. If you have not been charged by a citation, or released on PR or bail, your first appearance in Municipal Court on a misdemeanor arrest will be the first business day following arrest at 8:45 am in Room 700 of the Public Safety Bldg. Your initial appearance on a felony charge will be on the first business day following your arrest at 2:30 pm in Seattle District Court, Rm. 1049 at the King County Courthouse. Please note that January 21 is a court holiday.

IV. Arraignment: IF YOU RECEIVE A CITATION, YOUR FIRST APPEARANCE IN COURT WILL BE AN ARRAIGNMENT AT WHICH TIME A PLEA IS ENTERED. (If you appear in court for bail, your arraignment will be your next appearance.) You will receive a notice from the court informing you of the date. Check with the court if you have not received a notice within 10 days after your arrest. You will need your citation number or date of birth to identify your case to the court.

At the arraignment, you will be asked to plead guilty or not guilty. A plea of not guilty will entitle you to a trial as to your guilt or innocence. If you plead not guilty, you will be asked to choose a jury or non-jury trial. In the past, previous demonstrators have been advised by those lawyers working with the coalition to plead not guilty and request a jury trial. The final decision as to how you plead and what type of trial you request should be made after consultation with a lawyer.

In order to co-ordinate legal representation and planning, you should notify the Coalition of your arraignment date by calling (or leaving message for) Randy Carter at AFSC at 632-0500. Co-ordinated legal representation will not be available to those who get arrested outside of the civil disobedience procedures set up by the Coalition.

When all of the witnesses have testified (that is, been sworn under oath and asked questions by both sides), we again move to dismiss.

If the judge denies that motion, the jury will decide if you are innocent or guilty. Beforehand, the lawyers will have prepared jury instructions, which tell the jury what the law is, and what they need to consider when they decide your fate.

The judge will then read the jury instructions and give first the Prosecutor, then the defense (lawyers and pro se defendants), then the prosecutor again, a chance to tell the jury what verdict is appropriate in the case (closing statement).

Once the prosecutor is done for the last time, the jury goes back to the jury room to make its decision (deliberate).

You are currently charged with criminal trespass (knowingly entering or remaining upon the premises of another when you are not licensed, invited or otherwise privileged to do so.)

Some possible defenses to this charge are:

1. Necessity. Even though this may have technically been an act which is defined as above, you had to do it because the situation in South Africa is so dangerous and the role of our government is so intricately involved that you were forced to take this action to stop apartheid and US involvement.

2. International Law (the Nuremberg principles). As a member of the international community and as a citizen of the United States, which signed the Nuremberg principles treaty, you are required by law to take whatever steps are necessary to prevent and inhibit the practice of apartheid. Unfortunately, in order for this defense to succeed legally we would have to argue that South Africa is in a state of war.

3. First Amendment. What you did was not really a trespass, but was a way of expressing your strong feelings about apartheid. Again, legally, this won't fly, but it may be worth arguing.

4. Jury Nullification. While not really a defense, it is a way of having the jury find you not guilty because they agree with what you did, even if you did break the law. Basically, you would be telling the jury why you broke the law and asking them to find you not guilty because your actions were morally correct.

Any or all or some of these defenses may be used. We need to think about and talk about all of them. You should also be thinking about what witnesses you would like to call and what you yourselves would like to say to the jury.

THIS IS MEANT TO ENGENDER QUESTIONS, NOT TO CUT THEM OFF. PLEASE USE THIS AS THE BASIS FOR OUR DISCUSSION.