

Civil Disobedience - The Basics

An overview by ACT UP/New York

Civil Disobedience (CD) is a form of political protest. What makes it different from other forms of protest is that involves violating the law. Protestors chose to engage in CD for a variety of reasons. But, violating the law means that you will have to deal with the police and the courts. That's why a CD action requires special planning.

1. THE PHILOSOPHY OF CD

- a. Spectrum: CD is a form of free speech—just one form of action along the spectrum of political protest.
- b. Upping the ante: Why CD? Because other protests have been insufficient. Because CD gets attention.
- c. Moral necessity: The reason why people usually engage in CD: to protest an injustice.
- d. Non-violence: Keeping a CD action nonviolent reduces its risks and maintains the moral high ground.
- e. Non-cooperation: CD is a way of gumming up the works. Some people choose to extend non-cooperation past the arrest and into the police and courtroom procedures.
- f. Consequences and commitment: If you do CD, you should be willing to accept the consequences. This requires commitment to the cause.
- g. Personal considerations: Legal issues (immigration status; probation; outstanding warrants; jobs involving the government, security, or child care). Time-

commitment issues (family or job obligations; health concerns). Emotional issues (reticence, recklessness).

2. CREATING AN ACTION

- a. Goal: What do you want? What are your political demands (short-term, long-term, local, national)?
- b. Allies & opponents: Who will (or potentially will) support or oppose your cause?
- c. Target: What person or entity can advance or thwart the goal? What kind of pressure will affect the target?
- d. Direct vs. indirect laws: Does the CD involve the violation of a law related to the goal? If it involves an unrelated law, how will the CD be linked to the goal?
- e. Public vs. private settings: Actions in public settings will be seen by passersby and the media. Actions in private settings require extra publicity efforts.

3. PLANNING AN ACTION

- a. Affinity groups: Working within an affinity group is a way to protect yourself and lessen the risks of CD.
- b. Consensus: Groups should use consensus in order to reach unanimous agreement on important issues
- c. Trust: Group members must trust each other. Trust develops through open and honest discussions.
- d. Secrecy: It's only necessary to keep your plans secret if publicity will prevent an action from happening.

- e. Level of personal involvement: Not everyone in the affinity group has to get arrested. Those who don't can play a valuable role in providing support.
- f. Issue research: Clarify your demands. What are your talking points?
- g. Media outreach: You may want to publicize the CD, especially if it's taking place in a private setting. There are ways of doing this without revealing too much.
- h. Legal research: Police and court procedures vary from city to city. It's important to research what's likely to happen in the jurisdiction where the CD will happen. What are the likely charges and how will they probably be resolved? What's the reputation of the local police and the courts about how they handle CD?
- i. Legal support: It's crucial to line up lawyers who can provide advice before, during, and after the action, as well as legal observers who can provide additional support at the action.

4. AT THE ACTION

- a. Pre-action: What to bring: government-issued photo ID, snacks, change, phone numbers. (Your cell phone will probably be taken during police custody.) What not to bring: weapons, illegal drugs.
- b. The police response: If the police are surprised by an action, they're more likely to respond aggressively. If they know in advance that an action is happening, they may prevent it from happening.
- c. The arrest process:
 - i. Warning
 - ii. Arrest

- iii. Transport to the police station
 - iv. Processing and booking
 - v. Release
- d. Quick release: If you have no legal complications, you'll generally be released that day and given a paper telling you to appear in court for a later arraignment.
 - e. Slow release ("Going through the system"): If you have legal complications, you may be held overnight or longer in order to be arraigned before release. You may be moved to other locations before release.
 - f. Support: The affinity group's support team should keep track of everyone who's arrested until release.

5. IN COURT

- a. Time considerations: If you're planning to be arrested in a different town, you should either be prepared to return for later court dates, or else arrange to resolve the charge before you leave town.
- b. Charges:
 - i. Disorderly conduct, Trespass (the most common CD charges)
 - ii. Resisting arrest (means that you didn't cooperate with the police)
 - iii. Riot in the second degree and riot in the first degree (rare, but possible)
- c. Arraignment: Your first courtroom appearance. The charges will be presented by a prosecutor. You will have to make an initial plea: guilty, not guilty, or nolo contendere ("no contest").

- d. Courtroom parties: The prosecutor who presents the charges; the defense attorney who represents you (some people choose to represent themselves); the judge who decides the case.
- e. Dismissal: If you've pled not guilty, try to get the charges dropped with either a motion to dismiss (if granted, it results in immediate dismissal) or with an agreement for delayed dismissal (such as an ACD, or Adjournment in Contemplation of Dismissal). A delayed dismissal agreement may include a fine or community service. Dismissal must be approved by the judge.
- f. Plea deal: If the case isn't dismissed, you'll need to decide whether to change your plea to guilty or nolo in order to avoid a trial. Sometimes you may reach a plea deal with the prosecutor before or after the action so that you don't have to return to court.
- g. Trial: If you've pled not guilty, you will have to stand trial.
- h. Sentencing: If you pled guilty or nolo, or are found guilty at trial, you will then be sentenced. For most CD charges, this will involve a small fine or community service.
- i. Sealing: With most CD charges, the records of the case will be sealed after the sentence is completed. This means that most people will not be able to see the records (though some will).

FINAL WORDS

“When we engage in civil disobedience, we do so to achieve change, not to get arrested. Getting arrested is of little significance in and of itself. We're not out to accumulate arrests like merit badges. Arrests result from our commitment to achieve change; they are the means to an end, not the end in themselves.” (Aldyn McKean, ACT UP/NY)