Collective Action Behind Bars

A history of jail solidarity and its importance for today's social change movements
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by Kris Hermes

As residents of Philadelphia and Cleveland anticipate this year’s political party conventions and the mass protests that they invariably invite, the Republican convention hosted by the City of Brotherly Love 16 years ago holds many important lessons. It was in Philadelphia during the protests against the 2000 Republican National Convention (RNC), that then-Police Commissioner John Timoney developed an aggressive model for policing dissent that included unwarranted surveillance and infiltration, preemptive and unlawful arrests, as well as rampant violence. Notably, this model has become the normative law enforcement response to mass demonstrations across the US, whether reacting to mostly-white Global Justice activists, the Occupy Wall Street movement or, more recently, youth of colour demonstrating against police violence under the banner of #BlackLivesMatter. However, the way that RNC 2000 protesters resisted the legal system in Philadelphia that is also important to our political history and provide vital lessons to those protesting in the streets today.

With the intensified use of militaristic, violent, and repressive domestic policing methods, activists are increasingly forced to spend time in jail and endure criminal prosecution for their
actions. But, by using certain tactics collectively, activists have mitigated harm in jail and achieved objectives that would have been impossible through individual action. According to the Just Cause Law Collective (JCLC), the term “solidarity tactics” encompasses “many different forms of non-cooperation, all of which are designed to produce leverage for collective bargaining.”

The word “solidarity” is ubiquitous today and can be interpreted differently depending on the context in which it is used. Some people act in solidarity with those struggling in other countries. Some show solidarity with political prisoners. Occupy Wall Street activists prioritized “jail support” as a form of solidarity between arrestees and their comrades standing vigil outside the jails. White activists contemplate ways of working in solidarity with today’s youth of color leading the Movement for Black Lives. People are probably most familiar with solidarity tactics historically used by organized labour, such as pickets, strikes, and boycotts.

The JCLC argues that the use of solidarity tactics by criminal defendants is less well-known amongst activists, but can be effective “particularly when the defendants are well-organized, similarly-situated, and working together in large numbers.” Jail solidarity, as it has become known, has a rich history in the US through its periodic use over the past hundred years by many different social movements. When activist arrestees have utilized their collective strength, often through militant and confrontational tactics, they have won demands and built power against a legal system designed to coerce and oppress. Integral to the success of jail solidarity is the ability to exploit vulnerabilities in the legal system through collective action and non-cooperation. This is achieved because the authorities need the cooperation of arrestees to process them, it’s expensive to detain large numbers of people, and many jails are near or beyond capacity and unable to deal with heavy influxes. Jail solidarity is typically used with the aim of achieving certain goals, such as gaining equal treatment for all arrestees; protecting targeted groups and individuals, such as people of color, immigrants, and queer people; helping to negotiate the widespread dismissal or reduction of charges; and politicizing the incarceration process by forcing a public discourse and controlling the media narrative.

By refusing bail, arrestees can stay in jail together and place greater strain on the state. But this can sometimes involve a serious time commitment. And, while effective negotiations can eliminate the need for arrestees to defend themselves later in court, it can also take several days to achieve that goal. Therefore, such tactics
are often only used by those who can endure the real-world consequences of spending days in jail, like missing out on work and other economic, social or family obligations.

Non-cooperation tactics can vary dramatically and are often as creative as the arrestees employing them. The mass refusal to provide identification is the foundation of contemporary jail solidarity and the tactic most familiar in the activist milieu. By agreeing not to carry identification, to use aliases or “action names,” and refusing to cooperate during processing, arrestees can severely hamper the efforts of jail authorities and create a singular, collective identity that builds strength and fosters selflessness. This unified approach, which can be understood as an extension of collective political action in the streets, stands as a human bulwark against the jail system’s efforts to atomize and incapacitate those under its control.

Other non-cooperation tactics include collectively sitting or lying down, refusing to walk or move, surrounding or piling on top of those at risk of being isolated, refusing to get dressed, and changing clothes with other arrestees. Singing, chanting, and making loud noises are also common tactics used to strengthen solidarity, meet a demand, divert attention, or generally disrupt the jail process. All of these tactics risk being met with retaliation; many arrestees have been brutalized for their refusal to cooperate, underscoring the significance of deciding when, how, and how long to engage in such tactics.

The hunger strike, or political fast, has been used throughout history by arrestees and prisoners as a tactic of resistance. From Irish republicans to Scottish, British and American suffragettes, and from Tibetan freedom fighters to Nelson Mandela and other Black South Africans jailed during Apartheid, political prisoners have used the hunger strike to fight repression and advance movements for social change. Most recently, prisoners in California, Guantanamo Bay, Palestine, and Bahrain have used hunger strikes to demand their release as well as improved conditions in jail. Over a two-month period in 2012, more than one-quarter of the 4,700 Palestinians being held by Israel engaged in a hunger strike. A year later, nearly two hundred undocumented migrants imprisoned in Ontario, Canada went on hunger strike to demand an end to their arbitrary and indefinite detention in maximum security jails.

Political arrestees have also used jail solidarity to demand mass arraignments and collectively refuse plea bargains in order to exercise their collective strength in the courts. By pursuing speedy
trials and court-appointed attorneys rather than the universal norm of accepting plea deals, activists can seek vindication by placing stress on the courts, which are often as overburdened as the jail system.

While the examples of jail solidarity are too numerous to list here, it’s useful to look back on how solidarity tactics played out, whether they were effective, and why or why not. There are several case studies worth noting in what is a fascinating history that holds many important lessons for organizers who might use and train activists in jail solidarity tactics.

**Industrial Workers of the World and the Free Speech Fights**

Jail solidarity tactics have been used in the US since at least the time of the “free speech fights” organized by the Industrial Workers of the World (IWW) in the early 1900s. In the first few years of the union’s existence, organizers reached out to workers, especially migrant and new immigrant workers, by mounting soapboxes on city streets across the country. Because the IWW was so successful at using the soapbox as a tool to organize workers and given the concurrent struggle over the collective commons at the time, local governments in several cities worked hand-in-hand with lumber, agricultural, and mining interests to pass ordinances outlawing public speaking on the street.

Beginning in 1908, IWW organizers (Wobblies) led an almost decade-long fight against the suppression of their right to speak out and organize. The Wobblies’ tactics in these highly publicized free speech fights were based on solidarity tactics and closely resemble some of the contemporary jail solidarity efforts. The most widely used tactic by the Wobblies was to clog the local jails. Every Wobbly arrested for uttering the words, “Fellow workers and friends,” was replaced by another willing to risk arrest. In this way, the largely single male, unemployed and temporary workers were able to flood the local jails beyond capacity, placing considerable pressure on local political and legal systems.

The first free speech fight in Spokane, Washington in 1908 quickly grew to a total of twenty-six struggles across the country, including in Los Angeles, Fresno, San Diego, Missoula, Denver, Kansas City, and Everett. Some fights took longer than others, but almost all of them resulted in the repeal of local anti-free speech laws.
Strategic overcrowding of local jails was an effective solidarity tactic used by the Wobblies, but not the only one. Labour historian Philip Foner claimed that, “Each Wobbly in jail demanded a separate trial by jury to clog the courts and administrative machinery.” As author and academic Matthew May explains, the jailed free speech fighters also engaged in hunger strikes and passive resistance techniques, such as refusing to do manual labour. According to May, many free speech fights were hailed as victories, including in Spokane, where “the union went from about 30 members to having about 3,000 members on the books in about 6 months.” However, the main goal of repealing anti-free speech ordinances came at a significant cost, with many Wobblies being killed during the struggle.

The Civil Rights Movement

Fast-forward to 1960, during the Civil Rights movement. The Congress on Racial Equality (CORE), the newly formed Student Nonviolent Coordinating Committee (SNCC), and others were engaged in sit-ins, using nonviolent direct action to protest the whites-only lunch counter service across the South. Once arrested, hundreds collectively refused to pay their fines and, instead, chose to remain in jail. Author and Sociology professor Doug McAdam characterized these “jail-ins” as an effective way to “dramatize the oppressiveness of southern racism through mass jailings, while at the same time straining the law enforcement resources of the affected municipalities.”

Another example of jail solidarity from this era was tied to the Freedom Riders, a group of mainly college students and civil rights activists who departed from Washington, D.C. on Greyhound and Trailways buses in May of 1961 with the aim of forcing racial integration at bus and train stations across the South. When they reached Jackson, Mississippi, the Riders were brutally arrested, charged with “breach of the peace,” and sentenced to the maximum punishment of four months in jail and a $200 fine. Instead of holding them in the Jackson city jail, Mississippi Governor Ross Barnett thought he could stop the Riders in their tracks by sending them to the notorious farm labour prison, Parchman Penitentiary. Barnett’s plan to intimidate the Riders by making them do “hard time” at Parchman backfired, however, serving only to strengthen their resolve to make Parchman the next site of the civil rights movement. The 45 jailed Freedom Riders turned into hundreds as groups like CORE and SNCC recruited people from across the
country willing to remain in jail for at least 60 days, putting into motion one of the most effective jail solidarity campaigns of that era.

Finally, in September 1961, after more than 300 arrests and vigorous jail solidarity by arrestees, as well as a national campaign to put pressure on the Kennedy administration, the Interstate Commerce Commission issued a sweeping desegregation order, bringing down the Jim Crow “coloured only” and “whites only” signs that had hung in bus and train terminals for generations.

The Anti-nuclear Movement

Another era of conspicuous mass resistance to the legal system occurred in the late 1970s and early ’80s during the anti-nuclear movement. This era is important not only because of the tremendous impact solidarity tactics had at the time, but also because its success inspired the use of similar tactics in the following decades. The Clamshell Alliance, which formed in 1976 to oppose the construction of a nuclear energy plant near Seabrook, New Hampshire, ushered in a wave of politically motivated occupations. A massive occupation at Seabrook in 1977 resulted in the arrest of more than 1,400 activists who were detained in armories for two weeks. “In the armories,” writes author and activist Barbara Epstein, “a powerful spirit of community was created.” Epstein explained how “decisions were made by consensus within and among affinity groups, and officials were forced to negotiate with a ‘leaderless’ movement that put forward different representatives every day” (61). This approach was continued into the early 1980s and according to Epstein, “trained a generation of activists and created networks to serve as bases for other movements” (92). With the nuclear power industry in decline, the movement shifted its focus to nuclear arms and began targeting the nuclear-weapons-producing Lawrence Livermore National Laboratory.

The Livermore Action Group (LAG) organized multiple occupations, the first of which occurred in June of 1982, drawing more than 5,000 people and resulting in more than 1,300 arrests. After a negotiation process between local officials and jailed activists, facilitated by movement-based lawyers, arrestees who stayed in jail were arraigned in two or three days on jaywalking charges. A year later, a similar occupation had a markedly different result. Protesters had so effectively organized themselves in advance of the June 1983 action that hundreds of people were
prepared to resist fines, bail, or probation. Quickly rejecting an initial plea offer, arrestees collectively refused to go to their arraignment. After holding out for more than a week, arrestees had exercised enough leverage by clogging up the jail system to avoid more serious charges and negotiate a plea offer of “no contest,” resulting in a low-level conviction but not an admission of guilt.

**Shutting Down the WTO**

The 1999 World Trade Organization (WTO) protests in Seattle ushered in a renewed vigor for collective bargaining and collective resistance in jail, due in large part to Katya Komisaruk, an attorney who was part of the legal team for the Direct Action Network (DAN), one of the groups mobilizing people to protest the WTO. Komisaruk took what she learned from her involvement in the anti-nuclear movement of the 1980s and, with a handful of others, resurrected the tactics of jail solidarity and helped to inspire a new generation of collective resistance to the legal system.

After hundreds of people were arrested in retaliation for the successful disruption of downtown Seattle and the subsequent breakdown of trade talks, activists began to practice jail solidarity. Natalie Mandelin, a resident of Seattle at the time who later helped form the Midnight Special Law Collective, said she and dozens of others were herded onto a bus after approximately 150 people were arrested without a chance to disperse. While being driven to a nearby Naval base to be processed, Mandelin was asked by others on the bus if she’d heard about jail solidarity. “When we all get processed, none of us will have our ID,” Mandelin recalled someone saying. “We’re going to refuse to identify ourselves, and refuse to cooperate so that we can all work together to get the same low-level charges by putting pressure on the system.” Mandelin hadn’t previously heard about jail solidarity, but the anger from her arrest compelled her to take part. While still in holding cells, large numbers of arrestees made identification more difficult by exchanging clothing and wristbands, which in turn triggered jail authorities to use violence against them. Eventually, arrestees were taken to the maximum-security area of the jail and placed on 23-hour lockdown.

Outside the jail, some of the roughly 2,000 protesters who had gathered to support the hundreds being held inside blockaded the front entrance and demanded the release of arrestees. As a result, city officials agreed to allow DAN lawyers to meet with
groups of jailed protesters. However, because of the city’s general unwillingness to negotiate, jail solidarity began to break down. After four days, more than 600 people had given their names and the vast majority had been released.

The failure of jail solidarity in Seattle was historically rare and represented the crucial need to properly assess the capacity of the jails and the degree of obstinacy of local officials. Yet, the subsequent court solidarity effort to collectively demand trials was duly effective in placing enough pressure on the city to abruptly drop the vast majority of charges against WTO protesters.

**The 2000 IMF/World Bank Demos DC**

In April of 2000, approximately 1,300 people were arrested while protesting the International Monetary Fund (IMF) and World Bank (WB). Just as with the WTO protesters arrested less than six months prior, approximately 150 arrestees in DC refused to identify themselves and engaged in various jail solidarity tactics. Although some violence against arrestees had occurred early in the detention process, mainly by US Marshals, jail authorities allowed arrestees to meet in large groups for long periods of time. This allowed representatives from the gender-divided arrestee groups to meet with members of the legal team to strategize and discuss possible terms of negotiation. The representative arrestees then took what had been discussed back to the larger arrestee groups in order to gain consensus on how to proceed. On the third day, however, access to the legal team was cut-off and people were held in individual cells in order to stop them from meeting as a group. In response, approximately 60 male arrestees began a hunger strike. The warden quickly acquiesced, allowing arrestees to again meet and have access to the legal team.

Concerned that activists would have an influential effect on prisoners in general, jail authorities tried to pit one group against the other by putting general population arrestees on 23-hour lockdown and denying them visiting privileges, then blaming those restrictions on the protesters. This strategy failed, however, and instead created stronger bonds between the groups and compelled protesters to use solidarity tactics to end the general population lockdown and restore their visiting privileges. With authorities flustered by ongoing solidarity tactics and with supporters from around the country applying increased pressure on the mayor, police chief, and warden, a settlement agreement was reached.
Almost all of the protesters were charged with the equivalent of a jay walking ticket and a $5 fine.

While many of the jail solidarity tactics used by IMF/WB arrestees were similar to tactics used in Seattle by WTO arrestees, the main difference was acquiescence by the District of Columbia officials in allowing IMF/WB protesters to negotiate the terms of their release. Whether this capitulation was due to political pressure, overcrowded jails, effective use of solidarity tactics, or some combination thereof is unclear, but it illustrates without question that successful use of such tactics is possible and that the use of collective strength in jail still holds great promise for dissidents and others forced to endure repression at the hands of the state.

At the RNC in 2000

By the summer of 2000, the Global Justice movement reached its apex and jail solidarity was *de rigueur* among direct action organizers. But, government officials, law enforcement, and jail authorities were not only becoming keenly aware and less tolerant of such tactics, but they also bristled at the call for direct action against police brutality, the death penalty, and the prison industrial complex.

What set Philadelphia apart from other cities hosting major summits in the era of the Global Justice movement was the entrenched nature of the city’s political machine. Mayor John Street used the mainstream media to make clear his intolerance to protest in the months preceding the RNC 2000. Police Commissioner Timoney – seen as a thug by many residents – backed up this zero-tolerance attitude, and became the architect of many of today’s aggressive crowd control practices. Rounding out this hostile environment for activism was District Attorney Lynne Abraham, who had deftly navigated the city’s “old boy’s club” network to gain the title of America’s “Deadliest D.A.” from the *New York Times* for her extensive use of the death penalty. These players ensured that RNC protesters were met with violent police repression. Hundreds were brutally arrested, excessively charged, and held on unprecedented bails as high as $1 million, but nonetheless resisted Philadelphia’s jail system with great determination.

Most of the jail solidarity tactics used in Philadelphia were similar to their historical antecedents, as detailed above and documented in my book, *Crashing the Party: Lessons and Legacies from*
New tactics were also used to push the envelope, like piling on top of someone to avoid targeted abuse and refusing to be fingerprinted, but these tactics often received a violent response by guards. Numerous arrestees were physically and sexually assaulted, denied food and medicine, and prevented from seeing their attorneys in retaliation for their actions.

In the end, the city refused to negotiate and many arrestees resisted in jail for two weeks before divulging their identities. Although jail solidarity in Philadelphia yielded mixed results, it didn’t break the collective strength of arrestees, which was translated into a court solidarity strategy of collectively refusing plea deals to demand trials. Activists organized their own legal defense, forming a defendant-led collective known as R2K Legal, which succeeded in vindicating the vast majority of protesters both legally and politically.

RNC defendants deployed many creative legal strategies, including direct action in the courtroom. Most trials were politically-charged and some defendants chose to represent themselves, underscoring the political nature of the arrests. Fists were raised by defendants and supports alike; banners were unfurled to the surprise of judges; mouths were taped shut in response to censure by the court; and political statements were fashioned and worn in court, all in defiance of court rules and at risk of contempt. Ultimately, activists won the day with nearly all of their charges thrown out or acquitted at trial. Countless inspiring and insightful stories came out of the experience, which stand as crucial lessons for future struggles fought with the use of jail solidarity.

**Prisoner Strikes**

These historical examples would not paint a full picture without mentioning the prisoner strikes that have taken place in the last five years. Thousands of people held in at least 11 prisons across California succeeded in improving abysmal conditions at Pelican Bay, the state’s first super-maximum security prison, by engaging in a weeks-long hunger strike in July 2011.

In December 2010, thousands of people from as many as 10 Georgia State Prisons refused to leave their cells to work in the largest non-violent prisoner strike in US history. A one-day strike turned into a days-long refusal to work after prison officials responded with violence and other forms of punishment. Notably, prisoners put their usual differences aside to unite across racial and
religious lines by working together to protest overcrowding and intolerable living conditions, and demand fair compensation for their labor (Georgia forces prisoners to work without pay), an end to cruel and unusual punishment, access to educational resources, and better nutrition.

**Reflections on Jail Solidarity**

With the ebb and flow of solidarity tactics, it’s uncertain when and how they will manifest again or whether they will positively impact struggles for social change. In addition to pondering the efficacy of jail solidarity, we must ask whether its use is worth the potential harm from reprisal. Is advanced training and discussion on the strategies, tactics, and benefits of jail solidarity necessary to its success? What kind of plans, if any, should be laid out in advance and with whose involvement?

To help answer some of these questions, I spoke with Brooke Lehman and Lisa Fithian, both of whom are longtime political activists with years of experience in jail solidarity. Lehman, who helped co-found the Watershed Center, said her entrance into direct action was through a jail solidarity experience in 1996, precipitated by a protest at an old growth stand on Mount Hood that the Forest Service was threatening to cut down. With no prior training and being forced to trust the women she was with, Lehman said, “Going through that experience and feeling so cared for by a group of strangers was a powerful moment. People you’ve never met before who have your back can be more significant than the experiences people have with their own friends.” Lehman explained how the care she received and the experience of doing something that felt right, mixed with fear and intimidation, was a “really powerful recipe for wanting to be a part of something. It cuts through a lot of the alienation in our society, where people often ignore each other’s plight. And the strength that comes from not feeling alone is so important.”

Although Lehman believes that prior training is crucial for the effective use of solidarity tactics, she contends that it can be done on the fly. “I think there’s generally a lineage, where someone has done it before, and where there’s at least some thought put into it.” Lehman emphasized that “how tactics are executed can make the difference between bringing somebody into a community of social justice or alienating them.” She chalks up the success of jail solidarity tactics to a higher than normal degree of participation,
which raises one's level of responsibility for the action and for each other. “It’s about feeling like you have a personal stake in the fate of your fellow organizers because you’ve created something together with them and your success is wrapped up in their success; your freedom is wrapped up in their freedom.”

Author and direct action trainer Lisa Fithian has had the opportunity to watch solidarity tactics unfold over three decades. Fithian, who first used jail solidarity in the 1980s as part of the Central America solidarity movement, is a big advocate of people exercising and reclaiming power by refusing to go along with the state. “Collective action always makes a difference,” declared Fithian. “I’m a big fan of solidarity tactics and think we ought to be using them way more,” she continued. “I think when anybody’s organizing to use direct action and civil disobedience to challenge the state, we have to consider solidarity tactics.”

But, Fithian tempered her enthusiasm by recognizing the violence of the system and harm sustained by activists and political movements. “People have been hurt at some of these mobilizations and so I am glad to see trauma care becoming an essential part of our movement work.” Fithian also conceded that, “because jail conditions can be so difficult, unless you have some preparation and a good plan, it can be hard to hold the group together.” Fithian urges people to think about their strategies in advance and analyze the local legal and political landscape. What’s the capacity of local jails and courts? Who’s the prosecutor? Who’s the mayor? Are they friendly or adversarial? What are their political vulnerabilities? “Who’s in power can make a big difference as to whether we can negotiate,” said Fithian. “Well-organized people using well-planned jail solidarity strategies can change the dynamic of an arrest scenario, can mitigate harm, and can help people access their power. Jail solidarity works, and when you do it well it can make a difference.”

While Lehman’s personal experience indicates that prior training and discussion isn’t necessary to the effective use of jail solidarity, an understanding of the array of non-cooperation tactics available to arrestees and why they’re used can definitely improve their impact and likelihood of success. Establishing bonds of solidarity in advance of arrest and incarceration not only brings people closer and builds trust among unfamiliar political comrades, it can also unite activists in a way that overcomes the atomization and repressive nature of the jail system.

Advance planning can also better prepare activists to pursue important demands, whether the goal is equitable release conditions,
an end to isolation of targeted individuals, or the pursuit of medical attention for those in need. As Fithian points out, assessing the political landscape ahead of time can also help arrestees determine how to apply pressure in pursuit of their equitable release and whether local officials will even be amenable. An advanced political analysis would definitely have benefitted the RNC 2000 arrestees who hit a veritable wall of resistance by city officials.

Certainly, jail capacity has made a difference to the success of solidarity tactics, especially in the period predating the Global Justice movement. Local officials have begun pre-emptively clearing out space for large numbers of arrestees, compromising the ability of activists to “clog up” the jail system. However, incapacity is not the only ingredient to successful use of jail solidarity. With ample political pressure and public embarrassment used in the right way, arrestees need not clog the jails to accomplish their goals, especially when it comes to protecting targeted individuals such as known organizers, immigrants, and trans* folks.

Deliberate and collective resistance is imperative not only in the streets but also when we inevitably get caught up in the legal system is crucial to the livelihood and advancement of our movements for social change. We must challenge ourselves to put something at stake in order to strengthen our political bonds, and conceive of our struggles as more than just mobilizing and marching for a cause. The state apparatus is mighty, but we have inherent and tremendous strength in our collective action if we nurture our intrinsic bonds of solidarity and use them strategically.

Whether or not organizers for the 2016 RNC and DNC protests consider solidarity tactics, ways of caring for fellow comrades and using collective action in jail and court to confront a repressive legal system may be crucial to the sustainability of social change movements in an increasingly intolerant and violent policing environment. ✡
Kris Hermes is a Bay Area-based activist who has worked for nearly 30 years on social justice issues. The events surrounding the 2000 RNC protests led to his years-long involvement with R2K Legal. Since 2000, Hermes has been an active, award-winning legal worker-member of the National Lawyers Guild and has been part of numerous law collectives and legal support efforts. Last August, PM Press published Hermes’ book Crashing the Party: Legacies and Lessons from the RNC 2000, which centres on the development of repressive policing policies and how activists worked collectively to overcome that repression.
Notes

1. See www.lawcollective.org
2. Ibid.
7. See www.midnightspecial.net
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