

# Appendix E

## Tools for Working With Lawyers

### Proposed Talking Points for Letter to Attorneys in Multi-Defendant Political Case

Thanks, everyone!

If a plea bargain is to be arranged, everyone must get the same charges and same sentence, regardless of his/her role in the action and regardless of his/her prior convictions.

If the case goes to trial, it must be made clear to the judge and jury that the defendants bear equal responsibility for the action: they were not ringleader(s) and followers.

Each lawyer should speak freely with all the other lawyers.

Each lawyer should speak freely with all the co-defendants of his/her client. Similarly, any client should be able to consult with any of the lawyers, if need arises.

The defendants plan on engaging in public speaking. They have begun drafting proposed Q&As and would like the lawyers to participate in this. The lawyers will also need to be prepared to take questions from the media. The lawyers and defendants must schedule time to role play with each other, to prepare for press conferences, preferably as a group.

The defendants want to assist in preparing for trial. The lawyers and defendants will need to discuss how best to delegate tasks, so that defendants can participate.

The defendants each want a copy of every letter, motion, item of discovery, clipping, etc. in the case. When a lawyer or defendant obtains or produces any document, a copy should be sent to each of the defendants, as well as each of the lawyers.

(This letter is addressed to all of the attorneys—i.e., put all their names in the salutation—and each defendant must sign and date it.)

### Proposed Agenda for First Meeting (2½ hours)

- 10 introductions and check in
- 5 agenda review
- 5 background on prosecutor and judge (presentation by lawyer)
- 5 update on negotiations with prosecutor (presentation by lawyer)
- 30 initial discussion of technical defenses (brainstorm? presentation by lawyer?)
- 30 initial discussion of political defenses: necessity, international law, etc. (brainstorm? presentation by defendant?)
- 15 initial discussion of timing: when to bring out which defense; responding to or eliciting prosecution motion in limine to bar political defenses; using (up) defenses in motions to dismiss
- 20 discussion of discovery and investigation (brainstorm!)
- 15 assignment of tasks: discovery motion, research on technical defenses, research on political defenses, other preliminary motions
- 5 next meeting date
- 10 evaluation

## Talking Points for a Conversation With Your Attorney

Always take notes when talking with your attorney.

- ◆ What are my charges at this point?
- ◆ Who is my judge and what can we expect from him or her?
- ◆ Has my case been consolidated (joined) with anyone else? If so, who are my co-defendants and how are we going to coordinate our efforts?
- ◆ Do you think the complaint is likely to be amended in my case (that is, will the prosecutor change the charges)?
- ◆ Which elements of each charge do you think would be hard for the prosecutor to prove and why?
- ◆ Do you see us relying on political defenses, like “I was engaged in legitimate First Amendment activity?” Or technical defenses, like “The prosecution can’t prove I was one of the people who sat down and refused to move.” At what point will we have to make a decision about this?
- ◆ What items of potential evidence are you asking the prosecution to give us, as part of the “discovery process?”
- ◆ What kinds of potential evidence does the defense need to locate? How can my friends and I help with the investigation?
- ◆ Whom are you thinking of calling as witnesses? I may be able to remember eye and ear witnesses who would be helpful. And I may be able to find character witnesses for myself. How can I best help?
- ◆ What kinds of exhibits will we need in court? Photos, maps, diagrams? Is there anything my friends and I can do to help?
- ◆ What motions have been made or reserved by the defense in my case? What motions have been made or reserved by the prosecution? Has the judge ruled on any of the motions that were already made?
- ◆ Have any dates been set for filing or arguing [more] motions? How do I get copies of written motions in my case?
- ◆ Which motions do you think will be granted (in whole or in part)?
- ◆ Have you been in contact with other defense attorneys? Who’s doing what?
- ◆ At a maximum, if I want to be very involved in my case, what are the best ways for me to contact you and how often do you prefer to be contacted?
- ◆ If I want to look at some of the discovery (potential evidence) in my case, when would be a good time?
- ◆ At a minimum, when do I have to be in town and in court?
- ◆ Is there anything else I should know about my case?
- ◆ Thank you for all the work you are doing!