





Written by the Civil Liberties Defense Center in Eugene, OR
Questions, edits, and comments about this zine should be directed to the
Civil Liberties Defense Center at info@cldc.org. We welcome your feedback!

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Reach us at studentinsurgent@gmail.com
Read more at uoinsurgent.blogspot.com

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Introduction

SO YOU WANT TO KNOW YOUR RIGHTS...

Awesome. In the face of expanding corporate and state control over our lives, and ever more destructive injustice against people and planet, we need more people like yourself. With strategic, passionate comrades and the right tools, you will be well on your way to helping create a world free of authoritarianism, capitalist exploitation, and environmental injustice.

Unfortunately, the state, large corporations, and the super-rich have trillions of dollars riding on your failure. This means that they have almost infinite resources to repress and control not just activists, but everyday citizens who are trying to exercise their human right to a dignified life. Your constitutional rights are one of the tools you should use in this struggle. If you don't use 'em, you lose them.

In this zine, we will lay out your rights and what to do when you must interact with police or government agents. This will be a handy resource to check back on when you're organizing an action, or just want to know how to deal with the next cop or campus security officer.



What Rights Do I Have?

These are “fundamental” rights protected by the Constitution, regardless of your age or citizen status. Because these are based mostly on U.S. constitutional law, these guidelines are applicable in all states unless explicitly noted otherwise.

Right to Remain Silent

**The 5th amendment right to remain silent –
otherwise known as the right against self-incrimination, or takin' the 5th.**

You never have to answer any questions unless ordered by a judge. It's the law. This means that you do NOT have to identify yourself to a cop unless you are being detained, which means the cop has reasonable suspicion that you are breaking the law. Staying silent cannot be used to imply that you're guilty of anything.

In Oregon, you do not have to carry identification unless you are the driver of a vehicle, in which case you need a valid driver's license (You may also need ID if you are in a bar or consuming alcohol if you look young).

**M A G I C
W O R D S**

**"I am going to
remain silent
and want an
attorney"**

The Right to Be Free from “Unreasonable Searches and Seizures.”

The 4th amendment gives you the right to be free from “unreasonable searches and seizures;” also known as your right to privacy.

There’s the old adage, “your home is your castle.”

You always have the right to deny someone access to your home.

They cannot just waltz in unless one of the exceptions applies.

Exceptions:

(I) If they have a warrant – a piece of paper signed by a judge with a date, time, areas they can search, and what they can seize. They are required to show you the warrant when executing a search. If you give them permission to go beyond the scope of the warrant, they will. If you are not home when cops show up with a valid warrant, they can enter your home without your presence. If you hear cops say “police, warrant!” you may want to answer the door. Don’t consent, don’t hide from them. They will enter and search the entire house, including behind locked doors (which they will bust down if needed). If you are not home, they are required to post the warrant on the door or somewhere obvious when they leave.

- Limits to warrants include things like vehicles, outbuildings. Make sure that you read the warrant.
- If they’re going beyond the scope of the warrant, lay low and stay quiet and let your lawyer get it thrown out.
- There is such thing as a telephonic warrant, where police call in and have a judge approve/amend a warrant. So if you tip them to a scope problem, they can just call in and get the scope broadened.
- Officers can search anything within your wingspan to look for weapons that could threaten the safety of the

cop. Example: When an officer conducts a traffic stop, they can search the front seat and even pat you down, but they can't search your trunk without a warrant. Cops are allowed to lie, so if they say they have a telephonic warrant, demand they record it by audio or video if possible.

(2) In certain instances, the police can enter your home without a warrant if “exigent circumstances” exist, which roughly means that there is some type of emergency or exceptional need to get inside or preserve evidence. For example, if a fugitive runs through your home and the police are in “hot pursuit,” then the police may follow and if they see your meth lab in the process, then that may give them probable cause to search and arrest you using the “plain view” doctrine.

- *Plain View Doctrine* says that if the police are legally present, anything they can observe from their vantage point is not a search, so they don't need a separate warrant or probable cause. But this does not cover things that can't be seen without manipulating or opening items. If the police can read your stereo serial numbers without moving them, that's within plain view. But if they have to lift up the equipment to see the numbers, then that's not in plain view and it's a search that requires a warrant or exigency.

(3) The Patriot Act – there's now a “sneak and peak” provision that allows the feds to enter your property when you're not home and go through everything without a warrant, and without notice to you that they were there as a way to spy and gather information without prior judicial review. The Patriot Act also expanded warrantless spying of digital or electronic communications—particularly Facebook and other social media sites.

- The AETA (Animal Enterprise Terrorist Act) expanded spying if the feds have evidence that you may have information on animal rights campaigns.

Cops ARE allowed to lie to you.

Your cell phone is a GPS tracking device and cops can use it as a remote microphone to listen to everything. Police do not need a warrant to spy on your cell phone calls or texts. The only way to potentially prevent this is to take out the battery. If you are having a confidential conversation, do not discuss it by cell phone. You can use encryption software (like PGP-“pretty good protection”) that allows you to encrypt documents and emails to better ensure confidentiality.

In Oregon, an MIP (minor in possession) charge is an infraction. If an officer detects any amount of alcohol on your breath, and you are under 21, you can be issued an MIP ticket. Less than an ounce of marijuana is no longer subject to the “plain view” doctrine in Oregon because it is decriminalized. In many circumstances there is no probable cause if a cop sees pot because it could be medicinal marijuana, which is legal under state law. Smoking pot in a public place is not legal and will lead to a possible citation. See page 13 for more information.

The Right to Advocate for Change

The 1st amendment protects political speech and activity.

The right to free speech includes the right to sing, dance, yell, protest, and gather with friends.

There are a few exceptions to the right to free speech: You can't yell "fire" in a crowded theater, and you can't slander someone.

Laws cannot limit the content of speech, only the time, place and manner of expression. You have the most expansive free speech rights in public forums like parks, sidewalks, public squares, etc. You can be asked to leave if you are on private property and the owner or manager doesn't want you there. If you refuse to leave, you will likely be arrested for trespassing. Generally, the rule is that if you are protesting in a place where free speech would be expected, you are okay. On campus this means you could protest in certain public areas like outside the administrative offices, but you could not protest in a biology classroom for example. **Generally, the police cannot legally tell you to stop protesting, but if a relevant statute exists, the police may be able to tell you to stop protesting at 2 am,** or stop protesting in a residential neighborhood, or stop protesting if the protest is too large and you don't have the proper permit. Look to local codes or campus policies for additional information regarding use of amplification, wearing masks, or other specific details.

Be cautious if you are an undocumented person (someone without proof of US citizenship or legal status), or even if you are here on a legal student visa: the federal government may attempt to deport you if you're involved in activities protesting the government if there is another legitimate basis to detain you. Also, in some states (not Oregon), you can be charged with a felony for traveling with, living with, or aiding an undocumented person.

Constitutional Rights Cannot be Suspended

Constitutional rights cannot be suspended – even during a state of emergency or wartime – and they have not been suspended by the “USA PATRIOT Act” or other recent legislation. The only way that the Constitution can be suspended is to declare martial law, and that has only happened once in the history of the country. This would have to be an Act of Congress verified by the president.





You're Charging Me With

What? Some common state and city laws of interest to college students and activists

Brief Explanations Offenses are either crimes or violations. Crimes include potential jail time, probation, and fines. Crimes are classified as Felonies or Misdemeanors. Felonies carry a potential prison sentence, whereas misdemeanors sentence you to local jail for a year or less, road crew, or community service. Felonies require you to give the State your DNA and can take away your 2nd amendment right to bear arms. Class A, B, or C relates to the severity of potential penalties (A is the most serious). Violations, also called Infractions, do not impose jail time or probation, and carry less significant consequences down the road, for example, on job applications. ECC = Eugene City Code, ORS = Oregon Revised Statutes.

Resisting Arrest A person is “resisting arrest” when they “intentionally resist a person known... to be a peace officer in making an arrest.” Resist means “the use or threatened use of violence, physical force or any other means that creates a substantial risk of physical injury to any person and includes behavior clearly intended to prevent being taken into custody by overcoming the actions of the arresting officer.” The behavior does not have to result in actual physical injury to the arresting officer. Passive resistance (i.e. going limp) does not constitute “resisting arrest.” Passive means truly passive – people can get into trouble thinking that they are passively resisting, but the officer and/or court do not agree. If you are charged with resisting arrest, you cannot defend yourself by saying that the cop had no legal authority to arrest you as long as “the peace officer was acting under color of official authority.” (ECC 4.910). **Offense:** Class A Misdemeanor. **Punishment:** up to \$6,250 fine and/or 1 year in jail.

Interfering With a Police Officer If you, knowing that another person is a cop, “intentionally [act] in a manner that prevents, or attempts to prevent, a police officer from performing the lawful duties of the police officer with regards to another person. This section does not apply in situations in which the person is engaging in activity that would constitute resisting arrest.” This does not apply where a person is engaging in passive resistance. (ECC 4.907)
Offense: Class A Misdemeanor. **Punishment:** up to \$6,250 fine and/or 1 year in jail.

Minor in Possession (MIP) “No minor shall attempt to purchase, acquire, or have in their possession any alcoholic liquor.” Possession includes consumption, which can be evidenced by liquor on the breath. (ECC 4.115). **Offense:** Class B Violation.
Punishment: up to \$250 fine (\$750 if in possession while operating a motor vehicle. This is separate from DUII)

Minor Falsely Representing Age Occurs when a person less than a certain specified age knowingly purports to be any other than their true age with the “intent of securing a right, benefit or privilege which by law is denied to persons under that certain specified age.” (ECC 4.145) **Offense:** Class C Misdemeanor.
Punishment: up to \$500 fine and/or 30 days in jail.

Giving False Information to a Police Officer Occurs when a person knowingly gives a false or fictitious name, address or birth date to a cop who is issuing them a citation, or arresting them on a warrant. (ECC 4.906)
Offense: Class B Misdemeanor. **Punishment:** up to \$2,500 fine and/or 180 days in jail.

Furnishing Alcohol to a Minor

“No one other than a person’s parent or guardian shall sell, give or otherwise make available any alcoholic liquor to a person under the age of 21 years.” This includes giving or selling alcohol to someone if you know they will give or sell it to a minor. (ECC 4.110, ORS 471.410)

Offense: Class A Misdemeanor. **Punishment:** up to \$6,250 fine and/or 1 year in jail.

Allowing Alcohol Consumption by Minors

The section is violated when someone who controls private property, and is present, knowingly allows a minor (who is not their child) to drink on the property, or allows a minor to stay on their property after consuming alcohol there. (ECC 4.110, ORS 471.410).

Offense: Class A Violation. **Punishment:** up to \$1,000 fine and/or community service.

Disorderly Conduct

Something of a catchall, and often used against protests or other political activity. Someone commits disorderly conduct if, “with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, the person: (a) engages in fighting or in violent, tumultuous or threatening behavior, or (b) makes unreasonable noise, or (c) disturbs any lawful assembly of people without lawful authority, or (d) obstructs vehicular or pedestrian traffic on a public way, or (e) congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse, or (f) initiates or circulates a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe or other emergency, or (g) creates a hazardous or physically offensive condition by any act which the person is not licensed or privileged to do.” (ECC 4.725)

Offense: Class B Misdemeanor. **Punishment:** up to \$2500 and/or 180 days in jail.

Open Container/ Consumption in Public “Consumption of liquor or possession of an open alcoholic beverage container is prohibited in a public place and on private property extended to the public for use.” There are a few exceptions including situations where drinking has been licensed in advance, and in certain designated areas around Autzen Stadium before Duck games. (ECC 4.190).
Offense: Class B Misdemeanor. **Punishment:** up to \$500 and/or 100 days in jail.

Noise Disturbance It is unlawful for any person to “intentionally or recklessly create or continue any noise disturbance.” A “noise disturbance” means any sound which: (1) injures or endangers the safety or health of a human, (2) annoys or disturbs a reasonable person of normal sensitivities, or (3) endangers or injures personal or real property. (ECC 4.080)
 Specific Prohibitions: the ECC specifically bans “operating or permitting the use or operation of any device designed for sound production, amplification, or reproduction, including but not limited to a radio, drums and other musical instruments, phonograph, television set, tape recorder, loud speaker, or other similar device: (1) between the hours of 10 p.m. and 7 a.m. the following day so as to be plainly audible within any dwelling unit which is not the source of the sound; or (2) on public property or on a public right-of-way so as to be plainly audible fifty feet or more from such device, except as specifically authorized in writing by the city, county, state or federal government.” (ECC 4.083)
Offense: Class C Misdemeanor. **Punishment:** up to \$500 fine and/or 30 days in jail.

Noise Disturbance - Repeat Violation It is an additional violation for a person responsible for a noise disturbance caused by electronically amplified sound or a gathering of more than five people to (a) fail to cease the distur-

bance within 30 minutes after receiving a citation, or (b) “intentionally or recklessly create the same or a similar disturbance” within 6 mos. of receiving a ticket. (ECC 4.081).

Offense: Class B Misdemeanor. **Punishment:** up to \$1,500 fine and/or 90 days in jail.

Unruly Gathering Ordinance

An unruly gathering is a party or gathering where alcohol is served or consumed, and two or more of

the following occur on the property where the gathering takes place or on the adjacent property:

Any violation of state or city of Eugene laws relating to the saleservice possession or consumption of alcoholic liquor, Assault, Menacing, Harassment, Intimidation, Disorderly conduct, Noise disturbance, Criminal Mischief, Public urination or defecation, Littering

Punishment: The violation that has a maximum penalty of \$1000.00

– Fines allow for progressive increases and the officers will have the discretion to apply.

- \$200.00 for a first offense,
- \$300.00 for a second offense, and
- \$375.00 presumptive fine amount for the third offense.
- Each violation can include costs associated with responses bylaw enforcement, fire, and other emergency response providers

– Average response costs are estimated at \$800.00

Rioting

A person commits the crime of riot if while participating with five or more persons the person engages in tumultuous and violent conduct and thereby intentionally and recklessly creates a grave risk of causing public alarm (ORS 166.015).

Offense: Class C Felony **Punishment:** Up to \$125,000, Up to 5 years in Jail



Dealing with Police

Three Kinds of Initial Police Encounters

There are three different levels of interactions with police: Conversation, Detention, and Arrest. It's important to be able to identify what level you are at, so you can assert your maximum rights.

Imagine a situation where a cop confronts you. It might be confusing, overwhelming. You may say something you don't want to. Remember: one of the most important things you can do or say in this stressful situation is to assert your rights even if you believe you have done nothing wrong or have nothing to hide. If we don't assert our rights, then only the guilty will not comply with the demands of law enforcement.

Conversation

The first level is "mere conversation." Police have the same rights as any other citizen to approach you and ask you questions, but you don't have to answer them, just like you don't have to answer a stranger on the street. Say a random person comes up to you on the sidewalk and asks for your social security number— of course you don't have to give them any information.

You need to assert your rights verbally because silence equals agreement in legal terms. Don't rely on silence or gestures. You cannot just shake your head. If you are silent, they will do what they want.

Limits of the "mere conversation" phase:

- An officer cannot detain you without reasonable suspicion. If you're not breaking the law or being lawfully detained, you can walk away.
- You do not have to answer any questions at this level of interaction.

MAGIC WORDS

**“Am I free
to leave?”**

**If not, ask...
“Why am I
being
Detained?”**

- If you agree to speak with them, it’s voluntary. But the information that you give them will likely be used to arrest you or someone else.
- Most cops have a recording device. Think about this in terms of sarcasm. Whatever you say will be transcribed literally, so don’t say “oh yeah, I just robbed that house.” Nonverbal communication also may not be captured when a cop records an interaction. Imagine the recording being played at your trial.
- In Oregon, you do not have to provide identification to an officer at this level, unless you are a driver of a motor vehicle. Providing an ID is based on state law, so some states have different rules.
Test: To determine if you are in a level 1 situation, ask if you are free to leave. It is important to be polite, but firm. Example: “Am I being detained?” / “I do not wish to speak with you. Am I free to go?”
- If the police say they are not detaining you, then put PHYSICAL distance between you and the police. Walk away (BUT DO NOT RUN).

Detention The next level is “detention.” A cop may only detain you if they have a reasonable suspicion that you are involved in a crime. Reasonable suspicion must be more than a mere hunch. The cop must suspect that you either committed a crime, or are about to commit a crime, and they need to be able to tell you what crime they suspect you were involved in. Police must be able to put their “reasonable suspicion” into words. Under the law, this is called the “articulable suspicion” provision.

What to do if you are stopped by the police:

- Remember! What you say can and will be used against you. Stay calm and in control of your words and actions. Take a deep breath. Avoid arguing with the police but firmly assert your rights. All of your actions can be misinterpreted in an incident/police report. You never want to give them ammunition. You may invoke your 5th amendment rights and remain silent – remember that anything you say can and will be used against you or someone else.
- Never run or physically resist even if you think the stop is unreasonable or unlawful. Running or physically resisting may lead to your arrest.
- Your first step when interacting with cops should be to ask if you are free to leave; if they say yes, do so. You are not required to provide identification or your name if they are not detaining you (unless you are driving a car).

Cops can lie or trick you.

The police are allowed to lie or misinform you while investigating a crime. Don't be fooled. Many times they will promise you that your situation will be easier if you fully cooperate or tell them what they want to know, but they do not have to follow through on their promises. They may say things like "if you answer truthfully, you can go home," or "if you tell what your friends did, nothing will happen to you," or "if you tell the truth, you don't need an attorney," or "if you don't confess, you can go to trial as an adult." Sometimes, you may not be able to go home, despite what they tell you. Remember, your best bet is to ask for an attorney before saying anything. Demanding an attorney does not make you guilty, no matter what they tell you.

At the detention level, you are required to provide them with your identifying information upon request. **You must provide name, address, and date of birth.** But you are not required to

**MAGIC
WORDS**

**“I DO NOT
CONSENT
to this
search.”**

say anything else. You should NEVER provide cops your social security number, country of origin, or any other information; you do not necessarily need to provide an ID card as long as you provide them with name, address and DOB. If you are transient, you can say that, though this may present a problem for release if you are arrested. It is a crime to give a false name. Police must give their name, agency, and badge number upon request, or in a police report.

Police may pat down your clothing if they have a reasonable suspicion that you are carrying a concealed weapon for “officer safety reasons;” do not physically resist but make it clear that you do not consent to any further search. The officer can only go so far as to confirm that you do not have a concealed weapon / pose a serious physical risk to the officer. They cannot search you beyond that, i.e. look inside your Altoids tin for pot. The “plain view” doctrine applies here – if they find contraband through “plain feel,” they may gain probable cause. But they may not be more invasive than a pat-down in their initial search – they are not allowed, for instance, to manipulate or feel around a pipe in your pocket to ensure that it is a pipe. Any possessions within your “wingspan” may be searched for weapons if police reasonably suspect you pose an imminent threat of serious physical injury.

You do not have to consent to a search. However, if the police have a warrant, then your consent is not required. It’s still important to verbally refuse to consent to the search, but don’t resist the cops or you may get injured or charged with Interfering With A Police Officer. This will not stop them, but if

the search is illegal, then the police cannot later say that you consented. If the police say they have a warrant, ask to see it. A warrant must have a judge's signature, the date, and description of what law enforcement is allowed to search. If the warrant says "the house," but not the shed, then the police cannot search the shed. If you see the police search an area that is not within the parameters of the warrant, do not tell them. Their error may be grounds for getting anything obtained from the search thrown out. Police may obtain

Remember cop names and badge numbers, and write down everything about the incident as soon as possible. Memories fade over time and you want an accurate account to hold up against the officer's police report.

Arrest: Am I Under Arrest? Continuing the timeline of an encounter, this is stage 3. If the police try to relocate you to another area, ask if you are under arrest. The police cannot move you unless you are under arrest.

If the police say you are under arrest, you may likely be going to jail. Try and stay calm and remember your rights. You should immediately invoke your 5th amendment rights--ask for a lawyer when taken into custody and immediately assert your right to remain silent. Then wait for your attorney before saying anything.

Handcuffs are uncomfortable. Try to keep your hands together (like you are praying) when the handcuffs are applied and don't twist your hands around. Protect the nerves on the outside of your wrists. If the cuffs are too tight, respectfully

**MAGIC
WORDS**



**"Am I
Under
Arrest?"**

**M A G I C
W O R D S**

**“I am going
to remain
silent and I
want an
attorney.”**

request that police check them for proper fit and adjustment.

Those under 18 have the same rights, but normally are only released from jail to a parent/guardian who personally comes down to the jail, as opposed to adults who can be released “on their own recognizance.”

If you refuse to provide a name and address while in custody, you will not be eligible for release or a court appointed attorney in most circumstances. You will be booked as a John/Jane Doe.

Within a reasonable time, the police must allow you to make a phone call to your attorney and they may not legally listen to that call – but assume that they will. All jail calls are recorded.

Do not talk to fellow arrestees regarding the circumstances of the arrest – you never know who might be listening.

You must be provided adequate medical care when in custody. If you are on medication, inform the jail of that fact immediately and repeatedly. If you are injured, request medical attention repeatedly and take photographs of your injuries as soon as possible.

If you have dietary restrictions for health or religious reasons, the jail may be required to provide you with alternative meals (but don’t count on it). Inform the jail of your dietary needs as soon as you arrive. If the jail fails to accommodate those needs, begin the grievance process immediately.

Arrest: So, you are going to jail. The police may arrest you if they witness you breaking the law, have probable cause to believe you have committed a crime, or have an arrest warrant, signed by a judge, for your arrest.

- “Probable cause” means “more likely than not” you have committed a crime. Even a single informant is enough to give probable cause.
 - They can also arrest you if they have a bench warrant, such as if you missed a court date.
 - Exception: for misdemeanor crimes, they can “cite and release,” but it’s at their discretion.
- If you commit an act of nonviolent civil disobedience, then you have broken the law – most likely in front of police officers – and therefore they may arrest you because they witnessed it.

Arrest: Searches When making an arrest, the police are allowed to search you “to the skin.” The basis for this search again is to look for weapons for the safety of the officer as well as searching for controlled substances, methods of escape, or valuables before taking you into custody. This is not the same as a strip search. Strip searches are unconstitutional for all but the most serious crimes.

You have the right to request that any search be conducted by an officer of your own gender, so if the officer arresting you is of the opposite gender, you have the right to request he or she send for an officer of your gender to perform the search.

In order to access a trunk, they have to get a warrant. To attempt to protect a locked glove box, you can lock it. If they want to look in there, either they can ask for a key or they will bust it open. For other locked items, the general test is that if you can access it, they will access it.

Arrest: Assert Your Rights! Take the 5th!

“I am going to remain silent, and I want to contact an attorney.” This

phrase immediately invokes your 5th Amendment constitutional right, which protects you from police interrogation. Once you utter these words, the police are legally required to stop questioning you. There are many ways to say this, but the key is that you have to be verbal and clear. Saying that you wish to “invoke the 5th amendment” is not as clear as saying:

- “I am going to remain silent, and I want to contact an attorney.”
- “I am asserting my right to remain silent and I wish to speak with an/my attorney.”

Repeat those magic words. They call it “the invocation of your 5th amendment rights.” Merely remaining silent is not enough – police do not have to stop questioning you unless you explicitly, verbally “invoke” your rights.

Even if you don’t already have an attorney, police must provide you with a phonebook and a reasonable number of phone calls to find one. Invoking your right to have an attorney present is a fundamental right.

Imagine that asking to speak with a lawyer and asserting your right to your 5th Amendment right to remain silent puts a protective bubble around you. The police can no longer interrogate you. If they do keep questioning you, your attorney can probably get it thrown out. If you start speaking again, even just casual conversation to break the tension, then you burst your protective bubble and the police can start asking you questions again. You have to ask for an attorney and say that you are going to remain silent to re-establish your bubble. In Oregon, you have to be arraigned (brought before a judge) within 48 hours. Once in court, you will be appointed a lawyer if you can’t afford one. It doesn’t make sense to start talking without a lawyer if you’ve been accused of something serious.

The Miranda Rights

The cops are not required to say these to you when you are arrested.

Not only that,

The police have the right to lie to you.

- “You have the right to remain silent and to refuse to answer questions.
- “Anything you say can and will be used against you in a court of law.
- “You have the right to an attorney and to have an attorney present when questioned.
- “If you cannot afford an attorney, one will be appointed to you at no charge.
- “If you decide to answer questions now, without an attorney present, you will retain the right to stop answering at any time until you talk to an attorney.”
- “Do you understand these rights as explained to you?
- “Knowing and understanding your rights as I have explained them to you, are you willing to answer my questions without an attorney present?”

These are the Miranda Rights. It is a myth that the police are required to remind you of these rights upon arrest. The cops are not required to say these to you when you are arrested. Not only that, but the police have the right to lie to you. Would you really want to rely on the police to inform you of what your rights are?

Demand of Rights

The Miranda rights are long and a little difficult to remember, so here is a “demand of rights.” This is a list demanding the same rights and broken down into more memorable and colloquial language. Instead of Miranda rights, you should state your rights.

I will not talk to you or anyone about anything.

I demand to have an attorney present before I speak to you or anyone.

I will not answer any questions, or reply to any charges, without my attorney present.

I do not agree to perform any tests, consent to any searches, or participate in any line-ups, except DUI tests that don't involve words.

I will not sign anything unless my attorney agrees I should do so, except jail release agreements.

I will not waive any of my constitutional rights.

In Oregon, you have to be able to see a judge within 48 hours. A judge is the only person who can compel you to answer a question.

For performing tests: they could try to get your urine, blood, DNA, voice or writing exemplars, line ups, etc. Don't consent to the tests. They can only do this if they have a warrant or if you consent.

The only thing you should sign is the release agreement. If there's something suspicious about it, take it to your lawyer, but go ahead and sign it.

If you can remember the last one (I will not waive), it's the CYA statement. Your lawyer can usually mount a defense for you based on this.

Signing documents is especially dangerous for non-English speakers who sometimes sign their own deportation agreements. Non-English speaking people have the right to an interpreter

Special concerns for DUI stops

“Any person who operates a vehicle upon premises/highways open to the public shall be deemed to have given consent to submit to field sobriety tests upon the request of a police officer for the purpose of determining if the person is under the influence of intoxicants if the police reasonably suspect that the person has committed the offense of driving under the influence of intoxicants. [. . .] Before the tests are administered, you must be informed of the consequences of refusing to take or failing to submit to the tests.” ORS 813.135.

There are a few tests in Oregon that you're required to take. When you get your Oregon driver's license, you've already agreed to certain field sobriety tests and Breathalyzer tests. The reason you have to consent to field sobriety and Breathalyzer tests is because recent cases as far up as the

Supreme Court ruled that these are “not testimonial tests, or they don’t require you to say words that implicate yourself. They are tests of your abilities, not an admission of guilt. These tests are Breathalyzers and the physical coordination tests. These tests do not involve verbal responses.

- Required non-testimonial tests: Horizontal gaze nystagmus (follow finger/pen, cops look for jerky pupils), walk and turn (follow directions, walk certain # of steps, turn, return), one leg stand (balance on one leg for certain time period), Romberg balance (close eyes, balance), finger to nose test (arms out, finger to nose).
- Not required testimonial tests such as: Finger count (using fingers, just how drunk are you?), alphabet (saying the alphabet), counting, internal clock test (silently count to 30 and tell me when that has transpired), questions about how impaired, how much you’ve had to drink, or how well you did in performing these tests.

Any test that requires you to speak and would communicate his/her thoughts, beliefs, or state of mind are not required. Don’t consent to these tests. Your refusal cannot be used against you.

If you refuse the breath test, you automatically lose your license for 1 year. Most criminal defense lawyers advise their clients to blow. Also, there’s a new Oregon statute that charges you a \$1,500 fine for refusing to blow.

“If a person refuses or fails to submit to field sobriety tests as required, evidence of the person’s refusal or failure to submit is admissible in any criminal or civil action or proceeding arising out of allegations that the person was driving while under the influence of intoxicants.” ORS 813.136.

If you do blow for a DUII, you’ll only lose your license for 90 days for a first offense.

If you’re bicycling, and an officer has a reasonable belief that you are on a public roadway and too impaired to safely bicycle, you can be charged with DUII bicycling--also called PUII – Pedaling Under the Influence--which has the same potential punishments as if you were driving a car. If you don’t have a driver’s license, you have not consented to take field sobriety tests, and could potentially refuse testing. However, you can still be convicted

even if you don't take the tests, resulting in a DUII conviction, jail, fines, probation, drug/alcohol treatment, and more. If you have a driver's license and are convicted of DUII, your driver's license will be suspended as a result of the conviction. You can walk your bike on a sidewalk if intoxicated, but riding your bike on a sidewalk, bike lane or roadway makes you subject to a DUII stop.

Sample Conversations with Police

Conversation

COP: "Hi, can I ask you a couple of questions?"

YOU: "Are you detaining me or am I free to go?"

COP: "I just want to talk to you."

YOU: "I choose not to talk to you." (you walk away)

Why walk away slowly?
If they change their mind and are detaining you,
they might get more forceful.

Detention

COP: *“Hi, can I ask you a couple of questions?”*

YOU: *“Are you detaining me or am I free to go?”*

COP: *“I’m detaining you. Hands against the wall, feet back, and spread ‘em.”*

YOU: *“Why am I being detained?” (What is your reasonable suspicion?)*

(Memorize and report the response.)

An important piece here is the last line.

Memorize what the officer identifies as his or her reasonable suspicion.

Write this response down as soon as possible and report it to your lawyer.

You can even ask, “what is your reasonable suspicion?” or “I’d like to know your basis.”

You must provide name, date of birth, and address if requested.

An officer can pat you down and search any possessions within your wingspan for weapons.

You may request an officer of your own gender in case of a search,

although you should never consent to a search.

Arrest

COP: *“I’m placing you under arrest.”*

YOU: *“I am going to remain silent. I want to contact an attorney.”*

COP: *“That’s fine. You’ll be able to contact your lawyer at the police station.”*

You’ve already gone through the detention phase.

A cop doesn’t have to say “You’re under arrest.”

The law is that “if a reasonable person would have known,”

you were under arrest.

This is your invocation, do it!



Grand Juries

Grand juries are secret investigative bodies that issue indictments for state or federal felonies. The government has used grand juries to sow mistrust and division in dissident communities, by using subpoenas to pressure activists into snitching on each other. A subpoena is a written order for you to testify under oath in front of a secret tribunal. A grand jury can use a subpoena to force a witness to testify against their will, stripping them of their constitutional protections.

Grand jury subpoenas are an effective tool against dissidents because of their secrecy. It is extremely difficult to obtain information and court documents relating to a grand jury and its victims because of the secrecy that surrounds these proceedings. Not even a lawyer can accompany a witness during a grand jury proceeding. It is important to remember that you are completely free to share anything you wish about the grand jury investigation after it takes place, so that you and your lawyer/comrades can be on the same page.

Since grand juries are used to turn activists on themselves, it is also critical to make sure that you and your comrades can trust each other. It is sometimes better to not cooperate with the grand jury and risk a lesser penalty, than to share sensitive information that will bring down the whole group with much heavier sentences. Grand juries are intended to take away your constitutional power; resisting grand jury questioning can allow you to take it back. However, be aware that grand jury resistance can be punished with criminal or civil contempt that can carry a jail sentence of 6-36 months in jail in some circumstances.

A grand jury can be convened for two different purposes: 1.) to investigate a crime or 2.) investigate the whereabouts of a fugitive. Only a grand jury can charge a person with a felony by issuing an indictment.

The grand jury allows the prosecutor to display their case directly to the jurors, to determine if an

indictment should be issued. This means the prosecutor (your enemy) controls the grand jury investigation. Even worse, most of the Rules of Evidence for judicial proceedings do not apply to grand juries. The prosecutor determines who will testify before the grand jury and what evidence will be brought in. No connection between the person subpoenaed and the subject under investigation is required. The witness is not allowed to remain silent to irrelevant questions. Gossip and rumors can be used as evidence in a grand jury investigation.

Grand jury proceedings and transcripts are not public records. Subpoenaed witnesses can do two things to counter the grand jury's secrecy: (1) request a record of their testimony or appearance afterward (though these are rarely granted), and (2) take notes on the questioning during their appearance (especially if they have not been granted immunity) and share them publicly. Shed light, counter government repression.

There are two types of grand juries: regular and "special." Regular grand juries issue indictments for specific crimes, i.e. an arson, murder, extortion, etc. It is improper for a regular grand jury to investigate possible criminal activity outside of the specific crimes that it was impaneled to investigate. However, because of secrecy and a lack of oversight, the prosecution is often allowed to steer the investigation as they like.

Special grand juries can investigate possible crimes, like organized crime and its future criminal acts. If you request the ministerial records of the grand jury, the response should say whether this grand jury is regular or special. Another key difference between the two is that a regular grand jury can only receive a 6-month extension, which means that at most a witness can be imprisoned for 24 months. But with special grand juries, a judge can grant an 18-month extension and double the life of the grand jury, which means risking a possible three years of jail time for an uncooperative witness.

Grand Juries circumvent constitutional protections.

Citizens may be detained and interrogated without probable cause. Federal grand juries allow the U.S. Attorney's office to compel activists to testify without demonstrating any probable cause or reason to believe they have any relevant information for a case.

Grand juries violate 1st amendment rights to free speech and assembly. A person who refuses to answer a grand jury's questions about his friends or activist groups with which s/he is involved may be jailed on civil contempt charges for the duration of the grand jury (up to 36 months).

Grand Juries circumvent citizens' 5th amendment protections. Witnesses who assert their 5th Amendment right to remain silent in response to grand jury questioning may be forced to accept immunity compelling them to testify. A witness who continues to remain silent may be jailed for the duration of the grand jury (up to 36 months).

Immunity doesn't necessarily mean that you can't go to jail. There are two general types of immunity – Transactional and Derivative Use. Transactional Immunity means that once you are compelled to speak and incriminate yourself, they can never charge you for those crimes, and you are personally off the hook. Derivative Use Immunity leaves you open to charges – they can't use the specific evidence that you provided, but now that they know you may have committed a crime and have details, they are free to find other ways to prove it and send you to jail. The Supreme Court has said that Derivative Use immunity is all that's required to satisfy the 5th amendment and force you to speak.

Grand Juries circumvent citizens' 6th Amendment right to counsel. Persons called to testify before the grand jury are denied the right to have an attorney present during questioning. They are interrogated by a prosecutor with neither a defense attorney nor a judge present.



**DON'T TALK TO
POLICE OR THE FBI**

Grand Juries circumvent 4th Amendment rights regarding search and seizure. Normal rules of evidence do not apply to a grand jury investigation. Citizens cannot object to being questioned about evidence seized in violation of the 4th Amendment, which protects citizens from unreasonable search and seizure.

Grand Juries are used to set perjury traps and jail activists. Even if a citizen attempts to cooperate by answering questions during the Grand Jury inquisition, he or she can be charged with perjury and jailed if even the most minute inconsistencies are found in their testimony.

Grand Jurors are not screened for bias. Unlike the case with standard jury panels, there is no process for screening out potential jurors for bias, meaning that persons with extreme prejudicial beliefs about the topic at hand may be seated as part of the grand jury.

Hearsay Testimony is allowed in grand jury hearings. Rules that would normally prohibit hearsay testimony from entering into evidence because it is considered unreliable and cannot be fairly evaluated by jurors do not apply to grand juries.

Double jeopardy does not apply to grand jury situations. If someone appears before the grand jury, refuses to testify and spends three years in jail for contempt, legally she can still be re-subpoenaed and the process repeated.

Immunity Being granted immunity effectively nullifies any right to refuse to answer their questions. Normally the prosecutor must get permission from other lawyers in the Department of Justice before granting you immunity, so you may be able to go home and will then get re-subpoenaed for a subsequent grand jury date at which time Immunity will be thrust upon you. At the immunity hearing you should ask for a public defender. If you do not have an attorney, the court may not make a public defender available to you unless you are also a target or suspect of the investigation, because this is a civil proceeding. If you tell the judge that you don't want immunity, he or she will likely grant you immunity without your acceptance (impose it upon you against your will). PERJURY: If the prosecutor thinks that you answered a question falsely or refused to answer a question that he/she believes you have information on, you may be charged with perjury, which is a crime punishable by incarceration.

Grand Jury Subpoena Walk Through

When someone receives a subpoena they have three options: (1) compliance, (2) refusal to comply and (most likely) confinement in contempt, or (3) filing motions to convince the court that they do not have to comply with the order. This section is the step-by-step process of a subpoenae and mostly explores the refusal to comply and filing motions to counter the order.

#1: Being Served When the subpoena is placed in the hand of the person named as the witness on the subpoena, the witness is officially served. A federal agent, meaning FBI agent or US Marshall, must hand you the subpoena. The agent cannot leave the subpoena with your roommate, family member, or anyone. You, your family and your roommates have the right to not answer your door if the feds come knocking. A grand jury subpoena is not a warrant so they cannot enter your home without your consent. Often federal agents will conduct “knock and talks,” where the FBI comes to your home or work and attempts to solicit informa-

tion from you without a grand jury subpoena. “Knock and talks” may be used to get information on the location of a person who has yet to be served. Don’t feel pressured to open your door if federal agents come knocking, because you never have to talk to law enforcement (some minor exceptions apply during a detention or arrest).

#2: Your Attorney: Retaining an attorney is essential for someone subpoenaed to a grand jury. Contact the CLDC immediately if you believe you have been subpoenaed or may be in danger of being served a subpoena. Even simply getting your appearance date postponed may give you crucial time to prepare for the questioning or non-compliance. The subpoena must contain the necessary elements for a subpoena to command a witness’s testimony or production of physical evidence. If any of these are missing, this may indicate that you or your attorney should file a motion to quash the subpoena.

#3: Motion to Quash A motion to “quash,” or crush or kill the subpoena is a motion your attorney files on your behalf in an attempt to prevent the State from compelling your appearance before the grand jury. It is permitted under rare circumstances for particular legal defenses or privileges. An example of a privilege: the communications between a marital couple is privileged. A subpoena cannot compel a witness to provide information obtained from within the privilege. Other privileged relationships include religious cleric-religious adherent, doctor-patient, and attorney-client. Proving that the purpose of the grand jury is unlawful is difficult. If the grand jury is investigating matters for a pending criminal trial or civil proceeding, then your attorney may file a motion to quash your subpoena to such a grand jury. An example of an “unreasonable or oppressive” request is if the subpoena asks

you produce 100,000 documents in 2 days. Grand juries may not hear evidence based on illegally intercepted electronic communications. This could be another grounds for a motion to quash a subpoena and might also provide your movement/community with important information regarding government surveillance and harassment.

#4: Appearance No one is permitted in the grand jury chamber except you (the witness), the prosecutor, a court reporter, and the grand jurors. Witnesses cannot view one

#5: Questioning If the prosecutor grants you immunity (discussed further in the presentation) you may lose your right to remain silent. If you fail to answer questions after immunity is granted, the prosecutor may immediately take you to a contempt hearing in front of a judge. These hearings are supposed to be public court hearings—meaning your attorney and supporters are allowed to be present.

#6: Constitutional Protections A grand jury subpoena abridges many constitutional protections, but not all of them. An attorney will help you ascertain which ones apply to your specific subpoena and how. If you refuse to answer a question based on a constitutional protection, then a judge will need to determine whether the question impinges on your constitutional rights or privileges. A witness who refuses to answer questions related to his or her first amendment activities or other information protected by the constitution may still be subject to civil contempt and confinement. It's important to remember that once you have answered a question, you have waived several of your rights. You cannot pick and choose which questions you will and won't answer. A grand jury may ask you about your first amendment rights (political or religious), but may not

subpoena an organization's membership lists or budget. Grand Juries circumvent the 4th Amendment protection against unreasonable search and seizure. The normal rules of evidence do not apply to grand jury investigations. So, witnesses cannot object to being questioned about evidence seized in violation of the Fourth Amendment, which protects against unreasonable search and seizure. The Fifth Amendment applies to subpoenas for testimony, but only protects compelled statements. The Fifth Amendment privilege does not cover any business or otherwise public documents created prior to the subpoena, because pre-existing documents were made voluntarily, not under compulsion. Witnesses who assert their Fifth Amendment right to remain silent in response to grand jury questioning may be forced to accept immunity. After being given immunity, if you refuse to answer questions, the prosecutor will take you before the judge in a contempt hearing.

#7: Immunity Being granted immunity effectively nullifies any right to refuse to answer questions. Normally the prosecutor must get permission from other supervisory lawyers in the Department of Justice before granting you immunity, so you may be able to go home and will then get re-subpoenaed for a subsequent grand jury date at which time Immunity will be thrust upon you. At the immunity hearing you should ask for a public defender, if you do not have an attorney, but the court may not appoint counsel for you, because this is a civil proceeding.

#8: Contempt of Court Hearing You should request a lawyer for this hearing as well, if you don't have one already. Similar to the immunity hearing, the court may not provide you with a public defender unless you are a suspect or target, but it can't hurt to ask.

#9: Civil Contempt The rationale is that the court puts you in jail to coerce you to testify or comply with the subpoena, not as a punishment. In other words, “you hold the key to your own jail cell.” Because this is civil & coercive, and not punitive, the court does not need to provide you with a jury, a trial, or a defense attorney. As a “recalcitrant witness” (a.k.a. grand jury resister) held in civil contempt you cannot be jailed longer than the grand jury term, which is most likely 18 months, but 36 at the most. This is why finding out as early as possible, when the grand jury was impaneled, is helpful. If a witness is subpoenaed late in the grand jury term, then the amount of jail time that they are potentially exposed to may affect the witness’s decision to testify. Double jeopardy does not apply to civil contempt. If you are jailed for contempt under subpoena to one grand jury, a judge may impanel another grand jury and subpoena you to that one as well. If you refused again, the court may find you in contempt again and you will re-start the entire process.

#10: Grumbles A Grumbles motion is a motion to vacate the civil contempt order before the expiration of the grand jury term. You typically file this after incarceration. As an example, one of the first cases to make this argument successfully was *In re Grumbles*. Patricia and Donald Grumbles had one month left before the grand jury’s expiration and steadfastly had refused to testify throughout their incarceration. Some courts sidestep procedural safeguards to use civil contempt to coerce a witness to testify before the grand jury. The Grumbles motion argues that the witness’s incarceration has become punitive and consequently the witness is entitled to release from the civil contempt order. Whether the contempt order has become punitive is a determination entirely within the judge’s discretion and requires an assessment of the individual contemnor’s situation. It’s

the judge's job to predict the future behavior of the witness. The witness has the burden of proof to show that continued confinement would not cause the recalcitrant to testify. The witness should present evidence of their intention never to testify, and/or any other circumstances outside of his or her control preventing testimony. One example of such a circumstance might be if the witness fears testimony would jeopardize her safety or the safety of others. Jurisdictions vary on what evidence is considered convincing, but a judge is likely to view duress as an objectively reasonable basis for refusing to provide testimony. If the court grants the Grumbles motion, then the contempt order is vacated and the witness released. However, upon release the government may respond by charging the witness with criminal contempt. The time served during civil contempt does not apply to any sentence levied for criminal contempt.

#11: Criminal Contempt The federal criminal contempt statute is not a felony or a misdemeanor. It carries no minimum or maximum sentence. It is possible to receive a fine, instead of more jail time, but this is within the judge's discretion. This is a tactic that has been rarely used against dissident-witnesses, but recently a recalcitrant witness in a grand jury investigating an animal rights community was held for four months under civil confinement, and immediately upon his release was charged with felony criminal contempt. In the 1980s, an anti-Castro activist similarly was confined for 17 months under civil contempt and charged subsequently with four years for criminal contempt. Any jail time under civil contempt does not necessarily count as time served for a criminal contempt sentence, because the purposes of the two confinements are different; civil is coercive, criminal is punitive.



What are my rights at airports?

You gave airport personnel permission to scan you and your bags by buying a ticket and going to the airport. Inspect the endless fine print on your ticket – it's in there. You waive some of your constitutional rights when you purchase the privilege of flying. They can do additional random searches of persons and property regardless of whether the initial scan turns up anything suspicious.

As soon as you enter airport property (the parking lot, not the terminal), some of your rights have disappeared.

If the scan does disclose something that might be a weapon, the law is unclear whether you have the right to leave the airport rather than being searched.

The airplane pilot can refuse to fly a passenger if he or she believes the passenger is a threat to the safety of the flight. And if you are entering the country, the U.S. Customs Service has the right to stop and search every person and item.

You should not be barred from flying or subjected to special searches or harassment on the basis of your race, sex, religion, national origin, or political beliefs. If you believe this is the case, call the Civil Liberties Defense Center (www.cldc.org).

At borders – you have very few rights within 500 miles of borders. Keep in mind; U.S. law stays in the U.S. Don't invoke rights that don't exist when you're traveling out of the U.S.



Special Rights & Concerns for Undocumented People

What if I am not a citizen and the ICE contacts me? Assert your rights. Failure to demand your rights may result in a waiver of your rights, and ICE may deport you. Immigrants have all the same rights as citizens. You do not have to answer any ICE official questions – only questions from a judge. ICE cannot enter your home without your consent. **Never consent.**

You have the right to an interpreter who speaks your native language.

Do not sign papers without a lawyer – make sure a sworn interpreter reads all documents to you. Do not rely on agents or family members to translate important and often complicated legal information. Demand an interpreter.

You never have to disclose your country of origin or your citizenship status. However, if you're here on a visa, green card, etc., you must keep your citizenship papers on you. If you don't have them, that may be cause for further detention.

Under the Real ID Act, if you don't have documents, you can't get a driver's license anymore. Driving without a driver's license is an arrestable offense. Once you are in jail, you are much more likely to have an ICE detainer placed upon you—which is what starts the deportation process. A new Oregon 'driver ID card' is being implemented as this goes to print... Stay tuned.

Again, don't sign any papers. If you sign a waiver, you can be deported without even speaking to a lawyer. Make sure a sworn interpreter reads all documents to you. Do not rely on agents to translate important and often complicated legal information.

Talk to a Lawyer

You are not entitled to a free lawyer if you cannot afford one in immigration court. Always carry the name and telephone number of an immigration lawyer and who will take your calls.

The immigration laws are hard to understand and there have been many changes since September 11. More changes are likely. ICE will not explain your options to you. As soon as you encounter an ICE agent, call your attorney.

Foreign nationals trying to enter the U.S. at the border or airports do not have all of these same rights.

What to do if you are detained.

You do not have to answer questions about your immigration status or any other questions. You do not have to answer the door and ICE is not allowed to enter your home unless YOU let them in. Don't do it!

In most cases, you have the right to a hearing before an immigration judge before you can be deported. You may be eligible for bail and can go home while in the process.

If you are a foreign national arrested in the U.S., you have the right to call your consulate or to have the police inform the consulate of your arrest.

There are some ways for people with documentation to get legal status; it's been relaxed to some degree since Bush left office.



Immigration Help

- NLG National Immigration Project. Help finding immigration attorneys and help for lawyers 617.227.9727, <http://www.nationalimmigrationproject.org>.
- American Arab Anti-Discrimination Committee. Report hate crimes, harassment and discrimination against Arabs and Muslims, help for non-citizens and attorneys 202-244-2990, www.adc.org.
- American Immigration Lawyers Association. Referral to immigration attorneys and resources for immigration attorneys 1-800-954-0254, www.aila.org
- Access The Law. Affordable lawyers and legal advice. 541-686-4890, accessthelaw.org
- Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA) Information about rights, deferred action. 213-353-1333, chirla.org
- Causa Oregon. Legal offices in Salem, orientations and information about Deferred Action. 503-209-2473



Recording the Cops

The Legality of Recording Cops Videotaping police is one of the most powerful tools for protecting protesters. Oregon law allows citizens to videotape police as long as your camera is in plain view (not hidden) and as long as you state, “I am recording,” and make sure you record yourself saying it. While police may assert that you must have consent to videotape them, the Oregon Federal District Court has ruled that videotaping police is absolutely legal as long as you give that warning, and has ruled that taping at a protest is protected under the First Amendment because protests are matters of public interest. In case your camera is somehow seized or damaged, make sure you remove valuable footage and place it in your car or another safe, off-site location.

Copwatching Copwatching, also called Police Watching, is believed to have started in the early 1990’s in Berkeley, CA, but citizens have had their eye on cops throughout history. The group in Berkeley remains an authority in the area and they put together a handbook to assist any potential Copwatcher. [<http://www.berkeleycopwatch.org/resources.html>] Other Copwatching groups exist in towns and cities across the United States and Canada, many of which have websites and databases of incidents. Copwatching groups are intended both to promote public safety and to ensure that police officers remain accountable for their actions. They are almost exclusively organized and operated by volunteers promoting citizen action.

Copwatchers are on the lookout for police brutality at all times, not just when a demonstration or protest is taking place. However, the goals are to decrease police brutality and keep cops accountable for their actions against citizens. They also practice careful

documentation of any incidents and often work in conjunction with a friendly attorney.

Copwatchers also usually refrain from becoming physically involved in police-citizen altercations, but may use non-violent tactics to help assert the rights of a detained individual at their own risk. The bottom line: if a cop tells you to do something and you don't do it, you may be arrested for interfering with police. Know the laws that relate to copwatching before you hit the streets so you don't unexpectedly end up in jail.

Copwatching groups in the American Southwest are gaining momentum in response to the racial profiling mandated by SB 1070, copwatchers are an essential tool in fighting racial profiling and police harassment.





For Minors

**A minor is an unmarried person
who is under 18 years of age.**

A minor is an unmarried person who is under 18 years of age. Minors have most of the same constitutional rights as adults, including rights to free speech and assembly.

Minors do not have to speak to the police, investigators, or anyone except a judge. Your best bet is to politely but firmly refuse to speak to them. Always make your refusal to speak to them clear, in words.

Police may try to employ tricks to get your cooperation. They say such things as “If you answer truthfully, you can go home.” “If you tell what your friends did, nothing will happen to you.” “If you tell the truth, you don’t need an attorney.” “If you don’t confess, you can go to trial as an adult.”

Don’t incriminate yourself, your family or your friends. You may get charged if you tell what your friends did, and you may be tried as an adult even if you confess. The police do not control whether or not charges are filed, not what types of charges are filed.

If police make promises to you, you cannot enforce these promises later. They are allowed to lie. If you are not sure what to do, always ask for an attorney before you answer any questions. You can’t always go home.

If you are arrested, immediately ask for a lawyer. Do not answer police questions until your lawyer arrives. Juveniles have the same rights as adults, but normally you will only be released from jail to your parent/guardian. If you are going out of town to a protest (or away to college) and might be risking arrest, have your parents sign an affidavit authorizing an adult to be your temporary guardian for the purposes of getting you out of jail should you end up there.

Juvenile Rights in the Criminal Justice System

- You have the right to be given a “Miranda Warning.”
- The right to know the charges against you within a reasonable time.
- You have the right to an attorney at your hearing.
- You have the right to a trial.
- You have the right against self-incrimination (telling on yourself).
- If you lose at trial, you have the right to appeal your case and have an attorney help you.

As a juvenile, you have the right to have your parent or guardian present during questioning – always ask to have your parent / guardian or attorney present at all times when being questioned by police or any adult.

Juveniles have the same rights as adults to refuse to consent to the police or government. Police must have a warrant to search you, your house, or your belongings, except under certain circumstance. Always refuse to consent to a search (even though they may do it anyway).

Right to Trial

At court you will be asked to admit or deny the charges against you. Plead not guilty or you waive your right to a trial.

You do not have the right to a jury trial if you are charged as a juvenile. If tried as an adult, you have the right to a jury of your peers.

Weapons for Juveniles It is illegal to have:

- Any knife with a blade that projects or swings into position by force or spring (switch-blades).
- Dirk, dagger, ice pick, slingshot, metal knuckles, or any similar instrument which could cause serious injury.
- A firearm (handguns).
- Can possess certain firearms for hunting or target practice, with consent of parent or guardian.

Weapons at School

- A person may not possess a loaded or unloaded firearm or other dangerous weapon while in or on a public building or school property, including scholastic activities (football games, dances, etc.)
- It is a Class C Felony. School policy requires a minimum of one-year expulsion from school.

Special Concerns For Teens

Sex Laws The Law says that any person under the age of 18 cannot consent to a sexual act. Consent means that you knowingly and voluntarily agree. Felony rape charges are possible if either or both teens are under 18 and if more than 3 years apart in age. Both males and females can be charged with sexual offenses.

Other Sexual Offenses

Sexual activity is illegal when:

- One person does something sexual to another person without their consent.
- You and your sexual partner both consent, but because one of you is too young or because one of you lacks capacity.
- Even if you are later acquitted, you can still be arrested, prosecuted, and may be put on a sex offender list for the rest of your life!
- Safety tip: don't brag, gossip, or get caught in sexual acts. Serious consequences can follow.

More Concerns Lying about your name or age to police is a crime. If you lie about your age, you can lose your driver's license for 1 year.

Truancy: all youth between the ages of 7-18 who have not completed 12th grade or a GED program are required to attend school full time. Parents can get in trouble for their kids' truancy too.

Minor in Possession of Alcohol

A minor cannot purchase, possess, or consume alcohol unless 21 years old. Alcohol on your breath counts as "possessing" for the purposes of "MIP."

Minor in Possession of Alcohol is a Class B Violation.

You will lose your driver's license or right to apply for a license for one year.

Punishment also includes drug and alcohol treatment, community service, and a fine not to exceed \$360.00.

Driving Under the Influence of Intoxicants (DUII) Adults and teens may be convicted of DUII if their blood alcohol level is .08 or higher or if you are found to be under the influence of liquor, a dangerous or narcotic drug, or any combo.

Zero tolerance applies to minors. If you are under the age of 21, and your breath test registers any amount of alcohol in your body, your license will be suspended for 90 days. This does not mean you will be found guilty of DUII if you blow less than .08, but you will lose your license or the right to apply for a license.

Tobacco No minor shall have personal possession of tobacco products, except when in a private house or apt. with parental consent.

Class D violation: punishment = fine of no more than \$90.00, tobacco education program, community service related to diseases like lung cancer.

Marijuana In Oregon, possession of less than an ounce of marijuana is a violation punishable by a fine of \$500-\$1000. No jail or probation. If over an ounce, class B felony. Delivery (selling) is Class B felony. Manufacturing (growing) is Class A felony.

Does not apply if you are a Medical Marijuana cardholder. Minors need consent of parent/guardian. Penalties are much more severe if you are caught within 1,000 feet of a school. Don't be an idiot and bring pot to school! Schools can search your locker at any time without your consent!

Inhalants Includes glue, cement or any other solvent, material, substance, chemical having the property of releasing toxic vapors or fumes that are capable of causing intoxication. Intoxication means any mental or physical impairment or incapacity ("drunk or high").

Violation-- fine of not more than \$300.00, treatment and counseling

2nd offense--class B misdemeanor, jail, probation, treatment and counseling

Death by asphyxiation is most often the result in abusing inhalants--3rd most abused drug in minors. 1 in 5 eighth graders has used an inhalant.

Emancipation Emancipation means that a minor has been given certain rights normally possessed only by adults. It ends the parent-child relationship.

The minor can enter into contracts and rental agreements, and can sue and be sued in court.

The minor can be subject to the adult criminal laws of the state.

Still cannot drink alcohol until 21.

Juveniles, Students, and the 1st Amendment Students have the right to express their opinions or exercise first amendment rights in school if they do so “without substantial disruption.” School dress codes are allowed in public school if wearing certain clothing causes a “substantial disruption” to school operations.

You have the right to pass out leaflets, newspapers or other statements of opinion in school. Students are not required to say the pledge of allegiance or stand for the national anthem.

There is no right to “Plainly Offensive” speech, e.g., graphic and sexually explicit, obscene or profane content may be regulated.

Your Rights at School: Dealing with School Officials Students can be stopped and questioned by school officials at school, for example if you are not in class. However, they should not stop and question you for engaging in political activity or because of your beliefs, ethnicity or religion.

Students can have their backpacks and lockers searched at school without a warrant, if a school official has a “reasonable suspicion” that you are involved in criminal activity or are in possession of drugs or weapons.

No search may be excessively intrusive. E.g. you can’t be strip- searched for cigarettes. Do not consent to any searches, but do not physically resist or you may face criminal charges.

Your Rights at School: Dealing with Cops on Campus

Police may interrogate students at school without notifying parents or allowing parents to be present (unless your school policy prohibits it) but asking for an attorney will make the police stop questioning you.

If questioned about a criminal matter, you do not have to answer any questions from the principal or the police.

YOU SHOULD ALWAYS REFUSE TO ANSWER QUESTIONS WITHOUT YOUR PARENT/GUARDIAN OR LAWYER PRESENT!

Suspension and Expulsion

School suspension—temporary removal from school if you violate school rules—cannot be longer than 10 school days. Expulsion (expelled)—removal from school for longer than 10 days but not more than one calendar year. You are entitled to a hearing. Universities and colleges will have different codes of conduct, so make sure to read up on your own school's policies.

Grounds for suspension or expulsion in Oregon K-12 schools:

- Willful disobedience
- Open defiance of teacher's authority
- Use of profane or obscene language
- Willful damage to school property
- Injuring or threatening to injure another student or intimidating or harassing a school employee
- Bringing weapons to school

Drug Tests at School Random drug tests are allowable as a prerequisite for participating in some school sports. However, if you feel that the collection of samples is done in an inappropriate manner or that the results are shared with inappropriate people, you may be able to challenge the procedures used to conduct the testing.

Military Recruiters in Your School If a military recruiter comes to your school, you have the right to not speak to them and to withhold your personal information by “opting out.” Your principal has information on how to do this.

You do not have to take any of their tests including the Armed Services Vocational Aptitude Battery (ASVAB).

Sealing Juvie Records This does not happen automatically. Sealing records allows you to legally say you’ve never been convicted of a crime. You must file paperwork with the court to make this happen. You do this at 18 with the court you were convicted in.





Free Speech Zones

Marches, demonstrations, and general protest activities are constitutionally protected under the 1st Amendment. The level of protection depends upon the forum in which the activity is conducted. It is well established that sidewalks, parks, and streets are considered traditional public fora, which impose strict limitations on government attempts to regulate 1st Amendment activities in such public places.

However, government restrictions on speech and assembly in public forums are allowed if they are reasonable in time, place, and manner. This is met if the law is content neutral, is narrowly tailored to serve a significant governmental interest, and leaves open ample alternative channels for communication.

To be content neutral, the question is whether the government has adopted the law because of disagreement with the message of speech, based on the facial command of the law, not ulterior intent. If the purpose of the regulation is unrelated to the content of the speech, it is considered neutral even if it only restricts certain speakers and messages.

To be narrowly tailored, a law needs to serve a substantial government interest and must not burden substantially more speech than necessary. It doesn't have to be the absolutely least restrictive means, but less restrictive alternatives can show that a law is overbroad. Allowed restrictions can be very broad. The 9th Circuit Court of Appeals held that creating "no-protest zones" by blocking access to parts of downtown Seattle during WTO negotiations was narrowly tailored to serve the interest in maintaining "order."



How to Get Labeled a Terrorist

The FBI labels the environmental and animal rights movements the number one domestic terrorism threat. Those activists have never flown planes into buildings, taken hostages or sent anthrax through the mail. So how did they make it to the top of the government's list?

Here are 10 ways you can be labeled an eco-terrorist:

This information is excerpted from our good friend and ally, Will Potter. Will

Potter is an award-winning independent journalist who focuses on how lawmakers and corporations have labeled animal rights and environmental activists as “eco-terrorists.” Will has written for publications including The Chicago Tribune, The Dallas Morning News and Legal Affairs, and has testified before the U.S. Congress about his reporting. He is the creator of GreenIsTheNewRed.com.

- 1 Sabotage corporate property. Underground groups like the Animal Liberation Front and Earth Liberation Front have released animals from fur farms, vandalized SUV's and, at the most extreme, set fire to empty buildings. Those crimes have only harmed property, not people, but the government has pushed for terrorism enhancement penalties in those cases. It may come as a surprise that sabotage is the bottom of this list, but these cases are actually only a very small focus of the bigger Green Scare.
- 2 Fall in love with an FBI agent. That's what happened to Eric McDavid. He didn't harm anyone or break anything, but he was convicted of conspiring to sabotage federal facilities in the name of defending the environment and sentenced to 20 years in prison. The entire case against him hinged on the work of Anna, a college student recruited by the FBI to infiltrate and snitch on student groups and activities. Anna provided the group with bomb-making recipes; financed their transportation, food and housing; strung along McDavid,

- 3** Attend vegan potlucks. While Al-Qaeda continues to release video communiqués threatening Americans, the FBI's Joint Terrorism Task Forces are using anti-terrorism resources to attempt to infiltrate vegan potlucks.
- 4** Protect your privacy. The FBI and local law enforcement have been exposed for spying on activists around the country, including peace activists in Maryland and the HoneyBaked Hams protesters in Georgia. Understandably, many activists don't want their faces in FBI files, so they often wear bandanas at protests. And guess what? The government says THAT is terrorism. Joint Terrorism Task Forces have arrested an animal rights activist in Virginia for wearing a mask, and four California activists are facing terrorism charges for the same.
- 5** Beat the good ol' boys at their own game. A Utah lawmaker is promising to introduce new eco-terrorism legislation. His target? Not the Earth Liberation Front, Animal Liberation Front, or some shadowy underground group. He's openly, proudly targeting mainstream environmentalists. Specifically, he has his sights on Tim DeChristopher, the University of Utah student who disrupted an oil and gas auction by bidding on parcels of land. The state lawmaker says DeChristopher's auction bids are no different than burning down a man's cattle operation eco-terrorism. DeChristopher took millions of dollars away from us, and he's laughing at us. It's not right. It's not fair.
- 6** Stop the symbolism. With the RNC coming to town, local organizers in the Twin Cities set up a community infrastructure including housing, transportation, child care and protest logistics. They worked with a wide range of mainstream, lawful organizations. They were very public, vocal and outspoken from the beginning about their intentions: We don't just want

a photo opportunity or a symbolic civil disobedience, were going to disrupt business as usual. The government's response? Eight organizers were arrested before the protests began for conspiring to riot in the furtherance of terrorism.

- 7** Be vocal and unapologetic. The government hasn't made headway on the vast majority of crimes by groups like the Animal Liberation Front and Earth Liberation Front. So they're targeting above-ground activists who vocally, unsympathetically support the underground. In the SHAC 7 case, animal rights activists were convicted of animal enterprise terrorism for running a website that posted news of both legal and illegal actions against a notorious laboratory, and vocally supporting all of it. The government also uses grand juries like the recent one in Utah to harass and intimidate activists, and force them to testify about their political beliefs and political associations.
- 8** Go after their money. I'm not just talking about the kind of property destruction mentioned in #10. Sweeping new legislation called the Animal Enterprise Terrorism Act wraps up a wide range activity as terrorism, including causing a loss of profits to an animal enterprise. Causing a loss of profits is not terrorism: it is effective activism.
- 9** Get to their root of the problem. The government isn't going to label people as terrorists for recycling or volunteering at an animal shelter. That's not because those things aren't important, its because they aren't radical in the true sense of the term: they don't get to the root of the problem. When activists go deeper — when they move beyond questioning the types of light bulbs we use to questioning the entire, unsustainable economic system — that's when they truly become terrorists.

10 Be effective. More than anything else, this is the sure-fire way to be labeled a terrorist. For instance, shortly after the historic victory of Proposition 2 in California, a corporate front group bought a full-page ad in the New York Times labeling the Humane Society of the United States as terrorists. Whether its activists burning SUV's or passing landmark legislation, the common thread between every activist being labeled a terrorist is that they are successful. In this War on Terrorism, the number one domestic terrorism threat includes any environmental activist who is passionate, uncompromising and, above all else, effective.

**Know your rights, practice your rights,
and go out there and save the world!!**

Questions, edits, and comments about this zine should be directed to the Civil Liberties Defense Center at info@cldc.org. We welcome your feedback!

