



**CIVIL LIBERTIES
DEFENSE CENTER**

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Know Your Rights Training

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Before you know your rights, know your situation



- If you are arrested, you are obligating yourself to the criminal legal system.
 - This means you may be required to come back to the jurisdiction where you were arrested (multiple times).
 - You may end up with a conviction(s)/jail/probation.
 - You may owe fines or restitution.
- If you are not able to deal with the consequences of arrest, don't risk arrest (intentionally).
- This is not legal advice.

Basic Tips



- You can't lie to cops, but cops can lie to you.
- Keep your hands visible and don't make quick movements around cops.
- Don't voluntarily go anywhere with a cop unless you are under arrest.
- Stay in well-lit areas and where witnesses are present.
- Assume you are being recorded at all times.
 - Anacortes has surveillance cameras throughout the city.
- If possible, record the cops.
- Be civil, yet firm, when you are asserting your rights.

First Amendment



- Freedom of speech, association, and right to assemble.
- “Freedom” based on where you are:
 - **Traditional public forum** (most freedom)
 - **Quasi-public forum**
 - **Private forum**
- “Freedom” based on content:
 - Incitement/advocacy of crime
 - Not protected: defamation, obscenity, hate speech, fighting words, true threats, association for illegal activity

Fourth Amendment



- Right to be free from unreasonable searches and seizures.
- How cops search you or your things:
 - You let them (**consent**)
 - They have a warrant
 - “Exigent” circumstances
 - Automobiles
 - Arrests
 - Plain view
- **I do not consent to this search.**
 - **Don’t physically resist; just repeat “I don’t consent.”**

Fifth Amendment



- Your right to remain silent
 - Don't be a witness (snitch) against yourself or others
- You have to explicitly invoke this right to use it. Silence is not enough.
- **I am exercising my Fifth Amendment right to remain silent.**
- It's a bubble; don't pop it. But if you do, you can re-create it by saying the above words again.
- Don't answer questions about yourself or others. No one can compel you to answer questions except a judge in a courtroom.

Levels of Interaction with Police



- Three Basic Levels.
 - Conversation
 - Detention
 - Arrest
- Being able to identify which level you are at will help you know:
 - What your rights are
 - How to exercise your rights in that particular situation.

Level One: Conversation



- You do not have to answer any questions
- You do not have to ID yourself
- No searches permitted
- Direct questioning cop to your AG's designated Police Liaison.
- How do you know if you're at Level One? Ask:
 - **“Am I being detained?”**
 - **“Am I free to go?”**
- If you are free to leave, *walk* away....

Level Two: Detention



- Police may stop and hold you only if they have a reasonable suspicion that you have committed a crime or are about to commit a crime.
 - **“Why am I being detained?” (remember what they say)**
- Police may pat down your clothing if they have a reasonable suspicion that you are carrying a concealed weapon.
- Do not resist, but clearly say: **“I do not consent to this search.”**
- Do not talk to the cops.
 - **“I invoke my Fifth Amendment right to remain silent. I want a lawyer.”**
- At this stage you must provide **name, address, date of birth**, or they can take you to jail just to ID your fingerprints. Do not provide your SSN, immigration status, license (unless driving at the time).
- Remember cop names and badge numbers. Write everything down.

Level Two Summary



- **Am I being detained? Why?**
 - **What's your reasonable/articulable suspicion?**
 - **Name, address, DOB**
- **I do not consent to this search.**
- **I'm invoking my Fifth Amendment right to remain silent. I want a lawyer.**

Level Three: Arrest



- Ask for an attorney immediately upon arrest. Repeat as often as necessary.
- Aside from name, address, D.O.B., remain silent until you speak with your attorney. **Don't pop your bubble!**
- But, if you are injured in any way, notify the jail immediately (in writing, if possible).
- If you are on medication, notify the jail immediately (in writing—bring Rx documentation if possible).
- Most jails will house based on current biological anatomy, although jails do have a duty to keep everyone safe.
- Do not talk about your arrest.

Level Three: Arrest, cont.



- Request to be released on you own recognizance (without posting bail).
- Bail, bail bondsmen (expect 15% kept)
- Probation, parole, FTAs, non-US citizen challenges to release
- Don't sign anything except for a release agreement (so you can get out of jail).
 - If there are ridiculous conditions on the release agreement, talk to your attorney immediately.

Level Three: Arrest, cont.



- **YOUTH (under 18) have the same rights as adults**
- **If arrested you may be taken to a separate “jail” facility**
- **Your parent/guardian may need to physically retrieve you from jail unless they have authorized another adult to do so in writing**
- **Contact CLDC if you have questions**

Post-arrest



- Your first court appearance is called an arraignment. In WA, you must be arraigned within 72 hours. Often arraignment will take place during the first business day after arrest.
- Research court procedures in the jurisdiction where you are engaging.
- At arraignment, plead **NOT GUILTY** to all charges.
- Apply for court appointed counsel (public defender) if needed.
- Possible cite and release.

Knowledge is Power: Know what you are getting into before you're there...

- Please be aware that you may face sentencing enhancements or additional charges if you are arrested at or near energy infrastructure. This includes railroads, ports, and utilities.
- In addition to the federal laws, many states have laws specific to energy infrastructure. Make sure people in your campaign are familiar with these laws.
- **Please refer to the CLDC Break Free Legal Primer for potential charges related to protests at or near energy infrastructure.**



Cop-Watching



- Everyone can be a cop watcher and assist legal observers in obtaining video or photographic evidence of police misconduct or other instances of interest.
- If you capture something you think is important for the legal team to have, upload your images to the secure attorney website that will be provided to you.
- Before you upload unedited action footage to YouTube, Facebook, Dropbox, or other corporate servers, consider that video intended to document abuses by police could also be used in legal proceedings against folks risking arrest.

Necessity Defense



- Elements:
 - Faced with choice between two “evils.” The defendant chooses the lesser evil.
 - The defendant acted to prevent imminent harm.
 - The defendant reasonably anticipated a direct causal relationship between their conduct and the harm to be averted; **and**
 - The defendant had no legal alternatives to violating the law.

Necessity Defense



- Lawyers must ask the judge for permission to present this defense to the jury.
- It is rare that a judge allows the jury to hear a necessity defense.
- In the environmental movement, arguments are advanced on the constitutional right to survive on the planet in the face of climate change. No courts have bit yet....

Cell Phones and other considerations

- Password protect (not fingerprint)
- GPS tracking
- Encryption (voice and text)
- CELLY and other mass text services are not private
- Clear text logs and log out of everything
- Clean your car

Affinity Groups



- Participants should form affinity groups.
- Affinity groups should have their own jail support person.
- Check www.breakfreepnw.org on a regular basis for updates.

Before you know your rights, know your situation



- Copwatch. Videos, photos, witness info can be provided to a secure website that will be provided to you.
- Report police abuse and misconduct.
- Consider the St. Paul Principles, midatlanticua.wordpress.com/st-paul-principals/
- Guide for Canadians imprisoned abroad (note this is put out by the Canadian government)
<http://travel.gc.ca/travelling/publications/guide-for-canadians-imprisoned-abroad>
- Info about arrest of people who are undocumented:
<http://www.nolo.com/legal-encyclopedia/what-happens-when-undocumented-immigrant-is-caught.html>
- This is not legal advice. CLDC.org