

KNOW YOUR RIGHTS!

Notes from a class given by Spencer (Spike) Neal on Feb. 20, 1999 at Chemeketa College in Salem.

There are 3 types of encounters with the police:

1. Conversational
2. Stops
3. Arrests

The conversational encounter occurs when the police initiate a conversation with you. In this instance, the police don't have their emergency lights on and are not showing any signs of wanting to detain you or cite you. You do not have to talk to them or respond to them. You can simply walk, drive or ride away from them. If you are uncertain of their intent, you can ask "Am I free to leave?".

A stop occurs when the police use their lights, siren, whistle, voice or other means to tell you that they want you to stop. In this case you have to stop, you are not free to leave. If you are driving a car or riding a motorcycle you are required to show them your driver's license, proof of insurance and vehicle registration. If you are walking or riding a bicycle you have to show them a piece of ID only if you are being issued a citation.

If you are stopped, you do not have to talk to the police. You may tell them that you wish to remain silent and wish to have your attorney present during any questioning or search. If you are driving a car, the police **can not** search the interior, trunk or engine bay. They **can** shine a light on your visible items so as to see what's there. If you are riding a motorcycle, the police **can not** search your clothing, bags, rolled up things or closed containers. In the aforementioned situations, you should indicate to the police that you **do not consent to any search** of your person, your effects, your property, your premises or your vehicle.

If you are on your motorcycle and are stopped, here are some things that you should keep in mind:

1. A "pat search" **can** occur legally. The police have the right to determine if you are a threat.
2. The police may want to take your picture - You say, "NO".
3. If the police ask you if they can search anything - You say, "NO".
4. If the police ask for your SSN - You say, "NO".
5. Don't take your helmet off.
6. If you assert your rights, the police will probably ask you, "Why?" or "What are you hiding?" or something like that. You do not have to answer those types of questions. If the police persist in asking you questions or try to make you answer, you should tell them that you wish to have your attorney present during any questioning.
7. Don't touch the police or try to run away, they will cite you.
8. If you have a tape recorder or a video camera and intend to record the event you must announce that you are going to do so. Make sure that you are heard. It helps if your announcement is recorded to prove that you gave the announcement.
9. Likewise, if the police wish to record you, they must announce that they are going to do so. Even if the person who is being recorded refuses to give his consent, the recording person can record as long as the notice of the fact of recording is given. That is, you cannot stop the recording by the police. And they, legally, cannot stop you from recording them. Whether they illegally stop you is another question.
10. If you are a passenger you do not have to say anything or produce ID unless you are being cited, then you must produce ID. If you are uncertain ask, "Are you going to cite me?". The police are supposed to tell you if you are being cited or arrested, but they don't have to tell you why you were stopped.

11. Remember that this is a STOP and you are only required to produce a driver's license, registration and proof of insurance. If the police want to question you, you should tell them that you want to have your attorney present during any questioning or search.

An arrest is where the police immediately suspend your freedom. In this case, they are required to read you your rights. This is called the Miranda reading. Sometimes the police will try to get you to sign a piece of paper after they read you your rights. Don't sign it. Usually, that piece of paper is a waiver of your rights and by signing it you agree to waive your rights. You should contact a lawyer immediately, before any questioning begins. Do not answer any questions without an attorney's advice.

You've all heard of "knock and talk" incidents.

If you hear the "knock" you are not required to talk or let the police in. In general, the saying goes like this, "If you don't have a warrant, you aren't coming in".

No matter what your situation is, all of the above applies with regard to knowing and being able to assert your rights when contacted by the police. Also, fill out a stop report when you have an encounter with the police that is not, "according to Hoyle", so to speak.