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How to Deal with the Police

by Justin Hanners





HOW TO DEAL WITH THE POLICE

GUIDE 1.0

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PREPARING FOR THE INEVITABLE

No matter who you are or how hard you try to stay on the right side of the law, sooner or later you are bound to find yourself on the wrong side of a police encounter, whether it's a "routine" traffic stop, a DUI check-point, or being detained because you "fit the description" of a suspect they are looking for. Most of the time an encounter like this will be of little lasting consequence: a warning, ticket, brief questioning, then release... however, on the off chance you're not so fortunate, it's vital to know your rights, what to expect, and how to conduct yourself during your encounter with the police.



THREE STEPS FOR POLICE ENCOUNTERS

1. Always record the encounter, if you can

Recording it keeps all parties honest and gives you an unbiased “witness” in case you need it in court. An honest officer won’t be bothered by it; however, many officers will take offense to this, so be prepared. Laws on recording vary from state to state. All but two states - Massachusetts and Illinois - allow you to record officers so long as you don’t interfere with their duties. Some states require that all parties consent to be recorded, but even in those states courts have ruled that on duty officers do not have this luxury. Look into your states’ laws on recording and follow them.

Laws on recording vary from state to state.

2. Always be respectful and calm, even if they aren’t

Always be the good guy. Keep in mind that you and the police are recording the encounter and everyone from the media, public, judge, jury, etc. can end up seeing the recording. Being the calm, reasonable one gives you that much more leverage in court later. Even if you are 100% right and the police are 100% wrong, there are many people who revere the police and who will look down on you for disrespecting their city’s “finest.” If these people are on your jury, you could be in trouble. Additionally, the officers are much more likely to find something to charge you with if you’ve provoked them. It’s called arresting someone for “P.O.P.” or “pissing off the police.”

There are a plethora of laws on the books. Make enough laws and everyone becomes a criminal. If properly motivated, an officer can always find something you are guilty of. Many states have blanket misdemeanors that (with some creative wording) an officer can charge almost anyone with. Common examples are: “disorderly conduct”, “interfering with



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police business”, “failure for disorderly persons to disperse”, and “hindering a government operation” - just to name a few.

Officers are trained on interview and interrogation techniques, and “verbal Judo.” They are trained on how to de-escalate a situation, which means they are also savvy enough to escalate it too, if they so wish. Don’t let them goad you into becoming “disorderly.”

The time to argue your case is not on the side of the road. Save your legal arguments and objections for the courtroom if necessary - at this point, the less you say, the better. I’ve seen officers get out of control after becoming offended when they feel their authority is being challenged. They’ll ignore reasonable requests and escalate a situation, and try to find some charge to put on a citizen simply because someone dared defy them.

3. When questioned do not give them anything to use against you

You have a right to remain silent, protection from unlawful search and seizure, and the right to an attorney -- **USE THEM**. Police can and will lie to you. They know your rights and are trained formally (and informally) by other officers on how to skirt your rights, and get what they want out of you.

When you get pulled over, it’s likely officers will ask you “do you know why I stopped you?” This is not an ice breaker question. They are trying to get a confession out of you, either to what they saw or some other offense you committed that they may not have noticed. Simply state you do not, and ask why they pulled you over.

Police can and will lie to you.



If it's for a traffic offense, you'll have to provide driver's license, registration, and proof of insurance. However, if the officer won't say why he stopped you, attempts to stall you until you give him your information, or says any other reason than a traffic violation (i.e. "your car fits the description of one we are looking for") ask if you are being detained, and if you are free to leave. If he says you aren't free to leave, ask why you are being detained, and tell him you refuse to answer any questions without a lawyer present.

They may ask for consent to search your vehicle. Respectfully but firmly refuse. Many officers won't discuss why they stopped you until you hand over your driver's license, the reason being if he tells you he stopped you for, say, speeding and you don't feel you were speeding, it could cause an argument, and you may then refuse to give them your identification making it difficult to identify and cite you. Saying something like: "Officer I'll gladly provide you with whatever the law requires me to; however, you've yet to articulate any legal reason for detaining me, and thus any legal requirement for me to provide you with any personal information."

If the officer persists, threatens you with arrest, etc. it would be advisable to comply, but ask to speak with his supervisor at the scene and for his name and badge number.

If you are walking or out in public and are stopped by officers, immediately ask if you are being detained and if you are free to go. If they say you are being detained, politely ask them why. This is a tricky subject. Officers can legally detain you for brief amounts of time if they have "reasonable suspicion" you have, are, or are about to commit a crime.

Suspicion is more than a hunch, but less than probable cause. It's very, very easy for officers to articulate suspicion -- they are trained to do so -- and many of the facts they articulate may individually be innocuous or have nothing to do with you or your actions, but they can combine them together to paint a picture so that a "reasonable person" would say the contact was justified.



For example, they may paint a picture by saying you were walking at an unusual time (late night, or work hours when a neighborhood is usually empty), in a “high crime area” (where crimes have happened either recently or frequently), or in the vicinity of a crime that was just committed, you match the description of a suspect they are looking for (as vague as white or black male, etc.). They may also include tidbits about you being rude, trying to avoid them, refusing to cooperate, etc. as suspicious activity.

I’ve even seen an officer cite refusal to make eye contact as suspicious. For a police officer, “criminal activity” is also a low bar for them to clear. Jaywalking, littering, riding a bike on a sidewalk, not having a helmet while riding a bike, and literally hundreds of other small infractions of law can be used to detain you. However, even if they detain you all is not lost.

Luckily for you, since the bar is set so low for suspicion, their actions are severely limited. As a general rule, if they are asking to do something they don’t have legal ground to do it - that’s why they are looking for your consent of their criminal activity. They may begin to ask questions like “may I pat you down?”, “may I search you?”, “would you mind answering a few questions?” These usually mean they don’t have anything to go on and are hoping you will volunteer to give them more legal ground than they have, or they know it’s a gray area and they want to be covered by consent.

If you are legally detained, they can legally pat you down for weapons if they have reasonable suspicion that you are armed and dangerous. Again, the bar is very low here - so be careful. They are trained, legal wordsmiths and they don’t have to articulate much to justify a pat down.

They aren’t allowed to manipulate or go into your pockets, or check for anything other than weapons.

To get around these limitations they will try to argue that weapons come



in all shapes and sizes, and use this as an excuse to indirectly search for contraband. They may also treat you not as a suspect, but like they are enlisting your help as a witness. To do this they may say, “excuse me sir! We just had a burglary a few blocks over, did you happen to see or hear anything out of the ordinary? Can I see your ID? Since we are talking I just want to document who I spoke with in case we have further questions later.”

Once they have obtained your identity, they will then check you for warrants, and likely question you indirectly through small talk, asking about where you live, where you are going, where you are coming from, etc. Through this conversation, they can use what you say to articulate “suspicion” then detain, search, pat you down etc.

If (according to the officer) you seem nervous, do not make eye contact, miscommunicate between you and them (they can use this to articulate giving them false information), are being inconsistent, or just have a story that “doesn’t add up,” it can be used against you.

Here are some general guidelines if you are being stopped and questioned:

Stay calm. Don’t run. Don’t argue, resist, or obstruct the police - even if you are innocent or police are violating your rights. Keep your hands where police can see them.

Ask if you are free to leave. If the officer says yes, calmly and silently walk away. If you are under arrest, you have a right to know why.

You have the right to remain silent and cannot be punished for refusing to answer questions. If you wish to remain silent, tell the officer out loud. In some states, you must give your name if asked to identify yourself.



You do not have to consent to a search of yourself or your belongings, but police may “pat down” your clothing if they suspect a weapon. You should not physically resist, but you have the right to refuse consent for any further search. If you do consent, it can affect you later in court.

IN THE COURTROOM

Despite your best efforts and regardless of your innocence or guilt, you may find yourself facing charges. Whether it’s a traffic citation or physical arrest, you’ve got a fight ahead, and the system is designed to discourage fighting it.

Contesting a charge means missing school or work, confronting an officer who’s experienced with courtroom testimony and procedure, knows the judge, etc., and you may even face higher fines or tougher sentences if you lose. Going forward without an attorney almost guarantees you’ll lose.

I’ve seen it time and time again. You could know the law forward and backwards, and say the exact same thing a lawyer would say, but you will not be taken seriously by the court alone. I can’t stress the importance of legal counsel enough. Even a public defender is better than going it alone.

If you can’t afford an attorney, but the court finds you’re not “indigent” enough to be appointed a public defender, you can still request a continuance to hire legal representation. You can use this time to look for free legal counsel: there are several nonprofit organizations out there that may take up your case that can be found with a little online research. If, however, you choose to go it alone - here are some general guidelines.



Going it alone

Always be respectful to the court, the judge, and the accusing officer. Not only will you not win any brownie points by being disrespectful, but you may also get found in contempt of court and face jail time.

Also, read the exact statute you are charged with.

Ask for the court to provide you with all the paperwork, reports, and evidence they have regarding your case and ask for a continuance to allow you time to review it. Also, read the exact statute you are charged with. Officers receive a crash course in law at the police academy. With so many laws out there, and the frequency with which they change, they may have missed an element to the crime and wrongfully charged you.

For example, I've seen an officer write a driver a citation for failing to yield the right of way to a pedestrian in a crosswalk. The officer wrongfully assumed that as long as the pedestrian was anywhere in the crosswalk the driver had to stop. However, the law says the driver has to yield once the pedestrian begins to reach the side of the road the driver is on.

Another example is, in Alabama, running a red light - as long as any portion of your vehicle is past the stop bar while it's still yellow you are actually by law required to continue through. You only run the light when you break the threshold of the intersection AFTER the light turns red.

Subpoena any witnesses you have - this ensures they will be there, gives them an excused absence from work or school, and ensures the court won't proceed until they are present. Have all your physical evidence, recordings, etc. organized and ready to go the day of trial.

Give it your best shot, if you are found guilty you can still file an appeal and have a retrial, though it will cost you more money in fees.



What to expect

Fewer things are more intimidating and frustrating than dealing with courts and contesting a charge. Try not to feel overwhelmed, stay courteous and respectful, and don't be afraid to ask questions or have something clarified. Out of everyone involved in the process, you stand to lose the most. The judge, court clerks, and officers all still get paid with your tax dollars whether you are found guilty or not. Don't be afraid to make them work for the money.

For minor traffic violations your court date and time should be written on your citation; if not, contact the court immediately to find out when you are supposed to be there. Missing your court date or even being late could result in criminal charges. If you were arrested for a misdemeanor, they likely gave you your court date when you were bonded out.

It's a good idea to arrive at the courthouse early. This gives you time to find out where your trial is being held, navigate security, and check in with the court clerks to let them know you are present. There will be many other people there for court as well, so expect a line.

Once you are checked in, you'll likely be seated in the courtroom and wait for your case to be called. This is a good opportunity to listen to the cases being litigated and get a feel for the judge and the officer's testimony.

You may or may not see the officer that charged you there. Many times the court will take guilty pleas and pass out fines and sentences for them; but they reschedule or "continue" not guilty plea cases for another date. That means coming back sometime later and going through the entire process again.

When your day in court finally arrives, you'll be called to approach the bench, along with the officer that charged you. The judge, or a court official, will read what you are charged with. It's important to make sure this matches what you were told. It's not uncommon for an officer to charge



you, take you to jail, then get back to do his paperwork - only to have a supervisor disagree with the charge, and recommend a different one that better fits the crime.

The officer likely hasn't sworn to the charges with the magistrate yet, so he can change the charges and you may not be informed. Also, your paperwork may pass through many hands before it's entered into the computer, meaning human error can easily occur. A small typo while entering a numeric code could result in the charges reading "conspiracy to commit public nudity" instead of speeding.

After the charges are read, you'll be asked to enter a plea. If you plead "guilty," the judge may offer you an opportunity to tell him anything about the case you want him to consider before he sentences you. This isn't just to make you feel better; judges have a lot of options at their disposal, and know that mistakes happen. If you were speeding because you had a family member who was just admitted to the hospital, etc. this could greatly impact the fine you have to pay. However, NEVER lie.

If you plead "not guilty," the judge will swear you, the officer, and any witnesses that will testify in. The judge will then pass things off to the officer to make his case. Listen closely to the officer's testimony, but don't interrupt.

If need be, jot down notes as he talks. The officer's testimony will likely be quick and streamline. It may sound cookie cutter or generic as well; this is because court dates are often set months after the charge is made. This means the officer has written scores of other tickets, and made many more arrests since his encounter with you. He has a multitude of cases floating in his head and a few shorthand notes on the back of his copy of your citation may be all that he has to go on to distinguish your case from dozens of others.

Once the officer is done testifying, the judge will pass the floor off to you. This is your opportunity to present evidence, call witnesses, ask the officer questions, and tell the judge anything you want to tell him. Tell



Tell your side of the story, as accurately and concisely as possible.

your side of the story, as accurately and concisely as possible. There may be hundreds of other cases on the docket; judges can quickly grow impatient if your testimony is lengthy and bogged down with unrelated details.

Once all testimony is heard and evidence presented, the judge will make his ruling. Hopefully everything went well, and you'll walk out a free man or woman. If not, remember you can still appeal your case if you so choose.

Usually an appeal has to be submitted in writing, and in a narrow window after you are sentenced. The court clerks or magistrates can assist you with the process.

GOOD LUCK

I wish you the best of luck, and hope you never find yourself in need of this guide. Most men and women who wear a badge are good people, who honestly just want to make the world safer for everyone. However, all too often we see examples of officers abusing power, violating rights, and violating the sacred trust we the people give them. It's easy for officers to get burned out of the job, become cynical, and to begin to resent the people they swore to serve and protect.

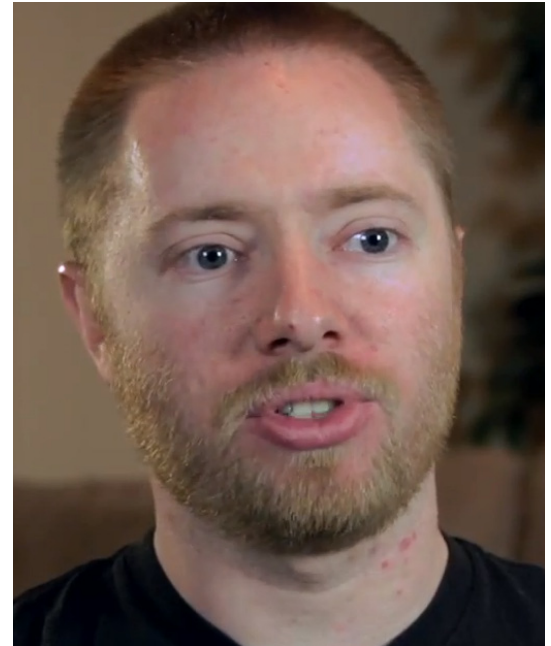
The best defense we have to keep these practices in check is to be educated and willing to stand up for our rights, rather than just roll over and pay the fine and write it off as "you can't fight city hall" as most people do. If every bad ticket and arrest was contested by the defendant rather than just chalked up to a loss, then judges, officers, and magistrates would have to work that much harder for every case made. It's not as profitable for the government entity, it's more time consuming as officers give up off days to come in for court, and dockets swell with cases, and



many officers are stressed by having to testify in court as well. By simply using the system that's in place, we can help deter frivolous charges and make officers think twice about writing that ticket or making that arrest.

What if officers had to fight for 99% of all the charges they make.

What if officers had to fight for 99% of all the charges they make? What if the court had to hold court for every one of those cases? What if defendants and lawyers started winning cases, and the courts started losing money when they charge citizens with crimes? It's my hope that a well educated populace, with the courage and conviction to stand for liberty, can reverse the current trend we see in law enforcement.



JUSTIN HANNERS

Justin Hanners is an ex-police officer for the Auburn Police Department who was fired after six years for voicing his concern about the department's quota system. Shortly thereafter he spoke out to the media and has appeared on Fox and Friends, John Stossel, and Reason TV. He is quickly becoming a spokesman for police officers concerned with the growing American police state. He served four years in the US Air Force in Security Forces; then, for a short time before joining the Auburn Police Department, he worked in disaster relief for areas affected by hurricanes. He is currently working to help reform America's criminal justice system through education and awareness.

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