

Know Your Rights When Interacting With the Police

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AGENDA

Overview of laws that govern the police & protect your liberties



Colleen: Tips on interacting with police / what to do if rights are violated



Capt. Scroggin: Your responsibilities when interacting with police



3 Role Play Scenarios and Audience Participation



Questions

Why do we have police?

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- ▶ **to investigate suspected criminal activity**

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Why do we have police?

- ▷ to investigate suspected criminal activity
- ▷ to refer criminal investigations to the courts
- ▷ to temporarily detain suspected criminals until they can see a judge
- ▷ **to provide first response in emergencies and other threats to public safety**

To carry out
those duties, we
give officers
special “police
powers:”

“police powers”

● to arrest

“police powers”

● to arrest

● to detain

“police powers”

- to arrest

- to detain

- to use force

“police powers”

- to arrest
- to detain
- to use force
- to search

- **BUT** . . . in the **US** (unlike many other countries), we BELIEVE people are:

INNOCENT

UNTIL

PROVEN

GUILTY !

SO to make sure police don't abuse their "police powers" we have laws to protect our liberties (freedoms and rights):

- **NOTICE OF THE CHARGES**
- **AN OPPORTUNITY TO BE HEARD**
- **THE RIGHT TO A FAIR TRIAL**
- **THE RIGHT TO A LAWYER IN A CRIMINAL TRIAL**

Where did these protective laws come from?

The **CONSTITUTION** of the United States and its Amendments, especially **the First Ten Amendments** which are called

THE BILL OF RIGHTS

The Bill of Rights includes the first TEN Amendments such as:

The FOURTH Amendment requires PROBABLE CAUSE for searches & seizures and protects from use of excessive force

The FIFTH Amendment gives you the right to “due process” (notice & hearing) and “the right to remain silent”

The SIXTH Amendment gives you the right to a lawyer, a jury and witnesses in a criminal trial

The Fourth Amendment:

protects “against unreasonable searches and seizures. . . and no Warrants shall issue, but upon **probable cause**, supported by Oath or affirmation and particularity. . .”

What is "PROBABLE CAUSE?"

- More than just a "hunch" or a suspicion!
- The police need FACTS or EVIDENCE that would lead a "reasonable person" to believe the suspect committed a crime.

• *EXAMPLE of “Probable Cause” to make an arrest:*

- a driver is pulled over for speeding & there’s an illegal assault rifle in the back seat, in plain view
- a person admits they’re high on cocaine

In other words:

- Police must have “PROBABLE CAUSE” before they arrest a person for a crime
- Police must have “PROBABLE CAUSE” to get an arrest warrant or search warrant (and they must describe the property to be searched)

- **REASONABLE SUSPICION** = a “strong suspicion” that a person is involved in criminal activity or may be armed and dangerous – but not as concrete as PROBABLE CAUSE
- With REASONABLE SUSPICION, police CAN briefly detain a person for questioning
- AND CAN enter a house without knocking IF announcing their presence would be dangerous or allow a suspect to destroy evidence

- The Fourth Amendment also protects against the use of *excessive* force:

- “An unreasonable seizure occurs when an officer uses excessive force in making a lawful arrest.”
- NOTE: Police are entitled to use force, even deadly force as a last resort, when they believe a person poses an “**immediate danger**” to people around them or when a person poses a significant threat to an officer.

The Fifth Amendment:

“ . . . nor shall [any person] be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law . . . ”

The Fifth Amendment means. . .

- *You have the right to remain silent!*

The Fifth Amendment also means. . .

- You get “due process” meaning: (1) notice and (2) an opportunity to be heard before the government can take away your life, liberty (e.g, jail) or property.

The Sixth Amendment:

“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury. . . to be confronted with the witnesses against him and have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.”

The Sixth Amendment means. . .

- You have the right to a speedy, public criminal trial in front of a jury, where you can examine witnesses, and you are entitled to have a lawyer represent you.
- *So, if you are arrested, ask for a lawyer immediately!*

The First Amendment:

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people to peaceably to assemble, and to petition the government for a redress of grievances.”

The First Amendment means. . .

- You have the right to freely exercise speech, and to peacefully gather and protest
- Courts have held that videotaping what you observe in public is important to the exercise of free speech;

BUT Courts do not agree about whether videotaping all police activity is protected by the First Amendment. But most agree if you're criticizing the police at the time, it is protected.

Best practices when interacting with police / remedies for violations

~ Colleen Flynn, Civil Rights Lawyer

Your responsibilities when interacting with police

~ Capt. Jeff Scroggin, LA County Sheriff's Dept.

Scenario #1

The Jaywalker

Scenario #2

An Officer Comes to Your Door with a Search
Warrant

IN THE SUPERIOR COURT OF THE COUNTY OF SAN MATEO
STATE OF CALIFORNIA
SEARCH WARRANT

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY PEACE OFFICER IN THE COUNTY OF SAN MATEO: proof by affidavit having been made before me by Detective Matthew Broad, San Mateo County Sheriff's Office demonstrates that there is probable cause to believe that the property described herein may be found at the locations set forth herein and that it is lawfully sizeable pursuant to Penal Code Section 1524 as indicated below by "x"(s) in that it:

- it was stolen or embezzled;
- it was used as the means of committing a felony;
- it is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery;
- it tends to show that a felony has been committed or that a particular person has committed a felony;
- it tends to show that sexual exploitation of a child, in violation of Penal Code Section 311.3, or possession of matter depicting sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring;
- there is a warrant to arrest the person;
- a provider of electronic communication service or remote computing service has records of evidence, as specified in Penal Code Section 1524.3, showing that property was stolen or embezzled constituting a felony/public offense, or that property or things are in possession of any person with intent to use them as a means of committing a felony/public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their discovery;

YOU ARE THEREFORE COMMANDED TO SEARCH:

Premise(s): The premises, structure, rooms, receptacles, outbuildings, storage areas, and safes situated at the residence located at:

[REDACTED]

See Appendix A for description – attached hereto and incorporated herein

Person(s): The persons described as: Jason Shao Chen, [REDACTED]

Vehicles(s): In the vehicles described as: Any vehicle that is at the location of the search warrant and under the dominion and control of Jason Chen.

FOR THE FOLLOWING PROPERTY:

See Appendix B – attached hereto and incorporated herein

AND TO SEIZE IT IF FOUND and to retain the same in your custody pending disposition according to law. Return of this search warrant shall be to the above entitled court.

Scenario #3

The Speeding Driver

QUESTIONS?