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You and the Police

A Student's Guide to Police Practices

The goal of this brochure is to provide you with information when interacting with the police in order to help you make smart decisions. This information should be viewed as general guidelines, and not intended to serve as legal advice.

How many times have you asked yourself why police officers do the things they do? This brochure will give you a general idea about police practices as well as a common sense approach on what to do if you are stopped and questioned by an officer.

Police Harassment

Questions commonly asked by youth:

- Why do officers try to intimidate young people?
- Why do officers harass young people for just hanging out with their friends?
- Why do officers stereotype young people and single them out because of the way they are dressed, their ethnic background, type of car they drive, etc.?
- Why don't officers tell people why they are being stopped?

What you may think is harassment, may not be harassment at all. Officers may be responding to complaints from neighbors. Sometimes when you are hanging out with your friends some people may become concerned and call the police, especially when you are making a lot of noise, fighting or tagging walls. When officers receive these types of calls, the information they get may be incomplete or inaccurate. This causes the officers to question everyone in the group and, unfortunately, sometimes this means having to question innocent people.

Here are some suggestions that may help you when contacted by the police:

- 1)** If you are approached by a police officer, be respectful and do not assume the worst.
- 2)** Realize that your appearance and attitude may send a message, either good or bad.
- 3)** Do not have your hands in your jacket or pockets; officers will be concerned about whether or not you have a weapon.
- 4)** Avoid making sudden movements. The officer may think you are trying to hide something or you are trying to reach for a weapon.
- 5)** Remain calm. Fear and adrenaline can get both you and the officer in trouble.
- 6)** Remember that what you may think is "harassment," may be proper law enforcement procedure necessary to conduct an investigation.
- 7)** If you are stopped, do as the officer tells you to do. This is not the time for you to take-on the officer. You can always argue your case/ticket in court at a later time or file a complaint.

Traffic Stops

Traffic stops are one of the most dangerous situations for police officers, especially at night. Officers will often call for help. This is usually referred to as "back-up."

Police officers can legally stop cars for some of the following reasons:

1) Traffic violation(s). For example:

- Stickers placed on windshield (obstruction of view)
- Things hanging from inside review mirror
- Having bald tires
- Modifications to vehicles (i.e. exhaust, hydraulics, tinted windows, blue lights)
- Headphones from portable stereo covering both ears
- Clear tail and signal light lenses

2) Reasonable suspicion of criminal activity based on what officers have seen, witness information, information from police radio, other officers, or information from other official sources.

3) Probable cause to make an arrest

4) Outstanding warrants

Be aware that if you are on probation or parole, officers can stop and search you, whether you are in your car or on foot, to see what you are up to as a condition of your probation or parole. Officers do not need a warrant or probable cause when you are on probation or parole.

Profile Stops

When officers stop people based solely on how they look, their race, gender or type of car they drive, they are making what is referred to as a "profile stop." The Fort Myers Police Department does not allow "profile stops." If you feel that you were subjected to a "profile stop," you have the right to file a complaint.

Consensual Encounters

A "consensual encounter" is when an officer contacts you and the officer has no legal reason to suspect you are doing anything wrong.

This type of police contact is legal, and usually involves a police officer asking questions such as: your name, address, what you are doing or where you are going, and proof of identification.

The officer may even ask if he/she can search you. During the entire encounter, the officer must not prevent you from leaving, or terminating the conversation because it is strictly voluntary on your part.

You can remain and talk to the officer, or you are free to leave.

Miranda Rights

(You have the right to...)

When do officers have to read you your Fifth Amendment rights? Your Fifth Amendment rights are also called "Miranda Rights." Many television shows give people the impression that the police have to give Miranda Rights any time they are contacted or arrested. But in reality, police officers are required to read you your Miranda Rights only when:

1. You are arrested for being involved in a crime **and**
2. You are going to be questioned about that crime.

Police officers can ask you general questions such as your name, address, and birthday without reading you your Miranda Rights.

Miranda Rights

When you are read your Miranda Rights, the officer should say the following:

- 1) You have the right to remain silent.
- 2) Anything you say can be used against you in a court of law.
- 3) You have the right to talk to a lawyer and have him/her present with you while you are being questioned.
- 4) If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning if you wish.

For Juveniles Only

(If you are under the age of 18)

Anything you say can be used against you in a juvenile court prosecution and can also be used in an adult court criminal prosecution if the juvenile court decides that you are to be tried as an adult.

Make sure you understand all of your rights before you agree to answer any questions. However, if you understand your rights, you may choose to speak to the police. If you are not sure, it is best not to answer questions, and to let the officer know you prefer to remain silent.

What happens if...?

Remember that while this is general information, this does not replace professional legal advice. If you have specific questions about legal issues discussed in this brochure, you should talk to a lawyer.

What happens if you are stopped for questioning?

If you are stopped without a legal reason, you should know that it is not a crime to refuse to answer questions. But refusing to answer can make the police suspicious about you. Legally, you should not be arrested for refusing to identify yourself on the street. However, if you are driving a car or you are in a place where liquor is served, you can be arrested for failing to identify yourself. When speaking to an officer, you should tell the truth and not mislead or lie to the police. Officers may do a "pat-down" search of your clothing if they suspect you are concealing a weapon. If this search is against your wishes, do not physically resist, but verbally tell the officer that you are not giving consent to the search.

Ask if you are under arrest. If you are, then ask for the reasons why. You have the right to know this.

Do not "bad mouth" the police officer or run away, even if you believe what is happening is wrong. This could lead to your arrest. Do not challenge the officer. Remember, you can always report the misconduct by filling a complaint at a later time

What happens if you are stopped driving a car?

Show your driver's license, registration and proof of insurance upon request. Your car can, in certain cases, be searched without a warrant as long as the police have probable cause, you are under arrest, or as a condition of your probation or parole. Otherwise, you do not have to consent to a search of your car, and you should let the officers know this to protect your right to contest the search later. Do not resist the officer's efforts. You can always argue your case at a later time in court or through a citizen complaint.

If you are given a citation, you should sign it; otherwise, you can be arrested. By signing the ticket you are not admitting that you are guilty, you are just promising to appear for a hearing. Remember that if you disagree with the officer, you can fight the case in court.

If you are suspected of drunk driving and refuse a blood, urine, or breath test, your driver's license or privilege will be suspended. In California, driving is a privilege not a right.

What happens if you are arrested or taken to a police station?

Whether or not you are guilty, go with the officer. You can later argue your case in court.

Under Miranda, you have the right to remain silent and to talk to a lawyer before you talk to the police. You can talk to the police or respectfully tell the police that you wish to remain silent, but provide them with your name, date of birth, address, and other identifying information. After talking to a lawyer, you and your lawyer can decide on the best way to resolve your case.

It is within your right to immediately request to see a lawyer. If you cannot pay for a lawyer, the court will appoint one to represent you. This lawyer is commonly referred to as a "public defender." You may ask the police how to contact a lawyer.

Within a reasonable time after you are arrested, or after being booked, you have the right to make two free phone calls in the local dialing area: (1) to a lawyer (2) a relative or any other person. The police may not listen to the call to a lawyer. Keep in mind that if you call your boyfriend or girlfriend, that is one of the two phone calls you are permitted to make. Use good judgement when deciding whom to call.

If you are 18 or over, sometimes you can be released without bail, referred to as "own recognizance," or to have your bail lowered. In most detention facilities, there are employees who can answer questions regarding your bail.

What happens if you are caught driving a car without a driver's license?

If you have been issued a driver's license by the Department of Motor Vehicles (DMV), you must have that license with you any time you are driving a vehicle. If you are stopped, and you don't have your license with you, you may receive a citation and/or not be allowed to drive off. But if you have never been issued a driver's license by the DMV, or it has been suspended, the offense is more serious because the State of Florida requires everyone who drives a car to have a valid driver's license or permit to drive. If you don't have either of these, and you are stopped while driving a car, you will be given a ticket, and because this is a misdemeanor offense, you can be arrested. Your car may also be towed and impounded and it will be very expensive to get your car back. You will be required to go to court. Things may get more complicated if you are on probation.

What happens if you do not show up to court?

If you fail to go to any court appearance without approval from the court, a warrant will be issued for your arrest. A warrant never expires until it is taken back by the court, or you are arrested. Calling the court or writing a letter is not enough unless you receive written confirmation from the court that your court date has been rescheduled or that you do not have to appear. Failing to go to court is a serious matter that will end up getting you arrested.

Arrest Warrants

Arrest warrants are orders issued by a judge. Police officers have little discretion with court orders, and their responsibility is to take anyone who has a warrant for their arrest into custody.

If you think you have a warrant for your arrest, it is recommended that you contact your local law enforcement agency to inquire how you can take care of this warrant. You should then follow through immediately. Be aware that if you are stopped by a police officer, you may be arrested if there is an outstanding warrant for your arrest.

Search Warrants

A search warrant is an order signed by a judge, which gives officers authorization to search every location for items listed in the search warrant. Officers are required to provide you with (1) a copy of the warrant and (2) a list of the items taken.

Curfew

The City of Fort Myers (City Ordinance 10-88) passed a curfew law that makes it illegal for minors to be out past a certain hour. Minors (under the age of 18) are not allowed to be out without parental or guardian supervision between 11:00 PM and 5:00 AM. Sunday thru Thursday. Friday and Saturday 12:01am until 6:00am.

A minor that has been suspended or expelled from school may not be in a public place between the hours of 9:00am until 2:00pm. Any day that school is in session.

If an officer stops you for curfew violation, 1st violation you will receive a warning citation subsequent violations are \$50.00 dollars per violation. If taken into custody the minor will be transported to the police department and a parent or guardian will be contacted to take custody of the minor.

Curfew Exceptions

- If you are with your parent/guardian.
- If your parent/guardian sent you out to run an errand.
- If you are "hanging out" on your property (front porch/yard or sidewalk).
- If you are waiting for or riding public transportation (bus, train, lightrail).
- If you are going to or coming from work.
- If you are going home directly from a school, religious, cultural, athletic or organized activity/event.
- If you have been declared by the court "legally emancipated" (an adult).
- If you are responding to an emergency.

Trespassing

You can be arrested for refusing to leave a private or public building or school grounds if you have no legitimate reason for being there.

Loitering

Loiter means to delay, to linger, or to idle (hang around) in a school or public place without a lawful purpose for being present. This includes places such as parking lots, convenience stores, fast food restaurants, and others.

Vandalism

It is a crime to damage, destroy, or deface a school building, or any public or private building or structure. This includes fences, vehicles, mailboxes, street signs, etc. You can be incarcerated and your parents forced to pay for the damages.

Graffiti

What is graffiti?

Some view graffiti as a form of art but others view it as vandalism. In either case graffiti can be trouble. Areas that are "tagged" are often considered to be "gang turf." These neighborhoods are viewed as unsafe, run-down and undesirable. Parents or relatives that own homes in these areas suffer the greatest loss because their property value will be lower than homes in other neighborhoods.

Drugs

The Reality of Drugs

Drugs may make people feel like they are smart, strong, happy, and like there is nothing in the world to worry about. The problem is that these feelings are not real. What is real is that drugs are addictive and can make you sad, depressed, paranoid, and even suicidal. This is reality!

Drugs have caused a national health problem in our country that has affected tens of millions of people. Many lives have been ruined because of drug addiction. This addiction is an illness that has a devastating financial impact on people. Drug dealers often push free samples, knowing that once hooked, you will forego buying clothes, cars, and other things you enjoy to buy a "fix."

Many young women and men between twelve and eighteen years old that use drugs are homeless, prostitutes, or gang members. Many of them have run away from home, live on the streets, and go on to commit crimes to support their drug habit. These young people live hard, dirty, and violent lives, frequently being raped, beaten, and sometimes killed, or sentenced to jail.

Because governmental agencies have had to cut back on programs designed to help people get out of drugs, few places exist where one can get treatment to overcome this terrible illness. Most addicts wish they had never tried drugs in the first place. The initial thrill was not worth the loss of family, future, and self-respect. You may not be able to do anything about your friend's decision to take drugs but you do have the choice to stay away from drugs yourself. Be smart, be happy, be real!

Searches on Public School Campuses

In most cases, police officers need a search warrant based on probable cause in order to search you, your house, or car. However, in a school, school officials, teachers, or officers do not need a search warrant if they have a special need to conduct a search, or suspect criminal activity. Searches can be done in schools based on "reasonable suspicion." This means that if a teacher or school administrator suspects that you are involved in a violation of a law or school policy, you may be searched. Your personal possessions, such as your backpack, locker, and car if they are on school property may also be searched.

Truancy

"Cutting School"

Did you know that cutting school could get you in trouble with the law? According to state law, students between the ages of 6-18 years are required to attend school.

The School District of Lee County code of conduct defines Truancy as skipping school all day: the unauthorized absence from attending school without the knowledge and permission of the student's parent/legal guardian or school authorities. The districts discipline matrix for middle and high schools is covered in the code of conduct which is located on page 25 number 38 under skipping class. The penalty is administrative and is punishable by a minimum of two days after school or a maximum which would result in an administrative review. This would depend on the number of offenses.

The City of Fort Myers regulates Truancy by city ordinances under Youth protection. The ordinance violation pertaining to school days is 50-133(c) which requires students to be in school between 9:00am and 2:00pm. The penalty is punishable by a written warning for the first offense to a fine for any violation after.

The ordinance violation pertaining to Parental duties is 50-134 which requires parents to have their children in school between 9:00am and 2:00pm. The penalty is punishable by a written warning for the first offense to a fine for any violation after.

The state of Florida regulates Truancy by State Statute 232.19 (a) of the Compulsory School Attendance; Child Welfare Law, setting forth the duties of the parents and the penalties imposed by law. The parents, guardian, or other person having control of the child who refuses or fails to have the child attend school regularly shall be guilty of a misdemeanor of the second degree, punishable as provided by the law. The continued or habitual absence of a child without the consent of the principal or teacher in charge of the school he or she attends or should attend, or of the tutor who instructs or should instruct he/she shall be prima facie evidence of violation of Florida Statutes.

Truancy in Florida also prevents a teen from applying for their learner permit or drivers license. Students under 18 that do not have a learners permit or drivers license and are not meeting attendance requirements will receive a letter from the DMV indicating they cannot get their license until they meet school attendance requirements. A Florida teen under the age of 18 cannot miss more than 15 days of school with unexcused absences within a 90 day period or their learners permit or drivers license will be suspended-indefinitely.

To avoid problems, make sure to have a valid written excuse signed by your parent or guardian if you are going to be late to school or you need to leave school during regular school hours.

Fighting

on School Property

Florida State Statute 784.03 / 784.011 make it clear that any assault or battery on school grounds or parking lot is against the law. Fighting is a battery, and an assault is a threat to strike someone, when you have the ability to do so. These crimes can be punished by a fine or by imprisonment in the county jail, or both.

or Interfering with Classes

Florida State Statute 877.13 makes it a misdemeanor to be on school property for the purpose of disrupting or interfering with classes or other school activities.

Remember that you cannot enter any part of the school grounds without permission if you have been suspended.

Weapons on Campus

It is a felony to bring or possess a firearm in a school. A felony is a serious crime, which can be punished by incarceration in a state prison. Remember also that a school official can search your locker, backpack, or your person without a warrant.

Any object that is capable of inflicting substantial injuries can be considered a weapon. Some of these objects are razors, pocket knives, other pointed objects, Billie clubs, metal knuckles, tear gas, nunchakus, BB/Air/or Pellet guns, Spot Marker guns, explosives including fire works, and others. While the possession of some of these objects may not be illegal, their possession at a school is prohibited by school regulations.

Police Commendations or Complaints

How to file a complaint or an accommodation:

How do I contact the Professional Standards Bureau?

The Professional Standards Bureau can be contacted at (239) 338-2254 or at the Police Station which is located at 2210 Peck Street, Fort Myers, FL 33901. The hours of operation are 8:00 am to 5:00 pm, Monday through Friday. The Professional Standards Bureau can also be contacted by e-mail.

The only information you need to file a complaint or commendation is the date, time, and place of where the incident happened.

Fort Myers Police Department

2210 Peck St.

Fort Myers Police Department

Tel. (239) 334-4155

Website: www.fmpolice.com