

Use them and make them work

Know your legal rights under the law

by
Bruce M. Lantz
&
New Morning Collective

One of the reasons for the lack of togetherness in the Metro area is a poor understanding of the individual's rights; if we know our rights under the law, then we can see where and how oppression provides a common bond. The student suffers as he tries to adjust to a new school and community, and the worker is hit by winter job layoffs and escalating rents.

To assist in the growth of this common bond the GAZETTE (in collaboration with New Morning Collective) offers a few of your legal rights. Use them and make them work!

At all times say as little as possible to the police. When stopped or questioned you have the right to know the officer's name and badge number. Unless he states that you are under arrest, or if you are driving a car or being questioned for vagrancy you do not have to say anything and are free to go.

Section 29 of the Criminal Code states that reason must be given for an arrest. This means they must have a warrant in your name, catch you in the act of committing a crime, or have reasonable grounds for believing that you have committed or are about to commit a crime. Often the officer does not have to tell you what the grounds for arrest are.

Be sure that an arrest is illegal before you resist; people who could not be arrested on one charge have left themselves open for another by not checking for a warrant or writ or by hearing the officer's grounds for arrest. Remember — the law is NOT impartial in application: Would a judge be more likely to take YOUR word or a police officer's?

The police CAN give you an Appearance Notice after an arrest, rather than take you to

jail. This is a form stating the charge and date of court appearance. It is left to the officer to decide if these will be used, and although they are specifically for "petty" offences, these Notices are not often produced.

If you find yourself under arrest, SAY NOTHING. The police will try to engage you in conversation and will ask many questions at the station. It is your right to refuse to cooperate. (Give only your address and telephone number) until you are allowed one telephone call. If your life-style is such that an arrest is commonplace, you should have a regular lawyer or at least a solid phone number.

Unless you are charged with an indictable offence you should refuse to be photographed and fingerprinted. The police may seize all weapons found on your person as well as evidence related to the charge. They have a habit of keeping knives, address books and drug-related paraphernalia, so request receipts for these things. They do not have the right to take your money, wallet or papers, etc., without your permission.

If the police come to your house, demand to see a warrant or writ of arrest and don't let them in until you have found them to be correct. The two exceptions to this are if they are in hot pursuit of a criminal seen entering your house, or if they have reasonable grounds (i.e. sounds of a fight, neighbours' complaints) to believe that a crime is being committed on the premises. If you produce the person specified by warrant at the door, the police no longer have the right to enter unless the warrant so specifies.

If they DO gain entry you must first demand that they leave, and then only use as much force as is necessary to remove them. A social worker is also required to have a warrant before gaining entry into your home.

Locking doors is a good habit to get into (secondary chain

locks bring double protection); if you leave doors open and often yell "Come in" rather than answering then you're asking for trouble. Keep your drug collection or "hot" goods in a handy spot, know who's carrying what, and who's claiming at all times.

The police can seize things specified in the warrant or writ such as dope under the Narcotics Control Act. They can also seize anything they feel was obtained through a crime or used to commit one. Evidence related to a crime may only be taken AFTER you are charged. Otherwise you may defend your property with as much force as is necessary, provided you have stated that you are the legal owner. IN CANADA ILLEGALLY OBTAINED EVIDENCE IS STILL ADMISSIBLE IN COURT AGAINST YOU.

If you are stopped while driving a car, lock all the doors and roll up all windows except the driver's vent. Pass your driver's license, registration and insurance through it; you do not have to get out of the car unless you are arrested or required to take a breathalyser test. Nor can he require you to open the car unless he is conducting a legal search. No one else in the car should do or say anything.

You must allow a search of your person BEFORE your arrest if: (a) it is conducted under the Narcotics Control Act; (b) the Liquor Control Act; (c) or if you're in a house being searched under a writ of assistance.

In case of a house search with a warrant, they can search anyone they believe in possession of something illegal. The police do not always have to give a reason for the search. The two acts previously mentioned also give police officers the right to search your car. If you are arrested and ONLY AFTER you are arrested, you can be searched for weapons and evidence.

If stopped "on the street",



you do not have to answer any questions or show any ID unless you're being questioned under Sec. 175 (vagrancy). If the officer is using this, you must give him your name and either (a) your address; (b) your destination; or (c) a source of income. After this, walk away.

He cannot require you to talk to him, go with him or move anywhere unless he states clearly that you are under arrest OR that he wants to take

you to the station for questioning in an investigation under the Canada Evidence Act. Under this you can be held until they either get enough evidence to charge you, or they let you go.

If attacked with provocation by a police officer you have the right to use as much force as is necessary to defend yourself. NEVER let yourself be provoked into fighting by badmouthing or pushing, but also don't let their arrogance ride over you.

In theory all this looks pretty good, but remember the practice is a lot different. You have no rights at all if they decide you don't, especially when you're in jail. Common sense and a realistic approach will get us all a lot further. If you're alone and outnumbered, then be nice and beat them at their own game. The rule is: If you don't have two witnesses for their one, give it up... for the time being.

One thing should always be remembered when you're dealing with the police... they aren't the real enemies. The ones who are actually keeping you down are snug in their \$100,000 homes. The police are no more than people with jobs that pit them against old friends and schoolmates; if this sort of life destroys his humanity, it's understandable. He's not the pig, it's the one who pays him to do the dirty work.

