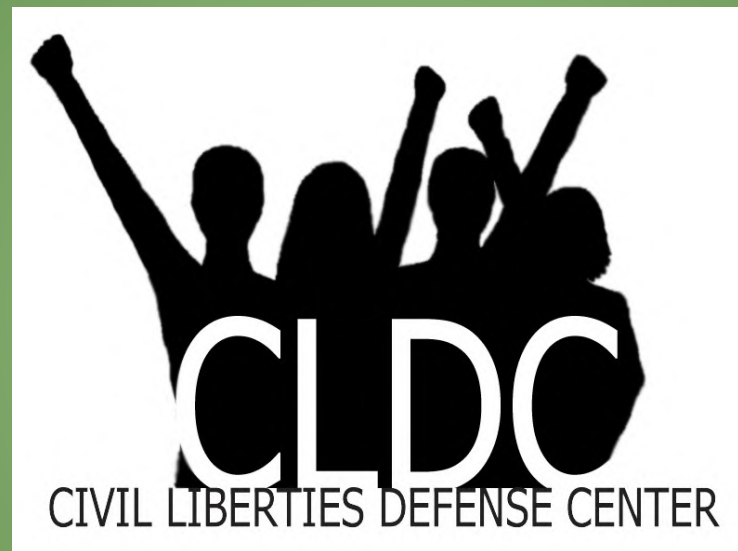


# **Civil Liberties Defense Center**

**[www.cldc.org](http://www.cldc.org)**



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The background of the slide features a light green gradient with several dark green silhouettes of people. Some of these silhouettes have their right arms raised with clenched fists, a gesture often associated with protest or solidarity. The overall theme is one of empowerment and awareness.

# Know Your Rights!

⇒ A minor is: an unmarried person who is **under 18 years of age**.

⇒ Minors have ***most*** of the ***same constitutional rights*** as adults.

# **What rights do I have?**

- **Whether or not you're a citizen, you have these constitutional rights:**
- **The Right to Remain Silent**
- **The Right to be Free From “Unreasonable Searches and Seizures”**
- **The Right to Advocate for Change**

# **The Right to Remain Silent**

- The Fifth Amendment to the U.S. Constitution gives every person the right not to answer questions asked by a police officer or government agent.

# **The Right to be Free from “Unreasonable Searches and Seizures”**

- The Fourth Amendment is supposed to protect your privacy from government intrusion.
- Police cannot search you, your possessions, your home, etc. unless:
  - You consent (your silence gives police consent)
  - Police obtain a search warrant
  - Or an exception to the search warrant requirement exists

# **The Right to be Free from “Unreasonable Searches and Seizures”**

- Without a warrant, police or government agents may not search your home or office without your consent, and you have the right to refuse to let them in.
- **I DO NOT CONSENT TO THIS SEARCH.**
- Must be said out loud—your silence indicates to police that you consent or agree to what they are doing.

# Search Warrants

- Written court permission to search and seize evidence of a crime.
- May be obtained telephonically in certain circumstances.
- Can enter your home without permission or your presence.

# No Warrant Needed

Exceptions to the warrant requirement:

- weapons search within “wingspan” (car or person)
  - exigent circumstances or emergencies: “hot pursuit”,
  - “plain view” doctrine: if the public can see it, and a cop can see it, cops will be able to legally seize it.
  - Patriot Act, other recent federal laws intended to gut 4<sup>th</sup> Amendment rights.
- REGARDLESS, DON'T CONSENT!**



# **The Right to Advocate for Change**

- The First Amendment to the U.S. Constitution protects the rights of groups and individuals who advocate changes in laws, government practices, and even the form of government.
- However, the ICE can target non-citizens for deportation because of their First Amendment activities, as long as it could deport them for other reasons.

# Juvenile Rights in the Criminal Justice System

- ⇒ You have the right to be given a “Miranda Warning”
- ⇒ The right to know the charges against you within a reasonable time
- ⇒ You have the right to an attorney at your hearing.
- ⇒ You have the right to a trial.
- ⇒ You have the right against self-incrimination (telling on your self)
- ⇒ If you lose at trial, you have the right to appeal your case and have an attorney help you.

# Miranda Warnings

1. You have the right to remain silent
2. Anything you say can be used against you in court
3. You have the right to an attorney
4. If you can't afford an attorney, one will be appointed before any questioning if you want
5. You have the right to have your parent or guardian present during questioning -always ask to have your parent present at all times when being questioned by police or any adult.

# **“Demand of Rights”**

- ⇒ I will not talk to you or anyone about anything.
- ⇒ I demand to have an attorney present before I speak to you or anyone.
- ⇒ I will not answer any questions, or reply to any charges, without my attorney present.
- ⇒ I do not agree to perform any test, consent to any searches, or participate in any line-ups.
- ⇒ I will not sign anything unless my attorney agrees I should do so.
- ⇒ I will not waive any of my constitutional rights.

# **Three kinds of police encounters:**

- **Conversation**
- **Detention**
- **Arrest.**

# Conversation

- *You do not have to speak to the police, an investigator or anyone **except a judge**.* If you agree to talk to the police, you might *give* them information that they need to arrest you or charge you or someone else with a crime.
- Your best bet is to *politely but firmly* refuse to speak to them. Always make your refusal to speak to them *clear*, in words, as opposed to simply shaking your head.

# CONVERSATION

- COP: “Hi, can I ask you a couple of questions?”
- YOU: **“Are you detaining me or am I free to go?”**
- COP: “I just want to talk to you.”

(Ask **“am I free to go?”** until given “yes” or “no”)

- YOU: **“I choose not to talk to you.”** (you walk away)

# Tricks to get your cooperation

- “If you answer truthfully, you can go home.”
- “If you tell what your friends did, nothing will happen to you.”
- “If you tell the truth, you don’t need an attorney.”
- “If you don’t confess, you can go to trial as an adult.”



# **Don't incriminate yourself, your family or your friends!**

- You may get charged if you tell what your friends did, and you may be tried as an adult even if you confess.
- The police do not control whether or not charges are filed; nor what types of charges are filed.

# Liar, Liar

- If police make promises to you, you cannot enforce these promises later, they are allowed to lie.
- **IF YOU ARE NOT SURE WHAT TO DO, ALWAYS ASK FOR AN ATTORNEY BEFORE YOU ANSWER ANY QUESTIONS.**
- You can't always go home.

# Detention

- ⇒ A Police officer may **only** detain you (or make you stay where he/she want you to) if the officer has a *reasonable suspicion that you are involved in a crime.*
- ⇒ **“Reasonable suspicion”** *must be more than a mere hunch or guess.*
- ⇒ Police must be able to put their **“reasonable suspicion”** into words. Ex. “We think you stole that bike.”

# What to do if you are stopped by the police...

- Remember! What you say can and will be used against you. **Stay calm and in control of your words and actions.** Avoid arguing with the police but firmly assert your rights.
- **Never run or physically resist the police, you will only make things worse.**
- **Ask if you are free to leave;** if they say yes, do so. You are not required to provide identification if they are not detaining you (unless you are the driver of a car).

## **If you are not free to go, ask why you are being detained**

- You must provide **name, address and date of birth.** if detained but are not required to say anything else. It is a crime to give a false name.
- You may be patted down and any possessions within your reach may be searched if police reasonably suspect you pose an imminent threat of serious physical injury.
- **Write down everything you can remember** about the police interaction including officers' names and badge numbers.

# DETENTION

- COP: “Hi, can I ask you a couple of questions?”
- YOU: **“Are you detaining me or am I free to go?”**
- COP: “I'm detaining you. Hands against the wall, feet back, and spread 'em.”
- YOU: **“Why am I being detained? What is your reasonable (articulable) suspicion?”**

(Memorize and report the response.)

# Am I Under Arrest?

- ⇒ **The police cannot move you unless you are under arrest**
- ⇒ **If you are arrested, immediately ask for a lawyer. Do not answer any police questions until your parent or lawyer arrives.**
- ⇒ **Juveniles have the same rights as adults, but normally you will only be released from jail to your parent/guardian.**
- ⇒ **If you are injured or need medications, seek medical attention and take photographs.**

# ARREST

- COP: “I’m placing you under arrest.”
- **YOU: “I am going to remain silent. I want to contact an attorney.”**
- COP: “That’s fine. You’ll be able to contact your lawyer at the police station.”



**"I am going to remain silent, and I want to contact an attorney."**

Once you say these words, the police are *legally required* to stop questioning you.

Even if you don't already have an attorney, police must provide you with a phonebook or call your parents collect.

# Notice of Charges

- ⇒ Complaint will be filed by prosecutor
- ⇒ Must list all charges against you
- ⇒ Must give you enough time to prepare for a court hearing.
- ⇒ Ask for an attorney--if you are asked to “waive counsel” say **NO**.
- ⇒ Ask the attorney all questions you have about the case and make sure you understand it all. Your attorney works for YOU only.

# Right to a Trial

- At court you will be asked to admit or deny the charges against you.
- **Plead not guilty or you waive your right to a trial!**
- You do not have the right to a jury trial if you are charged as a juvenile. If tried as an adult, you have the right to a jury of your peers.

# Right against self-incrimination

- Means you do not have to say or do anything that helps the state prove its case against you.
- Includes when police are asking you questions and it applies to your trial.
- **You do not have to testify at your trial.**

# Be careful with your information

- ⇒ Things that you say can be used against you.
- ⇒ This includes things you put on the INTERNET for the public to see, like MySpace or Facebook posts.

# Weapons

Cannot have on your person:

- ⇒ Any knife with a blade that projects or swings into position by force or spring (switchblades)
- ⇒ Dirk, dagger, ice pick, slingshot, metal knuckles, or any similar instrument which could cause serious injury.
- ⇒ It is unlawful for a minor to possess a firearm (handguns).
- ⇒ Minors *can* possess certain firearms for hunting or target practice, with consent of the minor's parent or guardian.
- ⇒ **NO WEAPONS OF ANY KIND IN SCHOOL!**

# Weapons at school

- A person may not possess a loaded or unloaded firearm or other dangerous weapon while in or on *a public building or school property, including scholastic activities* (football games, dances, etc.)
- It is a **Class C Felony criminal charge**.
- School policy requires a minimum of one year expulsion from school.

# Special Concerns for Teens

- The Law says that any person under the age of 18 cannot consent to a sexual act. Felony rape charges are possible if either, or both teens are under 18 & if more than 3 yrs apart in age.
- Even if you are later acquitted, you can still be arrested, prosecuted, and may be put on a sex offender list for the rest of your life!

Safety tip: don't brag, gossip, or get caught in sexual acts.  
Serious consequences can follow!



# More Concerns

- ⇒ Lying about your name or age to police is a crime. If you lie about your age, *you can lose your driver's license for 1 year.*
- ⇒ Truancy: all youth between the ages of 7-18 who have not completed 12th grade or a GED program are required to attend school full time. Parents can get in trouble for their kids' truancy too.

# Your Rights at School

- ⇒ At school, students can have their backpacks and lockers searched by school officials without a warrant, if the school official suspects that you are involved in criminal activity or are in possession of drugs or weapons. Do not consent to the police or school officials searching your property, but do not physically resist or you may face criminal charges.

# Being Questioned at School

- ⇒ Students can be stopped and questioned by school officials at school, for example if you are not in class.
- ⇒ However, they should not stop and question you for engaging in political activity or because of your beliefs, ethnicity or religion.

# Drug Tests at School

- Random drug tests are allowable as a prerequisite for participating in some school sports.
- However, if you feel that the collection of samples is done in an inappropriate manner or that the results are shared with inappropriate people, you may be able to challenge the procedures used to conduct the testing.

# Military Recruiters at School

- ⇒ If a military recruiter comes to your school, you have the right to not speak to them and to withhold your personal information by “opting out.” Your principal has information on how to do this.
- ⇒ You do not have to take any of their tests including the Armed Services Vocational Aptitude Battery (ASVAB).

# Minor in Possession of Alcohol

Class B violation

- A minor cannot purchase, possess, or consume alcohol unless 21 years old. (Alcohol on your breath counts as “possessing” for purposes of “MIP”).
- You will lose your driver’s license or right to apply for a license for one year.
- Punishment also includes drug and alcohol treatment, community service, and a fine not to exceed \$360.00

# Tobacco

- No minor shall have personal possession of tobacco products.
- Except when in a private house or apt. with parent consent.
- Class D violation: punishment = fine of no more than \$90.00, tobacco education program, community service related to diseases like lung cancer.

# Marijuana

- Possession of less than an ounce of marijuana is a violation punishable by a fine of \$500-\$1000.
- If over an ounce, class B felony
- Delivery (selling) is Class B felony
- Manufacturing (growing) is Class A felony



# **Marijuana**

- **Does not apply if Oregon Medical Marijuana Act card holder. Minors need consent of parent/guardian.**
- **Penalties are more severe if you are caught within 1,000 feet of a school.**

# Inhalants

- ⇒ Includes glue, cement or any other solvent, material, substance, or chemical having the property of releasing toxic vapors or fumes that are capable of causing intoxication.
- ⇒ Intoxication means any mental or physical impairment or incapacity (“drunk or high”).
- ⇒ Violation-- fine of not more than \$300.00, treatment and counseling
- ⇒ 2nd offense--class B misdemeanor, jail, probation, treatment and counseling
- ⇒ \*death by asphyxiation is most often the result in abusing inahlants--3rd most abused drug in minors. 1 in 5 8th graders has used an inhalant.

# Emancipation

(Suddenly, you're 18)

- Emancipation means that a minor has been given certain rights normally possessed only by adults.
- Ends parent-child relationship
- Minor can enter into contracts and rental agreements, and can sue and be sued in court.
- Minor can be subject to the adult criminal laws of the state.
- Cannot drink alcohol until 21.

# Assault

- Person intentionally, knowingly or recklessly causes physical injury to another person.
- Can be a felony if a weapon is used, if injuries are serious, or if it occurs in front of minors.

# Endangerment of Minors

- Child endangerment occurs when:
- a person induces, causes, or permits a minor to witness a sex act; or
- Permits a minor to be in a place where unlawful activity involving drugs
- Induces or allows a minor to participate in gambling;
- Distributes or sells tobacco to a minor
- Sells a minor a pipe

# Child Abuse

- Means an action where the victim is a child
    - child abandonment
    - child neglect
    - criminal nonsupport--parent/ guardian fails to provide food, shelter, etc.
- \*\*Report child abuse to a trusted adult, or call 911 or DHS Child Welfare--names can be confidential\*\*

# Harassment

- ⇒ A person subjects another person to offensive physical contact or publicly insults person with abusive words or gestures intended to provoke a violent response (not constitutionally protected words)
- ⇒ Telephonic harassment- “causing the telephone of another person to ring while having no communicative purpose.” If you have been forbidden to call a certain number, it is harassment to call again.

# Trespassing

- To enter or remain unlawfully in a car or a premises (house, building, etc.)
- Misdemeanor crime.
- If you are asked to leave, and refuse to leave, you may be trespassing unless you have a lawful right to be there.
- Loitering (just hanging around) may be a form of trespassing in Oregon



# Graffiti

- Violation to apply graffiti without having permission.
- Graffiti means any inscriptions, words, figures, or designs that are marked, etched, scratched, drawn, painted, pasted or otherwise affixed to the surface of property.
- May receive fine and up to 100 hours of community service removing graffiti from the city (yours and more)

# Theft by Receiving

- **Theft-- physically taking the property of another--punishment depends on the worth of the item.**
- If a person receives, retains, conceals or disposes of property of another knowing or having good reason to know that the property was the subject of a theft.
- If a deal seems too good to be true, be careful-- *you can get in trouble for it if stolen.*

The background of the slide features a light green gradient with several dark green silhouettes of people. Each silhouette has one or both arms raised with a clenched fist, a gesture commonly associated with protest, solidarity, or civil rights movements. The silhouettes are positioned behind the central text, creating a layered effect.

# **Special Rights and Concerns for Non-Documented People**

## **What if I am not a citizen and *La Migra*/ICE or police contact me?**

- ⇒ You **DO NOT** have to answer questions about your immigration status, where you are from, or any other questions.
- ⇒ You **DO NOT** have to let them in your house or apartment unless a search warrant is shown.
- ⇒ You **DO** need to carry your immigration papers if you have them.
- ⇒ **Assert your rights!**  
Failure to do so will result in a waiver of them

# Talk to a lawyer

- You are not entitled to a free lawyer if you cannot afford one in immigration proceedings
- You have the right to an interpreter who speaks your native language. **Do not sign papers without a lawyer**
- Always carry the name and telephone number of an immigration lawyer who will take your calls. You must also carry your papers if you have them.
- The immigration laws are complex and changing. ICE will not explain your options to you.
- **As soon as you encounter an ICE agent, call your attorney.**

# Make a Plan

- Talk to your parents and family members about making an emergency plan
- Many groups (Amigos Multicultural Services Center, CAUSA, Centro Latinoamericano) have **emergency packets**, ask if your parents have one
- If somebody is arrested and taken to jail ***bail them out as soon as possible***. Check to see if your community has a bail fund!

# Deferred Action for Childhood Arrivals (DACA)

- WHAT IT DOES
  - Temporarily shields eligible youth from deportation and enables them to live and work with authorization in the US.
  - Allows some to work legally
  - It lasts up to 2 years if approved
  - Can be done when already in the deportation process, even if final deportation order has been served
  - People in immigration detention may not request consideration.
- WHAT IT DOES **NOT** DO
  - DACA is not a path to citizenship
  - A long term solution for 11 million people

# Deferred Action Checklist

- Must have come to the US before the age of 16;
- Must have not yet turned 31 when the application is submitted;
- Must have continuously resided in the US since June 15, 2007, and must have been physically present in the US in June 15, 2012;
- Must be currently enrolled in school, or have received a high school diploma or the equivalent GED, or been honorably discharged from the US Armed Forces or the Coast Guard
- Must not have been convicted of a felony, a “significant misdemeanor,” multiple misdemeanor offenses, or otherwise pose a threat to national security or public safety. Anyone applying for deferred action would need to go through a criminal background check.



# Costs and Forms

- Forms
  - I-821D “Consideration for Deferred Action for Childhood Arrivals
  - I-765 “Application for Employment Authorization
  - I-765WS
- Costs
  - \$360 application fee,
  - \$85 biometrics fee (fingerprints and photograph)

# Applying

- Talk to a lawyer or non-profit organization that helps with immigration cases
  - Applications are processed on a case by case basis
  - DHS can deny any application even if the applicant meets all requirements
- Be careful of scams, fraud and *notarios*
  - They may promise you faster processing or a guarantee of approval if you pay them more, do not believe them!

# Concerns with DACA

- DHS can deny any application, even if applicant meets all requirements
- If application is denied some people may be referred to ICE and put in deportation proceedings, according to USCIS they will only do this if the case involved a criminal conviction of fraud
- Deferred action, once granted, can be terminated at any time without justification or review.
- There is no right to appeal or review *unless* there was an administrative error
- Very few opportunities for fee waivers

# Know Your Rights!

- Learn about the constitution
- Learn about your civil rights
- Learn your history!

Contact the CLDC if you have questions

**[Info@cldc.org](mailto:Info@cldc.org)**

# Immigration Help

- **NLG – National Immigration Project**

References to immigration lawyers and help for lawyers on immigration cases

617.227.9727 <http://www.nationalimmigrationproject.org>

- **American Immigration Lawyers Association**

References to immigration lawyers and help for lawyers on immigration cases

1-800-954-0254, [www.aila.org](http://www.aila.org)

- **Access the Law – 245 West 13th Avenue, Eugene, Oregon**

Affordable lawyers and legal advice

(541) 686-4890 <http://accessthelaw.org/>

- **American Civil Liberties Union**

<http://www.aclu.org/immigrants-rights>

- **Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA)**

Information about rights, deferred action

213-353-1333 <http://www.chirla.org/>

- **Causa Oregon**

Legal offices in Salem, orientations and information about Deferred Action

(503) 409-2473 <http://causaoregon.org/>