

Monday, March 24. 2008

For the thousandth time, you don't need to consent to searches nor be interviewed by the cops.

Â When I spoke on the March 11 "Know Your Rights" panel at the University of Maryland, I told the audience how often potential clients say "Oh, sh*t" or something to that effect when I play them the Busted video to explain that they gave up rights that they had no obligation to give up. Shortly after that, I told an acquaintance about how often people waive their right to refuse searches; this very intelligent man whom I have known for over a quarter century responded with surprise that nobody needs to consent to a search. Â Consequently, every time I am invited to talk to audiences about their right to remain silent and to refuse searches, I jump at the opportunity when my schedule permits. My next such appearance will once again be alongside Steve Silverman (we did a similar presentation for the undergraduate George Washington ACLU chapter and NORML last November 19), whose Flex Your Rights group produced the Busted video that is presented on every page of our blog. On March 26, 12:15 p.m. (addendum: on March 25, I learned that the announcement flyers say 12:00 p.m., but I will start at 12:15 p.m.), at a George Washington law school room to be announced (addendum: to be held in Stuart 201; enter at 2000 H St., and it's at the G St. side of the quad), we will speak around thirty minutes before Busted is screened by the law school's chapter of the American Civil Liberties Union. Â Everybody must know their Constitutional rights, whether or not they or those around them might become criminal suspects. If you live or work near the George Washington University law school,Â I encourage you to attend this March 26 event. If you do not, I urge that you read our rights page and view the Busted video today. Jon Katz.

Posted by Jon Katz in Criminal Defense at 00:00

refusing to voluntarily surrender your rights opens you up to harassment by an organization of well-armed men with a history of steroid abuse. on the other hand, if you make an obsequious show of compliance when the man demands you stand out on your porch in the cold dead of night in your underwear, you are much less likely to be targeted again in the future.

this has worked well for me in the past, so I don't see how the voluntary surrender of rights is anything other than rational

fighting for justice is a life's work. some of us would rather do other things with our lives, so are willing to sacrifice justice
Anonymous on Mar 24 2008, 06:23

Thanks, frijoles junior (which sounds like Spanglish for "junior beans") for posting your comment, with which I strongly disagree.

Anytime the cops force somebody to stand outside in their underwear sounds like a good basis for a civil rights lawsuit against the cops, and grounds for the offending cops to be fired. It sounds like too infrequent an occurrence for such a scenario to deter a person to assert his or her rights to refuse searches and to remain silent.

The first scene of the Busted video <http://www.youtube.com/watch?v=yqMjMPiXzdA> shows how asserting one's constitutional rights actually can tend to make cops go elsewhere in search of suspects who are more easy targets for giving up their rights to remain silent and to refuse to consent to searches.

No matter how unpleasant may be harassing-feeling encounters with cops, that pales in comparison to getting convicted after hearing a judge rule that the defendant has no right to suppress his or her statements or any searches, upon a finding that both were consensual.

Those, like you, willing to sacrifice justice, get the injustice they deserve. I hope that the rest of us will rally to an opposite path than your waiving your Constitutional rights.

Jon Katz
Anonymous on Mar 24 2008, 07:22

I once had a lawyer tell me that one day he estimated how many times he'd given the advice to refuse to speak with the police until you first speak with your attorney - close to 10,000 times since he'd began practicing criminal law.

While the title of your post suggests that you're "only" at 1000, I'm glad to see you're making an effort to catch up with him!
Anonymous on Mar 24 2008, 15:53

I love the FlexYourRights folks for doing what they do, but knowing your rights is not enough. The real trick is to exercise them when it counts.

I've sure been reading about, and blogging about, these kinds of issues for a long time, so I think I know my rights. But could I assert them in the face of a high-pressure police encounter? I'd like to think so, but so many people don't. Even expert police interrogators, when investigated by their own department, will crumble under the pressure.

How does a person learn these things so that they get them right the first time they ever try?
Anonymous on Mar 24 2008, 16:41

Thanks, Steve, for your comment, and for the humor attached to it. Clearly, the only way sufficiently to spread the word about people's rights to remain silent and to decline searches is for as many people as possible to spread the word.

It's as simple as starting by spreading the Busted video's URL <http://www.youtube.com/watch?v=yqMjMPiXzdA> and URLs and printouts to such well-done rights lists as ours <http://markskatz.com/TOP10.pdf> , plus talking to people one-on-one and in groups. It's a good message for t-shirts and bumper stickers, too.

The 1000 reference in my blog title only refers to my non-clients. Will you join me in this message-spreading crusade?
Anonymous on Mar 24 2008, 17:40

Thanks, WP, as always, for your comments. FYR's Busted video is an important starting point to building the practical confidence to decline police searches and interviews.

I think that Busted, though, involves too much chat by the suspects. I think it's better to go into a Gandhian state of peaceful-passive resistance where silence and "no" are mantras to help spread calmness and confidence throughout one's being each time the silence and no are intoned. For instance, nowhere is it written that when stopped for speeding or at a field sobriety checkpoint that you need to reply in any way to the officer's "how are you" other than with silence.

An acquaintance with little experience with cops successfully followed the Busted roadmap. If he could do it, so can you, and everyone else.
Anonymous on Mar 24 2008, 18:16

Please keep up the great work. I'd love to see this thing take off to the extent that it freezes the system. Add in jury nullification and we have the tools to take this thing apart - to smash it apart. I've often wondered what would happen if some sort of strike were successfully called in which nobody pled guilty and everyone demanded a jury trial. Wouldn't we have them by their little stormtrooper cajones then?
Anonymous on Mar 25 2008, 00:13