

## USING THE FIFTH AMENDMENT

Most Americans make the mistake of not beginning 'their case' in the first encounter with a government agent. Securing your rights requires that you know what they are and secondly, by extracting information from the government agent that delineates his limited authority. The following article was given to me as a photo copy from what appears to be some columnar printing. I have selected it to be a part of my web site because of the method by which an ordinary citizen has established his fifth amendment right 'not to be compelled to become a witness against himself' by providing certain documentation (drivers license and registration) that could be used against him in a court of law. For those of you struggling to secure your rights and avoid government abuse, the insight provided might serve as an excellent tutorial.

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By rfmeier@effectnet.com

Thursday I had an opportunity to practice the fifth amendment and other things I've been thinking on. Keep in mind that I have no driver's license and I have never registered my car. The plates on the car came with it when I bought it. The tags on the plates expired last year. Below is what happened.

At about 10:20PM on Thursday, September 14, 2000, I was traveling on Interstate 5 heading north and approaching the Interstate bridge that crosses the Columbia river between Oregon and Washington. There is an incline to the bridge and as I neared the top of the incline I saw, on the east (right) shoulder of the freeway, a police car. The way it was parked led me to believe that the officer inside was probably using some sort of speed detection device to determine the speed at which cars pass by him.

Well, I was one of those cars that passed by him and after doing so he put his car in gear and got behind me in the left most lane following me across the bridge. As soon as we were off the bridge he started his red and blue lights flashing. I navigated my car to the right shoulder of the freeway and stopped a little ways before the on ramp from SR 14 enters I-5. The officer got out of his car and came to mine. I locked my doors and rolled my window down about an inch and a half.

The officer informed me that he clocked me doing 70 in a 45 mph work zone. I ignored the statement and asked "How may I assist you?". The officer then said, "I need to see your driver's license." I said, "If I had such an instrument, could you use it against me?" He did not answer my question, but repeated his demand. I repeated my question. He ignored me again and again repeating his demand. I again asked if he could use it against me. I told him that I invoke my right which is protected by the fifth amendment - not incriminate myself. I asked: "Am I under arrest?" He said "No." I asked "is there any reason for you to believe than I'm engaged in any form of commercial activity requiring a license?" He said "The law requires you to show me your license." I said "Are you licensed to practice law?" He said that he was a police officer. I asked again if he was licensed to practice law and I asked: "Don't

you know, that only those licensed to practice law can make determinations of law, including a determination to whom the law applies?" He did not answer the question but again insisted that I show him my driver's license. I again asked if he could use it against me if I had such an instrument. I then asked again "Am I under arrest?" and again he said "No." He decided to go to his car for a bit. I sat there waiting for his return.

The officer returned and again asked to see my license. Again I asked if he could use it against me. I asked him to summon his commanding officer. I asked him for his business card and he said that he did not have one. He said his name was Mike Hanson and his badge number is 975. I then said "I put you on notice that you are in trespass upon several of my rights." I then said: "I put you on notice that for every minute you hold me here it will cost you ten thousand dollars." I asked him "is your house paid up because I'm going to own it. I'm going to sue you." Again I asked him if he was licensed to practice law and he would not answer.

After a couple rounds of wanting to see my license and me wanting to know if he could use it against me, he left to chat with another officer that had appeared.

Another officer approached, and we went through the "I need to see your license, will you use it against me routine." His name is something like Brusseau. Eventually he went away.

Then another officer came to the window on the other side of my car and pointed to the glove compartment while knocking on the window and saying something like "I need to see what's in there". I waved him to come around to my window and he came. I asked what he wanted and he said that he needed to search my car. I asked him if he had a warrant. He must not have liked that question because he left.

Another officer came who was with the Vancouver Police, He told me his name, but I did not catch it, I think it started with "Ta".

Anyway, he went on to explain how the other officers were just doing their jobs. I asked him if he was there to protect my rights or if he was in collusion with the other officers. He paused for a minute then continued on with the 'doing their job thing'. Then he left.

Another officer, black mustache, came to the other window pointing at my glove compartment. I waved to him to come on around, and then he left.

There were now two police cars behind me, a Vancouver police car on the on ramp from SR 14 and an unmarked police car behind him. Four police cars flashing their lights.

During the above, other officers were writing what is commonly known as the VIN number down and an officer started calling me "Steve something". I asked why they were calling me that name and they said that is who the car is registered to. I told them that you are making presumptions. Again they wanted to see my license and again I asked if it could be used against me if I had such a

license. Another officer had a camera and twice the flash went off. Both times I attempted to not be seen in the photograph. They all waked away for a few minutes.

The original officer came back and told me something like: "I will tend to the matter another time, have a good day." I said "OK". The officer turned off the lights on his car, but the others did not turn off their lights. I suspected entrapment and stayed where I was. About five minutes later, they got into their cars and one by one they left. When I was the only one there, I started my car and drove off.

I took the first exit, which was the Mill Plain exit and there was a Vancouver police car parked on the shoulder. I saw it go there when it left from the place of encounter. I passed it and it followed me, but in the lane to my right. I went under the bridge on Mill Plain and into the lane to turn to go south on I-5. The Vancouver police car passed me by. I went to SR 14 and then home.

The whole thing took about 30 minutes (approx. 10:20PM to 10:50PM). There was a lot of activity and I did not get everything that was said and the order may not be exact. Except for placing them on notice and invoking my right, all I did through the whole encounter was to 'ask questions'. Even when I informed them of certain facts, I did it in question form - like: "Don't you know that only those involved in commercial activity are required to have a license? Of course most of my questions went unanswered. Other questions I asked the first officer were: "Are you in collusion with the dispatcher?"; "is this being recorded?". He did say it was not being recorded.

My first plan was to get the names, badge numbers, and any other information I could, about the officers that were there that night. Whether the officer was acting on orders or was acting in a private capacity (yes I know that he was acting in a private capacity, but I want it admitted to by those above him or I will sue them as well). If he was acting under orders, then I will, of course, be required to sue his commanding officer also. And to find out if he was given orders by his commanding officer, continuing the discovery process all the way up to the governors' office. All of them that admit to authorizing said activity will be sued unless damages are paid me.

My current plan is to write a letter to the commanding officer of Officer Mike Hanson. In this letter I will attempt to determine if he authorized Mike Hanson to stop me without having any evidence that I was required to have license or for that matter, having any reason to believe that I was engaged in any activity requiring such a license. I need to know if Mike Hanson was acting independently or under orders of a superior.

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This concludes the article as it was provided to me.

Nine years ago I entered into a discussion with a person knowledgeable in law who had, at one time, been cited for failure to submit to a 'test' that would have informed the officer who made the 'stop', whether this person was 'driving under the influence' of alcohol. In other words, the test would have revealed whether he was 'drunk' or not.

Here in California, I believe that if you're convicted of driving drunk three times, you will be sentenced to 6 years in a State penitentiary. By doing so 'we the people' become the one causing injury. Most Americans do not know that it is unlawful (not illegal - you need to know the difference) to cause injury to a person who has harmed no one. A drunk driver, while I don't condone, support, or sympathize, is still a person who has harmed no one. And being true to the foundational principles of law, it is unlawful to cause this person injury through the use of the 'common force' that law represents when that person has not harmed anyone. In doing so we are punishing someone because 'they might be going to harm someone'. How ugly can we be? How ugly that an 'advanced civilization' would imprison someone because they might harm someone.

However, let him harm another through his chosen behavior and I have no problem if he is locked up for the next 25 years. But not because he 'might harm someone'. If you are foolish enough to attempt a justification of imprisonment or any other punishment provided through the courts to an individual who has harmed no one, I can guarantee you that I can find things in your life that you do everyday that are un-necessary and carry the potential to harm someone. Therefore, should I use 'force of law' to imprison your body because you might be going to cause someone harm by doing these 'un-necessary' activities? Just think of all the un-necessary things that you do that might cause someone else harm. Driving activities for example. Do you go fishing? Do you go out to dinner? Do you go to the movies or the theater? Do you go to ball games? Do you go out on dates? Do you go skiing? Do you go hiking? Do you go camping? These and a host of other daily activities are not necessary and each one carries the risk that you might cause injury to another. Should you be placed in prison because you are engaging in an un-necessary activity that 'might cause harm to another'?

It is my sincere hope that you are bright enough to answer: "NO!"

Back to the gentleman who appeared in court. Because the police officer in question had enough integrity not to lie under oath, it was discovered that the defendant had asked the officer to write and sign a statement that any information garnered or gathered by the test would not be used against him in court. The officer testified that he had refused to provide such a signed statement. The defendant then moved the court for dismissal based on the fact that the fifth amendment provides that an individual can not be compelled to become a witness against himself and that his bodily fluids are private and come under the protection of the fifth amendment. Based on this, the court granted dismissal of the charges.

And while I don't think that people should be driving drunk, neither do I think that they should be in prison. Most recognize that alcoholism is an illness. Part mental, part physical, but still an illness. Would we condone imprisoning people with AIDS? In many, if not most cases it was their choices and behaviors that brought them to this condition. How can we call ourselves civilized and imprison people who have harmed no one?

Know your rights ahead of time. Begin to secure them in your first encounter with a government agent (police or otherwise). Communicate with the administrating agency from which the citation or complaint was issued and make the communication in writing, sent through U.S. Mail, return receipt requested. When the receipt is returned to you by the postal service, it is evidence that your letter was

delivered. Attach it to a copy of the letter that you sent and keep it in your records. If your letter requires a response, as most will, you might request that any response be in writing 'by someone with the lawful authority' to make such response and that the response be signed by this person. Government agencies are great at making demands that no one signs. You might also consider making an assertion as to your position on the matters under discussion and that if no response is forth coming in 60 days, this will be construed that your stated position on these matters is acceptable to this 'government agency'. By doing so you are setting the stage for a 'default judgement'.

Remember to 'make your case' with the administrating agency, for if you don't bring it up with them, it is quite likely that you will not be allowed to bring it up in court.

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