

# Legal Information for People Attending Wet'suwet'en Solidarity Actions

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Wet'suwet'en Solidarity Actions

Version 2 | March 28, 2020

Vancouver, Coast Salish Territories

**PIVOT**  
LEGAL SOCIETY

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Version 2  
March 23, 2020

Vancouver  
Coast Salish Territories

Disobedience<sup>22</sup>, and Injunctions and Contempt of Court<sup>23</sup>.

Movement Defense: Legal Information for Wet'suwet'en Solidarity <sup>24</sup> also contains valuable information on these topics.

In short (from the above article by Dylan Mazur, "Activist Legal Info: Injunctions and Contempt of Court"):

## Civil Contempt

**This is not a criminal offence.** If you are charged with civil contempt, you will be prosecuted before a judge by the party who obtained the injunction. The party will need to prove beyond a reasonable doubt (the criminal standard of proof) the following three elements:

- Did the court issue an injunction order prohibiting certain acts?
- Did the particular accused know about the terms of the injunction order? Knowledge includes willful ignorance.
- Did the accused do one or more acts amounting to disobedience of one or more of the terms of the injunction? Disobedience must be deliberate or willful.

## Criminal Contempt of Court

**This is a criminal offence.** If you are charged with criminal contempt, you will be prosecuted by Crown Counsel before a judge. The Crown will need to prove beyond a reasonable doubt the following four elements:

- Did the court issue an injunction order prohibiting certain acts?
- Did the particular accused know about the terms of the injunction order? Knowledge includes willful ignorance. Did the accused do one or more acts amounting to disobedience of one or more of the terms of the injunction? Disobedience must be deliberate or willful.
- Did the conduct of the accused amount to a public defiance or violation of the order so as to make the contempt criminal as opposed to civil? The conduct must bring the administration of justice into disrepute or scorn.

**This resource will be updated on an ongoing basis. Check the Pivot Legal Society website for the most up-to-date version:**  
[http://www.pivotlegal.org/legal\\_information\\_for\\_people\\_attending\\_wetsuweten\\_solidarity\\_actions](http://www.pivotlegal.org/legal_information_for_people_attending_wetsuweten_solidarity_actions)

## Contact

Some of this information is specific to Vancouver and/or British Columbia. Please contact [sozan@pivotlegal.org](mailto:sozan@pivotlegal.org) if you would like the softcopy so you can update this resource for your community.

<sup>22</sup> <https://bccla.org/2018/03/protests-and-civil-disobedience/>

<sup>23</sup> <https://bccla.org/wp-content/uploads/2019/03/Injunctions-and-contempt-of-court-guide-1-2.pdf>

<sup>24</sup> <http://unistoten.camp/movement-defense/>

## RETAINING A LAWYER

### Emergency Legal Services

The Brydges Line is a province-wide toll-free telephone service available 24/7. You can call to speak to a lawyer if you're: arrested; detained; and under active investigation by the police or another law enforcement agency for a criminal offence and in custody, but you are not yet charged, and you need emergency legal services. They are only available to assist in these circumstances and will not answer general questions.

**Brydges Line services are available at: 1-866-458-5500 (call no charge)**

### Legal Representation

People facing criminal or immigration consequences as a result of their arrest may be able to get a lawyer for free through Legal Aid:

**1-866-577-2525 / 604-408-2172 (Greater Vancouver)**

**Website: <https://lss.bc.ca>**

If you end up being charged, or you need to apply to vary your conditions, you should try and work with a lawyer experienced in BC Supreme Court jurisdiction.

If you want to ask a lawyer to represent you pro bono (for free), first consider the nature of your own privileges and appreciate how that impacts your individual ability to access legal representation. There may be others who have been arrested who have already experienced violence with police, and who will disproportionately face greater risks to themselves when prosecuted by colonial courts. Access to Justice continues to be a major issue throughout the province.

### Criminal vs. Civil Contempt

The following resources contain great information on "What is an Injunction?", what happens if you don't obey one, and what is the difference between Civil vs. Criminal Contempt of Court: Activist Legal Info: Injunctions and Contempt of Court<sup>21</sup>, Protests and Civil

<sup>21</sup> <https://brokepipelinewatch.ca/activist-legal-info-injunctions-and-contempt-court/>

## ABOUT THIS RESOURCE

This document was drafted by Pivot Legal Society on the stolen lands of the x<sup>w</sup>məθk<sup>w</sup>əyəm (Musqueam), Skwxwú7mesh (Squamish), and səliwətaʔt (Tsleil-Waututh) peoples. The information provided here is a guide intended for people attending Wet'suwet'en Solidarity Actions so that they may be better informed when interfacing with law enforcement. This guide contains legal information on people's rights at protests, the law of injunctions, rights upon arrest and detention.

To read movement-centered legal information that draws on the experiences of legal defence collectives and individuals involved in movement legal defence read the Movement Defense Legal Information for Wet'suwet'en Solidarity<sup>1</sup> on the Unist'ot'en Camp website.

While every effort has been made to make this information legally accurate to the current date: this is not legal advice. For questions or concerns about particular circumstances, get specific legal advice from a lawyer.

### Acknowledgements

Pivot Legal Society would like to thank the following people for their support in reviewing this resource: Sarah Runyon, Marion & Runyon Criminal Lawyers; Kris Hermes, BC Law Union; Michelle Silongan, Singh Thind & Associates; and thanks to Ayendri Riddell for allowing us to make use of their work. We also note that we relied heavily on a number of existing resources listed in the previous section that lists additional resources. We would also like to thank the authors of the resources listed at the end of this document for their work, as we have cited and included excerpts from their work in this document.

<sup>1</sup> <http://unistoten.camp/movement-defense>

## Additional Resources

Pivot would like to specifically thank the authors of these resources which we consulted heavily in the preparation of this resource.

Alphabetically, by last name of author.

### **Activist Legal Info: Injunctions and Contempt of Court By Irina Ceric**

<https://twitter.com/irinaceric/status/1228782229175898114>

### **Protests and Civil Disobedience By Dylan Mazur (BCCLA)**

<https://bccla.org/2018/03/protests-and-civil-disobedience/>

### **Injunctions and Contempt of Court By Dylan Mazur (BCCLA)**

<https://bccla.org/wp-content/uploads/2019/03/Injunctions-and-contempt-of-court-guide-1-2.pdf>

### **The Law of Protest Workshop By Leo McGrady Q.C.**

<https://bit.ly/33oaorK>

### **Movement Defense Legal Information for Wet'suwet'en Solidarity Produced by Harsha Walia and edited by Irina Ceric**

<http://unistoten.camp/movement-defense/>

## Solidarity & Accountability

To learn about the different ways you can support Wet'suwet'en rights and title to their land, read the Wet'suwet'en Supporter Toolkit 2020<sup>2</sup> and look at the most recent Calls for Solidarity<sup>3</sup>.

If you plan to attend a solidarity action, please read the Unist'ot'en Camp's Resources on Allyship and Solidarity<sup>4</sup> to ensure that your efforts are aligned with the support that's being requested.

## A Note on Police Conduct

Please be aware that police do not always act lawfully. Indigenous people, racialized people, people with disabilities, trans and gender non-conforming people and poor people are disproportionately targeted by police and experience greater police violence as a result.

<sup>2</sup> <http://unistoten.camp/supportertoolkit2020/#Allyship>

<sup>3</sup> <http://unistoten.camp/support-us/solidarity-work/>

<sup>4</sup> <http://unistoten.camp/no-pipelines/resources/allyship/>

- Do not expect that police will allow you to bring any medication into cells.
- Law enforcement have policies against allowing unconfirmed medication in cells, even if it's in a prescription bottle.
- An officer may escort you to the hospital to ensure whatever substance is being brought back to cells is legitimate. This assumes (perhaps wrongly) the officer believes you and is otherwise willing to abide by internal policy.

To help someone who is in custody get medication:

- Call the police department and ask to speak with the officer in charge of the file, or, if that officer is not available, ask to be put through to cells.
- Explain what medication the detained person needs. If you have it: tell the officer where their prescription can be filled and how often they need the medication.
- Record the name and badge number of whoever you speak with and ask what phone number you should contact to follow up with them.
- Tell the officer you will be following up with them in a few hours - police are concerned about their personal liability if someone is harmed because they are not provided with medication. Taking an officer's name and saying you will follow up in a few hours increases their awareness that they are personally implicated in whether or not a person's medical needs are met, making it more likely a person will get their medication.

## If I am Prosecuted, What Court Will It Be In?

If you are prosecuted for contempt of court, your matter will be heard in the BC Supreme Court and you will have to appear there.

If you are prosecuted for Criminal Code charges, your matter will be heard in the BC Provincial Court (the court location will vary depending on where you are arrested).

## Should I Attend Future Protests After I'm Released

If you are arrested and released, it is very likely that your release document will prohibit you from attending future protests at **all locations covered by the injunction**. If you violate the terms of your release, you expose yourself to a "breach charge", which is a separate criminal charge. You can be convicted on the breach even if you are found not guilty on the original offence you were arrested for.

If you are arrested for breaching the terms of your release, or for other actions at a future protest (e.g. for violating a different injunction) the consequences will likely escalate, for example:

- You will be less likely to be released on an undertaking (more likely to be held overnight for a hearing)
- You are more likely to be charged with criminal contempt
- If ultimately convicted of both offences, you would face more serious penalties

That being said, having release papers, or even previous convictions does not ban you from taking part in **all** future protests, per your section 2 *Charter rights*.

You can participate in new protests at new locations, but if injunctions are obtained for those locations and you are arrested again, you will likely face escalating release conditions and ultimate penalties.

## Getting Medication in Custody

Access to medication is difficult when someone is detained in city cells. If medication is necessary to prevent serious illness, it must be expressed to the arresting officer.

## YOUR RIGHT TO PROTEST

Your right to protest is protected under ss.2(b) and 2(c) of the Canadian Charter of Rights and Freedoms: freedom of expression and freedom of peaceful assembly. These are fundamental and well-established constitutional rights.

The legality of any specific protest action depends on the context, but generally, Vancouver Police do not arrest peaceful protestors without an injunction (see below). That being said, the police do have a lot of discretion and limited oversight.

If you endanger others, damage property, trespass on private property, or significantly restrict essential services and processes within society (i.e. by blocking traffic), you are at a greater risk of arrest.

The VPD has Vancouver-specific Public Demonstration Guidelines <sup>5</sup> (updated May 2017).

**NOTE:** Current demonstrations in solidarity with Wet'suwet'en may be classified as "high-risk" by the VPD. Beware of how anti-Indigenous policing and discriminatory practices operate, even when officers seem "friendly" and "professional."

## Special Circumstances to Your Right to Protest

### What if I Am Not a Canadian Citizen?

Everyone is protected under section 2 of the Charter, regardless of whether they have Canadian citizenship. Attending a protest, in and of itself, should not impact a person's immigration status. However, permanent residents and non-status immigrants often face greater risks and consequences for civil disobedience. If a person is charged with committing a criminal offence or acting contrary to the terms of an injunction, it may have an impact on their immigration status.

If police or immigration officers ask you ANY questions, ask if you are free to walk away. If the answer is yes, walk away. If police avoid answering the question, ask again until you receive a clear yes or no. If you are not

<sup>5</sup> <https://vancouver.ca/police/assets/pdf/reports-policies/public-demonstration-guidelines.pdf>

free to go, you are either being detained or arrested. Read the section below for more information on arrests vs. detention.

"You do NOT need to provide ID (see the list of enumerated grounds below). Also be aware of answering any questions regarding your immigration status as that is usually how they figure out your status... You do not have to identify yourself (only ever name, address, birthdate)<sup>6</sup>," except in certain circumstances as explained in the section below on the difference between detention, arrest, and charge.

## What if I am a Youth?

"Youth have the same basic legal rights as adults do. However, if you are aged 12 to 17, you are a 'young person' under Canadian criminal law. When dealing with a young person, a police officer must first consider measures that do not involve arresting, such as a warning or talking to the young person's parents. If the young person is detained or arrested, [they] must be kept separate from adult detainees. The police must also take extra caution in making sure the young person understands [their] right to call a lawyer and ensure a parent or adult friend is present before trying to get a statement. Police officers must also contact the young person's parent or guardian and let them know the reason for arrest and the place that the young person is being detained." - from Movement Defense Legal Information for Wet'suwet'en Solidarity<sup>7</sup>.

## What if I am a Trans Person?

Police are legally prohibited from discriminating on the basis of gender identity or gender expression<sup>8</sup>. Such discrimination is illegal under both provincial and federal human rights legislation<sup>9</sup>. However, Trans

6 <http://unistoten.camp/movement-defense>

7 <http://unistoten.camp/movement-defense>

8 Gender identity is defined as "a person's sense of themselves as male, female, both, in between or neither. It includes people who identify as transgender" while gender expression "is how a person presents their gender. This can include behaviour and appearance, including dress, hair make-up, body language and voice. This can also include their name and pronoun, such as he, she or they". (<https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/human-rights/human-rights-protection/discrimination-gender-identity-expression.pdf>)

9 The BC Human Rights Code and the Canadian Human Rights Act

"undertaking." An undertaking is a commitment to not engage in certain behaviors pending the resolution of the legal matter (e.g. charges are withdrawn, found innocent or guilty etc.). Signing an undertaking is **not** an admission of guilt.

Choosing not to sign the PTA/Undertaking means you will likely not be released from custody immediately and will instead be held until you appear before a judge for a bail hearing. Your bail hearing must take place within 24 hours except in special circumstances (e.g. a justice is not available, or the Crown applies for an adjournment: *Canadian Criminal Code* ss. 503, 516(1)).

When considering whether to sign an undertaking, you should be satisfied you:

1. understand the terms of the document
2. can (or will) comply with its terms; and
3. that those terms are reasonable given the crime you are alleged to have committed.

If the undertaking simply tells you to follow the same terms as the injunction (e.g. not to attend at locations covered by the injunction) then you are likely to get the same conditions through a judge and it is probably not worth waiting.

If the police are seeking terms that seem overbroad and/or unrelated to the offence itself (e.g. a condition that you are not allowed to contact other people who were present at the protest, or not allowed to drink or do drugs), or terms that are setting you up for a breach (e.g. you are not allowed to go somewhere you have to go) it may be strategic to wait for a bail hearing so that those concerns may be expressed to the bail court judge (preferably by duty counsel or your own lawyer speaking on your behalf).

**NOTE:** There is a way to apply to vary conditions after you have been released, but it can be time and money intensive, especially if the Crown does not consent.<sup>20</sup>

20 See: <https://bit.ly/2UWLywG>

## WHAT HAPPENS AFTER I AM ARRESTED?

If you are arrested, you may be released at the site or shortly thereafter with or without paperwork (see below). If you are not released from the site of your arrest, you will be brought to short-term cells (ex. Vancouver Jail: 275 E Cordova St.).

In cells, you will be allowed to place calls until you reach a lawyer, but typically no one else.

Based on arrests at various ports on February 10, 2020: most people were taken into custody, held for several hours, and released on "Promises to Appear" or "Police Undertakings."

**Promises to Appear ("PTA")** either give people a date of when they must make an appearance in court or tell them that they will have to make an appearance in court if required. If it is the latter, you will receive a summons at a later date telling you when this court date is.

**Police Undertakings** include mandatory conditions (e.g. no contact orders, "no go" zones) for as long as a person's matter is before the courts (or until they vary their conditions on application - see below). These conditions are typically "keep the peace" and to not go to areas named in the injunction

People who refuse to sign the papers (see below), or who for other reasons are being treated more seriously (i.e. facing more serious criminal charges) must be brought before a judge within 24 hours of arrest for a bail hearing.

**NOTE:** if you are released from cells (not held for a bail hearing) you will be released from 275 East Cordova - friends and family wanting to meet you should ensure someone is at both the front and the back of the building as VPD have been releasing people from both exits.

## Should I Sign an Undertaking or Wait for a Bail Hearing?

When people are arrested and taken into police custody (i.e. in a police car or in cells) police may offer to release you upon signing an

people interacting with police in Vancouver report being misgendered and outed by members of the Vancouver Police. Trans people also face heightened risk of violence if taken into cells, where guards continue to question their gender and presentation. More information on trans peoples' rights in prison can be found on the Trans Rights BC website<sup>10</sup>.

<sup>10</sup> [http://www.transrightsbc.ca/wp-content/uploads/2017/01/TRBC\\_prison-system-2017-01.pdf](http://www.transrightsbc.ca/wp-content/uploads/2017/01/TRBC_prison-system-2017-01.pdf)



## WHAT TO BRING (AND NOT BRING) TO AN ACTION

DO BRING	DO NOT BRING
A buddy: Stay together and leave together	Address books or written contact information of friends and comrades
Tell someone who isn't attending the protest where you plan to be, and have a check-in plan for later	Weapons or illegalized drugs, police will use these to justify arrests
A pen and notebook, should you choose to take notes (see below on potential police seizure)	A cellphone (if you are planning to risk arrest). If you must bring a phone, it should be password protected, and not activated with facial or fingerprint recognition
If you plan to ignore police directions, have an arrest plan in place (see below)	
Phone number of legal counsel or Brydges Line (see the section below on retaining a lawyer) – write it on your hand in permanent marker	
A piece ID of (if you plan on being arrested) – this may mean you are processed more quickly if you are taken into custody	

### Arrest Plan

If you plan to refuse police directives, an arrest plan is essential for the safety of yourself and your comrades. Have a contact for pre-identified pro-bono legal counsel (see section below on “Retaining a Lawyer” for other options) or funds to pay your own legal bills. Speak to organizers and others co-ordinating the event to see whether there is already a lawyer or legal hotline available on call for you to phone from inside the jail if you are taken into custody.

- A person who has been arrested has not yet been charged.
- A charge is a separate event which typically takes place at a person's first court appearance.
- Once someone is formally charged, an Information (the formal charging document) will then be sworn and a “process” of some kind will be given to the accused (e.g. warrant, summons, etc).
- Generally speaking, the decision of whether to proceed with charges is up to the Crown.
- In cases of mass protests it is not uncommon for Crowns to decide to not charge people. The Crown Counsel Policy Manual sets out charge assessment decisions relating to “acts of civil disobedience.” You can find the policy in the Crown Counsel Policy Manual<sup>19</sup>.
- You may show up to your “first appearance” (AKA your first court date) to discover the Crown has decided not to charge you with an offence—or you may in fact be charged, at which point you will need to decide whether to retain a lawyer, etc.

### If I'm not charged criminally can I still be prosecuted civilly (e.g. civil contempt)?

Yes you can. The party that sought the injunction in the first place (e.g. Vancouver Fraser Port Authority) can ask the court to issue a warrant for your arrest. If the court agrees, a warrant will be issued, you will be charged with Civil Contempt, and served with materials setting out the basis of the Civil Claim. You will be given at least 7 days' notice of the hearing.

The party seeking Civil Contempt must apply to the court for this warrant. The more time that passes the harder it becomes to justify to a court. Lawyers practicing in this field say that if you have not received a summons within 1 month you probably won't receive one.

You may also be initially charged with Civil Contempt, and then the Crown can apply to have your charges converted to Criminal Contempt.

Read the section below for information on the difference between civil and criminal contempt.

<sup>19</sup> <https://bit.ly/2SDPolw>



## If You are Detained

- You cannot walk away.
- You have the right to remain silent and to be informed of the reasons for your detention.
- Police will likely try and speak with you, but you do not have to answer. Police may use your answers to further detain or arrest you.
- You have the right to retain and instruct counsel without delay and to be informed of that right.
- You have the right to be informed promptly of the reasons for your detention.
- You do not have to provide any information to police, unless you are being detained for a bylaw offence and are being issued a bylaw ticket in which case you must provide your name and address (additional documentation is required if you are driving).
- You may be searched **ONLY** via a frisk or pat-down search for weapons you could use to hurt police or yourself. In some cases, they may also look in your bags.

## If You Are Under Arrest

- You have all the same rights as if you are detained (Right to Silence, Right to Retain Counsel, Right to be Informed), **but**:
  - You must provide your name and address upon request.
  - The police may conduct a fuller search of your person and your "immediate surroundings."

Please see the following resources for further information on your Rights upon Detention and Arrest: Know Your Rights: A guide for people who rely on public space<sup>17</sup> and The Arrest Handbook: A guide to your rights<sup>18</sup>.

If I am not charged could I still have a "criminal record"?

Arrest information will not show up on an official "criminal record check" (e.g. for employment purposes), that being said, police have multiple databases they use to track information, and they may be able to see your previous arrests in those databases.

## Have I been charged with a criminal offence?

In Vancouver, the Crown (not the Police) decides whether or not a person should be charged with criminal offence.

Should charges eventually go forward, you can choose to have a lawyer represent you in court. While some lawyers may choose to represent you pro bono or pay-as-you-can, consider that their capacity to take clients is limited as well, and that their efforts will be targeted towards those most in need.

### An arrest plan includes details such as:

- Telling a friend you are attending a protest, where it is, and when you expect to check in.
- Giving a friend the number of the legal hotline or lawyer you plan to contact if arrested (if you are in cells, you will only be permitted to speak to your lawyer).
- Giving your lawyer the contact information for friends, family, etc.
- Making emergency arrangements, including who will contact work or family, care for your pets and dependents, etc.
- If you will need access to medication see the section below "Getting Medication in Custody".

<sup>17</sup> <http://www.pivotallegal.org/know-your-rights-handbook>

<sup>18</sup> [https://bccla.org/our\\_work/the-arrest-handbook-a-guide-to-your-rights](https://bccla.org/our_work/the-arrest-handbook-a-guide-to-your-rights)

## AT THE SOLIDARITY ACTION

### What is a Legal Observer?

Legal Observers attend actions to watch, record, and report the activities of law enforcement with the goal of later using that information as an objective account of events. Historically, "legal observers" hold themselves out as "neutral" whereas observers who are engaged in movement support typically only record the actions of law enforcement so as not to incriminate protesters in the event their devices are seized. Legal observers do not have any special protections in law (see below).

### Note Taking and Filming (as a Legal Observer or Participant)

#### Can I film police?

Yes. Recording and documenting police actions is a well-known strategy to demand police accountability. However, please note that recordings of people risking arrest may also be used as evidence against them at trial, especially if the video is uploaded to a publicly accessible platform. Others in attendance at the site may have reasons for feeling particularly uncomfortable around cameras. Respect their wishes if asked not to film.

It is legal as long as you keep a reasonable distance and are not physically interfering with an investigation. If you have questions about an officer's conduct, you can ask them questions, such as "Why are you on site?", but they do not have to answer your question. Whenever possible, copwatch with another person. The police cannot be relied on to follow the law.

#### Can police seize my notebook or camera if I'm documenting people engaging in civil disobedience?

In short, yes. Even if you are a legal observer, any information you gather may be seized by police if they have "reasonable and probable grounds" to believe it is evidence of a crime. Unless you are a lawyer who has a solicitor-client relationship with the person you are collecting information about, your notes and devices are not protected from seizure. You cannot protect your notes/videos from seizure by simply e-mailing them to a lawyer or legal-organization with which you do not

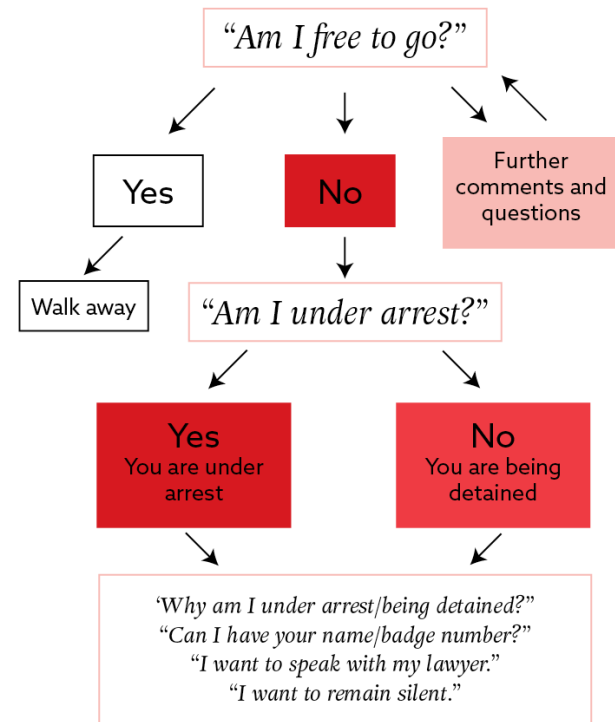
## THE DIFFERENCE BETWEEN DETENTION, ARREST AND CHARGE

The police may detain a person for investigation if there are reasonable grounds to suspect in all the circumstances that the individual is connected to a particular crime and that such detention is necessary. Investigative detention must be brief in duration and conducted in a reasonable manner. In order to arrest a person police must have strong grounds ("reasonable and probable") to believe they are connected to a particular crime.

The following flowchart can help a person navigate a police interaction and determine whether they are being arrested or detained.

### Street stop flowchart

An officer walks up to you...



You don't have to say anything to police unless you are:

- under arrest;
- driving a car/involved in a car accident; or
- riding a bike.

You must provide your **name** and **address** but nothing else. If the bike/car is not your own, you must also provide the name and address of the owner.

- **You cannot avoid being arrested by refusing to take a copy of the injunction papers or plugging your ears while it is read out.**
  - The question of whether someone has knowledge of the terms of an Order goes to the question of guilt for Civil or Criminal Contempt, not the question of whether the police can remove them from the property in the moment.
  - If the matter does proceed to trial, courts consider “willful ignorance” (intentionally avoiding finding out legal information) to be the same as knowledge.

#### 4 Things to Look For When You Read an Injunction

- The date the injunction comes into effect and ceases to operate (if there is an end date)
- The precise location of the injunction (AKA what area does it cover)
- The powers police have or have not been granted (e.g. are they actually allowed to arrest people? This has to be explicit in the injunction itself.)
- The “notice” that must be provided before an injunction comes into effect

have a solicitor-client relationship. Instead, take these steps to secure your possessions and information:

- If you are using your phone – ensure it requires a code to be unlocked (not fingerprint or facial recognition – which police may use to access and search your phone).
- Save your detailed notes where they can be retrieved if you lose your device or access to online accounts (i.e. password-protected word document, encrypted USB, etc.).
- If police ask for your devices/notebook:
  - Ask on what basis they are asking to look at/seize your possessions.
  - If they say it is because they have a reasonable basis to believe it contains evidence of a crime:
    - Say “I do not consent” to showing you this/giving you this (this protects future Charter challenges).
    - I will give you my contact information and commit to preserving this information in the event you obtain a warrant.
  - If they insist on you providing the information immediately:
    - Ask if you can send them a copy right then (e.g. forward them the video via e-mail) rather than handing over your device.
    - You may wish to cite VPD Policy 1.9.15: “Members shall:
      1. When seizing property at a crime or investigative scene for evidence consider photographing the property and returning it to the owner... 2. Advise the owner to retain the property until after the court process is complete and that it may be required as evidence.”<sup>11</sup>

#### Should I Speak to Media?

Generally speaking, organizers of events and actions will have appointed their own media liaisons and you should direct media request to them. Anything you share with the media may be used against you or other action participants by law enforcement. Familiarize yourself with the key asks of the Wet’suwet’en Hereditary Chiefs<sup>12</sup>, Unist’ot’en Healing

<sup>11</sup> <https://vancouver.ca/police/assets/pdf/manuals/vpd-manual-regulations-procedures.pdf>

<sup>12</sup> <http://www.wetsuweten.com/>

Centre<sup>13</sup>, and the Gidimt'en Yintah Access Checkpoint<sup>14</sup> so that you can answer questions that arise in your personal networks.

## Should I Talk to Police?

In short, no. If you are attending a solidarity demonstration and you are not a delegated police liaison/contact, do not speak with any law enforcement unless legally required—i.e. you are being arrested. Engaging with the police is risky and undermines solidarity. The police are always investigating, even if they seem “friendly” and “approachable.” Whatever you say can be used against you and others in court if there are arrests.

- If police ask you a question (including your identity), ask if you are free to go.
  - If the answer is yes, walk away.
- If police avoid answering the question, ask again until you receive a clear yes or no.
- If you are not free to go, you are either being detained or arrested. Refer below for further details.

See the section below on the difference between detention, arrest, and charge for further information on police interactions.

<sup>13</sup> <https://unistoten.camp/>

<sup>14</sup> <https://www.yintahaccess.com/>

## WHEN COULD I BE ARRESTED?

“Most protests and demonstrations are peaceful and lawful, with no arrests. Where you run the risk of arrest is when you breach a term of a court-ordered injunction.” – from BCCLA Protests and Civil Disobedience<sup>15</sup>.

**NOTE:** If a person commits other offences while at a protest (e.g. assault, causing mischief, possession of a weapon, causing a disturbance) they could face arrest or charges on those other offences. For a list of other common charges people face at protest please see the Movement Defense: Legal Information for Wet'suwet'en Solidarity<sup>16</sup> resource.

## Injunctions

During recent solidarity demonstrations, police have typically not arrested peaceful protesters until AFTER having obtained a court “injunction.” Injunctions can be obtained quickly (i.e. within hours) and potentially quite easily (particularly if the protest is blocking a main thoroughfare). If there is overt violence and property damage, however, police will likely arrest protesters even without an injunction.

## Key information about injunctions

- Injunctions don't have to name you specifically – e.g. they can apply to any person within a given area.
- Once an injunction is issued, anyone who violates it could be guilty of Civil or Criminal Contempt. Criminal Contempt charges are often used when the breach of the injunction is public (i.e. those who are being arrested do so knowing or hoping it will garner media attention) rather than private. See the section below for more information on these charges and the difference between them.
- Usually, an injunction includes an “Enforcement Order,” which outlines the rules police must follow in enforcing an injunction (AKA in removing protesters).
  - Enforcement Orders generally require police to make some effort to advise people of the terms of an injunction prior to enforcement but these efforts may be minimal.
  - Police will generally hand out copies of an injunction and/or read it out on a loudspeaker or megaphone prior to arresting people.

<sup>15</sup> <https://bccla.org/2018/03/protests-and-civil-disobedience/>

<sup>16</sup> <http://unistoten.camp/movement-defense/>