

Bush Justice Development Program

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Informal Instructions for Defendants in the Magistrates Court

Some people say, "The best thing to do when you are arrested is to do whatever they tell you and say whatever they tell you is true."

This is a mistake. The legal system can only help and protect you and your family if the people who are hired to work with the law - the judges - the police - do their job correctly.

The reason why there are state courts that are higher in authority than my court and the reason why the rules in the courts make the police speak first in a hearing, is to make sure that the people with power to arrest and judge people do it correctly.

If you plead not guilty you can help the state of Alaska and your village.

1. Train the police and review their activities.
2. Train the judge and help me, your magistrate, do a job that only I can do.

The court system cannot work in a way that makes good sense unless you let the judges as well as the police do their job.

I ask you if you plead guilty or not guilty. But only a person who is as certain as a judge that he is guilty can plead guilty. To plead not guilty does not mean you want to get away with anything. You are saying:

"I do not understand the law or the policeman's job. I am not trained for that. I understand that the judge can best make this decision about whether the law was broken from the things I did. I will let the judge decide."

Here is a good test for you.

Did you understand the law that the policeman claims you have broken - not part of it but every word. [read the law] Is the complaint an exact description of what you did - not a general description? [read the complaint]

The best step for any confusion that you have is to plead not guilty so that you can have the judge examine the law and the facts.

If you plead not guilty, it means that you are not sure if you have broken the law or not. It means that you are not sure and want to give me a chance to look at the evidence that the police bring to my attention and make the final decision. This is my job and I am happy to do it. I will not be angry or hard on you if you plead not guilty.

The policeman is not the one who decides if you are guilty. He only arrests you and brings you and the facts that he has gathered to me.

The policeman is not the judge. I am.

If you plead not guilty, you help me. Only when you plead not guilty can I do what I am trained to do.

I will look at the law. I will look at the facts. I will listen to your side if you want to say anything or ask the policeman questions. Then I will decide if you are guilty according to the law.

It does not really matter if you feel guilty or not guilty or if being arrested and brought here makes you feel guilty.

You may feel guilty, but according to the facts and the law you may be innocent. You may feel innocent, but according to the law and the facts you may be guilty.

This is a legal decision that I am best trained to make, not you or the policeman.

If you want to plead guilty you should already know:

1. The law and understand what it says
2. The facts that the policeman will present to me
3. If those facts will prove that you are guilty of breaking that law without a lingering doubt in the mind of any sensible person.

If you are not sure about the law or the facts and how they work together, you should let me as the judge study both and make the decision.

If it is possible for you to go to jail and you do not have money to pay a lawyer to tell your side and to ask questions for you about this problem, you can ask me and I will get a lawyer to come down here and represent you for free.

A lawyer is trained to make sure that all of the facts that will help you are brought to my attention. He is trained in law school to ask the right questions. He will be on your side. He is the one who can best decide what will help you in this case and what will hurt you.

I will not be harder on you if you ask for a lawyer. The lawyer helps me make the right decision. The state has money for this that it wants to spend to guarantee the rights of people who are arrested.

The law of Alaska and the judges, such as myself, have a different idea about people who do not speak up and apologize but decide to keep silent about what happened. The law does not think that a man who keeps quiet is a bad man who should get a harder punishment. The law does not expect you to get yourself in trouble by talking about what the policeman says you did. It does not think this is smart. It expects the policeman to investigate cases and learn about proof on his own without your help.

In the village council, people may expect you to speak and be angry with you if you do not speak. But the council is not a court. They are interested in a compromise between village people not in the way the law works.

In your church, the pastor may tell you that to confess your sin is the best thing for you and everybody else. This is not the way the law looks at it because it knows that you may not be sure about the law and the way that the facts work with the law.

I will not be angry with you if you keep silent. There will be time later on for you to talk about yourself if you are found guilty by me before I decide what punishment will be best. Then we can talk about you and the way you act. But that is for later. That is not for now.

This thing that we call an appeal is sometimes a very good thing to ask for. It does not mean that you will receive more punishment then. It can only help you. The judge in the Superior Court will look at the law and the facts and decide if I acted correctly in this case in my decision about you.

I could be wrong. I learn about the way the law works from the help and advice that I receive from the Superior Court judge. I will not be angry with you if you appeal because it helps me learn more. Nobody else will say that you are a bad person if you appeal your case. I will help you do it if you want to appeal.