

No JURISDICTION = No AUTHORITY

Quaelibet jurisdictio cancellos suos habet.

Every jurisdiction has its bounds.

Bouvier's Law Dictionary, 1856

This page should serve to illuminate some issues regarding a necessary element that is foundational to an officer's exercise of authority, JURISDICTION. Without it, an officer's demand or command lacks constitutional foundation, and absent constitutional foundation:

Jurisdiction consists of "in personam", "subject matter" and "geographic".

“Once challenged, jurisdiction cannot be ‘assumed’ it must be proved to exist”.

Stuck v Medical Eaminers, 94 Ca.2d 751, 211 P. 2s 389

“Jurisdiction once challenged cannot be assumed and must be decided”.

Main v. Thiboutot, 100 S.Ct. 2502

“...federal jurisdiction cannot be assumed, but must be clearly shown”.

Brooks v. Yawkey, 200 F. 2d 633

“No sanction can be imposed absent proof of jurisdiction”.

Stanard v. Olesen, 74 S. Ct. 768

“The law requires proof of jurisdiction to appear on the record of the administrative agency and all administrative proceedings”.

Hagans v. Lavine, 415 U.S. 533

“If any tribunal finds absence of proof of jurisdiction over person and subject matter, the case must be dismissed”.

Louisville Rail Road v. Motley, 211 U.S. 149, 29 S.Ct. 42

“Jurisdiction is essential to give validity to the determination of administrative agencies and where jurisdictional requirements are not satisfied, the action of the agency is a nullity...”

City Street Improvement Co. v. Pearson, 181 C. 640, 185 P. 962,

We think it is clear that... ..the officers provided for by the act herein under consideration, nor any other official acquired any jurisdiction of petitioner to consider or make any order and that the order made is null and void. This, of course, because petitioner herein was not a licensed contractor at the time of the proceeding which is a precedent necessity before any action is authorized.

O’Neil v. Dept. Of Professional & Vocational Standards, 7 Ca 2d 395, 46 P. 2d 234

“Therefore, it is necessary that the record present the fact establishing the jurisdiction of the tribunal”.

Lowe v. Alexander, 15 C. 296, *People v. Board of Delegates of San Francisco Fire Dept.*, 14 C. 479

Also see the following for citations re the person asserting jurisdiction must, when challenged, prove that jurisdiction exists:

McNutt v. G.M., 56 S.Ct. 789, 80 L.Ed 1135,

Griffin v. Matthews, 310 Supp. 341, 423,

Basso v. U.P.L., 495 F. 2d 906,
Thompson v. Gaskiel , 62 S.Ct. 673, 83 L.Ed. 111,
Albrecht v. U.S., 273 U.S.

“...the states are separate sovereigns with respect to the federal government”.
Heath v. Alabama, 474 U.S. 187

“There is a canon of legislative construction which teaches Congress that, unless a contrary intent appears is meant to apply only within the territorial jurisdiction of the United States”.
U.S. v. Spelar, 338 U.S. 217 at 222

“All legislation is prima facie territorial”.
American Banana Co. v. U.S. Fruit, 213 U.S. 347 at 357-358

“Criminal jurisdiction of the federal courts is restricted to federal reservations over which the Federal Government has exclusive jurisdiction, as well as forts, magazines, arsenals, dockyards or other needful buildings”.
Title 18 USC, §451, 3rd paragraph

“The laws of Congress in respect to those matters do not extend into the territorial limits of the states, but have force only in the District of Columbia, and other places that are within the exclusive jurisdiction of the national government”.
Caha v. U.S., 152 U.S. 211

“It is an elementary rule of pleading, that a plea to the jurisdiction is...a tacit admission that the court has a right to judge in the case, an is a waiver to all exceptions to the jurisdiction”.
Girty v. Logan, 6 Bush Ky. 8

“Every person born or naturalized in the United States and subject to **its** jurisdiction is a citizen”.
Title 26, CFR §1.1-1(c)

Why was the word “**their**” not use in place of the word "**it's**"? "It's" denotes the singular and not the many, as in *states* of the union.

"...the principle that a citizen can defy an unconstitutional act is deep in our system".
[Emphasis added]
Thomas v. Collins, 323 U.S. 516, 532-537. [392 U.S. 598, 614]

When in a recent case (*Wright v. Georgia*, 373 U.S. 284, 291-292), it was said that "failure to obey the command of a police officer constitutes a traditional form of breach of the peace," we made a qualification: "**Obviously, however, one cannot be punished for failing to obey the command of an officer if that command is itself violative of the Constitution.**" {Emphasis added]
Wainwright v. City of New Orleans, 392 U.S. 598 (1968)

"Ignorance of the law does not excuse misconduct in anyone, least of all in a sworn officer of the law."[Emphasis added]
In re McCowan (1917), 177 C. 93, 170 P. 1100.

□ **YOU ARE THE FIRST LINE OF DEFENSE** □
IN THE PROTECTION OF YOUR OWN RIGHTS

Constitution for the State of California, 1849

Article I: Declaration of Rights

Sec. 1.

All men are by nature free and independent, and have certain unalienable rights, among which are those of enjoying and **defending life and liberty**: acquiring, possessing and protecting property: and pursuing and obtaining safety and happiness.

"The law helps the vigilant, before those who sleep on their rights."
California Civil Code § 3527

Vigilantibus et non dormientibus serviunt leges.
The laws serve the vigilant, not those who sleep upon their rights.
2 Bouv. Inst. n. 2327.
Bouvier's Law Dictionary, 1856

This is a fact, the people are the BOSS, the following excerpts are YOUR AUTHORITY, and establishes the JURISDICTION of the sovereign people:

Constitution for the State of California, 1849

Article I: Declaration of Rights

Sec. 2.

All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people;...

Sec. 21.

This enumeration of rights shall not be construed to impair or deny others, retained by the people.

GOVERNMENT CODE §100

100. (a) The sovereignty of the state resides in the people thereof,...

GOVERNMENT CODE §54950

54950 DECLARATION OF LEGISLATIVE PURPOSE. "In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the

other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created".

It will be admitted on all hands that with the exception of the powers granted to the states and the federal government, through the Constitutions, **the people of the several states are unconditionally sovereign** within their respective states."

Ohio L. Ins. & T. Co. v. Debolt, 16 How. 416, 14 L.Ed. 997.[Emphasis added]

This is a fact, public servants are REQUIRED to swear an oath to protect and defend the Constitution and your constitutionally secured rights:

Constitution for the State of California, 1849

Article XI: Miscellaneous Provisions

Sec. 3. Members of the legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States, and the Constitution of the State of California; and that I will faithfully discharge the duties of the office of ----- according to the best of my ability."

This is a fact, police are officers of the EXECUTIVE branch of government, they are Executive Officers.

This is a fact, police officers, as officers of the Executive branch of government, are not permitted to exercise power or authority of a Judicial officer of the Judicial branch of government, this violates the Separation of Powers doctrine, the following section from the Constitution of the State of California, and their oath:

Article III: Distribution of Powers.

The powers of Government of the state of California shall be divided into three separate departments: the Legislative, the Executive, and Judicial; and no person charged with the exercise of powers properly belonging to one of these departments, shall exercise any functions appertaining to either of the others, except in the cases hereinafter expressly directed or permitted.

When you are stopped, whether on foot, in your car, with another, **REMEMBER**: BEFORE you make a decision to reveal your personal and private information about who you are to a police officer,

A constitutional amendment adopted in 1974 elevated the **right of privacy to an**

"inalienable right" expressly **protected by force of constitutional mandate** (Cal. Const. art. I, 1). It may be safely assumed that **the right of privacy extends to** one's confidential financial affairs as well as to **the details on one's personal life**.

Valley Bank of Nevada v. Superior Ct. (1975) 15 Cal.3d. 652, [125 Cal.Rptr. 553, 542 P.2d. 977] [Empahsis added]

you are the DEFENDANT/ACCUSED, AND you are also your own COUNSEL, and are ENTITLED to KNOW certain issues regarding why you have been stopped and what you are being accused of.
YOU HAVE RIGHTS:

Of course, opposing counsel has the right to learn the operative facts as it relates to the issues.

Mack v. Superior Ct., (1968) 259 Cal.App.2d. 7; *Kenny v. Superior Ct.*, (1967) 255 Cal.App.2d. 106.

Police/Executive officers MAY accuse, they CAN NOT exercise the authority of a Judge. When a police officer stops you and accuses you of something, they become your accuser and WITNESS for the prosecution. They are not a judicial officer and CAN NOT try, convict, and punish you without violating their oath and the law (denial of Due Process & Separation of Powers).

This is a fact, you have the RIGHT to protect and defend yourself:

CALIFORNIA CIVIL CODE

SECTION 50

50. Right to use force

Any necessary force may be used to protect from wrongful injury the person or property of oneself, or of a wife, husband, child, parent, or other relative, or member of one's family, or of a ward, servant, master, or guest.

Enacted 1872. Amended Code Amdts 1873-74 ch 612 §12.

PENAL CODE

SECTION 692-694

692. Lawful resistance to the commission of a public offense may be made:

1. By the party about to be injured;
2. By other parties.

693. Resistance sufficient to prevent the offense may be made by the party about to be injured:

1. To prevent an offense against his person, or his family, or some member thereof.
2. To prevent an illegal attempt by force to take or injure property in his lawful possession.

694. Any other person, in aid or defense of the person about to be injured, may make resistance sufficient to prevent the offense.

A private person may use such force as is necessary to prevent an assault upon his person or an injury to his property.

Frickstad v Medcraft (1929) 100 CA 188, 279 P 840; *Nakashima v Takase* (1935) 8 CA2d 35, 46 P2d 1020; *Haeussler v De Loretto* (1952) 109 CA2d 363, 240 P2d 654.

One may protect his property with all force reasonably necessary for that purpose.

Fawkes v Reynolds (1922) 190 C 204, 211 P 449.

Force that one may use in self-defense is that which reasonably appears necessary in view of all circumstances to prevent impending injury.

McAfee v Ricker (1961) 195 CA2d 630, 15 Cal Rptr 920.

"The Constitution of most of our states (and of the United States) assert that **all power is inherent in the people**; that they may exercise it by themselves; that it is their right and duty to be at all times armed and that they are entitled to freedom of person, freedom of religion, freedom of property, and freedom of press." [Emphasis added]

Thomas Jefferson

"If the representatives of the people betray their constituents, there is then no recourse left but in the exertion of that original right of self-defense..."

Alexander Hamilton, *The Federalist Papers*, No. 28

"...the principle that a citizen can defy an unconstitutional act is deep in our system". [Emphasis added]

Thomas v. Collins, 323 U.S. 516, 532-537. [392 U.S. 598, 614]

When in a recent case (*Wright v. Georgia*, 373 U.S. 284, 291-292), it was said that "failure to obey the command of a police officer constitutes a traditional form of breach of the peace," we made a qualification: "**Obviously, however, one cannot be punished for failing to obey the command of an officer if that command is itself violative of the Constitution.**" [Emphasis added]

Wainwright v. City of New Orleans, 392 U.S. 598 (1968)

ASKING the officer a few questions regarding the stop is perfectly legal and well within your JURISDICTION and rights and to protect and defend yourself.

The Legislature has told us at Evidence Code §520 that the burden of proof is on the accuser:

EVIDENCE CODE

SECTION 520-523

520. The party claiming that a person is guilty of crime or wrongdoing has the burden of proof on that issue.

This is a fact, IF you are accused of something, you are the DEFENDANT, and are NOT REQUIRED to prove your innocence, the police officer as your ACCUSER is REQUIRED, pursuant to the aforementioned Evidence Code section, to PROVE you are guilty. You are INNOCENT until PROVEN guilty in a court of law, NOT AT CURBSIDE, but IN A COURT with a judicial officer as an impartial trier of fact.

You are well within your rights to ask the following questions to ascertain the **NATURE OF THE STOP**. These questions will provide you with NECESSARY information to determine whether the officer has JURISDICTION. The following are "YES" or "NO" questions. They are designed so that you can determine with the least amount of effort and simply to determine what is happening. Any

other reply is a game being played to get you to lose. Ask ONLY THOSE QUESTIONS you feel absolutely confident about and then **STOP**.

Officer, is your recording device activated?

Am I under arrest?

Am I free to leave?

Is this State authorized business?

Are you conducting a criminal investigation?

You have the right to remain SILENT AFTER you're arrested, you have the RIGHT to remain SILENT BEFORE you're arrested. The ACCUSED IS INNOCENT UNTIL PROVEN GUILTY IN A COURT OF LAW.

If you have determined that you are being accused of something, you are now an ACCUSED/DEFENDANT, and as your own COUNSEL, it would be in your best interest NOT TO ASSIST YOUR ACCUSER IN PROVING THEIR ACCUSATION/S BY PROVIDING POTENTIALLY INCRIMINATING EVIDENCE. Your name & address is YOUR PERSONAL & PRIVATE PROPERTY which MAY BE used to make a case against you. Once again citing the Legislature:

EVIDENCE CODE
SECTION 520-523

520. The party claiming that a person is guilty of crime or wrongdoing has the burden of proof on that issue.

Semper necessitas probandi incumbit qui agit.
The claimant is always bound to prove: the burden of proof lies on him.
Bouvier's Law Dictionary, 1856

A universal principle as old as the law, is that a proceedings of a court without jurisdiction are a nullity and its judgment therein without effect either on person or property.
Norwood v. Kenfield, 34 C. 329; *Ex parte Giabonini*, 117 C. 573, [49 P. 732]

Jurisdiction is fundamental and a judgment rendered by a court that does not have jurisdiction to hear is void ab initio.
Re Application of Wyatt, 114 Ca.App. 557, [300 P. 132]; *Re Cavitt*, 47 Cal.App.2d. 698, [118 P.2d. 846].

Where a statute requires a court/tribunal to exercise its jurisdiction in a particular manner, or subject to certain limitations, and to follow certain procedure, **any act beyond those limitations is in excess of its jurisdiction**.
Los Angeles County v. Surety, 208 Cal.Rptr. 194.[Emphasis added]

COLOR OF OFFICE, criminal law. A wrong committed by an officer under the pretended authority of his office; in some cases the act amounts to a misdemeanor, and the party may then be indicted. In other cases, the remedy to redress the wrong is by an action.
Bouvier's Law Dictionary, 1856

COLOR OF OFFICE. An act unjustly done by the countenance of an office, being grounded upon corruption, to which the office is a shadow and color. Plow. 64. *Day v. National Bond & Investment Co.*, Mo.App. 99 S.W.2d 117, 119. A claim or assumption of right to do an act by virtue of an office, made by a person who is legally destitute of any such right.

Feller v. Gates, 40 Or. 543, 67 P. 416, 56 L.R.A. 630, 91 Am.St.Rep. 492; *Citizens' Bank of Colquitt v American Surety Co. of New York*, 174 Ga. 852, 164 S.E. 817; *Pontiac Trust Co. v. Newell*, 266 Mich. 490, 254 N.W. 178, 181.

Black's Law Dictionary, 4th Edition, 1951

"An officer who acts in violation of the Constitution ceases to represent the government". [Emphasis added]

Brookfield Const. Co. v. Stewart, 284 F. Supp. 94.

Extra territorium jus dicenti non paretur impune.

One who exercises jurisdiction out of his territory is not obeyed with impunity.

Bouvier's Law Dictionary, 1856

"...an officer may be held liable in damages to any person injured in consequence of a breach of any of the duties connected with his office...The liability for nonfeasance, misfeasance, and for malfeasance in office is in his 'individual', not his official capacity..."

70 AmJur2nd Sec. 50, VII Civil Liability.

There are PENALTIES for one acting in such a way:

Title 18 United States Code, §241, provides that... "**any person** who goes on the highway in disguise to prevent or hinder the free exercise and enjoyment of any right so secured by law...shall be fined not more than \$10,000.00 or imprisoned not more than ten years or both." [Emphasis added]

Once the officer loses JURISDICTION, he/she becomes a private person just like you and is now suffering LEGAL JEOPARDY because he/she has stepped out from behind the badge. If the officer proceeds after losing JURISDICTION, he/she then trespasses or encroaches upon your rights.

Title 42 United States Code, §1983:

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or territory, or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States, or other person within the jurisdiction thereof, to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity or other proper proceedings for redress."

"To maintain an action under 42 USC 1983, it is **not necessary to allege or prove that the defendants intended to deprive plaintiff of his Constitutional rights or that they acted willfully, purposefully, or in a furtherance of a conspiracy.** . . . it is sufficient to establish that the deprivation. . . was the natural consequences of defendants acting under color of law. . . ." *Ethridge v. Rhodos*, DC Ohio 268 F Supp 83(1967), *Whirl v. Kern* CA 5 Texas 407 F 2d 781 (1968)[Emphasis added]

Constitution for the United States of America

Article IV.

The right of the people to be secure in their persons, houses, and papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrant but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

"The Fourth Amendment, of course, 'applies to all seizures of the person, including seizures that involve only a brief detention short of traditional arrest.' *Davis v. Mississippi*, 394 U.S. 721 (1969); *Terry v. Ohio*, 392 U.S. 1, 16-19 (1968). '[W]henver a police officer accosts an individual and restrains his freedom to walk away, he has 'seized' that person... and the fourth Amendment requires that the seizure be reasonable'.
U.S. v. Brignoni-Ponce, 422 U.S. 873, 878 (1975)"

In a unanimous decision the U.S. Supreme Court held: 'demand for identification is an intrusion on the interests prohibited by the Fourth Amendment and requires reasonable suspicion based on articulable facts relating to the person or his or her conduct, in order to be lawful.

When police officers, with or without arresting an individual, detain the individual for the purpose of requiring him to identify himself, they perform a seizure of person subject to the requirements of the Fourth Amendment. ...that the defendant's conviction requiring identification upon a lawful stop was improper, the police officer's stopping the defendant and requiring him to identify himself violated defendant's First, Fourth and Fifth Amendments was in violation of...United States Constitution when the police officer has no reasonable suspicion to believe that the defendant was engaged or been engaged in criminal conduct.

Brown v. Texas, (1979) 443 U.S. 46 [61 L.Ed.2d. 357]

The LAW is CLEARLY on your side, BUT you have to exercise your power and authority as one of the sovereign people and effectively defend YOUR FREEDOM and RIGHTS.

Extra territorium jus dicenti non paretur impune.
One who exercises jurisdiction out of his territory is not obeyed with impunity.
Bouvier's Law Dictionary, 1856

Sublato fundamento cadit opus.
Remove the foundation, the structure or work fall.
Bouvier's Law Dictionary, 1856

THE PEACE OFFICER CAN NOT COMPEL/FORCE YOU TO CONFESS OR BEAR WITNESS AGAINST YOURSELF:

Nemo tenetur seipsum accusare.
No one is bound to accuse himself.

Nemo tenetur armare adversarum contra se.
No one is bound to arm his adversary.

Nemo tenetur jurare in suam turpitudinem.
No one is bound to testify to his own baseness.

Nemo tenetur seipsam infortunis et periculis exponere.
No one is bound to expose himself to misfortune and dangers. Co. Litt. 253.

Nemo tenetur seipsum accusare.
No man is bound to accuse himself.

The previous maxims from Bouvier's Law Dictionary, 1856.

Voluntati non fit injuria.

He who consents cannot receive an injury. 2 Bouv.

Bouvier's Law Dictionary, 1856

"...So long as the people do not care to exercise their freedom, those who wish to tyrannize will do so; For tyrants are active and ardent, and will devote themselves in the name of any number of gods, religious and otherwise, to put shackles upon sleeping men."

Voltaire de Cleyre

