

## What to Do When An MNR Officer Approaches You

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Here at NAN Legal Services we receive frequent calls from members of NAN First Nations who have encountered conservation officers in the bush. We are most concerned with how people are being treated, and we try to do all we can, but the unfortunate fact of the matter is that most people cannot get Legal Aid to help them defend the charges MNR lays on NAN people who are exercising their Constitutionally protected Aboriginal and Treaty rights. The only real option people have is to apply to Legal Aid for "Test Case" funding, but there are no guarantees with that process.

Even though NAN Legal Services cannot issue legal aid certificates for MNR cases, we do try to do as much as we can to help by giving short summary legal advice or directing people to lawyers who may be able to help. The following is some advice on what to do if you meet an MNR conservation officer while you are in the bush. If you are not sure if the person you are talking to is a conservation officer then you can request that the person produce identification.

The legislation that MNR conservation officers use to stop you in the bush is the *The Fish and Wildlife Conservation Act* (the "Act"). This provincial legislation provides conservation officers with broad inspection, search and seizure powers. The Act also considers police officers or First Nations Constables appointed under the *Police Services Act* to be conservation officers and under the *Act* a conservation officer may stop a vehicle, boat or aircraft. On a conservation officer's signal to stop, the operator of the vehicle, boat or aircraft must immediately stop and produce for inspection any wildlife, invertebrate, fish, document or other thing requested by the conservation officer for the purpose of the *Act*. The *Act* also states that a person shall, during the inspection, provide information requested by the conservation officer that is relevant to the inspection. However, a conservation officer may not search a building nor any part of a building that is considered to be a dwelling without a search warrant. This means that a conservation officer must get a search warrant before he or she can search your home.

If you have been stopped for an inspection you need to determine if you are being detained or arrested. If the conservation officer tells you that he doesn't know because he has to clear things with Peterborough first, then you are free to walk away and end the talk with the officer once the inspection is over.

However if you have been detained or arrested, then you can exercise your rights under the *Canadian Charter of Rights and Freedoms*. Officers asking questions once a person is charged MUST caution the person about answering questions. You must be informed as to the reason you have been arrested or detained and you must be given the opportunity to speak to a lawyer. Keep in mind that you now have the right to remain silent. You do not have to give a statement and you have the right to have legal advice before answering any questions. If you are not sure, call NAN Legal Services, and we

will advise you what to do.

Lately, we have noticed that MNR is getting very aggressive with people building cabins in the bush to use when exercising Aboriginal and Treaty rights. This is because the MNR “won” a case in Treaty #3. The facts of that case were not strong enough to support the Aboriginal position, and we argue that the *Sundown* decision is still good law in Canada and Ontario, and should be followed. You have the right to build a cabin in the bush to use when exercising your Aboriginal and Treaty rights. MNR thinks otherwise, but that is for a court to decide.

Basically, if you have encountered an MNR officer who has threatened to charge you and/or who has seized any of your property, do not hesitate to contact our office. We will try to give you advice that we hope will help you decide what to do. We can also inform you about Legal Aid Test Case funding. We strongly encourage people to fight all charges laid by MNR, but we know that hiring a lawyer is expensive, but in the end your rights are extremely valuable, and we all must try to do whatever we can to protect them.

We would also be happy to come to your communities and offer Clinic Days about the Charter and your Aboriginal rights.