

Your Rights and the Police

What to do if you are stopped, arrested, brought before a judge

This pamphlet answers some common questions about your rights if you are stopped or arrested by the police. However, you should keep in mind that these are just general guidelines, and that the law in this area is complex and constantly being modified.

If You are Stopped by the Police

What should I do if a police officer stops me while I'm walking down the street or driving in my car?

Whatever you do, keep your cool—don't run away and don't insult the officer. If you ignore the officer's request to stop, you can be arrested. If you are stopped while in your car, you are required to show the police your license and vehicle registration, and, if requested to do so, to get out of your car. You shouldn't ignore a police request to stop your car since you may find yourself involved in a dangerous chase and under arrest when the officer catches up to you.) If you are stopped on the street, you should give your name and address if asked. You are not required to answer any other questions, and you may want to consult a lawyer before doing so.

What should I do if the police harass me?

Police harassment is wrong, and you should report it or any form of police misconduct, try to get their names and addresses. If you are injured, you should see a doctor as soon as possible for aid and to preserve medical evidence. If there are visible injuries or other damage, take color photographs right away. However, you should beware of fighting back. It is a crime to resist an arrest, even if that arrest is unlawful, and if you hit a police officer, you are likely to be charged with assault.

What if the police stop me and want to take me to the station for questioning? Do I have to go with them?

The key question to ask is whether you are under arrest. If you aren't under arrest, you don't have to go to the station simply because the police would like to talk with you. If police ask you to go voluntarily, you should generally not do so without first talking with a lawyer. If you decide to go there voluntarily, you are free to leave any time you want unless the police indicate that you are really under arrest.

Can a police officer search me or my car if I'm not under arrest?

If you aren't under arrest and haven't consented to a search, the police are limited to frisking the outside of your clothing if they have a reasonable suspicion to believe you

may be carrying a weapon. They may search your car only if they have probable cause to believe it contains a weapon or evidence of a crime. They are allowed to seize anything in plain view, but only if they believe that it is, or contains, a weapon or evidence of a crime. Beyond that, police either need a search warrant or your permission.

When can the police search my home?

Under ordinary circumstances, the police can search only if they have your consent or a warrant issued by a judge for the search of your home. If the police claim to have a search warrant, ask them to show it to you and check that it is valid; to be valid, it must specify the date and location of the search. The police may only search for any articles listed in the warrant, but they can seize any other item if it is in plain view and if they have probable cause to believe that it is, or contains, a weapon or evidence of a crime.

If an officer tries to search any further, or forces him/herself into your home against your will, make it clear that you do not agree to the search, but don't physically resist. You should tell your lawyer immediately about it, because evidence obtained by an illegal search generally can't be used against you in court.

Your Rights After an Arrest

What should I do if I am arrested?

Again, keep your cool—don't run away or resist arrest. Whether you are guilty or innocent, it is a crime to resist arrest. If you do try to resist arrest, the police officer has the right to use force, if that's necessary to stop you. Fighting back will only get you into more trouble. If the police do anything improper, try to remember the officer's name and badge number. Report these to your lawyer or the ACLU.

What kinds of searches can the police do after an arrest?

After a lawful arrest, you can be subjected to a thorough search; the police may ask that you empty your pockets or may check your pockets themselves. If you are arrested in your car, the police may search the inside of your car. If the police come to your home to arrest you, you don't have to let them in unless they have a warrant for your arrest; they may then search your immediate surroundings and seize anything in plain view if they have probable cause to believe that it is, or contains, a weapon or evidence of a crime.

What can I expect to happen after I am arrested?

Following an arrest, the police will most likely bring you to the station, book you (which requires filling out informational forms), fingerprint and sometimes photograph you. Also, they can require you to participate in a "line-up," in which you are placed among a group of persons for possible identification by the victim.

What rights do I have after an arrest?

You have a right to remain silent except for your name and address. You don't have to answer any questions or sign any statements. If the police try to question you, you are supposed to be advised of your so-called Miranda rights, which are:

*you have the right to remain silent;

*anything you say can be used against you as evidence against you;

*you have a right to a lawyer;

*if you want a lawyer but can't afford one, a lawyer will be appointed to you at no cost.

If you ask for a lawyer, the police can't question you until your lawyer arrives. If no one asks you questions, no lawyer has to be appointed until you are brought to court. If you are under 18, you have the right to have your parent/guardian and your lawyer present when questioned.

You have the right to a telephone call within one hour of your detention. Ask the police for change and assistance if needed, and call your lawyer or some one else who will call your lawyer for you.

If you are sick or hurt, ask to be taken to the hospital.

You must be brought before a judge within 24 hours (48 hours on weekends and in special cases).

What if the police try to make me answer questions or sign a statement before I have spoken with a lawyer?

The best rule to follow is not to sign anything or say anything without the advice of your lawyer. Especially don't sign something you haven't completely read or don't fully understand. Remember, any statement you sign—and anything you say, even if you don't sign a statement—can and will be used against you. Keep in mind that talking can have the same consequences as signing a statement. The promise of an officer to help you or to make a deal with the court in exchange for a confession is not legally binding. If you are put in a cell, don't talk to friends or strangers about your arrest or alleged crime, as the police may be listening.

Is there anything that I should sign at the station?

Yes. You should sign a list of items, called an "inventory," taken from your pockets when you were arrested; if you fail to sign this report it is possible that you may not get all your belongings returned to you.

Your Rights in Front of a Judge

What will happen when I appear before the judge?

At the hearing before the judge, called the arraignment, the judge will tell you what you are charged with, ask bail facts, and then hold you, set bail or release you without bail until your next court date.

What should I do when I appear before a judge for my arraignment?

If you can afford to hire a lawyer, you should make every effort to do so before your arraignment. If you are brought before a judge and you don't have a lawyer yet, ask for one as soon as you see the judge. A lawyer generally must be provided for you if you can't afford one. You should not plead guilty or "nolo contendere" (no contest) without first talking to a lawyer. Such a plea may result in a criminal record which can follow you for the rest of your life. You can always enter a "not guilty" plea and then change it to "guilty" or "nolo," but it is very difficult to change a plea to "not guilty" after you have already pleaded guilty or nolo.

Will I be released after the arraignment?

Except for certain serious crimes such as capital offenses, weapons charges and certain drug crimes, the judge is likely to release you on bail or your promise to return to court. Your lawyer can explain bail and try to help you get it.

PULL OUT CARD

IF YOU ARE STOPPED OR ARRESTED

- Don't run away
- Don't resist arrest. It's a crime to resist arrest even if you're innocent.
- Show the police your license and registration if you are stopped in your car.
- It is generally best to remain silent except for your name and address.
- If you, your car or your home is searched against your will, make it clear you don't agree to the search, but do not physically resist.
- Don't answer any questions or sign any statements without talking to a lawyer; anything you say or sign can be used against you. If you decide to answer questions, you can stop at any time. If you're under 18, you have the right to have your parent/guardian and lawyer present when questioned.
- You have the right to your own lawyer, or an appointed lawyer if you can't afford one. If you ask for a lawyer, the police can't question you until your lawyer arrives.
- You have the right to make a phone call within an hour of being detained. Ask the police for change and assistance if needed.
- Ask to be taken to the hospital if you are sick or hurt.
- You must be brought before a judge within 24 hours (48 hours on weekends and in special cases)
- If you don't have a lawyer, ask for one as soon as you are brought before the judge.
- It's generally best to plead "not guilty" until you've talked with your lawyer