

Your Rights During Police Encounters

In any given police encounter, with a few notable exceptions, the following rules will help protect your rights and improve your chances of driving or walking away safely. You don't have to be a legal expert to say and do the right thing.

1. Keep Your Private Items Out of View

This is common sense: Always keep any private items that you don't want others to see out of sight. Legally speaking, police do not need a search warrant in order to confiscate any illegal items that are in plain view.

2. Be Courteous & Non-Confrontational

If you are pulled over, the first thing you should do is turn your car off, turn the dome light on (if it's nighttime), roll down the window, and keep your hands on the steering wheel. Don't immediately reach into your glove compartment for your license and registration. Officers want to be able to see your hands for their own safety. Wait until the officer asks to see your paperwork before retrieving your documents.

The first thing you should say to the officer is, "Hello officer. Can you tell me why I am being pulled over?" The officer may give you a hard time or say, "Why do you think I pulled you over?" Tell the officer you don't know.

Most importantly, do not apologize after you get stopped, because that can be considered an admission of guilt and could be used against you later in court.

- ❖ Show your identification if it's requested.
- ❖ Be respectful and non-confrontational.
- ❖ Refer to the police as "Sir," "Ma'am," or "Officer."
- ❖ Remain calm and quiet while the officer is reviewing your documents.
- ❖ If the officer writes you a ticket, accept it quietly and never complain.
- ❖ Listen to any instruction on paying the fine or contesting the ticket, and drive away slowly.

3. Just Say “No” to Warrantless Searches

Warning: If a police officer asks your permission to search, you are under no obligation to consent. The only reason he’s asking you is because he doesn’t have enough evidence to search without your consent. If you consent to a search you give up one of the most important constitutional rights you have—your protection against unreasonable searches and seizures under Section 8 Of The Charter Of Rights And Freedoms.

Don’t expect a police officer to tell you about your right not to consent. Police officers are not required by law to inform you of your rights before asking you to consent to a search. In addition, police officers are trained to use their authority to get people to consent to a search, and most people are predisposed to comply with any request a police officer makes. For example, the average motorist stopped by a police officer who asks them, “Would you mind if I search your vehicle, please?” will probably consent to the officer’s search without realizing that they have every right to deny the officer’s request.

If, for any reason you don’t want the officer digging through your belongings, you should refuse to consent by saying something like, “Officer, I know you want to do your job, but I do not consent to any searches of my private property.” If the officer still proceeds to search you and find illegal contraband, your lawyer can argue that the contraband was discovered through an illegal search and hence should be thrown out of court.

You should never hesitate to assert your constitutional rights. Just say “no!”

4. Determine if You Can Leave

You have the right to terminate an encounter with a police officer unless you are being detained in police custody or have been arrested. The general rule is that you don't have to answer any questions that the police ask you. This rule comes from Section 10 of the Charter of Rights and Freedoms which protects you on arrest or detention.

If you cannot tell if you are allowed to leave, say to the officer, “I have to be on my way. Am I free to go?”

If the officer says “Yes,” tell him to have a nice day, and leave immediately. If the officer’s answer is ambiguous, or if he asks you another unrelated question, persist by asking “am I being detained, or can I go now?” If the officer says “No,” you are being detained, and you may be placed under arrest. If this is the case, reassert your rights as outlined above, and follow Rules #5 and #6.

5. Do Not Answer Questions without Your Lawyer Present

There is no reason to worry that your failure to answer the officer's questions will later be used against you. The truth is just the opposite: Anything you say can, and probably will, be used against you.

In just about any case imaginable, a person is best off not answering any questions about his involvement in anything illegal. Assert your Section 8 & 10 Charter rights by saying these exact words: **“Officer, I have nothing to say until I speak with a lawyer.”**

6. Do Not Physically Resist

If the police proceed to detain, search, or arrest you despite your wishes—do not physically resist. You may state clearly but non-confrontation ally: **“Officer, I am not resisting arrest and I do not consent to any searches.”** Or you may assert your rights by simply saying nothing until you can speak with a lawyer.

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