



The Police and Arrest

There are three reasons why a police officer would stop someone walking down the street. You have different rights in each situation.

Reason 1: The Police are Just Making Conversation

Police officers can use polite conversation to find a reason to hold you or arrest you. They could also be investigating an incident you saw or know about. They might simply be friendly. If you don't like the questions the police are asking, ask: "Am I free to go?" If the answer is yes, you can leave. If the answer is no, you are being *detained* (see Reason #2).

Reason 2: The Police are Investigating You (Detention)

The police can only detain you for an investigation if there are reasonable grounds to suspect that you are connected to a crime and your detention is necessary in the circumstances.

If you ask if you are free to go and the police officer says no, you have the right to be told why. Unless the answer is obvious, the

police officer must tell you what reason he has for holding you against your will. Remember the reason the police officer gives you, if he gives you one. Get the badge number or name of the police officer so that you will have it if you want to make a complaint.

Emergency Criminal Lawyers

If you have been arrested or *detained*, or you are being investigated by the police, you can contact a Legal Services Society criminal lawyer for free at 1-866-458-5500 in Metro Vancouver or 1-866-458-3300 outside of Vancouver.



If you are being detained but you are not under arrest, you aren't driving, and you haven't broken any laws, you don't even have to give the police officer your name. If you don't want to talk, say: "I want to remain silent." Sometimes, by staying silent, you can increase your risk of arrest or of harassment. You may want to tell police your name and address to show you are co-operative.

When you are detained, the police have the right to do a *pat-down search* for weapons. They might inspect the contents of your bags. If the police don't have a good reason to detain you, then this search is illegal. Remember the details so you can tell a lawyer or make a complaint.

Reason 3: The Police are Arresting You

You will know if you are under arrest because a police officer has said you are under arrest, or somehow made it clear that you are not free to go by physically holding you. If you are under arrest, and the police ask, you must tell them your name and address. You have the right to ask why you are being arrested. The police must answer unless the reason is obvious – remember what they say so you can tell your lawyer.

Being Detained

If you have not been arrested, but you are being held against your will, remember to:

- Ask why you are being held.
- Get the badge number or name of the police officer.
- Stay silent and tell the police you are staying silent (if you feel safe doing so). Use your common sense. Some times an explanation can end a police discussion more quickly.



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The arresting officer may release you right away with an *appearance notice* (a sheet of paper that tells you where and when to show up for court) if she believes that you will show up for court, not break any laws, and she is sure she knows who you are.

The police can do a full search of you and your personal property (see page 24 for details) if you are arrested. If you are taken to jail, you have a right to appear before a Judge or *Justice of the Peace* as soon as reasonably possible within 24 hours of your arrest.

If you are under arrest, co-operate physically with the police. Any pulling, kicking, punching, running or other physical resistance to avoid arrest could result in more charges. Going limp does

not count as resistance, but may not help your situation very much.

The police are only allowed to use as much force as is necessary to arrest you or ensure that the situation is safe. Any additional force is considered “excessive” force. If you feel that the police used more force than was necessary, you can

make a complaint or file a lawsuit (see pages 56–58 for details). If you have marks, cuts, bruises or other physical evidence, go to a doctor and have someone take photographs of your injuries. The doctor’s notes and the photographs can both be used as evidence in a trial or to support a complaint. Tell your lawyer about the police’s use of force.

Remaining Silent

Tell the police you want to remain silent and you want to speak to a lawyer. They may keep asking questions, but you don’t have to answer them (see page 17). Talk to a lawyer before you speak to the police after you have been arrested.



Reasons for Arrest

The law says the police must have a reason for arresting you. There are very few situations where the police are allowed to arrest you. You can only be arrested by the police if:

1. a police officer sees you committing a criminal offence;
2. a police officer has *reasonable grounds* to believe you have committed or are about to commit an indictable or hybrid criminal offence;
3. you have broken any law (including provincial laws and city bylaws) and you won't tell police who you are and where you live;
4. there is a warrant for your arrest (see page 12);
5. a police officer has reasonable grounds to think you have a mental disorder and are dangerous (see page 13);
6. you have breached the peace or are about to breach the peace (see page 15);
7. you are drunk or high in public (see page 16); or
8. a police officer has reasonable grounds to think you are a terrorist about to commit a terrorist act (see page 50).

Definitions – 3 Types of Offences

1. **Summary Offence** – The least serious offences. They generally have lower penalties.
2. **Hybrid Offence**
– Where the *Crown Counsel* can choose whether the offence is a **summary or indictable offence** depending on the situation.
3. **Indictable Offence** – The most serious offences. They have much higher penalties.



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For *hybrid* and *summary offences* (see box on the previous page for definitions), a police officer must release you immediately after arrest with an appearance notice unless she:

- can't identify you;
- needs to preserve the evidence of your alleged crime;
- needs to stop you from committing the alleged crime or repeating it; or
- has reasonable grounds to believe you won't come to court.

Arrest Warrants

A *warrant* is a piece of paper that a Judge signs to allow the police to do something. Arrest warrants order the police to arrest a specific person.

If the police say they have a warrant for your arrest, ask to see it. If it is possible (if the police officer has it with him and the situation is under control) the police officer must show it to you. It is rare for the police officer to have the warrant – usually she has been told there is an outstanding warrant by the police computer system. If it is not possible at the time of your arrest, the police officer must show you the warrant as soon as possible after you are arrested. You have the right to see the warrant.

When you read the warrant, make sure the warrant is actually for you. The warrant must:

- give your name or describe what you look like;
- include the reason why you are being arrested;
- order that you should be arrested; and
- be signed by a Judge or Justice of the Peace.

If you are arrested because of a warrant, you have all of the same rights and responsibilities after arrest as you always do. You have the right to remain silent. You must give your name and address. You have the right to talk to a lawyer.

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