

How to get arrested properly: *and survive!*

In your home, or on the street

You are **not** required to give your name or address to the police (but there is seldom any harm in doing so) unless you are in the driver's seat of a motor vehicle or motorcycle, or if you are on licensed premises, or being charged with certain categories of offence (generally serious).

You always have the right to remain silent

You do not have to answer questions or make a statement. **Do not make a statement if in any doubt** as to where the questions will lead. You have the right not to be taken to a police station or restrained by the police unless you have been arrested and you have been told what you are charged with. You may still remain silent.

Once the interview (tapes, video or note taking) starts, provide your name, address and then state "I wish to remain silent" and do so. The response "no comment" will do the job.

If you are truly innocent, say so at the first opportunity. But if confused or frightened it is better to remain silent - then the police have to prove the allegations, and generally without your statement they cannot do so, unless they can find other evidence.

The police have no right to frisk or search you, your house or your belongings before arrest unless:

- they suspect you have drugs or offensive weapons in your possession
- they suspect you have committed or are found committing a serious indictable (jail) offence

Otherwise a search warrant is required. You should insist on seeing it, and you are supposed to be given a copy.

You may be charged with an offence if you appear to be:

- drunk
- using offensive language or behaving in an offensive manner.

So be as polite as possible in your dealings with police.

Once you are in a confrontation with the police, it is common sense (even if innocent) to assume you are in potential trouble. Be polite, be cautious and be aware of your rights. If you give the police a hard time, they will give you a hard time. However they may give you trouble anyway!

If the police find you - and you are in any doubt as to your innocence in all matters - simply elect to remain silent.

If you have an excuse, an alibi or are simply innocent, tell them. But **once the tapes go on or the police start to take notes, remain silent.**

Most people found guilty of criminal offences have either confessed, been informed on, tricked into talking, or caught red handed. The majority are damned by their own confession. Do a "no comment" interview and the cops have to do all the work. Their responsibility is then to **prove** all matters. If confused, or in any doubt, remain silent and contact your lawyer or a reliable friend.

If the police are looking for you see a lawyer.

At the police station

Police do not tape record people they are not going to charge. When **the tapes start, provide your name, address then remain silent or answer "no comment" throughout and until the session finishes** if in any doubt. If you speak and make a mistake, or your comments are taken out of context, or twisted, it will affect your case. **There is no such thing as an "off the record" statement.**

You have the right to remain silent and:

- **Not to answer questions** or make a statement which might provide evidence which could be used against you. It is, however, sensible to give your name and address.
- Not to participate in an identification line-up or have your photograph taken.
- Make a telephone call to a friend or lawyer from the police station before they question you. Know your rights; ring a friend (it's easier for them to contact a lawyer if you are detained).
- You are entitled to talk with a friend, relative or lawyer without being overheard.
- To say "no comment" or simply remain silent (this is best).
- To have an interpreter. You may not be questioned until an interpreter is provided if you require one.

The police can use reasonable force to obtain your fingerprints. You can object but you have no right to refuse. It is simpler to consent.

The police can:

Only strip search you if they have **strong** reason (which they must explain) to believe that

you have drugs on you. A police woman should be conducting same if you are a female; and to engage in any search of you privately so that you are not publicly embarrassed.

And must get your **free consent twice** before conducting an intrusive (internal) search and organise a medical practitioner to internally search you if you have consented. If you refuse the police must get a court order.

Only **request** you give a body sample (eg. blood, saliva, swabs, matter under finger or toe nails). If you refuse, the police must get a court order.

If you are arrested, the police can only keep you in custody for questioning for a reasonable time and rarely does this extend more than a few hours. **The police must tell you why you are under arrest.** Keep cool, remain silent, use the telephone to advise your lawyer or a friend or relative of where you are. They can't hold you indefinitely and despite their assurances, if you are being held nothing you can do will make it easier. So make their task harder by remaining silent.

If you are not under arrest you may leave at any time

If you are under 17, the police cannot question you until you have been able to speak privately with your parents, a friend, an independent person or lawyer who must then be present during the interview.

You may ask the police for name, rank and badge numbers, but don't expect to get them in most cases. Their refusal to provide that information, however, is an offence by them and actionable.

You do not have to sign anything. If you are going to sign something, such as the release form "having been well treated", **read** it before you sign it. If you disagree or want to make changes, make sure you tell the police and see a lawyer promptly.

If you are badly treated by the police, as soon as you are released go immediately to a doctor or hospital. Take photographs of any marks and show your friends to ensure there are witnesses. Write down what happened as soon as possible. See a lawyer.