

Real Rights: young people engaging with law enforcement



Albuquerque, New Mexico



The Real Rights project has been developed by Baker McKenzie and the Global Initiative on Justice with Children to provide young people – especially young people of colour, minority and vulnerable populations – with specific guidance for interactions with law enforcement. Thanks to the Real Rights project and the pro bono work of over 1,500 volunteer professionals, we have created a clear and accessible data base of answers to child questions when they are in contact with the police – from initial contact, questioning, to stop and report.

If you are interested to support us in this project, click on the “Feedback” button provided in each city page or email realrights@bakermckenzie.com.

Rights:

What rights do I have when I encounter law enforcement?

Question Asked

- Stopped By The Police On The Street, Now What?
- When Can Police Search You and Your Surroundings?
- Reasons Police May Detain or Arrest You
- The Difference Between Police TELLING Me What To Do And Asking Me To Do Something
- Do Police Need A Warrant To Arrest You?
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- What To Do After Being Warned of Your Rights
- Police Questioning You
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- Do Police Always Have To Tell The Truth?
- How do I make a complaint if I have questions or feel my rights have been violated?
- What if I feel I was a victim of discrimination or racism?
- How can I respond to circumstances involving discrimination?
- What can you do if the police perform an improper search? Or I was improperly detained?

Stopped by the police on the street, now what?

Proposed Information

It is important to follow this advice:

- Running or resisting, even if you believe you are innocent may escalate the situation and lead to additional legal consequences.
- Providing false information can lead to criminal charges; statements made can be used in court.
- Physical contact with an officer may be perceived as a threat. Officers are trained to respond defensively to such actions.

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Can the police arrest you for refusing to answer questions?

No. You have the constitutional right to remain silent or talk to a lawyer before answering any questions. Although individuals may choose to cooperate with a police officer, they are generally not required to answer questions or speak if they do not wish to. For example, you are not required to answer any questions about where you are going or what you are doing.

If you want to exercise your rights, you can avoid ambiguous language such as “maybe.” Instead, you can state clearly that “I want to remain silent” or “I want to talk to a lawyer.” You do not need to give any explanations or excuses for making such request. Once you say you want to remain silent or talk to a lawyer, the officer should stop asking you questions. You still have the right to remain silent even if they continue asking you questions.

In New Mexico, if a police officer requests your identifying information (such as the information found on your ID), you are legally required to provide it. You are not required to show your physical ID—such as a driver’s license—unless you are operating a vehicle. However, in practice, providing your physical ID may reduce the likelihood of being unlawfully arrested.

Source: [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution); [New Mexico Constitution Article II § 10 - Searches and seizures. :: New Mexico Constitution :: Justia](#) (Article II, § 10 of New Mexico Constitution).

What if the officers do not identify themselves?

If a person identifies themselves as a police officer but is not in uniform or is not accompanied by a clearly marked law enforcement vehicle, it is appropriate to ask for official identification. Officers generally carry police identification and may present it upon request. If no identification is provided, and the person is reluctant to verify their status, it may raise concerns about whether they are a legitimate officer. In such instances, individuals often choose to document the interaction and may contact the APD Internal Affairs Professional Standards at 505-768-2880 or submit a complaint online. Regardless of the circumstances, individuals have a constitutional right to remain silent and to speak with a lawyer before responding to questions from law enforcement.

Source: [What should I do if I am stopped by a police officer?; 5th Amendment of the US Constitution](#)

What if an officer just begins speaking to me but does not order me to do anything?

You have the constitutional right to remain silent or talk to a lawyer before answering any questions. While individuals may choose to cooperate with a police officer, they generally are not required to answer questions or speak with the officer if they do not wish to. For example, you are not required to answer any questions about where you are going or what you are doing.

If you want to exercise your rights, you can avoid ambiguous language such as “maybe.” Instead, you can state clearly that “I want to remain silent” or “I want to talk to a lawyer.” You do not need to give any explanations or excuses for making such request. Once you say you want to remain silent or talk to a lawyer, the officer should stop asking you questions. You still have the right to remain silent even if they continue asking you questions.

In New Mexico, if a police officer requests your identifying information (such as the information found on your ID), you are legally required to provide it. You are not required to show your physical ID—such as a driver’s license—unless you are operating a vehicle. However, in practice, providing your physical ID may reduce the likelihood of being unlawfully arrested.

Source: [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution); [New Mexico Constitution Article II § 10 - Searches and seizures. :: New Mexico Constitution :: Justia](#) (Article II, § 10 of New Mexico Constitution).

What if the officer is not in uniform or identified as an officer but I think it is one?

If the police officer does not identify himself or herself as an officer, you can ask the officer for identification if he or she is not in uniform or if his or her patrol vehicle does not have official law enforcement markings.

If an officer does not present any proof of identity, individuals may choose to request to see the officer's police identification, especially if the officer is not in uniform or is not clearly identified. If someone is reluctant to show you his or her proof of identity, there is a risk that the person is not being truthful. In that case, you can take note of the officer's name, document the interaction, and call the APD Internal Affairs Professional Standards at 505-768-2880 or file a complaint online [here](#).

In any case, remember that you have the constitutional right to remain silent or talk to a lawyer before answering any questions by an officer.

Source: [What should I do if I am stopped by a police officer? — City of Albuquerque; 5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

Can I tell the police I do not want to speak to them without a lawyer present?

Yes. You have the constitutional right to remain silent and talk to a lawyer before answering any questions. If you cannot afford a lawyer, you have the right to have a lawyer appointed to you for free. While individuals may choose to cooperate with a police officer, they generally are not required to speak with the officer and may decline to answer questions without a lawyer present. This is true even if the officer did not inform you that you have these rights. You can also invoke your rights even if you start talking to the officer and decide at any point that you want to stop.

If you want to exercise your rights, you can avoid ambiguous language such as "maybe". Instead, state clearly that "I want to remain silent" or "I want to talk to a lawyer" and you do not need to give any explanations or excuses for making such requests. Once you say you want to remain silent or talk to a lawyer, the officer should stop asking you questions. You still have the right to remain silent even if they continue asking you questions.

Source: [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

If I sit down, am I resisting?

In New Mexico, whoever commits resisting, evading, or obstructing an officer is guilty of a misdemeanor. Resisting, evading, or obstructing an officer includes knowingly obstructing, resisting, or opposing any officer serving or attempting to serve or execute any state process, rule, or order. Although misdemeanors are generally less serious crimes than felonies, they can lead to jail time in some serious cases.

Whether sitting down would be considered resisting an officer depends on the circumstances. Sitting down could, in some cases, be interpreted as a form of passive resistance if it obstructs the officer from completing their lawful duties, such as during an arrest or when giving a lawful command. Thus, when interacting with an officer, it may be risky to sit down, especially if the officer has asked you to stand. Refusing to comply with a police officer's orders may escalate the situation. Some individuals choose to remain silent and request to speak with a lawyer, parent, or guardian. Keeping hands visible at all times can help avoid misunderstandings during the interaction.

Source: [New Mexico Statutes Section 30-22-1 \(2024\) - Resisting, evading or obstructing an officer. :: 2024 New Mexico Statutes :: U.S. Codes and Statutes :: U.S. Law :: Justia](#) (Section

30-22-1 of the New Mexico Statutes); [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

If I am stopped in a group, and some kids run, can I run?

No. Officers do have the right to stop and inquiry. However you do have the right to remain silent.

Running from a police officer is not a good idea. First, even if you have not committed any criminal offense, running could be interpreted as resisting, evading, or obstructing an officer which is a form of misdemeanor in New Mexico and can lead to jail times in serious cases.

Further, running from an officer can be extremely dangerous as it can raise tensions and force the officer to make decisions in the heat of the moment. This can increase the chance that the officer will use physical force against you. An alternative and better approach would be to simply remain silent, request to speak to a lawyer, and cooperate with the officer.

Source: [New Mexico Statutes Section 30-22-1 \(2024\) - Resisting, evading or obstructing an officer. :: 2024 New Mexico Statutes :: U.S. Codes and Statutes :: U.S. Law :: Justia](#) (Section 30-22-1 of the New Mexico Statutes); [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

Can I tell others (siblings, for example) to run?

It is not a good idea to tell others to run for the same reasons why it wouldn't be a good idea for you to run from a police officer. First, even if you have not committed any criminal offense, running could be interpreted as resisting, evading, or obstructing an officer which is a form of misdemeanor in New Mexico and can lead to jail times in serious cases.

Further, running from an officer can be extremely dangerous as it can raise tensions and force the officer to make decisions in the heat of the moment, increasing the chance that the officer will use physical force against you. An alternative and better approach would be to simply remain silent, request to speak to a lawyer, and cooperate with the officer.

Source: [New Mexico Statutes Section 30-22-1 \(2024\) - Resisting, evading or obstructing an officer. :: 2024 New Mexico Statutes :: U.S. Codes and Statutes :: U.S. Law :: Justia](#) (Section 30-22-1 of the New Mexico Statutes); [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

If the officer's language is not my first language, can I tell them without waiving my rights?

You have the constitutional right to remain silent or avoid answering any questions until after you consult with a lawyer. This means you generally do not have to answer or speak to the officer if you do not wish to do so. It may be a good idea to say so out loud if you want to exercise your right to remain silent or to speak to a lawyer. Make sure to stay calm and cooperate as much as you can without necessarily speaking.

Officers will generally attempt to obtain interpreters and if you are arrested, they are required to provide one. According to Section 10-16G-3 of the New Mexico Statutes, access to interpreters for those who are not proficient in English is mandated to ensure their rights are protected.

Source: [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution); [New Mexico Constitution Article II § 10 - Searches and seizures. :: New Mexico Constitution :: Justia](#) (Section 10-16G-3 of the New Mexico Statutes)

Source: [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

If I did not do anything, can they stop me?

Yes, police officers have the power to stop a person if the officer has a reasonable suspicion that you have committed a crime, even if you are totally innocent. For example, if you match the description of someone who has committed a crime nearby, or if you were seen running a red light, the officer would be allowed to stop you.

One crucial thing to remember is that if you are stopped, you have the right to remain silent or avoid answering any questions until you have consulted with a lawyer.

Source: [4th Amendment US Constitution--Search and Seizure](#) (4th Amendment of the US Constitution); [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

When can police search you and your surroundings?

Proposed Information

It is important to follow this advice:

- You have the right to say no to searches of your person without a warrant.
- You have the right to say no to searches of your car, house, or other surroundings without a warrant.
- You cannot be arrested for refusing to consent to a search without a warrant.
- A warrant is a court order, so you have no choice but to consent.

What if a police officer wants to search my phone?

Police officers have the right to seize your phone under certain circumstances even without a warrant. For example, if you are arrested, officers are allowed to search your person and any area within your immediate control, so if your phone is in your pocket, the officer can seize it.

However, officers cannot search the data on your phone without a search warrant, even if you are arrested. An officer must obtain a search warrant or your consent to search the data on your phone. The officer may ask you to unlock your phone, but you have the right to decline this request. Note that even without a warrant, an officer may still be able to take steps to preserve evidence on the phone such as powering down the phone or placing the phone in a bag to prevent the phone from being remotely wiped.

Source: [4th Amendment US Constitution--Search and Seizure](#) (4th Amendment of the US Constitution)

What if a police officer asks me for my password to my phone?

Officers cannot search the data on your phone without a search warrant, even if you are arrested. An officer must obtain a search warrant or your consent to search the data on your phone. The officer may ask you to unlock your phone, but you have the right to decline this request.

If a search warrant has been issued for your phone, refusing to provide access may be interpreted by law enforcement as resisting or obstructing an officer, which can carry serious legal consequences. Source: [4th Amendment US Constitution--Search and Seizure](#) (4th Amendment of the US Constitution)

What tools can the police use to search me? What technology? (Facial recognition, hidden cameras, finger print searches, etc.)

Police officers can use a variety of tools or technology to search you. For example, officers can:

- Pat you down to search your outer clothing to feel for weapons or contraband
- Use metal detectors to detect metal objects such as weapons
- Use x-ray machines to scan for hidden items inside your clothing or belongings such as drugs
- Use drug-sniffing dogs to detect the presence of illegal drugs

However, note that the use of these tools by officers are subject to limitations. In some cases, these limitations include the need for probable cause and a search warrant. When you are searched by a police officer, regardless of the tool or technology being used, it is a good idea to remain calm and not resist the search, as this may escalate the situation. You should also ask for a warrant, and if none has been obtained, you should ask if the search falls under an exception to the warrant requirement. If a search is indeed carried out, it is a good idea to write down the details of the search, such as the time, date, location, name of officer, and what was searched and taken. Lastly, if you think the search conducted was illegal, you should consider contacting a lawyer to discuss your options.

Source: [4th Amendment US Constitution--Search and Seizure](#) (4th Amendment of the US Constitution)

Can the police search my backpack or another item I am carrying?

Generally, a police officer needs a search warrant to conduct a search. However, there are certain exceptions under which an officer can search you without a warrant. For example, if you are arrested, the officer can search you and the areas within which you can reach as a search incident to arrest. An officer can also pat down your outer clothing if there is reasonable suspicion that you are armed and dangerous. For example, if there is reason to suspect that you have a gun in your backpack, the officer can conduct a search of your backpack. Furthermore, a search is valid if you voluntarily gave your consent to it.

Source: [4th Amendment US Constitution--Search and Seizure](#) (4th Amendment of the US Constitution)

Can the police take my picture or record me?

A police officer can generally take your picture or record you in situations where you don't have a reasonable expectation of privacy. For example, if you are out in the public, a police officer can take a picture of you or record you. If you are being arrested, the officer can also take your picture or record you as part of the booking process. Additionally, if an officer is carrying out an investigation and have a valid reason, he or she may take your picture or record you.

Source: [4th Amendment US Constitution--Search and Seizure](#) (4th Amendment of the US Constitution)

Can the police ask me where I am going and why?

Yes, police officers have the power to stop a person if the officer has a reasonable suspicion that you have committed, are committing, or are about to commit a crime, even if you are totally innocent. The officer must have specific, articulable facts to support his or her belief that you are involved in a criminal activity. For example, if you match the description of someone who has committed a crime nearby, an officer can ask you where you are going and why. One crucial thing to remember is that if you are stopped, you have the right to remain silent or avoid answering any questions until you have consulted with a lawyer.

The officer may ask you for your ID. In New Mexico, if an officer asks for your identifying information (the information that would be found on your ID), you must provide that information. You do not need to show your physical ID (e.g., driver's license) unless you are

in a vehicle. However, practically speaking, presenting your ID may help with avoiding an unlawful arrest.

Source: [4th Amendment US Constitution--Search and Seizure](#) (4th Amendment of the US Constitution); [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution); [New Mexico Constitution Article II § 10 - Searches and seizures. :: New Mexico Constitution :: Justia](#) (Article II, § 10 of New Mexico Constitution).

Reasons the police may detain or arrest you

Proposed Information

It is important to follow this advice:

- A police officer may arrest you if they suspect you of breaking the law, or if they suspect that you currently have evidence of a crime.
- Sometimes an officer may have a warrant for an arrest. You should be clear on what kind of warrant is being presented to you if that is the case. It is a good idea to review any warrant or paper from the officer carefully to ensure you understand what exactly is covered.
- If arrested, you may be charged with a felony for a more serious crime (with potential jail time of one year or more), or a misdemeanor for a less serious crime (with jail time of less than one year) or a violation.
- If you are arrested, the officer has the right to search you. Anything found during this search may be used as evidence against you.

What if I did not do anything illegal, must I speak with the police and answer questions?

No, you have the constitutional right to remain silent or talk to a lawyer before answering any questions. Although individuals may choose to cooperate with a police officer, they are generally not required to answer questions or speak if they do not wish to. For example, you are not required to answer any questions about where you are going or what you are doing.

If you want to exercise your rights, you can avoid ambiguous language such as “maybe.” Instead, you can state clearly that “I want to remain silent” or “I want to talk to a lawyer.” You do not need to give any explanations or excuses for making such request. Once you say you want to remain silent or talk to a lawyer, the officer should stop asking you questions. You still have the right to remain silent even if they continue asking you questions.

Source: [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

What if the police tell me something they are investigating that is wrong? Must I correct them?

No, you are generally not required to correct the police officer or say anything. You have the constitutional right to remain silent or talk to a lawyer before answering any questions. While it may be a good idea to cooperate with the police officer, this means you generally do not have to answer or correct the officer if you do not wish to do so.

If you are unsure whether you should correct an officer or speak to the officer at all, consider speaking to a lawyer or someone else you trust for additional advice first. Remember that any statement voluntarily made to the officer could ultimately be used against you and it is a good idea to think very carefully before you say anything.

Source: [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

What if an officer just begins speaking to me, but does not order me to do anything?

You have the constitutional right to remain silent or talk to a lawyer before answering any questions. While it may be a good idea to cooperate with the police officer, you generally do not have to answer or speak to the officer if you do not wish to do so. For example, you are not required to answer any questions about where you are going or what you are doing.

If you want to exercise your rights, you can avoid ambiguous language such as “maybe.” Instead, you can state clearly that “I want to remain silent” or “I want to talk to a lawyer.” You do not need to give any explanations or excuses for making such request. Once you say you want to remain silent or talk to a lawyer, the officer should stop asking you questions. You still have the right to remain silent even if they continue asking you questions.

Note that in New Mexico, if an officer asks for your identifying information (the information that would be found on your ID), you must provide that information. You do not need to show your physical ID (e.g., driver’s license) unless you are in a vehicle. However, as a practical matter, presenting your ID may help you avoid an unlawful arrest.

Source: [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution); [New Mexico Constitution Article II § 10 - Searches and seizures. :: New Mexico Constitution :: Justia](#) (Article II, § 10 of New Mexico Constitution).

What is the legal difference between talking to the police if they do not tell me I am under arrest versus after they inform me that I am under arrest?

If you are arrested and put in custody, you must be informed of your Miranda rights. Some of your Miranda rights include your right to remain silent and the right to avoid answering any question or making any statement until after you consult with a lawyer. The police should also inform you that if you can’t afford a lawyer, you have the right to have a lawyer appointed to you for free. If you choose to make any statement to the officer after you are informed of your Miranda rights, you will be deemed to have waived your rights. Once you have waived your rights, anything you say may be used against you in potential criminal proceedings, so you should be careful with what you say. If you are unsure about certain facts or how to answer a question, it is a better idea to remain silent.

It is important to know that even before you are arrested, you have the right to remain silent and consult a lawyer before answering any questions. In other words, you always have your Miranda rights, regardless of whether you are informed of them. Officers must read you your rights under certain circumstances.

Source: [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

The difference between police TELLING me what to do and asking me to do something.

Proposed Information

It is important to follow this advice:

- Anything found during a search and any statement you made to the police officer can be used as evidence against you.
- Individuals are not required to consent to a search and are generally not obligated to provide information to the officer voluntarily.

What is the difference between the police deciding to search me or my belongings (phone, person, backpack, etc.) and me agreeing to the search?

Police officers generally need a search warrant to conduct a search unless an exception applies. One such exception is when you voluntarily provide your consent to the search. If you give an officer permission to search your person or belongings, you may be waiving your ability to later challenge the legality of that search in court.

Therefore, it may generally be a better idea to not give permission to a search and make sure the officer knows you do not agree by clearly stating that "I do not consent to a search". They might search you anyway, but you should make your opposition known. If they do in fact carry out a search, it is a good idea to cooperate with the officer and you can later speak to your lawyer about whether the evidence discovered during the search should be excluded in court.

Source: [4th Amendment US Constitution--Search and Seizure](#) (4th Amendment of the US Constitution)

What is the difference between the police telling me to give them information versus them asking and me providing answers voluntarily?

You have the constitutional right to remain silent or avoid answering any questions until after you consult with a lawyer. This means you do not have to answer or speak to the officer if you do not wish to do so. Therefore, when asked to provide them with information, you can lawfully decline to do so, and it is a good idea to do so respectfully even when it is within your rights. This can minimize tension.

Volunteering any statements to the officer can be risky as any statement voluntarily made could ultimately be used as evidence against you if you are arrested and your case proceeds to trial. Before volunteering any information to an officer, it is a good idea to first talk to a lawyer or a person you trust. Remember that even if you can't afford a lawyer, you have the right to be appointed a lawyer for free.

Sources:

- [\[New Mexico Constitution, Article II, Section 10\]](#)

- [\[New Mexico Constitution, Article II, Section 15\]](#)

[4th Amendment US Constitution--Search and Seizure](#) (4th Amendment of the US Constitution) [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

Do police need a warrant to arrest you?

Proposed Information

It is important to follow this advice:

- No. A police officer can legally arrest you without a warrant in several circumstances:
 - When the crime is committed in front of the officer; or
 - When the officer has reason to suspect that the suspect committed a crime, whether the act was done in front of the officer or not.

If I did not do anything, can they stop me?

Yes, police officers have the power to stop a person if the officer has a reasonable suspicion that you have committed a crime, even if you are totally innocent. For example, if you match

the description of someone who has committed a crime nearby, or if you were seen running a red light, the officer would be allowed to stop you.

One crucial thing to remember is that if you are stopped, you have the right to remain silent or avoid answering any questions until you have consulted with a lawyer.

Source: [4th Amendment US Constitution--Search and Seizure](#) (4th Amendment of the US Constitution); [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

Can I ask for the reason they stopped me?

Police officers can only stop you if the officer has a reasonable suspicion that you have committed a crime. While the officer does not have any obligation to tell you why you are stopped, you can ask the officer why he or she has stopped you. It is a good idea to do so respectfully to avoid tension.

Source: [4th Amendment US Constitution--Search and Seizure](#) (4th Amendment of the US Constitution)

Can I advocate for another young person stopped by police if we are stopped together?

A more appropriate course of action would be to inform the young person of the following rights they have:

- The right to remain silent and not answer any questions; and
- The right to have a lawyer present before answering any questions; and
- The right to have a lawyer appointed for free

In New Mexico, whoever commits resisting, evading, or obstructing an officer is guilty of a misdemeanor. Resisting, evading, or obstructing an officer includes knowingly obstructing, resisting, or opposing any officer serving or attempting to serve or execute any state process, rule, or order. Although misdemeanors are generally less serious crimes than felonies, they can lead to jail time in some serious cases so you should be careful with your words and actions and how that may be perceived by the officer.

Further, if you believe there has been a police misconduct, you can file a complaint with the Albuquerque Police Department on behalf of another person. You can file a complaint via one of the following ways:

- Submit a complaint form through this link, by email to cpoa@cabq.gov, or by fax at (505) 924-3775
- Submit a complaint form by mail or report in-person to:
 - Civilian Police Oversight Agency, 600 2nd NW, Room 813, Albuquerque, NM 87102;
 - Any Albuquerque Police Department Substation; or
 - Albuquerque Police Department Internal Affairs Division, City Hall, One Civic Plaza NW
- Report by phone at (505) 924-3770

Source: [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution); [New Mexico Statutes Section 30-22-1 \(2024\) - Resisting, evading or obstructing an officer. :: 2024 New Mexico Statutes :: U.S. Codes and Statutes :: U.S. Law :: Justia](#) (Section 30-22-1 of the New Mexico Statutes); [How to: File a Police Complaint or Commendation — City of Albuquerque](#)

If I think the stop is unjustified, what can I do?

Police officers can stop and question you if they have a good reason to suspect that you have committed a crime. If you are stopped and believe the officer lacked justification, running or physically resisting may escalate the situation. This can increase tensions and lead the officer to make split-second decisions, which may raise the risk of the use of physical force. An alternative and better approach would be to simply remain silent, request to speak to a lawyer, and cooperate with the officer.

After the encounter, it is a good idea to write down everything, including the officer's name and any relevant details, as soon as you can and take pictures of the injuries if you are injured. You can file a complaint via one of the following ways:

- Submit a complaint form through this link, by email to cpoa@cabq.gov, or by fax at (505) 924-3775
- Submit a complaint form by mail or report in-person to:
 - Civilian Police Oversight Agency, 600 2nd NW, Room 813, Albuquerque, NM 87102;
 - Any Albuquerque Police Department Substation; or
 - Albuquerque Police Department Internal Affairs Division, City Hall, One Civic Plaza NW
- Report by phone at (505) 924-3770

Source: [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution); [New Mexico Statutes Section 30-22-1 \(2024\) - Resisting, evading or obstructing an officer. :: 2024 New Mexico Statutes :: U.S. Codes and Statutes :: U.S. Law :: Justia](#) (Section 30-22-1 of the New Mexico Statutes); [How to: File a Police Complaint or Commendation — City of Albuquerque](#)

Can I get the officer's identifying information for a future complaint?

Yes. You have the right to obtain the officer's name, badge number, and other identifying information for a future complaint. Per the Albuquerque Police Department Procedural Manual, officers must wear a name tag and their designated official department-issued badge as part of their uniform. Officers are expected to provide their first and last name, and badge number when requested by a member of the community.

If you believe a police officer has acted improperly, it can be helpful to record as many details as possible—such as the officer's name, badge number, and what happened—as soon as you are able. If you have any injuries, you may also want to document them with photographs. You should consider contacting a lawyer to discuss your options.

Source: <https://documents.cabq.gov/police/standard-operating-procedures/2-01-uniforms.pdf> (Albuquerque Police Department Procedural Manual)

How do you know if you are under arrest?

Proposed Information

It is important to follow this advice:

- You are under police custody if you do not feel free to leave a police officer's presence, or if a reasonable person in your shoes would not feel free to leave.
- If the following happens, you are likely under arrest under the law:

- an officer handcuffs you;
- an officer forcibly holds you down;
- an officer puts you into the back seat of a police car; or
- an officer warns you about your rights.
- An officer only must warn you of your rights before questioning you. This means an officer can arrest you before warning you of your rights.
- An arrest without warning about your rights is still a valid arrest; it just means that evidence collected from it may not be admissible in court later.

What if I do not know if I am under arrest?

The quintessential example of being under arrest is the use of handcuffs and if the officer tells you that you are under arrest. Being informed of certain rights, including the right to remain silent and seek the assistance of a lawyer, is also an indicator that you have been arrested. Furthermore, in general, an arrest warrant must be presented to you before an arrest unless an exception applies, such as if you committed a crime in the presence of an officer. If you are unsure whether you have been arrested, you can simply ask the officer respectfully.

Source: [4th Amendment US Constitution--Search and Seizure](#) (4th Amendment of the US Constitution); [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

What is the difference between detention and arrest?

Detention occurs when someone is held in custody for a limited period of time to be interrogated for the purpose of finding out more facts about a possible crime. Generally, you can be detained if there is reasonable suspicion that you have committed, are committing, or are about to commit a crime. On the other hand, arrest occurs when someone is taken into custody for allegedly committing a crime, which generally requires more solid evidence and proof. An arrest is more serious than a detention, but a detention has the potential to turn into an arrest. Note that you still have the right to remain silent and ask for an attorney during both a detention and an arrest.

If you are unsure if you are under arrest, you can ask the officer politely. If the officer refuses to tell you whether you are under arrest, you can exercise your right to remain silent. The following are also clues that you may be under arrest:

- You are told that you are under arrest
- You are detained in a vehicle, room, or other confined place
- You are taken to a police station
- You are handcuffed by the officer
- You are informed of your Miranda rights

If I am handcuffed, am I arrested?

An arrest occurs when a police officer has probable cause to believe that a person has committed or is about to commit a crime, and the officer takes the person into custody with the intention of charging him or her with the crime. If you are handcuffed, you are likely arrested. Other clues that you are under arrest include:

- You are told that you are under arrest
- You are detained in a vehicle, room, or other confined place

- You are taken to a police station
- You are informed of your Miranda rights

If you are unsure whether you have been arrested, you can ask the police officer respectfully. It is also a good idea to exercise your right to remain silent and request to have a lawyer present before answering any questions.

Source: [4th Amendment US Constitution--Search and Seizure](#) (4th Amendment of the US Constitution); [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

If my liberty is restricted, am I under arrest?

Not necessarily. You can be detained for investigation purposes if there is reasonable suspicion that you have committed, are committing, or are about to commit a crime, even if you are not arrested. If you are unsure whether you are under arrest, you can ask the police officer respectfully. It is also a good idea to exercise your right to remain silent and request to have a lawyer present before answering any questions.

The following are clues that you may be under arrest:

- You are told that you are under arrest
- You are detained in a vehicle, room, or other confined place
- You are taken to a police station
- You are handcuffed by the officer
- You are informed of your Miranda rights

Source: [4th Amendment US Constitution--Search and Seizure](#) (4th Amendment of the US Constitution); [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

What to do after being warned of your rights

Proposed Information

It is important to follow this advice:

- If you decide to exercise your right to remain silent or any other rights (e.g., the right to an attorney), you can avoid ambiguous statements. For example, you instead can state clearly that “I want to remain silent” or “I want to talk to a lawyer”.
- Remember that your rights can be waived even if you do not expressly say that you are waiving your rights. You may be waiving your rights if you voluntarily talk to the police officer after you are read your rights by the officer. It is a good idea to have a lawyer present before making any decisions.
- Make sure you fully understand the consequences before you give up your rights.

How do things change if I am read my rights by the police?

After you are informed of your Miranda rights—which include the right to remain silent and the right to wait to speak until after talking to a lawyer—any statements you choose to make can be used against you in court. Speaking after hearing your rights may be considered a waiver of those rights. If you are unsure about the facts or how to respond to a question, you have the option to remain silent.

Source: [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

Does it matter where I am when the police read me my rights? (street, station, police car, etc.)

No, there is no difference on where you are located when the police officer read you your rights.

If you decide to speak to the officer after being read your Miranda rights—which include the right to remain silent and to wait until you’ve spoken with a lawyer—this may be considered a waiver of those rights. Anything you say can then be used against you in a criminal case. If you are unsure about certain facts or how to answer a question, it is a better idea to remain silent.

Source: [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

Police questioning you

Proposed Information

It is important to follow this advice:

- You are not required to make a statement, answer police questions, or participate in a police investigation. You are not required to go anywhere with the police officer unless you are arrested.
- If an officer has arrested you and you are under the age of 18, the officer is required to immediately notify your parent, caretaker, or legal guardian.

Am I required to make a statement?

No, you have the constitutional right to remain silent or avoid answering any questions until after you consult with a lawyer or other person of your choice, meaning you generally do not have to answer or speak to the officer if you do not wish to do so. Therefore, when asked to provide them with information, you can lawfully decline to do so, and it is a good idea to do so respectfully even when it is within your rights to do so to minimize tension.

Volunteering any statements to the officer can be risky as any statement voluntarily made could ultimately be used as evidence against you if you are arrested and your case proceeds to trial. Before volunteering any information to an officer, it is a good idea to first talk to a lawyer or someone you trust. Remember that even if you don’t already have a lawyer or can’t afford one, you have the right to have a lawyer appointed to you for free.

Source: [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

Must police notify my guardian?

Police are not required to contact your parents or obtain parental permission before approaching and questioning you. However, you can refuse to answer questions and can request that a lawyer, parent, or guardian be present before answering questions.

Source: <https://documents.cabq.gov/police/standard-operating-procedures/2-22-juvenile-delinquency.pdf>; [New Mexico Statutes Section 32A-2-14 \(2019\) - Basic rights.](#) :: 2019 New Mexico Statutes :: U.S. Codes and Statutes :: U.S. Law :: Justia

Must I confess?

No. You do not have to confess. You don't even have to answer any questions. You have the constitutional right to remain silent or avoid answering any questions until after you consult with a lawyer, meaning you generally do not have to answer or speak to the officer if you do not wish to do so. Therefore, when asked to provide them with information, you can lawfully decline to do so, and it is a good idea to do so respectfully even when it is within your rights to do so to minimize tension.

Voluntarily giving statements to a police officer can carry legal risks, as anything you say may later be used as evidence if you are arrested and your case goes to trial. Before sharing information with an officer, some people choose to speak with a lawyer or a trusted adult. If you do not have a lawyer or cannot afford one, you still have the right to have a lawyer appointed to represent you at no cost. Source: [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

What adults can I ask to be with me?

You can ask for your parent, guardian, custodian, or lawyer.

See [New Mexico Statutes Section 32A-2-14 \(2019\) - Basic rights. :: 2019 New Mexico Statutes :: U.S. Codes and Statutes :: U.S. Law :: Justia](#); [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

Who do the police have to contact if I am a legal minor?

The police do not have to notify your parent, guardian, or lawyer to simply ask you questions. However, they must advise you of your right to remain silent and your right to attorney when you are in custodial interrogation.

You may ask for a parent, guardian, custodian, or lawyer to be with you. But remember, if your request is not met, you still have the right to remain silent.

Source: [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

How do I contact a lawyer and when?

Proposed Information

It is important to follow this advice:

- You should always contact a lawyer before making any statements to anyone in a criminal case or investigation. This applies even if you are told that (i) police officers only want to question you and/or (ii) you are only a witness.
- While you do have to wait until you attend court to get a lawyer appointed if you cannot afford your own lawyer, you should still ask for a lawyer as soon as you are questioned or arrested by the officer. If you are arrested, you have the right to remain silent and to not speak until your lawyer is present.

What if I am just a witness?

If you are just a witness, the police officer may ask you to make a statement as a witness of a crime; however, you generally have the constitutional right to remain silent and say nothing. You can give as many details as you would like, and you can consider asking the officer for their contact details if you think of something else, you'd like to add to your statement. You have the right to be assisted by a lawyer, and you may also have the right to have a lawyer appointed to you for free.

Source: [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

What if I can't afford a lawyer?

If you can't afford a lawyer, you have the constitutional right to have a lawyer appointed to you for free.

Source: [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

Do the police always have to tell the truth?

Proposed Information

It is important to follow this advice:

- No. The police officer may lie to you during the course of an investigation, including lying about the strength of the case they have against you and particular evidence they have in their possession. Sometimes officers will lie to try and get you to talk more.

Can the police lie to me?

Generally, yes. Police officers do not necessarily need to be truthful with you. There are legal limits on how officers may question a suspect or defendant—any statements must be given voluntarily, without coercion. If you are uncertain whether the officers are being truthful or acting within those limits, you have the right to remain silent, ask to speak with a lawyer, parent, or someone you trust, and choose not to offer any statements that could later be used against you in court.

Source: [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

Do I have to tell the police the truth?

Generally, you don't have to speak to the police officer or answer their questions if you don't want to. This is a right that you're entitled to under the Constitution. Providing false information to a police officer can have serious consequences and may be used against you in a future criminal trial. Instead of answering questions you are uncomfortable answering truthfully, you have the right to remain silent and to request a lawyer to be present during any questioning. Remember that if you do not already have a lawyer or can't afford one, you can wait until a lawyer is appointed for you before answering any questions. If you want to exercise your rights, you can avoid ambiguous statements such as "Maybe I should talk to a lawyer." Instead, you can state clearly that "I want to remain silent" and "I want to talk to a lawyer," and you do not need to give any explanations or excuses for making such request.

Note that lying to the police about a crime can also be risky because even if you have not committed any criminal offense, lying could be interpreted as resisting, evading, or obstructing an officer which is a form of misdemeanor in New Mexico and can lead to jail times in serious cases.

Source: [New Mexico Statutes Section 30-22-1 \(2024\) - Resisting, evading or obstructing an officer. :: 2024 New Mexico Statutes :: U.S. Codes and Statutes :: U.S. Law :: Justia](#) (Section 30-22-1 of the New Mexico Statutes); [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

How do I make a complaint if I have questions or feel my rights have been violated?

Proposed Information

It is important to follow this advice:

If you believe your rights have been violated by a police officer, you can file a complaint with the Albuquerque Police Department on behalf of another person. You can file a complaint via one of the following ways:

- Submit a complaint form through [this link](#), by email to cpoa@cabq.gov, or by fax at (505) 924-3775
- Submit a complaint form by mail or report in-person to:
 - Civilian Police Oversight Agency, 600 2nd NW, Room 813, Albuquerque, NM 87102;
 - Any Albuquerque Police Department Substation; or
 - Albuquerque Police Department Internal Affairs Division, City Hall, One Civic Plaza NW
- Report by phone at (505) 924-3770

Source: [How to: File a Police Complaint or Commendation — City of Albuquerque](#)

What happens and what should I expect after I submit my complaint?

Proposed Information

It is important to follow this advice:

After the submission of a complaint, the police department personnel will forward the complaint promptly to their supervisors. The supervisor will then enter the complaint into their system within 24 hours. The Civilian Police Oversight Agency (CPOA) will have to complete investigation within 120 days from the filing of your complaint.

Source: <https://www.cabq.gov/cpoa/documents/cpoa-board-policies-and-procedures.pdf>

Options after I receive a decision on my complaint

Proposed Information

It is important to follow this advice:

If you are unhappy with the decision, you can try to appeal the decision. You must appeal to the Civilian Police Oversight Agency (CPOA) Board within 30 days of receiving your decision letter. You also must provide proof that the CPOA handled the investigation improperly, such as the following:

- The CPOA considered the wrong policies or considered the right policy, but addressed the issues incorrectly
- The CPOA considered random policies or policies not applicable to the subject of your complaint
- The CPOA board didn't offer any explanation as to the reason of their decision
- The CPOA board did not have any supporting evidence to justify their decision

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Source: <https://www.cabq.gov/cpoa/appeal-process>

What if I feel I was a victim of discrimination or racism?

Proposed Information

It is important to follow this advice:

The police are not allowed to discriminate against you based on your race, gender identity, sexual orientation, religion, and other protected classes. If you feel comfortable doing so, you can file a complaint with the Albuquerque Police Department on behalf of another person. You can file a complaint via one of the following ways:

- Submit a complaint form through [this link](#), by email to cpoa@cabq.gov, or by fax at (505) 924-3775
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- Report by phone at (505) 924-3770

Source: [How to: File a Police Complaint or Commendation — City of Albuquerque](#)

Resources to contact if I feel I was a victim of discrimination or racism

Proposed Information

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 - Albuquerque Police Department Internal Affairs Division, City Hall, One Civic Plaza NW
- Report by phone at (505) 924-3770

You can also contact the following organizations for help:

- **American Civil Liberties Union – New Mexico (ACLU-NM)**
 - P.O. Box 566, Albuquerque, NM 87103

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- (505) 266-5915
- [Get Legal Help | ACLU of New Mexico \(aclu-nm.org\)](https://www.aclu-nm.org/)
- **New Mexico Free Legal Answers**
 - [New Mexico \(freelegalanswers.org\)](https://www.freelegalanswers.org/)
- **State Bar of New Mexico's General Referral Program (SBGR)**
 - (505) 797-6066
 - 1-800-340-9771
 - <https://www.sbnm.org/>
- **New Mexico Legal Aid**
 - 1-833-545-4357
 - <http://www.newmexicolegalaid.org/>
- **New Mexico Office of Equity & Inclusion**
 - (505) 768-4712
 - <https://www.cabq.gov/office-of-equity-inclusion>

Source: [How to: File a Police Complaint or Commendation — City of Albuquerque](#)

How can I respond to circumstances involving discrimination?

Proposed Information

It is important to follow this advice:

Even if you believe you have been subject to discrimination, it is generally a good idea to remain calm and cooperate with the officer and not argue or resist the officer. Choosing not to cooperate with an officer may carry risks. It can escalate the situation, potentially leading to the use of physical force or resulting in charges such as resisting arrest, which can be treated as a serious offense.

After the encounter, it is a good idea to write down everything, including the officer's name and any relevant details, as soon as you can and take pictures of the injuries if you are injured. You can file a complaint via one of the following ways:

- Submit a complaint form through [this link](#), by email to cpoa@cabq.gov, or by fax at (505) 924-3775
- Submit a complaint form by mail or report in-person to:
 - Civilian Police Oversight Agency, 600 2nd NW, Room 813, Albuquerque, NM 87102;
 - Any Albuquerque Police Department Substation; or
 - Albuquerque Police Department Internal Affairs Division, City Hall, One Civic Plaza NW
- Report by phone at (505) 924-3770

Source: [New Mexico Statutes Section 30-22-1 \(2024\) - Resisting, evading or obstructing an officer. :: 2024 New Mexico Statutes :: U.S. Codes and Statutes :: U.S. Law :: Justia](#) (Section

What can you do if the police perform an improper search? Or I was improperly detained?

Proposed Information

It is important to follow this advice:

Even if you are subject to an improper search, it is generally a good idea to remain calm and cooperate with the officer and not argue or resist the officer. Choosing not to cooperate with an officer may carry risks. It can escalate the situation, potentially leading to the use of physical force or resulting in charges such as resisting arrest, which can be treated as a serious offense. If you might have incriminating evidence that could be found in a search, you may wish to voice that you did not give the officer permission to conduct the search, but nevertheless cooperate.

If you believe the search was illegal, it is a good idea to write down details of the search, such as the time, date, location, name of the officer, and what was searched and taken. You should then consider contacting a lawyer to discuss your options. Any evidence found by an officer during an improper search may be challenged by your lawyer at a future trial.

Source: [5th Amendment US Constitution--Rights of Persons](#) (5th Amendment of the US Constitution)

Resources

https://f.datasrvr.com/fr1/023/73681/Real_Rights_-_New_Mexico.zip?cbcachex=809635

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Law is generally described as of July 2025.

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