

# Real Rights: young people engaging with law enforcement

 Louisville, Kentucky



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](mailto: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
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- 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:

- Stay calm. It is not a good idea to run. Speak carefully and clearly. Anything you say can be used against you in a court of law.
- It is not a good idea to touch the officers. Keep your hands where the police can see them.
- It is not a good idea to resist, even if you are innocent or if you think the police are acting unfairly or unlawfully.

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## **Can the police arrest you for refusing to answer questions?**

No, police cannot arrest you for just refusing to answer questions. However, if you act in any way that they think this is suspicious or gives them probable cause, they may take further action, including arresting you ([Kavanaugh v Commonwealth of Kentucky, No. 2012-SC-000820-DG](#)).

If at anytime you do not want to answer questions or if you answer questions and want to stop answering at anytime, you may clearly and politely say that you do not want to answer questions and ask whether you may leave or whether you must stay with the police. If the police officer tells you that you may leave, you may. If the police officer tells you that you are not free to leave, then you may remain silent and can tell the police officer that “you do not waive any of your rights”. You can also tell the police officer that you want your parents to be present, or that you want to talk to a lawyer.

If arrested as a child, police must notify your parents or guardian. You must also be informed of your Miranda rights (the right to remain silent, anything you say can and will be used against you in a court of law, and you have the right to an attorney).

(Fifth Amendment, Sixth Amendment, [KRS § 610.200\(1\)](#), <https://www.lexingtonky.gov/sites/default/files/2017-03/GO%202014-02%20Interviews,%20Interrogations%20and%20Confessions.pdf>)

## **What if the officers do not identify themselves?**

Police officers that do not identify themselves as a police officer cannot arrest you for refusing to answer their questions or for refusing to provide identification.

However, if you do not answer police officers' questions or provide identification, the police officers may think this is suspicious and may result in a prolonged/longer stop or they make take additional action, including arresting you.

When approaching the suspect [during an investigative stop], the officer should clearly identify himself/herself as a LMPD officer. If in plainclothes, announce his/her identity, displaying his/her credentials. If you are stopped and are not sure if the person stopping you is a police officer, you may ask them to identify himself/herself. You may also take note of the officer's badge number and patrol car number ([ACLU Kentucky](#), p 34).

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

If the officer does not order you to do anything, then you do not need to do anything. You may answer the officer's questions if you want to, but you do not have to. If at any time you do not want to answer questions, or want to stop answering questions, you may clearly and politely say that you do not want to answer questions and ask whether you may leave. If the police officer tells you that you may leave, you may.

You also have the right to remain silent. For example, you do not have to answer any questions about where you are going, where you are traveling from, what you are doing, or where you live. You also do not have to answer questions about where you were born, whether you are a U.S. citizen, or how you entered the country. If you wish to exercise your right to remain silent, can say so out loud.

If the police officer tells you that you are not free to leave, then you may remain silent and can tell the police officer that “you do not waive any of your rights”. You can also tell the police officer that you want your parents to be present, or that you want to talk to a lawyer.

(Fifth Amendment, Sixth Amendment, [KRS § 610.200\(1\)](#), <https://www.aclu.org/know-your-rights/stopped-by-police>)

### **What if the officer is not in uniform or identified as an officer, but I think they are one?**

The officer should identify themselves. If you are stopped and are not sure if the person stopping you is a police officer, you may ask them to identify himself/herself. If they identify themselves as a police officer, please see, "Can the police arrest you for refusing to answer questions?" for more information.

Police officers that do not identify themselves as a police officer cannot arrest you for refusing to answer their questions or for refusing to provide identification. You may choose not to identify yourself ([Kavanaugh v Commonwealth of Kentucky, No. 2012-SC-000820-DG](#)).

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

Yes. Police are free to approach you and ask you questions, including whether you were involved in a crime. However, you are not required to talk to the police and may refuse to answer their questions. The only information that you must give the police is your name (<https://dpa.ky.gov/home-2/clients/rights/>).

If at anytime you do not want to answer questions or if you answer questions and want to stop answering at anytime, you may clearly and politely say that you do not want to answer questions and ask whether you may leave.

If the police officer tells you that you may leave, you may leave. If the police officer tells you that you are not free to leave, then you may stay silent and can tell the police officer that you "do not waive any of your rights". You can also tell the police officer that you want your parents to be present, or that you want to talk to a lawyer (Fifth Amendment, Sixth Amendment, [KRS § 610.200\(1\)](#)).

### **If I sit down, am I resisting?**

If you are intentionally sitting down to prevent or try to prevent a police officer from making an arrest, this can be considered resisting. This is especially true if by sitting down you create a risk of physical injury to the police officer or someone else. ([Ky. Rev. Stat. § 520.090](#)).

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

No, you may not run from a police officer. Running away from a police officer may be considered resisting arrest ([Ky. Rev. Stat. § 520.090](#)) or fleeing or evading police ([Ky. Rev. Stat. § 520.095](#)). This is especially true if by running away you create a risk of physical injury to any person or property.

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

No, it is best not to tell anyone to run from a police officer. Telling others to run from a police officer when the officer has given a direction to stop may be considered fleeing or evading police ([Ky. Rev. Stat. § 520.100](#)). This is especially true if by telling them to run you create a risk of physical injury to any person.

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

Yes, you may tell a police officer that English is not your first language without giving up your rights. You may also clearly state that you do not want to waive any of your rights. If you are detained or arrested, the police must make sure you fully understand your rights, and you can only give them up if you do so knowingly and voluntarily. (Fourth Amendment, Fifth Amendment, [Miranda v. Arizona, 384 U.S. 436 \(1966\)](#))

In Louisville, before Metro Police question you, they are required to provide a free interpreter to you if your primary language is not English and you have a limited ability to speak or understand English. They should show you a Language Identification Form, which is

available on their internal website. They can also call an on-duty interpreter or use a telephone language service to help communicate with you. If you are under arrest, an interpreter should be provided before any questioning occurs ([Louisville Metro Police Department Standard Operating Procedures, section 3.10.4, Limited English Proficient \(LEP\) Individuals](#)).

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

Yes, if the officer believes that there is a reason to stop you and ask questions, they can do so. An officer only needs to have a reasonable suspicion of your criminal activity ([Terry v. Ohio, 392 U.S. 1 \(1968\)](#)). However, the stop may not last longer than a reasonable time. If you are stopped on the street:

- Do not ignore, walk away from, or make sudden moves around law enforcement officers even in instances where you feel they may be mistaken. Do not argue with the officer about the stated reason for approaching you.
- Follow officer instructions. You are not legally required to provide identification and answer questions, but failure to do so may cause the officer to become more suspicious of your activity and prolong the stop.
- Do not touch an officer.
- You may be asked to take your hands out of your pockets. This is for safety reasons.
- If you are carrying a firearm, inform the officer immediately and follow instructions.
- If an officer has a “reasonable suspicion” that you may be carrying a weapon, you may be subjected to a “pat-down” search. Inform him/her of any weapons or sharp objects they may encounter, but don’t reach for them.
- Remember, you are not required to give testimony against yourself. You have Fifth Amendment rights.

If you are operating an automobile, as long as the officer has probable cause that you violated a traffic law, he/she can stop you. If you are pulled over for just a traffic violation, officers can investigate and potentially charge you with other crimes as well ([Whren v. U.S., 1996](#)) ([What to Expect if Stopped by the Police](#))

## **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.
- You have the right to say no to searches of your car, house or other surroundings.
- 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?**

The police can only search your phone if either:

- a) They have probable cause (this means that there are known facts and reasons for the police to believe that they will find what they are searching for) AND a warrant that allows them to search; or



- b) If you agree (consent) to let them search your phone. If you agree to let them search, you cannot claim that the search of your phone was illegal later.

Under Louisville police rules, a search warrant is required to search the contents of a cell phone or other electronic device unless special circumstances and probable cause exist (for example, when there is probable cause that the phone contains a recording or a violent criminal act and this evidence on the phone will be immediately destroyed). See [Louisville Police Department Standard Operating Procedures \(8.1.5 and 8.45.5\)](#).

However, even if the police do not have probable cause and a warrant or consent, they will still be allowed to inspect your phone to make sure that it is not a weapon of any kind (for example, by containing a hidden razor). Police may also conduct a limited search if you are arrested to protect officer safety and to preserve evidence. This does not extend to searches of the digital information on a phone.

(Fourth Amendment, [Riley v. California, 573 U.S. 373 \(2014\)](#))

Additionally, police may not prevent you from using your phone to record police activity, as long as you are doing so from a location where you are allowed to be, including parks, sidewalks, streets, locations of public lawful demonstration/protest areas, your own home, and common areas in public and private buildings (like your school or a shopping mall). See [Louisville Police Department Standard Operating Procedures \(8.45.3\)](#).

If the police do take your phone (for example, if you consent to the search), they must return it to you within 72 hours unless ordered by the LMPD Legal Advisor, the Jefferson County Attorney's Office, or a court instructs the police to keep it longer. See [Louisville Police Department Standard Operating Procedures \(8.45.5\)](#).

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

Louisville and Kentucky do not have a specific law or ordinance on this topic.

If the police do not have a warrant to search your phone, and you have not consented to a search, then you are not required to give them your password.

(Fourth Amendment, [Riley v. California, 573 U.S. 373 \(2014\)](#))

### **What if they tell me to give them my password or other access to my phone?**

Louisville and Kentucky do not have a specific law or ordinance on this topic.

If the police do not have a warrant to search your phone, and you have not consented to a search, then you are not required to give them your password.

If the police have a warrant to search your phone, it is not clear whether they can require you to give them your password. Your password may be considered "testimony", meaning that you cannot be required to give it to the police officer (as it may be incriminating), unless the police have a warrant specifically for the password.

Also be aware that so-called "biometric data", such as your fingerprint or face in the case of face recognition are generally not considered "testimony". Biometric data refers to unique physical traits that can be used to identify you. Therefore, it may be the case that a police officer can require you to give your fingerprint or hold the phone up to your face to unlock it, even without a warrant specifically for the phone's password.

(Fourth Amendment, [Riley v. California, 573 U.S. 373 \(2014\)](#), <https://www.vox.com/recode/2020/2/24/21133600/police-fbi-phone-search-protests-password-rights>)

**Do I have to give them my device password if they demand it from me if I am not under arrest? What if they just ask for it?**

If you are not under arrest, then the police must have probable cause (this means that there are known facts and reasons for the police to believe that they will find what they are searching for) AND a warrant that allows them to search your phone; or you must consent (give permission) to the search. If neither of the above is true, then you do not have to give them your device password.

(Fourth Amendment, [Riley v. California, 573 U.S. 373 \(2014\)](#))

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

Police may not search you or your belongings without a warrant unless you agree to the search or in the case of certain special circumstances and emergency situations. These include preventing physical harm to an individual, the destruction of relevant evidence, and the escape of a suspect.

(Fourth Amendment, <https://kaco.org/media/1787/stop-arrest-and-search-of-persons.doc>)

In terms of technology, the Louisville Metro Police Department (LMPD) has access to Amazon Ring's Neighbors app and uses automated license plate readers. They can request Ring videos from individuals. Louisville police can also wear body cameras. Further, the Jefferson Mall in Louisville, like many other places, now has a security system with facial recognition that LMPD has access to and can monitor, even after mall hours.

(Electronic Frontier Foundation:

<https://www.atlasofsurveillance.org/search?agency=Louisville+Metro+Police+Department>, WDRB: [https://www.wdrb.com/news/jefferson-mall-adds-new-security-system-with-facial-recognition/article\\_66714a42-128b-11ed-b95c-7fc634889bf9.html](https://www.wdrb.com/news/jefferson-mall-adds-new-security-system-with-facial-recognition/article_66714a42-128b-11ed-b95c-7fc634889bf9.html)).

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

The police can only search your backpack if they have probable cause (this means that there are known facts and reasons for the police to believe that they will find what they are searching for) and a search warrant that allows them to search; or if you give them permission/consent to search. You do not need to give them permission to search. If you do, you cannot claim that the search was illegal later.

However, there are certain special circumstances and emergency situations where a Louisville Metro Police Department (LMPD) officer may conduct a search without a warrant. These include preventing physical harm to an individual, the destruction of relevant evidence, and the escape of a suspect.

(Fourth Amendment, [Louisville Police Department Standard Operating Procedures \(8.24.1\)](#))

**Can the police take my picture or record me?**

Yes, police can take your picture or record you in a public space. Police can generally photograph or record anything exposed to the public. However, if you are somewhere where you have a reasonable expectation of privacy, the police may not be able to take your picture, record you, or otherwise search you without a warrant or probable cause.

([Katz v. United States, 389 U.S. 347 \(1967\)](#), [Byrd v. United States, 584 U.S. \(2018\)](#))

If police take you into custody, they can take your picture during the booking process. ([KRS § 610.220](#))

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

A police officer can always ask you questions. You may answer the officer's questions if you want to, but you do not have to. You have the right to remain silent. For example, you do not have to answer any questions about where you are going, where you are traveling from, what you are doing, or where you live. You also do not have to answer questions about where you were born, whether you are a U.S. citizen, or how you entered the country. If you wish to exercise your right to remain silent, you should say so out loud.

If at any time you do not want to answer questions, or want to stop answering questions, you may clearly and politely say that you do not want to answer questions and ask whether you may leave. If the police officer tells you that you may leave, you may.

If the police officer tells you that you are not free to leave, then you may remain silent and can tell the police officer that "you do not waive any of your rights". You can also tell the police officer that you want your parents to be present, or that you want to talk to a lawyer.

(Fifth Amendment, Sixth Amendment, [KRS § 610.200\(1\)](#), <https://www.aclu.org/know-your-rights/stopped-by-police>)

## Reasons the police may detain or arrest you

### Proposed Information

It is important to follow this advice:

- The police may arrest you because they suspect you of committing (or having committed) a violation of the law, or if they suspect that you currently have evidence of a crime.
- Sometimes police 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 paper from police/warrant 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), a misdemeanor for a less serious crime (with jail time of less than one year) or a violation.
- If the police arrest you, they also have 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?

Police are free to approach you and ask you about whether you were involved in a crime, but you aren't required to talk to them or answer their questions. However, if you don't answer their questions or provide identification, this may cause the officer to become more suspicious of your activity and prolong the stop. There is the possibility that they might just be asking you questions about a crime which occurred recently in your area or locating a witness for a crime that doesn't involve you. See <https://www.lexingtonky.gov/police-stop>.

If at any time you do not want to answer questions or if you answer questions and want to stop answering at any time, you may clearly and politely say that you do not want to answer questions and ask whether you may leave.

If the police officer tells you that you may leave, you may leave. If the police officer tells you that you are not free to leave, then you may stay silent and can tell the police officer that you "do not waive any of your rights". You can also tell the police officer that you want your parents to be present, or that you want to talk to a lawyer (Fifth Amendment, Sixth Amendment, [KRS § 610.200\(1\)](#)).

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

You do not have to make any statements about the incident. You do not have to correct the police if you believe they have the wrong information or are making a mistake in their investigation. The police can use anything you say against you if you are arrested.

([Fifth Amendment, \*Kavanaugh v Commonwealth of Kentucky\*, No. 2012-SC-000820-DG](#))

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

If the officer does not order you to do anything, then you do not need to do anything. You can answer the officer questions if you want to, but you do not have to. A person should always be polite when responding to a police officer. If at any time you do not want to answer questions, or want to stop answering questions, you may clearly and politely say that you do not want to answer questions and ask whether you may leave. If the police officer tells you that you may leave, you may.

If the police officer tells you that you are not free to leave, then you may remain silent and can tell the police officer that “you do not waive any of your rights”. You can also tell the police officer that you want your parents to be present, or that you want to talk to a lawyer. You do not have to answer questions about where you were born, whether you are a U.S. citizen, or how you entered the country.

(Fifth Amendment, Sixth Amendment, [KRS § 610.200\(1\)](#), <https://www.aclu.org/know-your-rights/stopped-by-police>)

**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?**

There is no legal difference between talking to a police officer before you are under arrest and after you are under arrest. In both cases, what you say can be used against you in court, so don't say anything without a lawyer with you. Be very cautious about what you say to police, especially if your lawyer isn't with you.

([Miranda v. Arizona](#), 384 U.S. 436 (1966))

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

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

If the police ask to search you, you may respond yes or no. If you do not want them to search, you may answer “no, you cannot search me”, but you should not physically resist. This may not stop the search from happening, but it will protect your rights if you have to go to court.

You can also say “yes, I consent/agree to being searched” but know that you are allowing the police to search you even though they may have no legal basis for the search. By agreeing to the search, you are giving up your Fourth Amendment protection against unreasonable searches and seizures.

If you agree (consent) to let them search, you cannot claim that the search was illegal later. Whatever an officer finds during the search can be used as evidence against you.

(Fourth Amendment, [ACLU Kentucky Youth Rights Handbook 2019, pg. 31](#))

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

You must give the police your name if they ask for it. You do not have to give the police any other information.

If you are driving and are stopped by the police, they may require you to provide your driver's license, registration, and proof of insurance. However, if you are not involved in a traffic stop, you do not have to provide identification (other than your name) in Kentucky upon request, but it may be considered suspicious and result in further questions.

(<https://baldanilaw.com/identify-yourself-to-kentucky-police/>) <https://dpa.ky.gov/home-2/clients/rights/>)

If you do not want to answer, you can say, "I would like to remain silent." If you do answer, but then change your mind, you can tell the police officer that you do not want to answer any more. To protect yourself in future proceedings against you, it is safest to exercise your right to remain silent.

([ACLU Kentucky Youth Rights Handbook 2019, pg. 31](#), [Louisville Metro Police Department Standard Operating Procedures, Sec. 3.6.4](#))

## **Do police need a warrant to arrest you?**

### **Proposed Information**

It is important to follow this advice:

- No. Police officers can legally arrest you without a warrant in several circumstances, as follows:
  - When the crime is committed in front of the police officers; or
  - When the officer has probable cause (reason to suspect) that the suspect has committed a felony, whether or not the act was done in front of them.

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

The police can only stop you when they have a reasonable suspicion that a crime has been, is being, or is about to be committed by you. Law enforcement can't stop you unless they can articulate why they believe you are doing something against the law.

If you are stopped on foot, you do not have to answer any questions. You can say "I exercise my right to remain silent". You can ask if you are free to go. If the answer is yes, you can just walk away. The only information that you must give the police is your name. You are not required to answer any other questions by the police.

The police can pat down the outside of your clothing if they have a "reasonable suspicion" that you may be armed or dangerous. If they search you more than a pat down, calmly and clearly tell them that you do not consent to the search. If the police continue to search you, do not fight or resist them, but remember this so you can tell your lawyer later on.

If you are stopped while driving, you are required to show your driver's license, registration, and proof of insurance if asked. The police can ask you to step out of your car, and they may separate passengers and drivers from each other to question them and compare their answers. Remember, you do not have to answer any of their questions.

([Know Your Rights – Department of Public Advocacy \(ky.gov\)](#), [Terry v. Ohio, 392 U.S. 1 \(1968\)](#))

## **Can I ask for the reason they stopped me?**

Yes, you can ask for the reason the police stopped you, but an officer may not have to answer that question when he/she stops you. However, an officer must have a “reasonable suspicion” to stop you.

([Terry v. Ohio, 392 U.S. 1 \(1968\)](#))

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

You may help advocate for another young person if you are stopped together, but, remember that anything you say or do can be later used against you or the other young person in a court of law. You may also choose to remain silent.

([Miranda v. Arizona, 384 U.S. 436 \(1966\)](#))

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

To stay safe, it is a good idea to listen to what the police say and not behave in a way that looks like you are resisting arrest or disobeying instructions they give you, even if you think they are wrong or acting against the law. Later, you can file a complaint.

If you are stopped on foot, you do not have to answer any questions. You can say “I exercise my right to remain silent”. You can ask if you are free to go. If the answer is yes, you can just walk away. The only information that you must give the police is your name. You are not required to answer any other questions by the police.

The police can pat down the outside of your clothing if they have a “reasonable suspicion” that you may be armed or dangerous. If they search you more than a pat down, you may calmly and clearly tell them that you do not consent to the search. If the police continue to search a person, even after objections, it is important to note what happened, as this information may be relevant to their lawyer later.

If you are stopped while driving, you are required to show your driver’s license, registration, and proof of insurance if asked. The police can ask you to step out of your car, and they may separate passengers and drivers from each other to question them and compare their answers. Remember, you do not have to answer any of their questions.

After the stop, write down everything that took place during the police encounter. When quoting yourself or the officer try to use exact words. Be as specific as possible. Try to also find witnesses who saw the mistreatment and write down their names and phone numbers.

If you feel your rights have been violated, you can file a written complaint with the police department’s internal affairs division or civilian complaint board:

- For complaints against the Louisville Metropolitan Police Department (LMPD), the formal process for filing complaints can be found [HERE](#).
- If you do not feel comfortable filing a complaint directly with the police, you can choose to file a complaint with the Louisville Office of Inspector General (LOIG) either online or by requesting a paper copy of the form via email, phone, or in-person at the LOIG office at 611 W Jefferson St, Louisville, KY 40202. Additional information on how to file a complaint with the LOIG can be found [HERE](#).

([Know Your Rights – Department of Public Advocacy \(ky.gov\)](#), [Terry v. Ohio, 392 U.S. 1 \(1968\)](#), [Louisville Office of Inspector General Website](#))

## **Can I get the officer’s identifying information for a future complaint?**

Yes, you have the right to ask the officer for this information, but it’s best to do so politely and calmly. Additionally, in Louisville, if the officer believes you are a suspect, the officer

should clearly identify himself/herself as a LMPD officer and, if in plainclothes, announce his/her identity, displaying his/her credentials.

[\(Louisville Police Department Standard Operating Procedures section 3.6.4, Know Your Rights – Department of Public Advocacy \(ky.gov\)\)](#)

## 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 an 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 has to warn you of your rights before the police question you. This means an officer can arrest you before warning you of your rights.
- An arrest without rights warnings is still a valid arrest; it just may mean that evidence collected from it is not admissible in court later.

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

You have the right to ask the police officer if you are under arrest or about to be arrested. You can also ask the officer why you are being arrested. The police officer is obliged to answer.

In order to be officially placed under arrest, a police officer must inform the person about to be arrested that he/she is under arrest and the offense for which he/she is being arrested.

An arrest can also be made by restraining the person being arrested, or by his/her willingness to enter the custody of the police officer making the arrest. No unnecessary force or violence should be used.

[Ky. Rev. Stat. § 431.025](#)

### What is the difference between detention and arrest?

Detention happens when someone is held for a limited period of time for further investigation. Reasonable suspicion can be used to detain a suspect. The person can be held without a formal charge only for a limited amount of time. A detention does not appear on the individual's criminal record.

Arrest is taking someone into legal custody in response to a criminal charge. This generally involves arresting someone or restraining him or her. To place someone under arrest, the police must have probable cause to believe you have committed an illegal act. An arrest often requires solid evidence and an arrest warrant. A person who has been arrested remains in police custody until bail is granted or the case is brought before a court. The arrest appears on the individual's criminal record.

To determine if you are under arrest, you may ask the officer(s) if you are under arrest or are being detained. The police officer making the arrest must inform the person about to be

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arrested of the intention to arrest him/her, and of the offense for which he/she is being arrested.

(Ky. Rev. Stat. § 431.025, <https://www.stowelawfirmnc.com/detainment-vs-arrest-how-to-know-the-difference/#:~:text=The%20primary%20difference%20between%20detainment,you%20committed%20an%20illegal%20act>)

### **If I am handcuffed, am I arrested?**

No, being handcuffed does not automatically mean that you are arrested. Do not assume that you are under arrest unless the officer specifically informs you that you are. Even if you are not under arrest, an officer may detain you and handcuff you for the safety of the people involved, including yourself, while conducting an investigation.

To be officially placed under arrest, a police officer must inform the person about to be arrested that he/she is under arrest and the offense for which he/she is being arrested.

An arrest can also be made by restraining the person being arrested, or by his/her willingness to enter the custody of the police officer making the arrest. No unnecessary force or violence should be used.

There are several different situations in which police may place you in handcuffs or other restraints without arresting you, including when searching the area while executing a warrant or for police officer safety purposes.

(Ky. Rev. Stat. § 431.025, [MUEHLER v. MENA \[03-1423\]](#), 544 U.S. 93 (2005), [Police Misconduct and Civil Rights - FindLaw](#))

### **If my liberty is restricted, am I under arrest?**

No, having your liberty restricted does not automatically mean that you are arrested. Do not assume that you are under arrest unless the officer specifically informs you that you are. Even if you are not under arrest, an officer may detain you and handcuff you for the safety of the people involved, including yourself, while conducting an investigation.

If the officer would like to arrest you, they must tell you that they are going to be arresting you and the reason why you are being arrested. An arrest can also be made by restraining the person being arrested, or by his/her willingness to enter the custody of the police officer making the arrest. No unnecessary force or violence should be used.

[Ky. Rev. Stat. § 431.025](#)

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

Yes, you have the right to ask the officer for this information, but it's best to do so politely and calmly. Additionally, in Louisville, if the officer believes you are a suspect, the officer should clearly identify himself/herself as a LMPD officer and, if in plainclothes, announce his/her identity, displaying his/her credentials.

([Louisville Police Department Standard Operating Procedures section 3.6.4](#), [Know Your Rights – Department of Public Advocacy \(ky.gov\)](#))

## **What to do after being warned of your rights**

### **Proposed Information**

It is important to follow this advice:

- You can use your right to remain silent or any of your other rights (e.g., the right to an attorney) by saying that you want to use that right.

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- You are also able to waive your rights (that is, not use them) by, for example, saying 'Yes, I understand my rights, but I am ready to talk to you.' This is not a good idea without a lawyer present.
- Make sure you know what you're doing in giving up your rights.

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

If you are under arrest and the police read you your Miranda rights (i.e., that you have the right to remain silent and you have the right to an attorney), then you can refuse to answer questions and you can request to talk with an attorney. Even if the police continue to ask you questions, you can refuse to answer the questions, and you can ask to talk with an attorney. The important thing is that you must clearly say that you would like to exercise your right to remain silent and that you would like to speak with a lawyer.

In addition, the police must contact your parent or guardian if you are under arrest.

([Miranda v. Arizona, 384 U.S. 436 \(1966\)](#), <https://dpa.ky.gov/home/clients/rights/>)

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

No, the police can read you your rights anywhere that you are considered under custody at any location within their jurisdiction. However, officers must immediately read you your rights when taking you into custody. Custody is a when a reasonable person would think that he/she is not free to go.

([Miranda v. Arizona, 384 U.S. 436 \(1966\)](#), <https://dpa.ky.gov/home/clients/rights/>)

## 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, and you never have to go anywhere with the police unless they have arrested you.
- If police have arrested you and if you are under the age of 18, police are required to immediately notify your parent, caretaker or legal guardian.

### Am I required to make a statement?

No, you are not required to make a statement or answer any questions. The only information you must give the police is your name.

([Fifth Amendment](#), [ACLU: The Rights of Young People in Kentucky](#), page 33)

### Must police notify my guardian?

If you are taken **into custody** (for example, a police station or juvenile detention facility), police must immediately notify your parent or another responsible adult. If you are **not taken into custody**, the law does not state that a parent (or another responsible adult) must be contacted. Remember, however, that you do not have to answer any questions.

([KY ST § 610.220](#), [KRS 610.200\(1\)](#))

## Must I confess?

No, you do not have to confess. You can request an attorney and remain silent while being questioned.

[Fifth Amendment](#)

## What adults can I ask to be with me?

You can ask for your parents/guardians or a person exercising custodial control or supervision, a relative, guardian, or other responsible person. You can also ask for an attorney. Police are supposed to reach out to your parents/guardians to let them know they are questioning you. If the police do not contact your parents or attorney, then you are not required to answer any questions, other than your name.

If you don't want to answer police questions, you can politely say so, and then ask whether you may leave. If the authorities tell you that you are not free to leave, then you may assert your right to remain silent.

If you're in this situation, you can also tell authorities that you do not waive any of your rights (to prevent them from claiming that you consented to a search or to questioning).

[\(KY ST § 610.220, KRS 610.200\(1\)\)](#)

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

If you are taken **into custody** (for example, a police station or juvenile detention facility), police must immediately notify your parent or another responsible adult. If you are **not taken into custody**, the law does not state that a parent (or another responsible adult) must be contacted. Remember, however, that you do not have to answer any questions.

[\(KY ST § 610.220, KRS 610.200\(1\)\)](#)

## 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 police. 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?

You have no obligation to confess to a crime and you are not required to report to the police a crime that you have witnessed or heard about. However, the law protects you if you do report a crime, so long as your report is honest and based on reasonable information. A witness must always tell the truth. If you feel like your responses could connect you with the commission of a crime, you can talk to a lawyer before answering.

[\(KRS 620.50, Know Your Rights - Department of Public Advocacy \(ky.gov\)\)](#)

## What if I can't afford a lawyer?

If you are being questioned by the police or if you are arrested, you can ask for a lawyer immediately. If you cannot afford one, one will be appointed for you. You have the right to remain silent until your lawyer is present.

([Fifth Amendment](#), [Sixth Amendment](#))

## Do the police always have to tell the truth?

### Proposed Information

It is important to follow this advice:

- No. The police 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 police will lie to try and get you to talk more.

### Can the police lie to me?

The police cannot lie to you about your legal rights, such as your right to remain silent or your right to an attorney, when you are in police custody.

However, it is almost always legal for police to lie during investigations. The police are permitted to lie to you about certain case facts, including who else they have talked to or interviewed, what information they obtained from those conversations, and what other types of evidence they may have. For example, police can falsely claim that a suspect's cousin confessed when he had not (*Frazier v. Cupp*, 1969), that they found a suspect's fingerprints at the crime scene when none were actually found (*Oregon v. Mathiason*, 1977), or that other evidence like DNA or satellite photography of the crime scene, exist (*State v. Nightingale*, 2012).

(<https://innocenceproject.org/police-deception-lying-interrogations-youth-teenagers/#:~:text=It%20is%20almost%20always%20legal,to%20extract%20confessions%20from%20people.>)

### Do I have to tell the police the truth?

You should not lie or make false statements to the police. Lying to the police can be a crime, especially when providing identifying information, such as your name, when under oath, and when filing a police report or reporting a crime.

However, you do have the right to remain silent and to have an attorney present during questioning. The Miranda Rule applies to anyone being interrogated by the police, regardless of age.

([ACLU - The Rights of Young People in Kentucky](#), pages 32-33, [Fifth Amendment](#))

## 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 feel you have been mistreated by a member or officer of the Louisville Metropolitan Police Department (LMPD), you can file a formal complaint directly with LMPD either in person or by completing a paper or electronic form.

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- To file a formal complaint in person, you must go to the LMPD Professional Standards Unit, located at 400 South 1st Street, Louisville, KY 40211.
- Paper forms can be picked up from any of the eight (8) LMPD divisions.
- Electronic forms can be completed on LMPD's website [HERE](#).
- Paper and electronic forms MUST be completed by a LEGAL GUARDIAN for all minors, or completed by the complainant themselves, if they are an adult.
- Any complaints of criminal activity displayed by a member of the LMPD should be directed to the Public Integrity Unit (PIU) at (502) 574-2136.

Details for how to submit a complaint directly with LMPD, including what information is required in the complaint and who to contact for assistance with filing a complaint against a LMPD member, can be found [HERE](#).

If you do not feel comfortable filing a complaint directly with LMPD, you can chose to file a complaint with the Louisville Office of Inspector General (LOIG) either online or by requesting a paper copy of the form via email, phone, or in-person. Additional information on how to file a complaint with the LOIG can be found [HERE](#).

If you believe your rights were violated:

- Write down everything you remember, including officers' badges and patrol car numbers, which agency the officers were from, and any other details. Get contact information for witnesses.
- If you're injured, seek medical attention immediately and take photographs of your injuries.

(<https://www.aclu.org/know-your-rights/stopped-by-police>)

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

### Proposed Information

It is important to follow this advice:

Submitting a civilian complaint starts the process of filing a formal complaint against an employee of the Louisville Metro Police Department (LMPD). Filling out and submitting a civilian complaint form does not ensure the opening of a formal investigation, but all complaints are reviewed by a representative from the Professional Standards Unit (PSU) to determine if the complaint deserves further inquiry.

An investigator may need to contact you for further clarification on your complaint, including your narrative describing what happened. Current contact information must be provided for them to do so.

([Compliment/Complaint Involving our Employees | Louisville Metro PD, KY \(louisville-police.org\)](#))

## Options after I receive a decision on your complaint

### Proposed Information

It is important to follow this advice:

Filling out and submitting a civilian complaint form does not ensure the opening of a formal investigation, but all complaints are reviewed by a representative from the Professional Standards Unit (PSU) to determine if the complaint merits further inquiry.

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For more information on the complaint process, please call the PSU Office @ 502-574-7144.

Ms. Stella Dorsey, the Human Relations Commission Citizen Advocate, is also available to assist citizens in making formal complaints. Ms. Dorsey is a notary public and can assist in getting the complaint notarized. Ms. Dorsey is a valuable resource to explain the process of making a complaint and is available to assist with appeals. Her contact numbers are 502-574-4357 (office) or 502-475-8039 (cell). Her office is located at 410 W. Chestnut Street, Suite 300A.

[\(Compliment/Complaint Involving our Employees | Louisville Metro PD, KY \(louisville-police.org\)\)](https://louisville-police.org)

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

### Proposed Information

It is important to follow this advice:

If you feel you have been mistreated by a member or officer of the Louisville Metropolitan Police Department (LMPD), you can file a formal complaint directly with LMPD either in person or by completing a paper or electronic form.

- To file a formal complaint in person, you must go to the LMPD Professional Standards Unit, located at 400 South 1st Street, Louisville, KY 40211.
- Paper forms can be picked up from any of the eight (8) LMPD divisions.
- Electronic forms can be completed on LMPD's website [HERE](#).
- Paper and electronic forms MUST be completed by a LEGAL GUARDIAN for all minors, or completed by the complainant themselves, if they are an adult.
- Any complaints of criminal activity displayed by a member of the LMPD should be directed to the Public Integrity Unit (PIU) at (502) 574-2136.

Details for how to submit a complaint directly with LMPD, including what information is required in the complaint and who to contact for assistance with filing a complaint against a LMPD member, can be found [HERE](#).

If you do not feel comfortable filing a complaint directly with LMPD, you can choose to file a complaint with the Louisville Office of Inspector General (LOIG) either online or by requesting a paper copy of the form via email, phone, or in-person at . Additional information on how to file a complaint with the LOIG can be found [HERE](#).

If you believe you are a victim of discrimination or racism, you can also file an Inquiry of Discrimination with the Louisville Metro Human Relations Commission [HERE](#). You can contact the Louisville Metro Human Relations Commission with any questions at 502-574-3631.

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

### Proposed Information

It is important to follow this advice:

If you feel you have been mistreated by a member or officer of the Louisville Metropolitan Police Department (LMPD), you can file a formal complaint directly with LMPD either in person or by completing a paper or electronic form.



- To file a formal complaint in person, you must go to the LMPD Professional Standards Unit, located at 400 South 1st Street, Louisville, KY 40211.
- Paper forms can be picked up from any of the eight (8) LMPD divisions.
- Electronic forms can be completed on LMPD's website [HERE](#).
- Paper and electronic forms MUST be completed by a LEGAL GUARDIAN for all minors, or completed by the complainant themselves, if they are an adult.
- Any complaints of criminal activity displayed by a member of the LMPD should be directed to the Public Integrity Unit (PIU) at (502) 574-2136.

Details for how to submit a complaint directly with LMPD, including what information is required in the complaint and who to contact for assistance with filing a complaint against a LMPD member, can be found [HERE](#).

If you do not feel comfortable filing a complaint directly with LMPD, you can choose to file a complaint with the Louisville Office of Inspector General (LOIG) either online or by requesting a paper copy of the form via email, phone, or in-person. Additional information on how to file a complaint with the LOIG can be found [HERE](#).

If you believe you are a victim of discrimination or racism, you can also file an Inquiry of Discrimination with the Louisville Metro Human Relations Commission [HERE](#). You can contact the Louisville Metro Human Relations Commission with any questions at 502-574-3631.

## How can I respond to circumstances involving discrimination?

### Proposed Information

It is important to follow this advice:

You can make a complaint relating to police misconduct or discrimination directly with the Louisville Metropolitan Police Department (LMPD) [HERE](#). You can also consult with a lawyer to file a lawsuit regarding the misconduct / discrimination.

If you believe your rights were violated or if you're witnessing police abuse or brutality:

- Write down everything you remember, including officers' badges and patrol car numbers, which agency the officers were from, and any other details. Get contact information for witnesses.
- If you're injured, seek medical attention immediately and take photographs of your injuries.
- Stand at a safe distance and, if possible, use your phone to record video of what is happening. As long as you do not interfere with what the officers are doing and do not stand close enough to obstruct their movements, you have the right to observe and record events that are plainly visible in public spaces.
- Do not try to hide the fact that you are recording. Police officers do not have a reasonable expectation of privacy when performing their jobs, but the people they are interacting with may have privacy rights that would require you to notify them of the recording. In some states (see here) you must make people aware that you are recording them.
- Police officers may not confiscate or demand to view your photographs or video without a warrant, and they may not delete your photographs or video under any circumstances. If an officer orders you to stop recording or orders you to hand over your phone, you can politely but firmly tell the officer that you do not consent to doing

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so, and remind the officer that taking photographs or video is your right under the First Amendment. Be aware that some officers may arrest you for refusing to comply even though their orders are illegal. The arrest would be unlawful, but you will need to weigh the personal risks of arrest (including the risk that officer may search you upon arrest) against the value of continuing to record.

- Whether or not you are able to record everything, you can write down everything you remember, including officers' badge and patrol car numbers, which agency the officers were from, how many officers were present and what their names were, any use of weapons (including less-lethal weapons such as Tasers or batons), and any injuries suffered by the person stopped. If you can speak to the person stopped by police after the police leave, they may find your contact information helpful in case they decide to file a complaint or pursue a lawsuit against the officers.

(<https://www.aclu.org/know-your-rights/stopped-by-police>),  
<https://dpa.ky.gov/home/clients/rights/>)

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

### Proposed Information

It is important to follow this advice:

If you feel that your rights have been violated by police, it is important to not panic. There are several steps to the process of combating police misconduct, and you must approach them in a calm and organized manner:

- Step 1: Write everything down
  - This step is extremely important and must be completed as soon as possible following the incident. It's easy to forget small details over time, and there's no way to know which facts will make a difference later.
  - In your own words describe everything that took place from the very beginning of the police encounter to the end. When quoting yourself or the officer try to use exact words. Be specific about the location, time of day, etc.
  - Also include witness's names and contact information and the officers' names, physical descriptions, and badge numbers. If necessary, be prepared to return to the scene of the incident in search of possible witnesses. Doing so may also help jog your memory about other important details.
- Step 2: Consult with an attorney
  - This step is essential if you were arrested following the incident. It is optional, but recommended, if you were not arrested.
  - Victims of police misconduct are often vigorously prosecuted in order to gain leverage in case the victim files a lawsuit. If you're caught in a situation like this, you need a good police misconduct attorney immediately. Police misconduct cases are challenging, and lawyers meet a lot of difficult people, so separate yourself from the pack by being calm and well-organized. The materials you prepared in Step 1 will help demonstrate that you are a competent defendant whose case is worth taking.
  - If you were not charged with a crime following the incident, you may still wish to pursue a civil suit against the police department. An attorney will help you determine whether you have a strong enough case. Proving police misconduct

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is extremely difficult, so your attorney will choose whether to proceed based on the strength of the evidence, rather than the severity of the misconduct.

- Step 3: File a Police Misconduct Report
  - This step should not begin until all criminal charges and civil actions have been resolved. Filing a police misconduct report prematurely may hurt your chances in court by revealing too much information to the police. Of course, if you weren't charged with a crime and you're not suing, the complaint should be filed right away.
  - The materials you prepared in Step 1 will form the body of your complaint. You'll be glad you wrote it down back then, because you might be filing your complaint weeks or months after the incident.

To file a formal complaint against a member of the Louisville Metro Police Department, please use one of the following methods below:

- To file a formal complaint in person, you must go to the LMPD Professional Standards Unit, located at 400 South 1st Street, Louisville, KY 40211.
- Paper forms can be picked up from any of the eight (8) LMPD divisions.
- Electronic forms can be completed on LMPD's website [HERE](#).
- Paper and electronic forms MUST be completed by a LEGAL GUARDIAN for all minors, or completed by the complainant themselves, if they are an adult.
- Any complaints of criminal activity displayed by a member of the LMPD should be directed to the Public Integrity Unit (PIU) at (502) 574-2136.

Details for how to submit a complaint directly with LMPD, including what information is required in the complaint and who to contact for assistance with filing a complaint against a LMPD member, can be found [HERE](#).

In the space labeled Description of Incident, please describe the events in as much detail as possible. [Formal Complaint | Louisville Metro PD, KY \(louisville-police.org\)](#)

Finally, before sending your complaint, be sure to make copies and place them in a secure location. You can also send your complaint by certified mail so the police cannot deny having received it.

Finally, keep in mind that filing a complaint does not ensure a prompt response from the police department or civilian monitoring agency. Police departments receive many complaints, so your concerns won't necessarily receive the individual attention they may deserve. Remember that your complaint creates documentation of an incident and could be used in conjunction with other complaints to illustrate a pattern of misconduct. This information is useful to community activists who work to prevent police abuse in your community. Similarly, your complaint could become relevant in the future if the same officer is accused of additional misconduct. In short, your complaint is important even if you don't get a response.

(<https://www.kacdl.net/content.asp?contentid=187#miranda>)

## Resources

[https://f.datasrvr.com/fr1/123/66439/Real\\_Rights\\_-\\_Kentucky.zip?cbcachex=699942](https://f.datasrvr.com/fr1/123/66439/Real_Rights_-_Kentucky.zip?cbcachex=699942)

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Law is generally described as of July 2025.

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