

# Real Rights: young people engaging with law enforcement



Budapest, Hungary



## SITE IN DEVELOPMENT - FEEDBACK NEEDED

The launch of the Real Rights platform as a DRAFT site in order to obtain feedback from people across the globe. The information included herein represents initial research and responses that need review and commentary on a broader scale. We actively encourage any World Congress attendees or reviewers of this site to provide any comments you may have on the website and the content either by clicking on the "Feedback" button in each city page or by emailing [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
- Do Police Need A Warrant To Arrest You?
- How Do You Know If You Are Under Arrest?
- What To Do After Being Warned of Your Rights
- Police Questioning You
- Reporting Crimes To The Police
- Responding To Bad Treatment By The Police
- How do I Contact A Lawyer and When?
- 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 can you do if the Police perform an improper search?  
Or if you are improperly detained?

## Stopped By The Police On The Street, Now What?

### Proposed Information

It is important to follow this advice:

- Stay calm. Usually the police stop you just to verify your identity.
- Make sure you have your ID card or other document proving your identity (student card, driving license, etc.). [Section 29 (1) a) and 29 (2) of the [Act on the Police](#)]
- If the police officer asks you for your address or place of residence, you must answer. [Section 29 (1) b) and 29 (3) of the [Act on the Police](#)]
- It is not a good idea to resist, even if you're innocent or if you think the police are acting unfairly or in a way that might be against the law. [Section 19 of the [Act on the Police](#) - English excerpt available [here](#)]

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

No, but they can take you to the local police station to figure out who you are. This may be required to check whether there are any older warrants (court orders) against you which would require your arrest. [Section 29 (4b) and Section 32 of the [Act on the Police](#) and Section 117 of the [Act on the Criminal Procedure](#)].

If the police cannot properly identify you, they may take your fingerprints or take a photo of you. [Section 29 (4) and 29 (4a) of the [Act on the Police](#)]

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

Police officers have to keep their identification (ID) badge visible on their uniform. They also have to tell you their name and identification number. They have to do this before the end of the police meeting. [Section 20 of the [Act on the Police](#)]

If a police officer did not do these things, you should make a complaint at the nearest police station or the commissioner of fundamental rights (ombudsperson). [Sections 39/F-39/L of the [Act on the Commissioner for Fundamental Rights](#)]

### What can I do if a Police Officer asks me to say my name to the camera?

You do not have to say your name, so feel free to tell the police officer that if they need details to prove your identity, they should check your ID card.

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

In that case, the officer might be an undercover detective. Until they correctly identify themselves (for example, by showing you their badge), you do not have to follow their commands.

### Can I take a picture or video of the police officers?

Yes, police officers perform a public duty and taking a photo or video is often the only way to prove whether an offense has been committed by the police.

## When Can Police Search You and Your Surroundings?

### Proposed Information

It is important to follow this advice:

- A police officer may inspect you, your clothing, or your vehicle if it is necessary to figure out who you are, for public safety reasons or to confirm their suspicion of a criminal offence or violation. [Section 29 (6) of the [Act on the Police](#)]
- The inspection has to be carried out by a person of the same sex as you, except when there are specific time constraints. [Sections 306-307 of the [Act on the Criminal Procedure](#)]
- The police can only search your apartment if they have a warrant issued by a court, a prosecutor's office or another authority responsible for investigations. [Section 71 of the [Act on the Police](#) and Sections 302-305 of the [Act on the Criminal Procedure](#)] You cannot be arrested for refusing to consent to a search without a warrant. Therefore, you should always politely ask an officer to show you the warrant, and to provide you some time to read it before the search starts.

### What if they want to search my phone?

The police cannot search your phone without a legal reason. They can take your phone if they think it is evidence, or if you may hurt yourself or others with it, or if they think it is a stolen phone. [Section 29/B (1) of the [Act on the Police](#)]

If the police need to access data on your phone (and they have a legal reason), they can copy it without searching it directly. If you do not tell them the unlock passwords, they can access your phone anyway using expert technology (this usually takes longer).

If the police know what they need from your phone, they will copy only that information. If it cannot be separated from other content, they will copy everything on the phone. [Sections 312 (1) and Section 315 (4) of the [Act on the Criminal Procedure](#)]

## What can the police search?

They can search your apartment, rooms, fenced areas or vehicles. They may also search or examine information on a computer, hard drive, USB stick, etc. [Section 302 (1) of the [Act on the Criminal Procedure](#)]

## Reasons Police May Detain or Arrest You

### Proposed Information

It is important to follow this advice:

- As a general rule, the police can take you into custody for up to 24 hours in order to find out your identity (no warrant is needed, since this does not count as arresting or detaining).
- If your arrest or detention has been previously ordered, or you have escaped from previous custody, the police can take you into custody again for a maximum of 12 hours (they can take you in for 8 hours, which can be extended by another 4 hours). After this time period, you need to either be detained, arrested, handed over to a foreign authority for investigation or set free. During this 12 hour period, you need to be informed of the reasons why you are in custody (verbally and/or in writing). [Section 275 of the [Act on the Criminal Procedure](#) and Section 33 of the [Act on the Police](#)]
- If you were caught committing a crime, or if there is good reason (in the police's opinion) to believe that the court will order your arrest until a trial (a court's reasons for this may be that they believe you would try to finish an attempted crime, escape or destroy evidence), the police can detain you on sight for a maximum of 72 hours, until further measures are taken (e.g. a warrant is issued for your arrest). [Section 274, 276 and Section 277 (4) of the [Act on the Criminal Procedure](#)]
- If the police arrest you with a warrant (though this is not usual with minors), they can hold you for a longer period of time (up to 1 year if you are younger than 14, up to 2 years if you are older than 14 (a juvenile)). [Section 688 of the [Act on the Criminal Procedure](#) and Sections 105-106 of the [Hungarian Criminal Code](#)]
- It is a good idea to review any paper from the police (including any warrant) carefully to make sure you understand what exactly is covered, and what kind of warrant has been ordered.
- If the police take you into custody, they also have the right to search you. Anything found during this search may be used as evidence against you.
- [Additional information on legal rights if accused of a crime which is dealt with in court: [https://e-justice.europa.eu/content\\_rights\\_of\\_defendants\\_in\\_criminal\\_proceedings\\_-169-hu-en.do?init=true&member=1](https://e-justice.europa.eu/content_rights_of_defendants_in_criminal_proceedings_-169-hu-en.do?init=true&member=1). Please note that this is an article and not legislation or case law. We cannot be sure that such information is up-to-date. We do not promote specific websites.]

## Can I have anyone with me when the police questions me?

Yes, your parent, or any other adult taking care of you, may be present during police questioning, and also in court. You should always ask for an adult to be present before you say anything to the police. If the police start asking questions without calling your parents or any adult that you asked for, you do not have to answer their questions. Even if you do answer them, they will not be able to use those answers against you.

However, this only applies if you have asked for your parent or another adult to be present, so make sure you ask very clearly. Since having a parent or another adult with you is a right and not a legal requirement, if you do not ask for one to be present (which means you have not used or have turned down your right), the police may ask you questions and whatever you say may be used against you.

[[Directive \(EU\) 2016/800](#) on procedural safeguards for children who are suspects or accused persons in criminal proceedings]

## Can I leave the country during the investigation?

If you are not under arrest or house arrest (if you are allowed to leave your house), you can also leave the country, but you have to show up whenever the police or court calls you in during the investigation or criminal process.

## Do Police Need A Warrant To Arrest You?

### Proposed Information

It is important to follow this advice:

- Yes, all arrests require a warrant. [Section 276 of the [Act on the Criminal Procedure](#) and Section 70 of the [Act on the Police](#)]
- However, police officers can legally detain (keep) you without a warrant if:
  - you committed a crime in front of them.
  - there is a good reason (in their opinion) to believe that a court will order your arrest until you are put on trial.
  - letting you go would disrupt criminal proceedings which are happening.

[Section 33 of the [Act on the Police](#)]

- If you are a minor (younger than 18 years old) the police may arrest you only if it is necessary due to the particular gravity of the crime which you are accused of committing. [Section 688 of the [Act on the Criminal Procedure](#)]

### Do police need authority from a court to arrest you?

Yes. To arrest someone, the police need a court warrant (an order to arrest you).

### Am I allowed to ask why they stopped me?

Yes, and they are required to respond.

### If I think the stop is not fair or doesn't have a good reason, what can I do?

In order to stay safe, it might be 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 any instructions they give you, even if you think they are wrong or acting against the law. Later, you can file a complaint.

You are allowed to take pictures or videos of the officers. You might want these pictures or videos to prove that the police have acted unlawfully (against the law).

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

Yes, right after they stop you, they should identify themselves by giving you their name, badge number, ranking and any other relevant information. [Section 20 of the [Act on the Police](#)]

If they do not do it, or if you feel they are not following any rules, you should file a complaint at the nearest police station, or to the office of the commissioner of fundamental rights (ombudsperson). [Sections 39/F-39/L of the [Act on the Commissioner for Fundamental Rights](#)] The police officer is also required by the law to inform you about the possibility to file complaint and the deadline to file a complaint against anything he does.

## How Do You Know If You Are Under Arrest?

### Proposed Information

It is important to follow this advice:

- You are in police custody/under arrest if a police officer tells you that you are, for example, by saying "You are under arrest", or if they tell you that you are not free to leave an officer's presence, or if it is obvious from the situation that you are not free to leave.
- If the following happens, you are likely to be under arrest according to 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.

[Sections 47-48 of the [Act on the Police](#)]

- An officer only has to warn you of your rights before they question you. This means an officer can arrest you before warning you of your rights. If you are not told about your rights (including before being questioned) the arrest is still a valid arrest - it just means that evidence that the police got during the arrest and questioning may not be used in court.

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

If you are not sure whether you are arrested or not, you should politely ask.

## What is the difference between detention and arrest?

Detention is requested by the court, or other crime-related authorities. You can be held for up to 72 hours. [Sections 274-275 of the [Act on the Criminal Procedure](#)]

Arrest can be requested only by the court and may last from 1 month to 4 years, depending on how serious the crime is. [Sections 296-300 of the [Act on the Criminal Procedure](#)]

## If I am handcuffed, am I arrested?

No, being handcuffed does not automatically mean that you are arrested or are being detained. The police can also handcuff you if you may hurt yourself or others, run away, etc. [Section 48 of the [Act on the Police](#) and Section 41 of the [Order of the Ministry of Internal Affairs on Police Service Regulations](#)]

## If I am not free to go, does it automatically mean that I am under arrest?

This does not always mean that you have been arrested, it can also mean that you are being detained. If you are younger than 14 years old, and you are stopped by the police during a school day, they can take you back to school if you are skipping classes without permission (from your parents/teachers). [Section 34/A of the [Act on the Police](#)]

# 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 (including the right to a lawyer) by simply saying that you want to use your right, for example, by saying “I am using my right to an attorney” etc.
- You are also able to waive your rights (that is, not use them), for example, by saying “Yes, I understand my rights but I am ready to talk to you.” However, this is not a good idea without a lawyer present.
- Make sure you know what you’re doing when making a statement about giving up your rights.
- If there is no language in which you can communicate with the lawyer (for example, if Hungarian is not your native language), you have the right to help from an interpreter at no cost (this will be covered by the state). However, you need ask for it. [Section 8 of the [Act on the Criminal Procedure](#); the decision in [Curia no. 1/2013 regarding the costs of translation/interpretation and Directive \(EU\) 2010/64 on the right to interpretation and translation in criminal proceedings](#) <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32010L0064&from=EN> ]
- As a minor (younger than 18 years old) you must be treated with special treatment according to the Criminal Procedure Act. [Section 81 of the [Act on the Criminal Procedure](#)]. This means, among other things, that the minor suspect, victim or witness is allowed to contact a “facilitator”.
- A facilitator would be a legal representative, an adult relative, legal guardian, caretaker, authorized representative, the adult you have asked for, a supporter, a lawyer acting on behalf of a witness, or a person providing protection for a person participating in a Witness Program. [Section 59 of the [Act on the Criminal Procedure](#)]
- If you, as the suspect or the victim, are a minor, the court/prosecutor/investigating authority must treat you in accordance with the requirement of special treatment, and must take into account your personality and maturity, your background (social, family and financial) and any specific vulnerabilities (including disabilities) you may have. [Section 81 of the [Act on the Criminal Procedure](#)]

## What are the required warnings?

The police need to warn you that you do not need to testify, and you can refuse to answer certain questions at any time during the investigation or questioning. However, you can change your mind and testify or answer questions any time.



## 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 can refuse to testify or respond to the questions at any time. You cannot be forced to give any information which says you did anything wrong, or to provide evidence against yourself or one of your close relatives (including any adopted family or stepfamily).
- You can ask questions, make observations and follow procedure even if you have refused to testify. [Sections 185-186 of the [Act on the Criminal Procedure](#)]
- You cannot lie or falsely accuse another person of committing a crime. You also cannot damage someone's reputation or good name with your false testimony (meaning, false answers). [Section 185 of the [Act on the Criminal Procedure](#)]
- If police have arrested you and if you are under the age of 18, they are required to immediately notify your parents, caretakers or legal guardians. [Section 18 of the [Act on the Police](#)]

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

You can ask any adult who is taking care of you to be with you during police questioning. It does not have to be your mother or your father; it can be any of your relatives, or stepparents. You can also ask for your lawyer, if you have one.

#### Who do police have to contact if I am a minor (younger than 18 years old)?

Police need to call your parents or any adult taking care of you. [Section 18 of the [Act on the Police](#)]

## Reporting Crimes To The Police

### Proposed Information

It is important to follow this advice:

- According to the Hungarian Criminal Code, you have committed a crime if you do not report any of the types of crime listed below:
  - Kidnapping [Section 191 of the [Hungarian Criminal Code](#)]
  - Offenses against the state (treason, supporting an enemy etc.) [Section 263 of the [Hungarian Criminal Code](#)]
  - Corruption [Section 300 of the [Hungarian Criminal Code](#)]
  - Terrorist acts [Section 317 of the [Hungarian Criminal Code](#)]
  - Violation of international economic restrictions [Section 328 of the [Hungarian Criminal Code](#)]

You can be punished with up to 3 years in prison for not reporting these crimes (also if you knew they were being planned and did not report them). In case of all the other crimes, reporting is not an obligation (it is not against the law not to report them).

#### Do I need to confess to a crime?

You are not required to confess to a crime. [Section 185 of the [Act on the Criminal Procedure](#)]

#### When I know about a crime or see a crime being committed, do I need to report it to the police?

In general, you should report all crimes, because it is the right thing to do.

However, the police cannot punish you if you do not report something, unless it is terrorism, corruption, or somebody being kidnapped (including if you know somebody plans to commit this kind of crime). If you fail to report them, you can go to jail.

## Responding To Bad Treatment By The Police

### Proposed Information

It is important to follow this advice:

- If you are being harassed by the police, there are steps you can take to address it:
  1. Carefully write down each time it happens, including the date, time, location, officer details (name, badge number, physical appearance), witnesses, conversation and actions of everybody involved in a lot of detail. Your notes will be used as the basis for any formal complaint you may file later.
  2. You can file a complaint against a police officer within 30 days of the date that the bad treatment happened. You can file a complaint either by sending a letter of complaint addressed directly to the local police or the local ombudsperson (government official whose job it is to hear this complaint). You can find a sample of the complaint letter to the police on the police's website.
  3. If the bad behavior does not stop after filing a formal complaint, you should think about speaking with a qualified lawyer who specialises in this area about maybe filing a civil rights lawsuit.

[Sections 92-93/B of the [Act on the Police](#)]

## 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, even if you are told that police officers only want to question you and/or you are only a witness. [Section 39 (1) d) e), Section 39 (6) and 39 (7) of the [Act on the Criminal Procedure](#)]
- Your lawyer can be present when you are questioned, but they will have limited procedural rights (rights relating to how any questioning or interrogation can go), including that they cannot influence the contents of your testimony in any way by telling you which questions to answer and how. Your lawyer can only tell you what your rights are and oversee the process in general.
- While you usually 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. [Section 46 of the [Act on the Criminal Procedure](#)]
- However, if you speak outside of the presence of a defense lawyer or waive (decide not to use) your right to a lawyer, your statements can be used against you. [Section 185 of the [Act on the Criminal Procedure](#)]

**Additional information on finding an attorney** - local sources for obtaining a lawyer for young people:

<https://www.helsinki.hu/en/howcanwehelp/>

<https://hclu.hu/en>

### When should I be informed about the right to contact a lawyer?

Before you are questioned by any authority (including the police), you must be told that you are allowed to contact a lawyer, or ask for a lawyer. You should always ask for a lawyer, because if you say you do not want a lawyer to be present at your questioning, the police can use anything you say against you.

If there is no language in which you can communicate with your lawyer, you have a right to have help from an interpreter (at no cost to you, this will be paid for by the State). [Section 8 of the [Act on the Criminal Procedure](#)]



## Do Police Always Have To Tell The Truth?

### Proposed Information

It is important to follow this advice:

- Yes. The police are not allowed to lie to you during the investigation, tell you a false fact, or ask you a question using a false fact. Any answers to false questions cannot be used as evidence, because they were obtained through lying. [Section 186 (3) of the [Act on the Criminal Procedure](#)]

### Does this mean that the police need to tell me everything?

No, the police telling you the truth does not mean that they have to tell you everything.

Police are allowed to use bluffing as a tactic to try and trap you, for example, by pretending that they have more information than you think. However, they are still not allowed to lie while questioning you.

## 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 that your rights have been violated during any part of your experience with the police, you can submit a complaint. Depending on what stage of the criminal proceedings you are in (questioning, investigation, court, etc.), different remedies are available.
- If the violation has been committed by the police or any other investigating authority, you can file a complaint addressed to the police unit which violated your rights.
- If your rights have been violated during the investigation phase, you are allowed to lodge a complaint to the prosecutor's office or investigating authority that made the violating decision.

[Sections 92-93/B of the [Act on the Police](#)]

**IMPORTANT** You are responsible for the contents of your complaint. You cannot intentionally falsely accuse anyone of committing a crime or any other offense, make any false statements, or submit any false evidence. This could have criminal consequences, including a procedural fine from 10.000 to 500.000 HUF (from 30 to 1500 EUR).

#### Useful links:

English website of the Hungarian Office of the Commissioner for Fundamental Rights:

<http://www.ajbh.hu/en/web/ajbh-en/>

English website of the Hungarian Police, to make announcements and file complaints concerning police measures:

<https://ugyintezes.police.hu/en/panasz-ugyintezes>

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

In these cases, you should also file a complaint at the nearest police station or at the commissioner of fundamental rights (ombudsperson) as soon as possible. [Sections 39/F-39/L of the [Act on the Commissioner for Fundamental Rights](#)]

### How can I file a complaint against a measure of the police?

There are a few simple steps to follow, depending on the form of your complaint:

1. Verbal complaint:
  - a. simply go to the nearest police station, or make an appointment at the Commissioner of Fundamental Rights through their website (<https://www.ajbh.hu/en/web/ajbh-en/making-an-appointment1>) and ask to file a complaint;
  - b. they will prepare official minutes of what you said (make sure you provide all the details of the incident, including the officer's details); and
  - c. stay in touch regarding the results via e-mail / phone / mail.

## 2. Written complaint:

a. when submitting it to the police, a form no. RK-0101 needs to be filled out through the police website, choosing the “Inspection branch” / “File a complaint” subcategories (<https://ugyintezes.police.hu/en/uj-ugy-inditasa>). This process **requires a Customer Gateway account and a digital signature**, or the online complaint can also be submitted via the website of the ombudsperson without an online account or digital identification (<https://www.ajbh.hu/en/web/ajbh-en/lodge-a-complaint>); and

b. stay in touch regarding the results via e-mail / phone / mail.

**NOTE** For a general step-by-step guide filing a complaint through the website of the police see also: <https://ugyintezes.police.hu/en/home>

## What can you do if the Police perform an improper search? Or if you are improperly detained?

### Proposed Information

It is important to follow this advice:

- In case of an improper police search, the evidence they collect cannot be used as evidence against you, and a court cannot rely on it when deciding the case. [Sections 303, 314, 406 of the [Act on the Criminal Procedure](#)]
- You may have a legal claim that your rights have been violated, if you have been or will be injured and each of the conditions listed below have been met:
  - The police officer searches or seizes your: body (e.g., you are taken into custody and/or searched); house (including the porch, garden, etc.) or hotel room; papers; or any other personal belongings.
  - The police officer physically entered your house, touched you, took your papers and/or personal belongings, or the officer did not respect what you could reasonably expect of your privacy
  - It must be your rights that were violated, not the rights of any other person. You must also have a reasonable expectation of privacy in the area from which your property was seized.
  - The police officer did not have a warrant (or the warrant was not proper).

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Law is generally described as of November 2021.