

**Baker  
McKenzie.**

# Real Rights: young people engaging with law enforcement

 Chile



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
- The Difference Between Police TELLING Me What To Do And Asking Me To Do Something
- 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
- 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 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?
- What can I do as a minor without my parent(s) or legal guardian(s)?

## 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.

See e.g., [Código Penal de la República de Chile § 261](#); [Código Procesal Penal § 135](#); [Código Procesal Penal § 93](#); [Código Procesal Penal § 94](#)

- 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're innocent or if you think the police are acting unfairly or unlawfully.

See e.g., [Código Penal de la República de Chile § 261](#); [Código Procesal Penal § 135](#)

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

No, you are not required to speak with police. You have the right to remain silent. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 7º](#)

It should be noted that you must identify yourself (your name and proof ID, including driver's license, passport, etc.) to a law enforcement officer if asked. You risk arrest if you fail to identify yourself in a situation where the police reasonably believes that you are involved in criminal activity or if they believe that you are a threat to public safety. However, you can tell the officer you wish to exercise your right to remain silent under the [Constitución Política de la República de Chile, Artículo III.19 § 7º](#). See e.g., [Código Procesal Penal § 85](#)

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

Chilean police officers do not have to identify themselves if you have been stopped or detained. However, you can ask if they are police and to show their identification. In any event, if you think you're talking to a police officer, be careful about what you say. Anything you say can be used against you even if the officer is undercover and did not read you your rights. See e.g., [Código Procesal Penal § 226 bis](#).

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

You are not required to speak with the police. If an officer begins speaking to you, you do not need to respond. You have the right to remain silent. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 7º](#)

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

Chilean police officers do not have to identify themselves if you have been stopped or detained. However, you can ask if they are police and to show their identification. In any event, if you think you're talking to a police officer, be careful about what you say. Anything you say can be used against you even if the officer is undercover and did not read you your rights. See e.g., [Código Procesal Penal § 226 bis](#).

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

Yes, you have the right to have a lawyer present during questioning, and one can be provided to you if you can't afford one. Any information you talk with your lawyer about will be kept private by your lawyer. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 3º](#); [Código Procesal Penal § 8](#); [Código Procesal Penal § 94](#); [Código Procesal Penal § 102](#)

In addition, you are not required to speak with police. You have the right to remain silent. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 7º](#)

If the police start questioning you without telling you your **rights**, then they can't use anything you say as direct evidence against you in court. See e.g., [Código Procesal Penal § 93](#); [Código Procesal Penal § 94](#)

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

Yes. You cannot sit down to avoid arrest or prevent the officer from doing his job in any way. The officer may view this as passively refusing arrest, thereby interfering with governmental operations. See e.g., [Código Penal de la República de Chile § 261](#); [Código Procesal Penal § 135](#)

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

No, you cannot run from the officer if you think you are about to be arrested, even if others in your group run. Even if you are not being arrested, running from law enforcement is a bad idea. Doing so could give the officer the belief that you have been, are, or will be involved in criminal activity. See e.g., [Código Penal de la República de Chile § 261](#); [Código Procesal Penal § 135](#)

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

No, you cannot tell someone else to run from the police. This may be viewed as interfering with an arrest. In addition, doing so could give the officer the belief that you have been, are, or will be involved in criminal activity. See e.g., [Código Penal de la República de Chile § 261](#); [Código Procesal Penal § 135](#)

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

Yes, you can tell the officer that the officer's language is not your first language. This will not waive your rights if you tell the officer immediately after that you wish to remain silent. You are entitled to an interpreter for interactions between you and the police/court. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 7º](#); [Código Procesal Penal § 29](#); [Código Procesal Penal § 291](#)

You also have the right to have an attorney present during questioning, and one can be provided to you if you can't afford one. Any information you talk with your lawyer about will be kept private by your lawyer. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 3º](#); [Código Procesal Penal § 8](#); [Código Procesal Penal § 94](#); [Código Procesal Penal § 102](#)

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

For a police officer to stop you, they must have a **reasonable** suspicion that you have been, are, or will be involved in criminal activity. Whether or not there is a reasonable suspicion depends on the situation, so it can be hard to determine if police are allowed to do so. Regardless of whether the officer is allowed to stop you or not, it is a bad idea to resist. See e.g., [Código Procesal Penal § 9](#); [Código Procesal Penal § 83](#); [Código Penal de la República de Chile § 261](#); [Código Procesal Penal § 135](#)

## **When Can Police Search Your and Your Surroundings?**

### **Proposed Information**

It is important to follow this advice:

- You have the right to say no to searches of yourself.
- You have the right to say no to searches of your car, house, or other things you own or control.
- You cannot be arrested for refusing to consent (give permission) to a search without a warrant.
- A warrant is an official document from the court that allows police to search you or your belongings without your consent.

See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 5º](#); [Código Procesal Penal § 208](#)

- Police can conduct a brief search and can continue to conduct the search.

See e.g., [Código Procesal Penal § 83](#); [Código Procesal Penal § 89](#); [Código Procesal Penal § 187](#); [Código Procesal Penal § 206](#); [Código Procesal Penal § 215](#)

### **What if a police officer wants to search my phone?**

Officers are prohibited from conducting **unreasonable** searches and seizures. **Unreasonable** can refer to anything that is inappropriate, aggressive, over the top, or harmful to you or anyone involved. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 5°](#)

When related to an arrest, Chilean police must obtain your permission, a **warrant** from the court, or have an **exigent circumstance** for a search before a phone or another hand-held device can be opened and searched. See e.g., [Código Procesal Penal § 218](#); [Código Procesal Penal § 222](#); [Código Procesal Penal § 83](#); [Código Procesal Penal § 89](#); [Código Procesal Penal § 187](#); [Código Procesal Penal § 206](#); [Código Procesal Penal § 215](#)

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

You do not have to provide your password (this includes your fingerprint or face scan) unless the police have a warrant from the court. You may refuse to hand your phone over or provide a password to it, even if you are being arrested, so long as the police do not have a warrant from the court for the search of your phone. To give your password, fingerprint, or face scan is to give your consent; you can revoke your consent at any time during the search. See e.g., [Código Procesal Penal § 218](#); [Código Procesal Penal § 222](#)

In addition, officers are prohibited from conducting "**unreasonable**" searches and seizures. Unreasonable can refer to anything that is inappropriate, aggressive, over the top, or harmful to you or anyone involved. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 5°](#)

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

You may refuse to allow access to your phone if asked. If they do not have your permission or permission from the court in the form of a search warrant, they cannot force you to give them your password or any access to your phone. See e.g., [Código Procesal Penal § 218](#); [Código Procesal Penal § 222](#)

In addition, officers are prohibited from conducting "unreasonable" searches and seizures, Unreasonable can refer to anything that is inappropriate, aggressive, over the top, or harmful to you or anyone involved. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 5°](#)

You cannot be forced to give any government or law enforcement official **testimony** (evidence) that could incriminate you in court. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 7°](#)

### **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, you do not have to give the police your password. Police cannot force you to give them your password, fingerprint, or face scan to unlock your phone. You can refuse to give them this information. However, it is important to note that if you do give them your phone or password, they have the right to search. You may revoke this consent at any time. See e.g., [Código Procesal Penal § 218](#); [Código Procesal Penal § 222](#)

In addition, officers are prohibited from conducting "unreasonable" searches and seizures, Unreasonable can refer to anything that is inappropriate, aggressive, over the top, or harmful to you or anyone involved. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 5°](#)

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

Police may use any tools that are not considered "unreasonable" to search you for evidence, as officers are prohibited from conducting "unreasonable" searches and seizures, Unreasonable can refer to anything that is inappropriate, aggressive, over the top, or harmful to you or anyone involved. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 5°](#)

Police can, with a warrant, reasonable belief, or upon arrest, take fingerprints and DNA samples of you and cross check them against a database. See e.g., [Código Procesal Penal § 197](#); [Código Procesal Penal § 198](#); [Código Procesal Penal § 199 bis](#).

Chilean police are generally permitted to photograph and record all interactions through a court order. Police may also utilize surveillance mechanisms when approved. See e.g., [Código Procesal Penal § 155](#); [Código Procesal Penal § 189](#); [Código Procesal Penal § 226](#)

## Can they search my backpack or other item I am carrying?

The police cannot search your backpack or any other item you're carrying without your permission or permission from the court, known as a warrant. You can withdraw your consent at any time, but until you do, the police can continue to conduct the search. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 5°](#); [Código Procesal Penal § 208](#); [Código Procesal Penal § 89](#); [Código Procesal Penal § 187](#)

Police may pat down your clothing if they reasonably believe that you have a weapon, and that someone's safety may be at risk because of that weapon. See e.g., [Código Procesal Penal § 9](#); [Código Procesal Penal § 83](#)

If you are arrested, the officer may search you and your belongings, as they have **probable cause** to do so. This may include your backpack if it is within arm's reach, or you are wearing it at the time. This may also include your vehicle if it's within your vicinity at the time of searching, or if you are driving it at the time of searching. See e.g., [Código Procesal Penal § 135](#); [Código Procesal Penal § 187](#); [Código Procesal Penal § 215](#)

## Can they take my picture or record me?

Chilean police are generally permitted to photograph and record all interactions through a court order. Police may also utilize surveillance mechanisms when approved. See e.g., [Código Procesal Penal § 155](#); [Código Procesal Penal § 189](#); [Código Procesal Penal § 226](#)

## Can they ask me where I am going and why?

Yes, police can ask where you are going and why. If you are not being **detained**, you can exercise your right to remain silent. Responding to these questions means that you are consenting to the officer's requests. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 7°](#)

It should be noted that you must identify yourself (your name and proof ID, including driver's license, passport, etc.) to a law enforcement officer if asked. You risk arrest if you fail to identify yourself in a situation where the police reasonably believes that you are involved in criminal activity or if they believe that you are a threat to public safety. However, you can tell the officer you wish to exercise your right to remain silent under the [Constitución Política de la República de Chile, Artículo III.19 § 7°](#). See e.g., [Código Procesal Penal § 85](#)

## Reasons 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.

See e.g., [Código Procesal Penal § 9](#); [Código Procesal Penal § 83](#); [Código Procesal Penal § 135](#)

- 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.

See e.g., [Código Procesal Penal § 154](#); [Código Procesal Penal § 208](#)

- 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.

See e.g., [Código Procesal Penal § 187](#); [Código Procesal Penal § 215](#)

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

No, you are not required to speak with police. You have the right to remain silent. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 7°](#)

You also have the right to have an attorney present during questioning, and one can be provided to you if you can't afford one. Any information you talk with your lawyer about will be kept private by your lawyer. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 3°](#); [Código Procesal Penal § 8](#); [Código Procesal Penal § 94](#); [Código Procesal Penal § 102](#)

It should be noted that you must identify yourself (your name and proof ID, including driver's license, passport, etc.) to a law enforcement officer if asked. You risk arrest if you fail to identify yourself in a situation where the police reasonably believes that you are involved in criminal activity or if they believe that you are a threat to public safety. However, you can tell the officer you wish to exercise your right to remain silent under the [Constitución Política de la República de Chile, Artículo III.19 § 7°](#). See e.g., [Código Procesal Penal § 85](#)

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

No, you are not required to speak with police. You have the right to remain silent. However, you should correct the officer whenever the officer misunderstands anything you say, or you tell the officer something that is incorrect. Failing to do so is could be interpreted as illegal and punishable under Chilean law. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 7°](#); [Código Penal de la República de Chile § 206](#)

You also have the right to have an attorney present during questioning, and one can be provided to you if you can't afford one. Any information you talk with your lawyer about will be kept private by your lawyer. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 3°](#); [Código Procesal Penal § 8](#); [Código Procesal Penal § 94](#); [Código Procesal Penal § 102](#)

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

You are not required to speak with the police. If an officer begins speaking to you, you do not need to respond. You have the right to remain silent. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 7°](#)

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

In either scenario, you are not required to speak with the police, and have a right to remain silent. If the police start questioning you without telling you your **rights**, then they can't use anything you say as direct evidence against you in court. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 7°](#); [Código Penal de la República de Chile § 206](#); [Código Procesal Penal § 93](#); [Código Procesal Penal § 94](#)

## The Difference Between Police TELLING Me What To Do And Asking Me To Do Something

### Proposed Information

It is important to follow this advice:

- The Constitution prevents you from being searched in unreasonable circumstances. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 5°](#)
- You do have to identify yourself to the police when asked. See e.g., [Código Procesal Penal § 85](#)
- You can refuse to consent to a search, despite what a police officer may say. See e.g., [Código Procesal Penal § 208](#)

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

The police cannot search your belongings without your permission or permission from the court, known as a warrant. You can withdraw your consent at any time, but until you do, the police can continue to conduct the search. See e.g., [Código Procesal Penal § 208](#); [Código Procesal Penal § 89](#); [Código Procesal Penal § 187](#)

In addition, officers are prohibited from conducting "unreasonable" searches and seizures. Unreasonable can refer to anything that is inappropriate, aggressive, over the top, or harmful to you or anyone involved. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 5°](#)

You cannot be forced to give any government or law enforcement official **testimony** (evidence) that could incriminate you in court. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 7°](#)

Police may pat down your clothing if they reasonably believe that you have a weapon, and that someone's safety may be at risk because of that weapon. See e.g., [Código Procesal Penal § 9](#); [Código Procesal Penal § 83](#)

If you are arrested, the officer may search you and your belongings, as they have **probable cause** to do so. This may include your backpack if it is within arm's reach, or you are wearing it at the time. This may also include your vehicle if it's within your vicinity at the time of searching, or if you are driving it at the time of searching. See e.g., [Código Procesal Penal § 135](#); [Código Procesal Penal § 187](#); [Código Procesal Penal § 215](#)

## What if they tell me to give them information versus them asking and me providing answers voluntarily?

In either case, you are not required to speak with or provide any information to police. You have the right to remain silent. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 7°](#)

You also have the right to have an attorney present during questioning, and one can be provided to you if you can't afford one. Any information you talk with your lawyer about will be kept private by your lawyer. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 3°](#); [Código Procesal Penal § 8](#); [Código Procesal Penal § 94](#); [Código Procesal Penal § 102](#)

It should be noted that you must identify yourself (your name and proof ID, including driver's license, passport, etc.) to a law enforcement officer if asked. You risk arrest if you fail to identify yourself in a situation where the police reasonably believes that you are involved in criminal activity or if they believe that you are a threat to public safety. However, you can tell the officer you wish to exercise your right to remain silent under the [Constitución Política de la República de Chile, Artículo III.19 § 7°](#). See e.g., [Código Procesal Penal § 85](#)

## 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:
  - When the crime is committed in front of the police officers; or
  - When the officer has probable cause (reason to suspect) that the suspect committed a felony, whether or not the act was done in front of them.

See e.g., [Código Procesal Penal § 93](#); [Código Procesal Penal § 135](#)

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

For a police officer to stop you, they must have a **reasonable** suspicion that you have been, are, or will be involved in criminal activity. Whether or not there is a reasonable suspicion depends on the situation, so it can be hard to determine if police are allowed to do so. Regardless of whether the officer is allowed to stop you or not, it is a bad idea to resist. See e.g., [Código Procesal Penal § 9](#); [Código Procesal Penal § 83](#); [Código Penal de la República de Chile § 261](#); [Código Procesal Penal § 135](#)

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

Chilean police officers must inform you why you've been if you have been stopped or detained. You can ask if they are police and to show their identification. See e.g., [Código Procesal Penal § 93](#); [Código Procesal Penal § 94](#); [Código Procesal Penal § 135](#)

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

Advocating for another young person stopped by police is risky, as you can be arrested for interfering with law enforcement in any way. See e.g., [Código Penal de la República de Chile § 261](#); [Código Procesal Penal § 135](#)

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

If you believe your rights have been violated during your interaction with law enforcement, you can file a written complaint with the [Carabineros de Chile, Comisaría Virtual Form](#). In

addition, you are not required to speak with police or answer any questions they might ask you. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 7º](#)

However, resisting police is never a good idea, as you can be arrested for interfering with law enforcement in any way. See e.g., [Código Penal de la República de Chile § 261](#); [Código Procesal Penal § 135](#)

It should be noted that you must identify yourself (your name and proof ID, including driver's license, passport, etc.) to a law enforcement officer if asked. You risk arrest if you fail to identify yourself in a situation where the police reasonably believes that you are involved in criminal activity or if they believe that you are a threat to public safety. However, you can tell the officer you wish to exercise your right to remain silent under the [Constitución Política de la República de Chile, Artículo III.19 § 7º](#). See e.g., [Código Procesal Penal § 85](#)

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

Regardless of if you are stopped, detained, or arrested, Chilean police officers do not have to identify themselves. However, you can ask if they are police and to show their identification. If you believe your rights have been violated during your interaction with law enforcement, you can file a written complaint with the [Carabineros de Chile, Comisaría Virtual Form](#).

## **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; orSee e.g., [Código Procesal Penal § 5](#); [Código Procesal Penal § 34](#)
- an officer warns you about your rights.
- An officer must only 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 a Miranda Warning is still a valid arrest; it just may mean that evidence collected from it is not admissible in court later.

See e.g., [Código Penal de la República de Chile § 206](#); [Código Procesal Penal § 93](#); [Código Procesal Penal § 94](#)

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

You can ask the officer if you are being detained, being arrested, or are free to leave. If you are being detained/arrested and are unable to leave, it is not a good idea to resist. See e.g., [Código Penal de la República de Chile § 261](#); [Código Procesal Penal § 135](#)

In either case, you are not required to speak with or provide any information to police. You have the right to remain silent. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 7º](#)

## What is the difference between detention and arrest?

Detention refers to when law enforcement holds you under reasonable suspicion for the purposes of questioning or conducting a brief search of you and your possessions if they believe you are a threat to public safety. See e.g., [Código Procesal Penal § 9](#); [Código Procesal Penal § 83](#); [Código Procesal Penal § 89](#); [Código Procesal Penal § 215](#)

Arrest refers to when law enforcement holds you under **probable cause**, meaning that the officer has evidence of or more than a reasonable belief that you have been, are, or will be involved in criminal activity. When under arrest, the officer must articulate the reason for arrest. See e.g., [Código Procesal Penal § 93](#); [Código Procesal Penal § 135](#)

## If I am handcuffed, am I arrested?

Not necessarily. An officer may use nondeadly force (which presumably includes handcuffs) to stop and detain a person, including a brief detention. A police officer can also put you into handcuffs if they think it's necessary for their safety, even if they don't put you under arrest. See e.g., [Código Procesal Penal § 5](#); [Código Procesal Penal § 34](#)

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

If the restriction on liberty is significant, likely yes. You are deemed to be in custody when you are deprived of your freedom of action in any significant way. See e.g., [Código Procesal Penal § 94](#)

However, your liberty can also be restricted if you are being detained by police, not arrested. This detainment can take many forms. See e.g., [Código Procesal Penal § 94](#); [Código Procesal Penal § 5](#); [Código Procesal Penal § 34](#); [Código Procesal Penal § 83](#)

For example, the officer can ask for your identity, to which you must identify yourself (your name and proof ID, including driver's license, passport, etc.) to a law enforcement officer if asked. You risk arrest if you fail to identify yourself in a situation where the police reasonably believes that you are involved in criminal activity or if they believe that you are a threat to public safety. However, you can tell the officer you wish to exercise your right to remain silent under the [Constitución Política de la República de Chile, Artículo III.19 § 7°](#). See e.g., [Código Procesal Penal § 85](#)

Police could also pat down your clothing if they "reasonably" believe that you have a weapon, and that someone's safety may be at risk because of that weapon. See e.g., [Código Procesal Penal § 9](#); [Código Procesal Penal § 83](#)

## 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.
- 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

See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 7°](#); [Constitución Política de la República de Chile, Artículo III.19 § 3°](#); [Código Procesal Penal § 93](#); [Código Procesal Penal § 94](#)

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

If the police start questioning you but haven't read you your **rights** (right to remain silent, right to an attorney, etc.), then they can't use anything you say as direct evidence against you in court. Only after they read you your rights can they use anything you say against you in court. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 7°](#); [Constitución Política de la República de Chile, Artículo III.19 § 3°](#); [Código Procesal Penal § 93](#); [Código Procesal Penal § 94](#)

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

No. You must be read your rights upon arrest, no matter where you are being arrested. See e.g., [Código Procesal Penal § 93](#); [Código Procesal Penal § 94](#)

## 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.

See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 7°](#)

- You have the right to immediately notify your parent, caretaker, or legal guardian.

See e.g., [Código Procesal Penal § 86](#)

### Am I required to make a statement?

No, you are not required to make a statement. You have the right to remain silent. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 7°](#)

You also have the right to have an attorney present during questioning, and one can be provided to you if you can't afford one. Any information you talk with your lawyer about will be kept private by your lawyer. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 3°](#); [Código Procesal Penal § 8](#); [Código Procesal Penal § 94](#); [Código Procesal Penal § 102](#)

### Must police notify my guardian?

If you are taken into custody, you have the right to notify your parent(s) or guardian as soon as possible. See e.g., [Código Procesal Penal § 86](#)

### Must I confess?

No, you are not required to confess to police, nor can police force you to do so. You have the right to remain silent. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 7°](#)

You also have the right to have an attorney present during questioning, and one can be provided to you if you can't afford one. Any information you talk with your lawyer about will be kept private by your lawyer. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 3°](#); [Código Procesal Penal § 8](#); [Código Procesal Penal § 94](#); [Código Procesal Penal § 102](#)

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

If you are taken into custody, you have the right to notify your parent(s) or guardian as soon as possible. See e.g., [Código Procesal Penal § 86](#)

You also have the right to have an attorney present during questioning, and one can be provided to you if you can't afford one. Any information you talk with your lawyer about will be kept private by your lawyer. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 3°](#); [Código Procesal Penal § 8](#); [Código Procesal Penal § 94](#); [Código Procesal Penal § 102](#)

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

If you are taken into custody, you have the right to notify your parent(s) or guardian as soon as possible. See e.g., [Código Procesal Penal § 86](#)

## 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 police only want to question you and/or 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 can 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.

See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 3°](#); [Código Procesal Penal § 8](#); [Código Procesal Penal § 94](#); [Código Procesal Penal § 102](#)

## What if I am just a witness?

If you are just a witness, police may still question you. To detain you as a witness, police can demand identification, to which you must identify yourself (your name and proof ID, including driver's license, passport, etc.) to a law enforcement officer if asked. You risk arrest if you fail to identify yourself in a situation where the police reasonably believes that you are involved in criminal activity or if they believe that you are a threat to public safety. However, you can tell the officer you wish to exercise your right to remain silent under the [Constitución Política de la República de Chile, Artículo III.19 § 7°](#). See e.g., [Código Procesal Penal § 85](#); [Código Procesal Penal § 83](#)

However, you do have the right to remain silent, to which you should tell the officer you are exercising this right if so. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 7°](#)

You also have the right to have an attorney present during questioning, and one can be provided to you if you can't afford one. Any information you talk with your lawyer about will be kept private by your lawyer. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 3°](#); [Código Procesal Penal § 8](#); [Código Procesal Penal § 94](#); [Código Procesal Penal § 102](#)

Furthermore, if you are a witness to a crime, then you may be ordered to come to court to testify. You will be asked to swear under oath that what you say is true. Making a false sworn statement that you do not believe to be true is known as perjury, which is also a crime. See e.g., [Código Procesal Penal § 33](#); [Código Procesal Penal § 190](#); [Código Procesal Penal § 298](#); [Código Procesal Penal § 306](#)

## Do 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.

See e.g., [Código Procesal Penal § 226 bis](#).

### Can the police lie to me?

Yes, the police can lie to you. The police cannot physically hurt you, threaten you or use drugs to try to make you confess to something or to obtain information from you. See e.g., [Código Procesal Penal § 226 bis](#); [Código Procesal Penal § 5](#); [Código Procesal Penal § 34](#)

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

Yes, lying to the police could result in you being charged with a crime. You risk arrest if you provide false information to law enforcement. See e.g., [Código Penal de la República de Chile § 206](#); [Código Procesal Penal § 135](#)

However, you do have the right to remain silent, to which you should tell the officer you are exercising this right if so. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 7°](#)

You also have the right to have an attorney present during questioning, and one can be provided to you if you can't afford one. Any information you talk with your lawyer about will be kept private by your lawyer. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 3°](#); [Código Procesal Penal § 8](#); [Código Procesal Penal § 94](#); [Código Procesal Penal § 102](#)

## 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:

Complaints about officer behavior can be submitted to the [Carabineros de Chile, Comisaría Virtual Form](#).

You can also make an [in-person complaint at any PDI \(Investigation Police\) station](#) or call 134. Criminal complaints may also be filed directly at the Public Prosecutor's offices. If you are under 18 years of age or have a physical or mental disability, you must be accompanied by a legal guardian or a person over 18 years of age.

It is advisable to ask for a lawyer's advice, who can represent you in the process and demand that your rights are respected. You can also contact [Defensoría de la Niñez](#) (Ombudsman for Children) to ask questions related to the violation of your rights.

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

### Proposed Information

It is important to follow this advice:

If you believe that you were a victim of discrimination or racism, you can file a complaint about officer behavior to the [Carabineros de Chile, Comisaría Virtual Form](#).

You can also make an [in-person complaint at any PDI \(Investigation Police\) station](#) or call 134. Criminal complaints may also be filed directly at the Public Prosecutor's offices. If you are under 18 years of age or have a physical or mental disability, you must be accompanied by a legal guardian or a person over 18 years of age.

It is advisable to ask for a lawyer's advice, who can represent you in the process and demand that your rights are respected. You can also contact [Defensoría de la Niñez](#) (Ombudsman for Children) to ask questions related to the violation of your rights.

## How can I respond to circumstances involving discrimination?

### Proposed Information

It is important to follow this advice:

Complaints about an officer you believe has exhibited discrimination or racism can be submitted to the [Carabineros de Chile, Comisaría Virtual Form](#).

You can also make an [in-person complaint at any PDI \(Investigation Police\) station](#) or call 134. Criminal complaints may also be filed directly at the Public Prosecutor's offices. If you are under 18 years of age or have a physical or mental disability, you must be accompanied by a legal guardian or a person over 18 years of age.

It is advisable to ask for a lawyer's advice, who can represent you in the process and demand that your rights are respected. You can also contact [Defensoría de la Niñez](#) (Ombudsman for Children) to ask questions related to the violation of your rights.

In the moment of experiencing potential discrimination, it is important to remember the rest of the advice found in this guide. Try to remain calm in your interaction with the police, even when they become difficult.

## 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:

If you believe that an officer improperly detained or searched you, a complaint can be submitted to the [Carabineros de Chile, Comisaría Virtual Form](#).

You can also make an [in-person complaint at any PDI \(Investigation Police\) station](#) or call 134. Criminal complaints may also be filed directly at the Public Prosecutor's offices. If you are under 18 years of age or have a physical or mental disability, you must be accompanied by a legal guardian or a person over 18 years of age.

It is advisable to ask for a lawyer's advice, who can represent you in the process and demand that your rights are respected. You can also contact [Defensoría de la Niñez](#) (Ombudsman for Children) to ask questions related to the violation of your rights.

## What can I do as a minor without my parent(s) or legal guardian(s)?

### Proposed Information

It is important to follow this advice:

Minors have the same rights under the law as adults during criminal detainments, arrests, and investigations. As a result, as a minor, you have the right to remain silent and the right to an attorney. See e.g., [Constitución Política de la República de Chile, Artículo III.19 § 7°](#); [Constitución Política de la República de Chile, Artículo III.19 § 3°](#); [Código Procesal Penal § 8](#); [Código Procesal Penal § 94](#); [Código Procesal Penal § 102](#)

In addition, Chilean law ensures that the criminal process is conducted with the best interests of you, as a juvenile, in mind. See e.g., [Código Procesal Penal § 78 bis](#).

If you believe that your rights were violated in any way by law enforcement, regardless of if you are a minor or not, a complaint can be submitted to the [Carabineros de Chile, Comisaría Virtual Form](#).

You can also make an [in-person complaint at any PDI \(Investigation Police\) station](#) or call 134. Criminal complaints may also be filed directly at the Public Prosecutor's offices. If you are under 18 years of age or have a physical or mental disability, you must be accompanied by a legal guardian or a person over 18 years of age.

It is advisable to ask for a lawyer's advice, who can represent you in the process and demand that your rights are respected. You can also contact [Defensoría de la Niñez](#) (Ombudsman for Children) to ask questions related to the violation of your rights.

## Glossary: Chile

1. Search: An investigation or evaluation of a person, object, space, or vehicle aimed at finding evidence of criminal activity. See e.g., [Código Procesal Penal § 187](#); [Cornell Law School](#)
2. Consent: Permission. See e.g., [Cornell Law School](#)
3. (Search) Warrant: An official document from the court that allows police to search you or your belongings without your consent. See e.g., [Código Procesal Penal § 208](#)
4. Reasonable: Rational or logical in the context of a what is known in a situation. See e.g., [Cornell Law School](#)
5. Unreasonable: Anything that is inappropriate, aggressive, over the top, or harmful to you or anyone involved. See e.g., [4<sup>th</sup> Amendment](#); [Cornell Law School](#)
6. Exigent Circumstance: A situation where the officer reasonably believes that their intervention against a person is necessary to protect public safety. See e.g., [Cornell Law School](#)
7. Testimony: Evidence that can be used in court. See e.g., [Cornell Law School](#)
8. Right: A power or ability that you have as a person because it is outlined in a constitution, law, or ruling. See e.g., [Cornell Law School](#)
9. Exercise: To use or utilize. See e.g., [FindLaw](#)
10. Detain: To hold in custody by law enforcement under reasonable suspicion. See e.g., [Cornell Law School](#)
11. Identify (To Police): (In Chile) To give your name and ID (passport, driver's license, etc.) to law enforcement. See e.g., [Código Procesal Penal § 85](#)
12. Probable Cause: Having a reasonable suspicion that you are, have been, or will be directly involved in criminal activity. See e.g., [Cornell Law School](#); [Código Procesal Penal § 135](#)
13. Counsel: A lawyer, an attorney. See e.g., [Código Procesal Penal § 102](#); [Cornell Law School](#)

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Law is generally described as of December 2022.

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