

Real Rights: young people engaging with law enforcement



Columbia, South Carolina



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.

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 if I feel I was a victim of discrimination or racism? How can I respond to circumstances involving discrimination?
- What can you do if the police perform an improper search?
Or, I was improperly detained?

Stopped By The Police On The Street, Now What?

Proposed Information

It is important to follow this advice:

- Stay calm. You are not required to answer questions or engage in conversation with the police. The only information you are required to give is your name. You are not required to consent to a search of your person and belongings. It is not a good idea to run. Keep your hands in sight. If you speak, do so calmly and clearly.
- If you are stopped by the police, they may just want to ask you a few questions; you do not need to be immediately concerned. You can ask them why they have stopped you. Your parent / guardian does not have to be present for a police officer to ask you questions.

[Legal Source: The Fourth Amendment protects your right against government intrusion and has been interpreted by the Supreme Court as providing a general right to privacy (for example, [Byrd v. United States, 584 U.S. \(2018\)](#)). In 2020, the South Carolina Supreme Court held that a person's "consensual" encounter with law enforcement (i.e., agreeing to answer questions and engage in conversation) followed by "reasonably suspicious" actions can justify a police officer to stop and frisk the person. See [State of South Carolina v. Eric Terrell Spears \(2020\)](#) and <https://www.scjustice.org/brochure/what-south-carolinas-version-of-the-arizona-law-sb-20-means-for-immigrants-who-have-contact-with-law-enforcement/>

Additional information can be found at: ACLU South Carolina, ["If You're Stopped By Police"](#) and [Guide to Juvenile Justice System](#), page 8. Please note that these are articles and not legislation or case law. We cannot be sure that such information is up-to-date. We do not promote specific websites.]

When Can Police Search You and Your Surroundings?

Proposed Information

It is important to follow this advice:

- A search is when a police officer looks through your belongings like your phone or your pockets, to find evidence of a crime. A police officer cannot search you based on a feeling, a rumor, the color of your skin, or the clothes you're wearing. The search must be related to the crime that you're suspected of committing. For example, a police officer cannot search your pockets if they think you stole a computer from school because you can't hide a computer in your pocket.
- You have the right to say no to searches of your person, your car, house or other surroundings, and if you do not want to be searched, you can say "I do not consent to this search." This may not stop the search, but this is the best way to protect your rights. On specific searches, your rights are as follows:
 - **Car:** If a police officer asks to search your car, you can refuse. But if the police believe your car contains evidence of a crime, they can search without your consent.
 - **School:** Any person who enters onto school property is deemed to have consented to a search of his person and property. A school administrator or official may conduct a reasonable search of your locker, desk, vehicle, and personal belongings such as your purse, book bag, and wallet. You may not be strip-searched.
 - **Home:** You do not have to let them in unless they have a warrant. If they say they have a warrant, ask them to show you the warrant and read it carefully – they can only search the home of the person listed on the warrant, the areas, and for the items listed on the warrant, and only if they believe the person is inside. Even if police officers have a warrant, you may remain silent. If you choose to speak, step outside and close the door.
- Police and school employees are **NEVER** allowed to strip search you. You cannot be arrested for refusing to consent to a search without a warrant.
- Police officers may not confiscate or ask to view your photographs or video (i.e. on your mobile phone) without a warrant, and they may not delete your photographs or video under any circumstances. If a police officer orders you to stop recording or orders you to hand over your phone, you should politely but firmly tell the police officer that you do not consent to doing so, and remind the police officer that taking photographs or video is your right under the First Amendment. Be aware that some police 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 a police officer may search you upon arrest) against the value of continuing to record.

[Legal Source: [Katz v. U.S., 389 U.S. 347 \(1967\)](#) and [Schneckloth v. Bustamonte, 412 U.S. 218 \(1973\)](#). Warrantless searches are presumed unreasonable. However, consent searches were held to be constitutionally valid, assuming the consent is given voluntarily, the search is conducted within the scope of the consent, and the person giving the consent is authorized to do so.

Additional information is available at: ACLU South Carolina, ["What To Do If Interacting with Police in School"](#) and ACLU South Carolina, ["If You're Stopped By Police"](#). Please note that these are articles and not legislation or case law. We cannot be sure that such information is up-to-date. We do not promote specific websites.]

Reasons Police May Detain or Arrest You

Proposed Information

It is important to follow this advice:

- In South Carolina, the authorities use the term “take into custody” rather than arrest when it relates to children or juveniles.
 1. The police may take you into custody without a warrant if they think you have broken the law. Generally they can do this in the city or county where the act was committed or nearby the city, or in a neighbouring county. [Legal Source: [S.C. Code Ann. § 17-13-30](#); [S.C. Code Ann. § 17-13-40](#).]
 2. If the police take you into custody or detain you, they should tell you what they are doing. If they don't, it's best to just ask. [Legal Source: [S.C. Code Ann. § 17-13-50 \(2013\)](#).]
 3. If you ask why you are being taken into custody or detained, the police cannot refuse to answer and must tell you the truth. [Legal Source: [S.C. Code Ann. § 17-13-170 \(2013\)](#). Additional information is available at: [South Carolina Appleseed Legal Justice Center Resources](#).]
 4. If the police are taking you into custody or detaining you and have a good reason to think that you are in the United States illegally, they may try to confirm that. You can show that you are in the United States legally by showing a valid driver's license, passport, green card, military ID or tribal picture ID. The police cannot take you into custody for not having legal status or violating other immigration laws and they cannot make you wait for a police officer from Immigration and Customs Enforcement or the South Carolina illegal immigration unit. You have the right to remain silent regarding your legal status and it is a good idea to say so out loud. [Additional information can be found at: <https://columbiapd.net/wp-content/uploads/2018/03/05.05-Juvenile-Operations-2.pdf>. See also University of South Carolina School of Law, Children's Law Center, [Quick Reference Guide to Juvenile Court in South Carolina](#), page 4]
 5. The police officer taking you into custody can decide whether to release you to a parent or responsible adult or whether to continue to detain you. [Additional information can be found at: <https://columbiapd.net/wp-content/uploads/2018/03/05.05-Juvenile-Operations-2.pdf>. See also University of South Carolina School of Law, Children's Law Center, [Quick Reference Guide to Juvenile Court in South Carolina](#), pages 4-5]
 6. If you aren't released to an adult, the court must hold a hearing for you within 48 hours of when you are taken into custody (not counting weekends or holidays). You have the right to have a lawyer for this hearing. The court will appoint a lawyer for you if you don't have one. The court must try to locate your parent/s or guardian to be with you at the hearing. If they can't find your parent/s or guardian, the court can hold the hearing without them. If the court decides at the hearing to continue to detain you, there are other processes they must follow.

Legal Source: Per [S.C. Code § 63-19-20](#) the words used are “child” or “juvenile”: ““Child” or “juvenile” means a person less than seventeen years of age. “Child” or “juvenile” does not mean a person sixteen years of age or older who is charged with a Class A, B, C, or D felony as defined in Section 16-1-20 or a felony which provides for a maximum term of imprisonment of fifteen years or more. However, a person sixteen years of age who is charged with a Class A, B, C, or D felony as defined in [S.C. Code § 16-1-20 \(2019\)](#) or a felony which provides for a maximum term of imprisonment of fifteen years or more may be remanded to the family court for disposition of the charge at the discretion of the solicitor. An additional or accompanying charge associated with the charges contained in this item must be heard by the court with jurisdiction over the offenses contained in this item.]

Do Police Need A Warrant To Arrest You?

Proposed Information

It is important to follow this advice:

1. No. You can be “taken into custody” if you are seen breaking the law. A warrant cannot be issued to arrest you. If someone believes you've committed a crime, they can file a petition with the family court. If that happens, you and your parent or guardian will be notified by the court and will be asked to attend a hearing to discuss the alleged offense. [Additional information can be found at: [Guide to Juvenile Justice System](#), pages 7-8]
2. If you have been stopped, it is a good idea to ask if you are “free to leave.” If yes, you are not required to stay there, and you can calmly walk away. [Additional information can be found at: [ACLU South Carolina, “If You're Stopped By Police”](#)]

3. If they say no, that means you are being taken into custody. The police officer is required to read you your Miranda rights. *[Additional information can be found at: [Guide to Juvenile Justice System](#), page 8.]*
4. Miranda rights are a formal warning from the police to make sure you're aware of your rights before being asked further questions. Even before your Miranda rights are read to you, the police can use what you say in court. *[Additional information can be found at: [Guide to Juvenile Justice System](#), page 8.]*
5. The police officer will read you your Miranda rights, just like this: "You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford an attorney, one will be provided for you. Do you understand the rights I have just read to you? With these rights in mind, do you wish to speak to me?" In South Carolina, except in an arrest for "driving under the influence" or a "DUI", the police are not required to read Miranda rights to you upon arrest. In the DUI case, you must be advised of your Miranda rights. *[Legal Source: [S.C. Code Ann. §56-5-2953 \(A\)\(1\)\(iii\)](#). Additional information can be found at: "[What Are Your Miranda Rights?](#)". 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.]*
6. You have the right to remain silent. You don't have to say anything at all to the officer nor answer questions. Anything you say to the police officer might be used against you. *[Legal Source: [Miranda v. Arizona, 384 U.S. 436 \(1966\)](#); [MirandaWarning.org](#), "[What Are Your Miranda Rights?](#)"]*
7. If you think you've been stopped for no reason, or the reason isn't justified, try to write down the officer's badge and patrol car numbers, which agency they are from and any other details you remember. *[For additional information, refer to: [ACLU South Carolina](#), "[If You're Stopped By Police](#)"]*
8. If there were any witnesses, try to get their contact information. *[For additional information, refer to: [ACLU South Carolina](#), "[If You're Stopped By Police](#)"]*
9. With this information, you can file a written complaint with the agency's internal affairs division and civilian complaint board. You may be able to submit this online, or you can go to the station and file in person. *[For additional information, refer to: [ACLU South Carolina](#), "[If You're Stopped By Police](#)"]*

The sheriffs and deputy sheriffs of this State may arrest without warrant any and all persons who they believe break any of the criminal laws of this State. *[Legal Source: [S.C. Code §17-13-30 \(2019\)](#)]*

How Do You Know If You Are Under Arrest?

Proposed Information

It is important to follow this advice:

1. 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:
 - a police officer handcuffs you;
 - a police officer forcibly holds you down;
 - a police officer puts you into the back seat of a police car; or
 - a police officer warns you about your rights.*[Legal Source: [Miranda v. Arizona, 384 U.S. 436 \(1966\)](#)]*
2. A police officer only has to warn you of your rights before the police question you. This means a police officer can arrest you before warning you of your rights. *[Legal Source: [Miranda v. Arizona, 384 U.S. 436 \(1966\)](#)]*
3. 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. *[Legal Source: [Miranda v. Arizona, 384 U.S. 436 \(1966\)](#)]*
4. There are some differences between the arrest of a child and of an adult. For the purposes of the juvenile justice system, a "child" is a minor less than eighteen years old. Unlike adults, juveniles aren't served with an arrest warrant. Instead, any person, including law enforcement, may file a "petition" in the family court alleging that a child has committed a crime or a status offense and instead of "arresting" the child, law enforcement takes the child into "custody." *[Legal Source: <https://www.scstatehouse.gov/code/t63c019.php>; [S.C. Code § 63-19-810 \(2012\)](#).]*
5. While in custody, a child has the same rights as an adult. *[Legal Source: [In re Gault, 387 U.S. 1 \(1967\)](#).]*

6. The following Miranda warnings must be given prior to questioning you about an alleged offense or crime:
 - that you have the right to remain silent;
 - that statements made by you can be used against you;
 - that you have the right to an attorney; and
 - that an attorney will be appointed by the court to represent you if you cannot afford an attorney.

[Legal Sources: [Miranda v. Arizona, 384 U.S. 436 \(1966\)](#). Additional information can be found at: <https://columbiapd.net/wp-content/uploads/2018/03/05.05-Juvenile-Operations-2.pdf>, Section 5]

7. A police officer who takes you into custody must let you know the reason for taking you into custody.

What To Do After Being Warned of Your Rights

Proposed Information

It is important to follow this advice:

1. In the U.S., the police must inform you of your right to remain silent and right to counsel before beginning questioning you in custody. [Legal Source: [Miranda v. Arizona, 384 U.S. 436 \(1966\)](#)]
2. You, as a child, have the same constitutional rights as adults. [Legal Source: [In re Gault, 387 U.S. 1 \(1967\)](#).]
3. In South Carolina, you also have a right to know from the police officer why you are under arrest or custody. It is unlawful for a police officer to refuse to answer a question relative to the reason for the arrest or make an untruth statement about the reason for the arrest. [Legal Source: [S.C. Code Ann. §17-13-50 \(A\)](#)]
4. If you waive your Miranda rights and make any statement voluntarily, your confession will be admitted as evidence in court. The court will consider all of the circumstances which are applicable to adults to confirm that you knew what you were doing when you waived your rights and made a confession.

However, even if you are a child, you are considered to have the capacity to make a voluntary confession. Therefore, it is not advised that you voluntarily start talking to the police officer before meeting your lawyer. [Legal Source: [In re Williams, 217 S.E.2d 719 \(S.C. 1975\)](#)]

Police Questioning You

Proposed Information

It is important to follow this advice:

1. You have the right to remain silent. 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 taken you into custody. [Legal Source: [Miranda v. Arizona, 384 U.S. 436 \(1966\)](#)]
2. If the police have taken you into custody and if you are under the age of 18, they are required to inform your parent, guardian or custodian as soon as possible. Unless ordered by a court, the person taking you into custody may release you to your parent, a responsible adult, a court-approved foster home, group home, non-secure facility or other program as long as the person you are released to signs a written promise to bring you to court when you need to be there. If you are not released, the police officer taking you into custody must immediately notify the Department of Juvenile Justice, who must respond within one hour and make a determination of whether you should continue to be detained. When you are charged for an offense which would be a misdemeanor or a felony if committed by an adult, not including a traffic or wildlife violation, your principal will also be informed. [Legal Source: [S.C. Code Section 16-19-810](#)]

Reporting Crimes To The Police

Proposed Information

It is important to follow this advice:

- 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. It is never a good idea to give false information to the police. Even if you are responsible for something or have information that they want, it may not be a good idea to share it without a lawyer present.

[Additional information can be found at: [Columbia, S.C. Police Department - Juvenile Operations](#). See also [University of South Carolina School of Law - Juvenile Detention Guide for Law Enforcement](#)]

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Responding To Bad Treatment By The Police

Proposed Information

It is important to follow this advice:

1. If you are being harassed by the police, there are steps you can take to address it:
 - Carefully write down each time it happens. Record the date, time, location, police officer details (name, badge number, physical appearance), witnesses, conversation and actions of all participants, etc. with great detail. Your notes will be used as the basis for any formal complaint you may file later.
 - If the harassing behavior does not stop after filing a formal complaint, consider filing a civil rights lawsuit. Consult a qualified attorney that specializes in this area.

A **complaint** is a specific act or omission that, if proven true, would amount to officer misconduct, or an expression of dissatisfaction with a policy, procedure, practice, philosophy, service or legal standard of the agency.

A **misconduct** is an act or omission by an officer, which, if proven true, would normally result in some form of discipline or sanction.

Procedure for filing a complaint

A complaint may be made with the Columbia Police Department by following one of these procedures:

1. Go to the Columbia Police Department at #1 Justice Square, Columbia, S.C., and ask to speak with an Internal Affairs Investigator or on-duty supervisor.
2. Call the Internal Affairs Office at (803) 545-3583 or (803)545-3936.
3. Write a letter to either the Chief of Police or the Internal Affairs Division, addressed to:
Attention: Chief of Police or Internal Affairs
#1 Justice Square
Columbia, S.C. 29201
4. File an online complaint: <https://columbiapd.net/employee-complaint/>

The Interview

A representative from the Internal Affairs Division will discuss the complaint with you. Perhaps the problem is a breakdown in communication, or inexperience with the Police Department and its regulations. The Internal Affairs representative will meet with you at a location where you feel comfortable, if necessary. Information that you will be required to provide may include:

- Date, time, and location of the incident
- Names of members involved
- Names, addresses, and phone numbers of any witnesses
- A written or recorded statement(s) of the alleged act

A record of your complaint will be forwarded to the Chief of Police for evaluation and assignment. At this time, it will be decided whether the complaint should be handled by the involved member's supervisor or whether to initiate an internal affairs investigation.

If the complaint is serious, you may be asked to talk to members assigned to conduct the internal affairs investigation. Depending on the facts, the complaint may be referred to another agency to investigate.

What happens after the complaint?

The results of each investigation will be discussed with the Chief of Police and appropriate staff. If evidence supports a violation of agency rules only, it will be handled internally. If the matter is criminal in nature, it will be reported to the court.

You will be informed of only the final result of the complaint, but not about any action taken against the officer. This information is not public.

[Additional information can be found at: <https://columbiapd.net/professional-standards/>]

How do I Contact A Lawyer and When?

Proposed Information

It is important to follow this advice:

1. You should always contact a lawyer before making any statements to anyone in a criminal case or investigation. You can claim your right to be silent even without being warned by the police or advised by a lawyer, and you must say words to the effect of, "I invoke my privilege against self-incrimination." [Legal Source: [Salinas v. Texas, 133 S. Ct. 2174 \(2013\)](#)]
2. This applies even if you are told that (i) police officers only want to question you and/or (ii) you are only a witness. As long as the officer doesn't suggest that you are legally compelled to talk or agree to a search, the officer has done nothing wrong. [Legal Source: [United States v. Drayton, 536 U.S. 194 \(2002\)](#)]
3. 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. [Legal Source: [Miranda v. Arizona, 384 U.S. 436 \(1966\)](#)]
4. If you have been taken into custody and aren't released to an adult, the court must hold a hearing for you within 48 hours of when you are taken into custody (not counting weekends or holidays). You have the right to have a lawyer for this hearing. The court will appoint a lawyer for you if you don't have one. [Additional information can be found at: [University of South Carolina School of Law, Children's Law Center, Quick Reference Guide to Juvenile Court in South Carolina, page 4-5](#)]
5. You have a right to have a lawyer if you are party to a proceeding that might result in you losing your freedom. The written notice of the proceeding must inform you or your parents of this right. It must also inform you that a lawyer will be appointed to represent you if you can't hire one yourself or your parents refuse to hire one. [Additional information can be found at: [University of South Carolina School of Law, Children's Law Center, Quick Reference Guide to Juvenile Court in South Carolina, page 12](#)]
6. Generally a family court judge will require that you have a lawyer to protect your rights, and you have to at least talk to a lawyer first before saying you don't want one. [Legal Source: [University of South Carolina School of Law, Children's Law Center, Quick Reference Guide to Juvenile Court in South Carolina, page 12-13, 22; S.C. Code § 63-19-830\(A\)](#)]
7. If you confess to something, it might be used against you even if your lawyer isn't present and doesn't consent, so be mindful of what you say. [Legal Source: [Williams, 217 S.E.2d at 722. Additional information can be found at: University of South Carolina School of Law, Children's Law Center, Quick Reference Guide to Juvenile Court in South Carolina, page 55](#)]
8. If you are taken into custody, before the police question you, they have to warn you that you have the right to have a lawyer and that if you can't afford one a lawyer will be appointed for you prior to your being questioned if you want. [Legal Source: [Miranda v. Arizona, 384 U.S. 436 \(1966\)](#), 478-479; [University of South Carolina School of Law, Children's Law Center, Quick Reference Guide to Juvenile Court in South Carolina, page 54](#)]

Do Police Always Have To Tell The Truth?

Proposed Information

It is important to follow this advice:

1. 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. Remember that you have the right to remain silent at all times. You do not have to answer their questions (whether what they are saying is true or not). If you say something that incriminates yourself, which means saying something that makes you appear guilty of a crime, that can be used against you in court (even if the police told a lie to get you to say it). Hearing a person of authority (such as a police officer) lie, can be very confusing. If you're ever unsure if you should be speaking with a police officer or if you should answer their questions, it's best to remain silent and ask for a lawyer. Police officers may lie about what they've heard from other witnesses, evidence they've gathered, or they make emotional pleas (pulling on your heartstrings) to encourage you to share more information. The line between clever police questioning and illegally misleading a suspect is murky, so make sure you're being careful when you offer information to the police based on any information they're telling you.
2. A police officer is not allowed to:
 - Refuse to answer if you ask why they have taken you into custody
 - Lie about why they have taken you into custody

[Legal Source: For example, the U.S. Supreme Court has allowed police to falsely claim that a suspect's confederate confessed when in fact he had not ([Frazier v. Cupp, 1969](#)) and to have found a suspect's fingerprints at a crime scene when there were none ([Oregon v. Mathiason, 1977](#)), determining such acts insufficient for rendering the defendant's confession inadmissible. State courts have permitted police to deceive suspects about a range of factual matters, including, for example, falsely stating that incriminating DNA evidence and satellite photography of the crime scene exist ([State v. Nightingale, 2012](#)). [S.C. Code § 17-13-50](#). Additional information can be found at: [Guide to Juvenile Justice System](#), page 8; American Psychological Association, "[Deception in the Interrogation Room](#)". The notion that confessions must be given voluntarily seems straightforward, but becomes complicated when one considers certain police behaviors. Although police have long been prohibited from using physical force, they are able to use a variety of powerful psychological ploys to extract confessions from criminal suspects, including the use of deception during interrogation.]

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?

Proposed Information

It is important to follow this advice:

- 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.
- File a written complaint with the agency's internal affairs division or civilian complaint board.
- Making A Complaint/Complaints against Columbia Police Department (CPD) employees can be submitted in a variety of ways:
 1. **Online** – Visit www.ColumbiaPD.net/employee-complaint/ and complete the form.
 2. **In person** – File a written complaint at CPD headquarters or any regional office.
 3. **Mail** – Send a letter to: Attn: Chief of Police, CC: Internal Affairs Unit, Columbia Police Department 1, Justice Square, Columbia, SC 29201 • Phone – Call the IA Unit at 803-545-3655. Upon receipt of citizen complaints, the IA Unit will notify and provide the information submitted to the subject employee's Unit/Section Commanding Police officer and Region/ Division Commanding Officer.
- If you believe that you have been discriminated against, or that your civil rights have been violated, you may submit a written complaint to the U.S. Attorney's Office. Mail: U.S. Attorney's Office, District of South Carolina, Attn: Civil Rights Program, 1441 Main Street, Suite 500, Columbia, 29201. The phone number is (803) 929-3000.

[Legal Sources:

- <https://columbiapd.net/professional-standards/>
- <https://www.scstatehouse.gov/code/t01c013.php> § 1-13-90
- <https://www.scstatehouse.gov/code/t16c003.php#16-3-1620> § 16-3-1620
- https://www.sc.edu/about/offices_and_divisions/diversity_equity_and_inclusion/report_an_incident/
- <https://www.justice.gov/crt/addressing-police-misconduct-laws-enforced-department-justice>]

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:

- You can claim that your rights have not been respected if 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 police officer did not respect what you could reasonably expect your privacy to be.

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- 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).

[Legal Source: [*The Fourth Amendment of the U.S. Constitution*](#) and [*Article I, Section 10, S.C. Constitution*](#).

[*Weeks v. United States*, 232 U.S. 383, 34 S.Ct. 341, 58 L.Ed. 652 \(1914\); *Mapp v. Ohio*, 367 U.S. 643, 81 S.Ct. 1684, 6 L.Ed.2d 1081 \(1961\); *State v. Hill*, 245 S.C. 76, 138 S.E.2d 829 \(1964\); and *State v. Baker*, 251 S.C. 108, 160 S.E.2d 556 \(1968\)\]](#)

1. In very limited circumstances, you could also bring a civil action against the police officer who conducted unreasonable searches/seizures.
2. If you believe your rights were not respected, try to remember as many details as possible and speak with your lawyer. You can find a lawyer in your area on the [South Carolina Bar](#) website. If you or your parents/guardian cannot afford a lawyer, a court will appoint a criminal defense attorney for you.

Disclaimer

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Law is generally described as of November 2021.