

# Real Rights: young people engaging with law enforcement

 Guatamala



Developed by Baker McKenzie and the Global Initiative on Justice with Children, Real Rights provides young people – especially young people in vulnerable populations – with legal information for when children encounter police in public settings. Thanks to the pro bono work of over 1,500 volunteer professionals, this database provides answers for children in contact with the police from initial contact to searches and questioning.

## 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?

## Stopped by the police on the street, now what?

### Proposed Information

It is important to follow this advice:

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

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

No. The police can only arrest you if ordered by a judge or if you are caught committing a crime (*flagrante delicto*).

Source: [Guatemala - Is it illegal for the police to round up street children? - The Legal Atlas for Street Children](#)

## **Constitution of Guatemala**

### **Article 6: Legal Detention**

No person may be arrested or detained except for a crime or misdemeanor and by virtue of a warrant issued according to the law by a competent judicial authority. Cases of flagrante delicto or fleeing from justice are excepted. Prisoners will have to be made available to the competent judicial authority within a time limit not exceeding six hours and cannot be subject to any other authority.

The official or agent of the authority which violates what is provided in this article will be sanctioned according to the law, and the tribunals will automatically initiate the appropriate proceedings.

Source: [Guatemala Constitution \(constitutionnet.org\)](#)

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

Identifying as a PNC (*Policía Nacional Civil*) Officer is mandatory at the time of arresting. If they don't, you can ask them to identify themselves.

## **National Civil Police Law**

### **Article 12:**

3) The basic principles of action of the members of the National Civil Police are as follows Police are the following:

a) Identify themselves as a member of the National Police at the moment of carrying out a detention.

Source: [National Civil Police Law](#)

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

If a police officer approaches you on the street and wants to talk to you when you know you've done nothing wrong, it might make sense to answer the officer's questions as it is most likely that the police officer lets you go. Keep in mind that you do not have a legal obligation to speak or to answer questions without a lawyer present. You cannot be compelled to make a declaration except before the competent judicial authority.

If you were the **victim** of a crime and the police is trying to get information to investigate and prosecute someone who committed a crime, it is recommended to talk to the Police as it is the only way to provide them with useful information for the case.

Source: <https://www.justcriminallaw.com/>

## **Constitution of Guatemala**

### **Article 8: Rights of the Prisoner**

A prisoner will have to be informed immediately of his rights in a form that will be understandable, and especially so that he may secure a defender who may be present at all police and judicial proceedings. The prisoner cannot be compelled to make a declaration except before the competent judicial authority.

Source: [Guatemala Constitution \(constitutionnet.org\)](#)

## **National Civil Police Law**

### **Article 6:**

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All inhabitants of the Republic shall provide the necessary collaboration to the members of the National Civil Police in the exercise of their functions. to the members of the National Civil Police in the exercise of their functions.

Source: [National Civil Police Law](#)

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

You are not obliged to speak or answer questions. If you have suspicions regarding whether an uniformed person is an officer or not, you have the right you ask them and request their identification. It is important to keep in mind that all agents must be properly identified with their uniforms and their name tags visible in their badge. The patrol should also be properly identified, showing its number and which unit they belong to.

Source: [Can a PNC with no uniform intimidate a citizen? \(Spanish\)](#)

### **National Civil Police Law**

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a) Identify themselves as a member of the National Police at the moment of carrying out a detention.

Source: [National Civil Police Law](#)

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

Yes, you are not obligated to speak to them without a lawyer present. Every person that is detained or deprived of their liberty has the right to have access to a lawyer or legal representative and should have the opportunity to communicate with them. If you cannot afford a lawyer, one will be assigned for you.

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Source: [Guatemala Constitution \(constitutionnet.org\)](#)

### **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment**

#### **Principle 17**

1. A detained person shall be entitled to have the assistance of a legal counsel. He shall be informed of his right by the competent authority promptly after arrest and shall be provided with reasonable facilities for exercising it.

2. If a detained person does not have a legal counsel of his own choice, he shall be entitled to have a legal counsel assigned to him by a judicial or other authority in all cases where the interests of justice so require and without payment by him if he does not have sufficient means to pay.

Source: [Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment](#)

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

If you are not under arrest, it is not a violation to sit down.

However, it is always best to be cooperative and show no resistance. If you are under arrest, sitting down is resisting and even in that case, the police cannot use brutal force to control and arrest you.

## **Guatemala's Forgotten Children Human Rights Watch Children's Rights Project**

### **APPENDIX E, Special provisions**

9) Law enforcement officials shall not use firearms against persons except in self-defense or defense of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.

Source: [GUATEMALA'S FORGOTTEN CHILDREN \(hrw.org\)](http://www.hrw.org/guatemala)

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

Running may put yourself in a worse position because it can potentially provide a police officer with authority to take further action against you.

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Try to stay calm. Don't run. Don't argue, resist or obstruct the police, even if you are innocent or police are violating your rights. Keep your hands where the police can see them.

You can ask if you are free to leave. If the officer says yes, calmly and silently walk away. If you are under arrest, you have a right to know why.

## **Constitution of Guatemala**

### **Article 6: Legal Detention**

No person may be arrested or detained except for a crime or misdemeanor and by virtue of a warrant issued according to the law by a competent judicial authority. Cases of flagrante delicto or fleeing from justice are excepted. Prisoners will have to be made available to the competent judicial authority within a time limit not exceeding six hours and cannot be subject to any other authority.

The official or agent of the authority which violates what is provided in this article will be sanctioned according to the law, and the tribunals will automatically initiate the appropriate proceedings.

Source: [Guatemala Constitution \(constitutionnet.org\)](http://constitutionnet.org)

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

Running may put yourself in a worse position because it can potentially provide a police officer with authority to take further action against you.

Try to stay calm. Don't run. Don't argue, resist or obstruct the police, even if you are innocent or police are violating your rights. Keep your hands where the police can see them.

You can ask if you are free to leave. If the officer says yes, calmly and silently walk away. If you are under arrest, you have a right to know why and do not have to ask answer any questions or make any statements without a lawyer present.

Secondary sources advise against running from police. Unclear whether there is a legally-significant distinction.

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The official or agent of the authority which violates what is provided in this article will be sanctioned according to the law, and the tribunals will automatically initiate the appropriate proceedings.

Source: [Guatemala Constitution \(constitutionnet.org\)](http://constitutionnet.org)

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

Yes. If necessary, an interpreter will be provided during the interrogation.

Any person who does not understand or speak adequately the language used by the arresting, detaining or imprisoning authorities shall have the right to be communicated without delay, in a language that he understands.

## **Law for the Integral Protection of Children and Adolescents**

### **Article 143:**

The adolescent has the right to a free interpreter, to assist him/her in all proceedings in which his/her presence is necessary and whenever he/she does not understand or does not speak the language used.

Source: [Law for the Integral Protection of Children and Adolescents](#)

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

No. A person may only be arrested or detained for a crime or misdemeanour and by virtue of a warrant issued according to the law by a competent judicial authority.

In some cases, if you fail to provide your identity, such as: name, address, and date of birth as requested by police in the circumstances above, the Police can detain you and take you to the nearby units that have adequate means to carry out the diligence of identification or accreditation of property, for this sole effect and for only the indispensable time to check your identity.

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The official or agent of the authority which violates what is provided in this article will be sanctioned according to the law, and the tribunals will automatically initiate the appropriate proceedings.

### **Article 9: Questions to Those Arrested or Imprisoned**



The judicial authorities are the only ones competent to question those arrested or imprisoned.

This proceeding will have to be applied within a time frame not exceeding 24 hours.

Source: [Guatemala Constitution \(constitutionnet.org\)](http://constitutionnet.org)

## When can police search you and your surroundings?

### Proposed Information

It is important to follow this advice:

- You have the right to deny a personal search.
- You have the right to say no to searches of your belonging or other surroundings.
- You cannot be arrested for refusing to consent to a search without a warrant.
- If a warrant is issued by a court of law, you must comply with the search request.

### Constitution of Guatemala

#### Article 25: Register of Persons and Vehicles

The register of persons and vehicles can only be drawn up by units of the security forces when a justifying cause is established for it. For that purpose, the units of the security forces will have to appear wearing appropriate uniform and belong to the same sex as the subjects requisitioned, it being necessary to retain respect for the dignity, privacy and decorum of persons.

Source: [Guatemala Constitution \(constitutionnet.org\)](http://constitutionnet.org)

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

You have the right to refuse searches of your belongings as long as there's no warrant issued by a Court of law that demands it.

### Constitution of Guatemala

#### Article 25: Register of Persons and Vehicles

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Source: [Guatemala Constitution \(constitutionnet.org\)](http://constitutionnet.org)

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

You are not obligated to provide them with the password to your phone without a warrant, as your phone is a personal belonging. The police may not tap into your phone or any private communication unless it is ordered by a competent Judge.

### Constitution of Guatemala

#### Article 24: Inviolability of Correspondence, Documents, and Books

The correspondence of any person, his documents, and books are inviolable. They can be inspected or seized only by virtue of a firm resolution decreed by a competent judge and with

the legal formalities. The secrecy of correspondence and telephone, radio, and cablegram communications and other means of modern technology is guaranteed.

The books, documents and records connected with the payment of taxes, rates, charges, and levies can be revised by the competent authority in accordance with the law. To disclose the amount of taxes paid, earnings, losses, expenses, and any other data referring to audited accounts to individual or juridical persons, with the exception of general balances, whose publication is mandated by law, is punishable.

Documents or information obtained in violation of this article are not valid nor can they be used as evidence in courts.

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Source: [Guatemala Constitution \(constitutionnet.org\)](http://constitutionnet.org)

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

You have the right to not give them your passwords without a warrant issued by a Court of Law.

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Source: [Guatemala Constitution \(constitutionnet.org\)](http://constitutionnet.org)

### **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're not under arrest you have the right to refuse to give them that information as long as there is no warrant issued by a Court of Law.

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Source: [Guatemala Constitution \(constitutionnet.org\)](http://constitutionnet.org)

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

The PNC Officer can only search you or your personal belongings when a justified reason for it is stated. They can ask you to show what you're carrying but you can refuse if there is no warrant issued by a Court of Law.

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Source: [Guatemala Constitution \(constitutionnet.org\)](http://constitutionnet.org)

### **Can they take my picture or record me?**

Yes. There's no law that prohibits them from recording or taking your picture. You are also allowed to take their picture or record them.

What it is forbidden is to disclose in any way the identity and image of the adolescent accused, prosecuted or punished and that of the members of his or her family.

Source: <https://www.agenciaocote.com/blog/2019/09/25/>

## **Law for the Integral Protection of Children and Adolescents**

## **Article 154: Principle of inviolability of the defense**

Adolescents shall have the right to be assisted by a defense counsel, from the beginning of the investigation and until they comply with the measure imposed on them.

It is forbidden to disclose in any way the identity and image of the accused, prosecuted or punished adolescent and that of his family members. The offenders will be fined between five and twenty-five minimum wages of the labor sector to which they belong.

Source: [Law for the Integral Protection of Children and Adolescents](#)

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

The police can ask you where you're going and why but you have no obligation to respond or engage with them or talk without a lawyer present, if you do not desire. However, it is important to keep in mind that cooperating and showing no resistance is recommended when innocent.

### **Constitution of Guatemala**

#### **Article 8. Rights of the Prisoner**

A prisoner will have to be informed immediately of his rights in a form that will be understandable, and especially so that he may secure a defender who may be present at all police and judicial proceedings. The prisoner cannot be compelled to make a declaration except before the competent judicial authority.

Source: [Guatemala Constitution \(constitutionnet.org\)](#)

## **Reasons the police may detain or arrest you**

### **Proposed Information**

It is important to follow this advice:

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

### **National Civil Police Law**

#### **Article 12:**

3) The basic principles of action of the members of the National Civil Police are as follows Police are the following:

a) Identify themselves as a member of the National Police at the moment of carrying out a detention.

Source: [National Civil Police Law](#)

Source: [Esto debes hacer si te detienen en un retén de la PNC \(soy502.com\)](#)

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

They can ask to show identification/circulation permit but if you've been contacted by the police because they "just want to talk" hiring a lawyer may be one of the best decisions you can make. A lawyer can help you by preventing you from saying something that could lead to your arrest or that is not convenient to disclose.

Source: <https://www.justcriminallaw.com/>

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Source: [Guatemala Constitution \(constitutionnet.org\)](http://Guatemala Constitution (constitutionnet.org))

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

Even if you meet with the police and proclaim your innocence, it is always recommended to call a lawyer when making a statement or answering questions.

Source: <https://www.justcriminallaw.com/>

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Source: [Guatemala Constitution \(constitutionnet.org\)](http://Guatemala Constitution (constitutionnet.org))

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

It is not common that a police asks you questions when there are no suspicions. If you approached and are asked questions, you do not have the obligation to answer.

Source: <https://www.justcriminallaw.com/>

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Source: [Guatemala Constitution \(constitutionnet.org\)](http://Guatemala Constitution (constitutionnet.org))

## **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?**

Before you are arrested, you can ask if you are free to leave. If the officer says yes, you can walk away. Once you are placed under arrest or are in police custody (when you are not free to leave), the police are required to inform you about your rights and the charges against you and any statement you make after being properly arrested may be used as evidence against you. **You have the right to have an attorney present at all time in your defense.**

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

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

If you're already detained, or in the process of, and they tell you to do something not doing it could be seen as resisting or violating a direct order which could result in added charges.

### **Guatemala Criminal Code**

#### **Article 414: Disobedience**

Whoever openly disobeys an order of an official, authority or agent of authority, issued in the legitimate exercise of his or her powers, shall be punished with a fine of fifty one thousand Quetzals.

Source: [Guatemala Criminal Code](http://constitutionnet.org)

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

While the police need a warrant to search you, they can do it without a warrant if you give consent. If they ask and you agree, you can show or hand your belongings to them.

## **Constitution of Guatemala**

### **Article 25: Register of Persons and Vehicles**

The register of persons and vehicles can only be drawn up by units of the security forces when a justifying cause is established for it. For that purpose, the units of the security forces will have to appear wearing appropriate uniform and belong to the same sex as the subjects requisitioned, it being necessary to retain respect for the dignity, privacy and decorum of persons.

Source: [Guatemala Constitution \(constitutionnet.org\)](http://constitutionnet.org)

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

If you are asked questions by the police, you do not have the obligation to answer but you can always do so voluntarily.

In some cases, the police agents can ask you to provide your identity, If you fail to provide your identity, such as: name, address, and date of birth as requested by police in the circumstances above, the police can detained you and take you to the nearby units that have adequate means to carry out the diligence of identification or accreditation of property, for this sole effect and for only the indispensable time to check your identity.

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Source: [Guatemala Constitution \(constitutionnet.org\)](http://constitutionnet.org)

## Do police need a warrant to arrest you?

### Proposed Information

It is important to follow this advice:

- Police needs a warrant to arrest you, but 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.

Source: [Guatemala - Is it illegal for the police to round up street children? - The Legal Atlas for Street Children](#)

### Constitution of Guatemala

#### Article 6: Legal Detention

No person may be arrested or detained except for a crime or misdemeanor and by virtue of a warrant issued according to the law by a competent judicial authority. Cases of flagrante delicto or fleeing from justice are excepted. Prisoners will have to be made available to the competent judicial authority within a time limit not exceeding six hours and cannot be subject to any other authority.

The official or agent of the authority which violates what is provided in this article will be sanctioned according to the law, and the tribunals will automatically initiate the appropriate proceedings.

Source: [Guatemala Constitution \(constitutionnet.org\)](http://constitutionnet.org)

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

In general, no person can be detained if they have not committed a crime or offense and if there is no legal order issued by a competent legal authority.

Police can stop you if they suspect you have weapon and have a reasonable suspicion that a crime has taken place: under certain circumstances and if the police suspects that a crime has been committed or in flagrante delicto the police may arrest you.

Source: [Guatemala - Is it illegal for the police to round up street children? - The Legal Atlas for Street Children](#)

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The official or agent of the authority which violates what is provided in this article will be sanctioned according to the law, and the tribunals will automatically initiate the appropriate proceedings.

Source: [Guatemala Constitution \(constitutionnet.org\)](http://constitutionnet.org)

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

Yes, you can ask why they stopped you and refuse to stop unless you're under arrest.

You can also ask the Police Officer if you are free to leave. If the officer says yes, calmly and silently walk away. If you are under arrest, you have a right to know why.

### **Constitution of Guatemala**

#### **Article 6: Notification of the Cause of Detention.**

Any person detained will have to be notified immediately, orally or in writing, of the cause of his detention, the authority which ordered it, and the place where he is to be held. The same notification will have to be transmitted through the most rapid means to the person whom the prisoner designates, and the authority will be responsible for the implementation of the notification.

Source: [Guatemala Constitution \(constitutionnet.org\)](http://constitutionnet.org)

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

No. If a detained or imprisoned person is a juvenile or is incapable of understanding his entitlement, the competent authority shall on its own initiative undertake the notification referred to in the present principle. Special attention shall be given to notifying parents or guardians.

### **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment**

#### **Principle 16**

3. If a detained or imprisoned person is a juvenile or is incapable of understanding his entitlement, the competent authority shall on its own initiative undertake the notification referred to in the present principle. Special attention shall be given to notifying parents or guardians.

Source: [Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment](http://constitutionnet.org)

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

The law prohibits arbitrary arrest and detention, you should ask them to inform you the reasons of your arrest or detention.

### **International Covenant on Civil and Political Rights**

#### **Article 9**

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

Source: [International Covenant on Civil and Political Rights](http://constitutionnet.org)

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

Yes. You can, and must, always ask the officer to identify themselves.



## National Civil Police Law

### Article 12:

3) The basic principles of action of the members of the National Civil Police are as follows Police are the following:

a) Identify themselves as a member of the National Police at the moment of carrying out a detention.

Source: [National Civil Police Law](#)

## 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.
- If the following happens, you are likely under arrest under the law:
  - an officer handcuffs you;
  - an officer forcibly holds you down;
  - an officer puts you into the back seat of a police car; or
  - an officer warns you about your rights.
- An officer only has to warn you of your rights before the police question you. This means an officer can arrest you before warning you of your rights.
- An arrest without a rights warnings is still a valid arrest; it just may mean that evidence collected from it is not admissible in court later.

### Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

#### Principle 2

Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law and by competent officials or persons authorized for that purpose.

Source: [Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment](#)

## Constitution of Guatemala

### Article 6: Notification of the Cause of Detention.

Any person detained will have to be notified immediately, orally or in writing, of the cause of his detention, the authority which ordered it, and the place where he is to be held. The same notification will have to be transmitted through the most rapid means to the person whom the prisoner designates, and the authority will be responsible for the implementation of the notification.

Source: [Guatemala Constitution \(constitutionnet.org\)](#)

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

To know if you are under arrest the police must inform the following:

- The reasons for the arrest.

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- The identity of the law enforcement officials concerned;
- Precise information concerning the place of custody.

## **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment**

### **Principle 12**

1. There shall be duly recorded:

- (a) The reasons for the arrest;
- (b) The time of the arrest and the taking of the arrested person to a place of custody as well as that of his first appearance before a judicial or other authority;
- (c) The identity of the law enforcement officials concerned;
- (d) Precise information concerning the place of custody.

2. Such records shall be communicated to the detained person, or his counsel, if any, in the form prescribed by law.

Source: [Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment](#)

## **Constitution of Guatemala**

### **Article 6: Notification of the Cause of Detention.**

Any person detained will have to be notified immediately, orally or in writing, of the cause of his detention, the authority which ordered it, and the place where he is to be held. The same notification will have to be transmitted through the most rapid means to the person whom the prisoner designates, and the authority will be responsible for the implementation of the notification.

Source: [Guatemala Constitution \(constitutionnet.org\)](#)

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

A detention is the provisional deprivation of the liberty carried out by a competent authority, while an arrest is the act of effectively holding someone and depriving them of their liberty.

## **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment**

### **Scope of the Body of Principles**

- a) "Arrest" means the act of apprehending a person for the alleged commission of an offence or by the action of an authority;
- b) "Detained person" means any person deprived of personal liberty except as a result of conviction for an offence;

Source: [Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment](#)

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

It depends. They cannot handcuff you while verifying your information. However, they can handcuff to restrain you if you become violent, as you give them a reason to use force, or if you are under arrest for committing a crime (flagrante delicto) or for allegedly committing a crime.

## **This is what you must do when stopped by PNC Officer**

### **Can they handcuff me?**

They cannot handcuff you while verifying your information. Nor can they have physical contact with you, for example, take your arm to force you down. Although the agents can act in a proportionate manner (if you become violent, you give them a reason to use force).

Source: [This is what you must do when stopped by PNC](#)

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

You are under arrest when the Police immediately, orally or in writing, notifies you of the cause of the detention, the authority that ordered it, and your rights.

### **Constitution of Guatemala**

#### **Article 6: Notification of the Cause of Detention.**

Any person detained will have to be notified immediately, orally or in writing, of the cause of his detention, the authority which ordered it, and the place where he is to be held. The same notification will have to be transmitted through the most rapid means to the person whom the prisoner designates, and the authority will be responsible for the implementation of the notification.

Source: [Guatemala Constitution \(constitutionnet.org\)](#)

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

### **Proposed Information**

It is important to follow this advice:

- Juveniles have the right to remain silent without his or her parent or guardian present. If you wish to speak to police freely without an attorney present, you can change your mind at any time and 'plead the fifth,' meaning you no longer wish to answer questions, or that you have changed your mind and wish to have an attorney present after all.

### **Constitution of Guatemala**

#### **Article 8: Rights of the Prisoner**

A prisoner will have to be informed immediately of his rights in a form that will be understandable, and especially so that he may secure a defender who may be present at all police and judicial proceedings. The prisoner cannot be compelled to make a declaration except before the competent judicial authority.

#### **Article 9: Questions to Those Arrested or Imprisoned**

The judicial authorities are the only ones competent to question those arrested or imprisoned.

This proceeding will have to be applied within a time frame not exceeding 24 hours.

Source: [Guatemala Constitution \(constitutionnet.org\)](#)

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

If you're handcuffed and read your rights by the police, everything you say or do after it could, can and will be used against you so, you should communicate and consult with an attorney or if you do not have sufficient means to pay for one, you shall be entitled to have a legal counsel assigned to him by a judicial.

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## **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment**

### **Principle 17**

1. A detained person shall be entitled to have the assistance of a legal counsel. He shall be informed of his right by the competent authority promptly after arrest and shall be provided with reasonable facilities for exercising it.

2. If a detained person does not have a legal counsel of his own choice, he shall be entitled to have an attorney assigned to him by a judge or other authority in all cases where the interests of justice so require and without payment by him if he does not have sufficient means to pay.

Source: [Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment](#)

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

No, but they can only detain or imprison you in places established by law.

### **Constitution of Guatemala**

#### **Article 10: Legal Detention Center**

The persons apprehended by the authority cannot be taken to places of detention, arrest, or imprisonment different from those which are legal and publicly designated for that purpose. The centers of detention, arrest, or provisional imprisonment will be different from those where the sentences are to be served.

The authority and its agents who violate the provisions in the present article will be personally responsible.

Source: [Guatemala Constitution \(constitutionnet.org\)](#)

## **Police questioning you**

### **Proposed Information**

It is important to follow this advice:

#### **Am I required to make a statement?**

No. 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.

No adolescent ; will be obliged to testify against themselves, or relatives within the degrees of law.

### **Constitution of Guatemala**

#### **Article 8: Rights of the Prisoner**

A prisoner will have to be informed immediately of his rights in a form that will be understandable, and especially so that he may secure a defender who may be present at all police and judicial proceedings. The prisoner cannot be compelled to make a declaration except before the competent judicial authority.

Source: [Guatemala Constitution \(constitutionnet.org\)](#)

### **Law for the Integral Protection of Children and Adolescents**

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## **Article 149: Right to refrain from testifying**

No adolescent shall be obliged to testify against himself or herself, nor against his or her spouse or relatives within the degrees of law.

Source: [Law for the Integral Protection of Children and Adolescents](#)

### **Must police notify my guardian?**

Yes. If you are under the age of 18, police are required to immediately notify your parent, caretaker or legal guardian.

## **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment**

### **Principle 16**

3. If a detained or imprisoned person is a juvenile or is incapable of understanding his entitlement, the competent authority shall on its own initiative undertake the notification referred to in the present principle. Special attention shall be given to notifying parents or guardians.

Source: [Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment](#)

### **Must I confess?**

No. You are not required to confess, answer or engage with the Police.

It is prohibited to take undue advantage of the situation of a detained or imprisoned person for the purpose of compelling you to confess, to incriminate yourself otherwise or to testify against any other person.

## **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment**

### **Principle 21**

1. It shall be prohibited to take undue advantage of the situation of a detained or imprisoned person for the purpose of compelling him to confess, to incriminate himself otherwise or to testify against any other person.

2. No detained person while being interrogated shall be subject to violence, threats or methods of interrogation which impair his capacity of decision or his judgement.

Source: [Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment](#)

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

If you're under 18 you have the right to have your parents, tutor or legal guardian with you at all times. However, professional assistance from a lawyer is always recommended.

## **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment**

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3. If a detained or imprisoned person is a juvenile or is incapable of understanding his entitlement, the competent authority shall on its own initiative undertake the notification referred to in the present principle. Special attention shall be given to notifying parents or guardians.

### **Principle 17**

1. A detained person shall be entitled to have the assistance of a legal counsel. He shall be informed of his right by the competent authority promptly after arrest and shall be provided with reasonable facilities for exercising it.

2. If a detained person does not have a legal counsel of his own choice, he shall be entitled to have a legal counsel assigned to him by a judicial or other authority in all cases where the interests of justice so require and without payment by him if he does not have sufficient means to pay.

Source: [Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment](#)

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

If you are under the age of 18, police are required to immediately notify your parent, caretaker or legal guardian.

All children facing the possible deprivation of their liberty should be provided with a lawyer.

Source: [Guatemala's Forgotten Children](#)

## **How do I contact a lawyer and when?**

### **Proposed Information**

It is important to follow this advice:

- A detained person shall be entitled to have the assistance of an attorney. He shall be informed of his right by the competent authority promptly after arrest and shall be provided with reasonable facilities for exercising it.
- If a detained person does not have a legal counsel of his own choice, he shall be entitled to have a legal counsel assigned to him by a judicial or other authority in all cases where the interests of justice so require and without payment by him if he does not have sufficient means to pay.

### **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment**

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Source: [Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment](#)

### **What if I am just a witness?**

You have the right to refrain from making any statements without this being used against you. If you do make a statement, you have the right to always have a lawyer present.

### **Constitution of Guatemala**

#### **Article 6: Notification of the Cause of Detention.**



Any person detained will have to be notified immediately, orally or in writing, of the cause of his detention, the authority which ordered it, and the place where he is to be held. The same notification will have to be transmitted through the most rapid means to the person whom the prisoner designates, and the authority will be responsible for the implementation of the notification.

Source: [Guatemala Constitution \(constitutionnet.org\)](http://constitutionnet.org)

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

### Proposed Information

It is important to follow this advice:

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

Source: [Is it illegal to lie to the police? A defense attorney explains \(shouselaw.com\)](http://shouselaw.com)

### Can the police lie to me?

The police can restrain information during the course of the investigation to try to get you to talk more. A lawyer can prevent this from happening by making sure you understand the question you are being asked, and by making sure you don't say more than what the police are asking about.

Source: <https://www.justcriminallaw.com/>

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

You have the right to refuse from making any statements, and you have the right to communicate and consult with your legal counsel.

Source: [Is it illegal to lie to the police? A defense attorney explains \(shouselaw.com\)](http://shouselaw.com)

## 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:

#### Remedies:

Any person who believes that a violation has occurred or is about to occur shall have the right to report the matter to the superiors of the officials involved as well as to other appropriate authorities or organs vested with reviewing or remedial powers.

#### File a complaint:

With the complaint, the corresponding investigation will be carried out depending on each case, i.e. all crimes are approached in different ways with the sole objective of supporting the victim and identifying the aggressor.

If you were a victim or witness of a crime, you can file a complaint in a safe and confidential manner with the following institutions:

- **Public Ministry**

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- PM hotline 24/7 at 1574
- Visit to a Public Prosecutor's Office. [Locations](#).
- If you have hearing disabilities, you can write at 5708-7354
- **Policía Nacional Civil**
  - Phone for confidential reports: 1518
  - [Online portal for confidential reports](#).
  - Visit the Victim Assistance Office at a local police station or station.
  - **PNC hotline to file a complaint of police misconduct**  
3032-7356  
3053-3687
- **Judicial Organism**
  - Visit a Justice of the Peace, Magistrate's Court, or specialized courts by crime.

Source: [Confidential Reports 1518 - Ministry of Interior \(mingob.gob.gt\)](#)

Source: [What is discrimination? \(ayuda.gt\)](#)

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

### Proposed Information

It is important to follow this advice:

#### Remedies:

Everyone must be treated as human beings; should not be discriminated against for any reason.

In those cases where neither the detained or imprisoned person nor his counsel has the possibility to exercise his rights, a member of the family of the detained or imprisoned person or any other person who has knowledge of the case may exercise such rights.

#### File a complaint:

With the complaint, the corresponding investigation will be carried out depending on each case, i.e. all crimes are approached in different ways with the sole objective of supporting the victim and identifying the aggressor.

If you were a victim or witness of a crime, you can file a complaint in a safe and confidential manner with the following institutions:

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Source: [Confidential Reports 1518 - Ministry of Interior \(mingob.gob.gt\)](https://mingob.gob.gt)

Source: [What is discrimination? \(ayuda.gt\)](https://ayuda.gt)

## How can I respond to circumstances involving discrimination?

### Proposed Information

It is important to follow this advice:

#### Remedies:

The best way to assess the situation would be to politely respond and report it later to the appropriate authorities.

#### File a complaint:

With the complaint, the corresponding investigation will be carried out depending on each case, i.e. all crimes are approached in different ways with the sole objective of supporting the victim and identifying the aggressor.

If you were a victim or witness of a crime, you can file a complaint in a safe and confidential manner with the following institutions:

- **Public Ministry**
  - PM hotline 24/7 at 1574
  - Visit to a Public Prosecutor's Office. [Locations](#).
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Source: [Confidential Reports 1518 - Ministry of Interior \(mingob.gob.gt\)](https://mingob.gob.gt)

Source: [What is discrimination? \(ayuda.gt\)](https://ayuda.gt)

## 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:

#### **Remedies:**

A detained or imprisoned person or his counsel shall have the right to make a request or complaint regarding his treatment, in particular in case of torture or other cruel, inhuman or degrading treatment, to the authorities responsible for the administration of the place of detention and to higher authorities and, when necessary, to appropriate authorities vested with reviewing or remedial powers.

#### **Constitution of Guatemala**

##### **Article 263: Right to Habeas Corpus.**

Whoever finds himself illegally imprisoned, detained, or restrained in any other way in the enjoyment of his individual freedom, who is threatened with the loss of same, or suffers ill-treatment, even when his imprisonment or detention is based on the law, has the right to petition for an immediate hearing before the tribunals of justice for the purpose of retrieving his liberty, guaranteeing him his release, bringing his ill-treatment to an end, or terminating the constraint to which he has been subjected.

Should the tribunal decree the freeing of the person illegally confined, the latter will be released at the same hearing and place.

When it is so petitioned or the judge or tribunal deems it pertinent, the requested habeas corpus will occur at the location where the detained person is being held, without previous warning or notification.

The habeas corpus of the detainee in whose favor it may have been requested is unavoidable.

Source: [Guatemala Constitution \(constitutionnet.org\)](http://constitutionnet.org)

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Law is generally described as of October 2024.

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