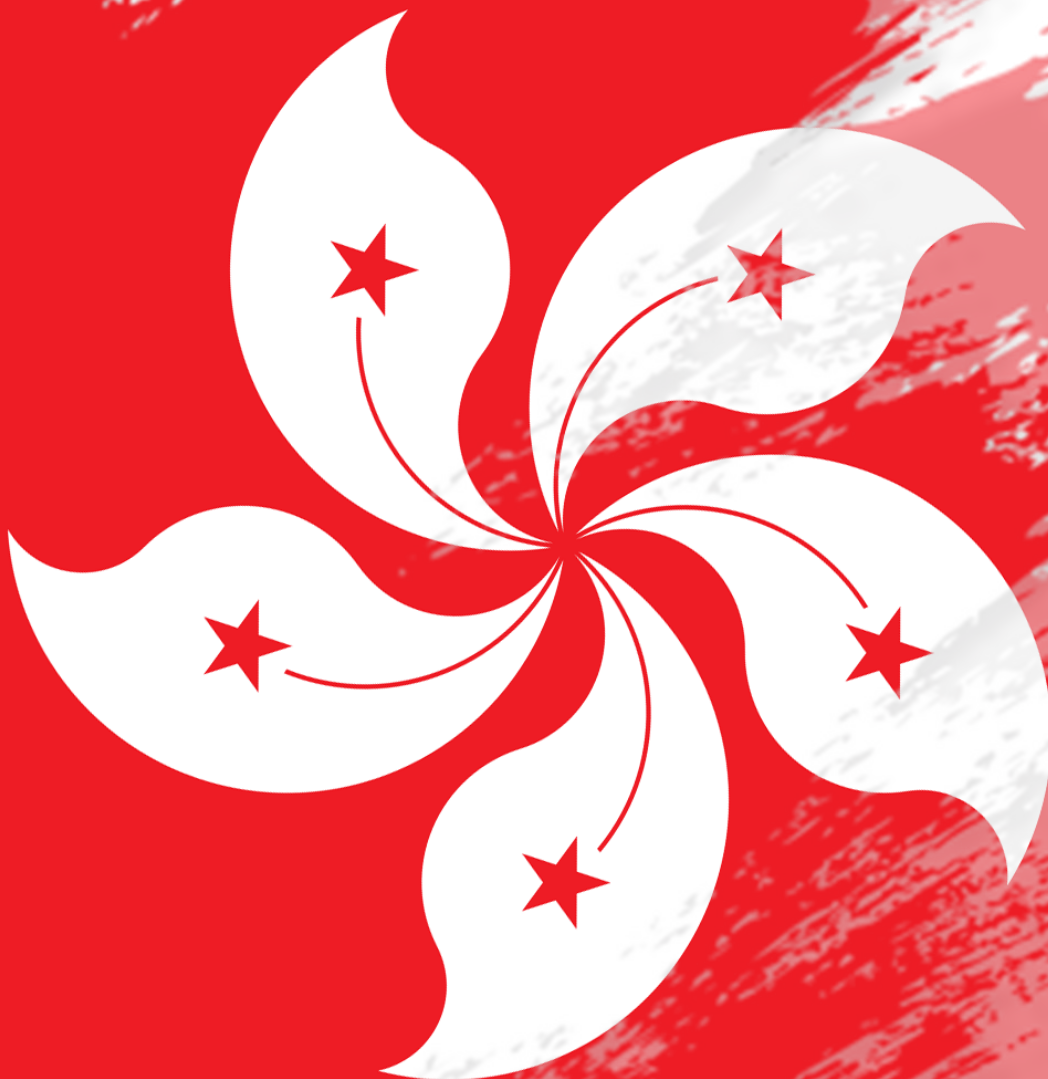


**Baker
McKenzie.**

Real Rights: young people engaging with law enforcement

 Hong Kong



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 happens and what should I expect after I submit my complaint?
- Options after you receive a decision on your complaint
- What if I feel I was a victim of discrimination or racism?

Stopped By The Police On The Street, Now What?

Proposed Information

It is important to follow this advice:

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

Can the police arrest you for refusing to answer questions?

If a police officer finds you suspicious, he may detain you for a reasonable period to ask you questions ([section 54\(1\) of the Police Force Ordinance Cap 232](#)). However, you have the

right to refuse to answer any questions given the right to remain silent ([Article 11\(2g\) of Section 8 of the Hong Kong Bill of Rights Cap 383](#)).

For people aged 15 or above, the police may require you to provide proof of identity and failure to produce is an offence and may be subject to a fine penalty ([section 17C\(2\) of Immigration Ordinance Cap 115](#)).

What if the officers do not identify themselves?

When persons claiming to be police officers are exercising powers given under the law, you can request them to first establish their identity by providing enough personal information, such as rank, police unique identification number and surname. ([Police General Orders Chapter 20-03](#))

Besides, for police officers in plain-clothes, they shall identify themselves and produce their warrant card when they are exercising their police powers.. For police officers in uniform, normally they are not required to produce their police warrant card. However, they should generally do so upon the request of a member of the public; if they work together as a group, you can only request one of them to show you the warrant card. A warrant card is the evidence of a police's appointment. ([Police General Orders Chapter 20-14](#)).

However, although you may see the police warrant card, you are not entitled to take it and check it. Therefore, if you are still not certain about their identity, you may immediately contact the nearest police station for clarification. ([Hong Kong Police Force website, General Enquiries FAQs, Question 5](#))

This [film clipping](#) regarding police warrant card illustrates different scenarios where someone pretends to be a police officer. Towards the end of it, you can see how the police warrant card looks like.

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

You may ask whether the officer suspects that you have committed an offence or is the view that you are acting in a suspicious manner. The officer's power to stop and question is only applicable in such circumstances. ([section 54\(1\) of the Police Force Ordinance Cap 232](#))

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

To protect yourself, do not obey the officer until you are certain about his identity. To verify his identity, you can request to see his police warrant card, which is the evidence of a police's appointment. ([Police General Orders Chapter 20-14](#)).

However, although you may see the police warrant card, you are not entitled to take it and check it. Therefore, if you are still not certain about his identity, you should immediately contact the nearest police station. ([Hong Kong Police Force website, General Enquiries FAQs, Question 5](#))

This [film clipping](#) regarding police warrant card illustrates different scenarios where someone pretends to be a police officer. Towards the end of it, you can see how the police warrant card looks like.

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

Yes. Saying that you do not want to speak without a lawyer is consistent with your right to remain silent ([Article 11\(2\)\(g\) of Section 8 of the Hong Kong Bill of Rights Cap 383](#)) and the right to communicate with counsel ([Article 11\(2\)\(b\) of Section 8 of the Hong Kong Bill of Rights Cap 383](#)).

If I sit down, am I resisting?

Yes, if the police has proper legal basis to stop you, sitting down may be taken as resisting or wilfully obstructing the police in the execution of their duty ([section 63 of the Police Force Ordinance](#); [section 36 of Offences Against the Person Ordinance](#)).

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

No. If the police has proper legal basis to stop you, running may be taken as resisting or wilfully obstructing the police in the execution of their duty ([section 63 of the Police Force Ordinance](#); [section 36 of Offences Against the Person Ordinance](#)) or resisting arrest ([section 36 of Offences Against the Person Ordinance](#)).

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

No. If the police has proper legal basis to stop others, telling others to run may be taken as aiding or inciting others to resist arrest ([section 63 of the Police Force Ordinance](#); [section 36 of Offences Against the Person Ordinance](#)).

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

If possible, try to indicate that you don't understand the language they are speaking, and politely ask if they can provide an interpreter or find someone who can translate. It is important to remain calm and cooperative.

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

Every police officer has the power to question any person about a crime or offence. A police officer has a general power to stop and question any person they believe is behaving suspiciously. Whilst doing so he may demand proof of identity, detain the person, and search for anything on their person that may present a danger to the officer ([Cap. 232 Police Force Ordinance – Section 54 Power to stop, detain and search \(legislation.gov.hk\)](#)) ([Stop and Search | Hong Kong Police Force](#)).

When Can Police Search You and Your Surroundings?

Proposed Information

It is important to follow this advice:

- Police officer can search a person if the police officer finds a person acting in a suspicious manner, or the police officer reasonably suspects the person having or going to committed an offence (sections 54(1) and 54(2) of the Police Force Ordinance (Cap. 232)). Police officer can also search a person's car or other vehicles if it is suspected that the vehicle is carrying stole items (section 55 of the Police Force Ordinance (Cap. 232)).

What if a police officer wants to search my phone?

A police officer would typically require a search warrant before searching your phone. A police officer may search the phone of an arrested person if he (1) reasonably suspects that you are involved in an offence, and (2) reasonably suspect the information in your phone is valuable to the investigation of the offence (section 50(6) of the Police Force Ordinance (Cap. 232)).

Where a police officer demands to search your phone, you may ask if he has a search warrant. If he does not, he can only search your phone to (1) prevent an imminent threat to the public or police officers, (2) to prevent imminent loss or possible destruction of evidence and (3) lead to the discovery of evidence in extremely urgent and vulnerable situation. The police officer should make a written record of the purpose and scope of the warrantless

search. You may ask for a copy of this written record (unless doing so would jeopardize the criminal investigation).

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

The arrested person is under no legal obligation to unlock his password-protected mobile phone despite the request of the police officer (*Sham Wing Kan v Commissioner of Police and others* [2020] HKCA 186 at paragraph 122)

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

The arrested person is under no obligation to tell the police about the password or other access to his password-protected mobile phone despite the request of the police officer. (Source: see above.)

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?

A person is under no obligation to give device password to the police for a password-protected device despite the request of the police officer. (Source: see above.)

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

The law is silent as to what tools the police can use to search you.

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

Yes, if the police officer finds that you were acting suspiciously, or reasonably suspects that you have or will commit an offence, or if you were in the vicinity of an unlawful assembly or riot.

If the police officer finds that you were acting suspiciously, they have a general power to search you for anything that presents a danger to the police officer (s 54(1)(c) of Police Force Ordinance (Cap. 232)).

If the police officer reasonably suspects that you have committed, or about to commit, or intends to commit any offence, the police officer has a power to search you for anything that is likely to be of value to the investigation of that offence (s 54(2)(c) of Police Force Ordinance (Cap. 232)).

The police officer must have "reasonable" suspicion, based not only on the police officer's own view, but on objective facts and valid reasons. For example, a person wearing a ski mask and holding a knife outside a bank would be reasonably suspected of intending to commit an offence.

If the police officer reasonably believes an unlawful assembly or riot has occurred, is occurring or may occur in a place, and that offensive weapons may have been used, the police officer has the right to stop and search any person within the vicinity to determine whether or not the person has been guilty of that offence (s 33(6) Public Order Ordinance). An offensive weapon includes any article made, or adapted for use, or suitable, for causing injury to a person.

Prior to conducting a search the police officer will inform you of the reason for a search and the intended scope of the search, if it does not affect operational efficiency (Police webpage (https://www.police.gov.hk/ppp_en/11_useful_info/power_ssa.html)).

The police officer does not have the power to seize your backpack or other items, unless you are under arrest, or the police officer has a warrant.

Can they take my picture or record me?

There does not seem to be any law against a police officer taking your picture or recording you, even if you are not under arrest, or even if you are not suspected of committing an offence.

The police force has rolled out the usage of body-worn video cameras ("BWVC"), and police officers can choose when and whether to record using the BWVC.

The police does not seem to have published any concrete guidance on their internal policy regarding BWVCs, but the police publicly stated the following key points of their internal policy:

- (a) **Incident-specific recording:** BWVCs could only be used in "confrontational scenarios" or "incidents where a breach of the peace had occurred or was likely to occur";
- (b) **Advance notice before recording:** Police officers using BWVCs should be in uniform and should overtly wear the cameras. Unless impracticable, they need to notify the persons concerned before commencement of recording. In the recording process, BWVCs would flash with red light, with an outward-facing screen enabling the persons concerned to know that they are being video-filmed and see the captured images. Before the commencement of video-recording, the police officer need to first record his own name, time, place and a description of the incident;
- (c) **Deletion of video recording without evidential value:** Those footages considered to be relevant for investigation would be converted into two copies of CD-ROMs, one serving as exhibit and the other one as working copy for further investigation. For those footages without investigative or evidential value, they would be deleted after 31 days from the date it was produced; and
- (d) **Compliance with privacy requirements:** The Police state that members of the public have the right to request access to their own personal data kept by the Police under the Personal Data (Privacy) Ordinance, including footages captured by BWVCs. All such requests would be handled in accordance with the Ordinance.

Sources:

<https://www.legco.gov.hk/research-publications/english/essentials-1718ise03-body-worn-video-camera-for-police-surveillance.htm>

https://www.police.gov.hk/ppp_en/11_useful_info/bwvc.html

Can they ask me where I am going and why?

Generally, yes if they believe you are acting in a suspicious manner. The police officer may require you to produce proof of identity (i.e. by showing a Hong Kong ID card or passport), and detain you on the spot for a reasonable amount of time to ask questions.

However, do note that you can exercise your right to silence, and choose to not answer the police officer's questions.

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.

[back to top](#)

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

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

Generally, no. A person has a right to remain silence and may refuse to answer any question put to them by the police. (Article 11(2g) of section 8 of the Hong Kong Bill of Rights Ordinance) <https://www.elegislation.gov.hk/hk/cap383>

The right to remain silence may be subject to certain exceptions under certain legislation, for example, a driver of a vehicle who is suspected of committing a road traffic offence or being involved in an accident must give his name, address and driving license number to the police upon request. (section 63 of the Road Traffic Ordinance) <https://www.elegislation.gov.hk/hk/cap374>

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

Generally speaking, no. A person who is being questioned by the police is under no obligation to volunteer any information to the police, except for in limited circumstances (e.g. in traffic accident cases, you must give basic information such as your name, address and driving license number). That person has a right to remain silent and is under no obligation to correct the police if the police say something which is wrong.

There is, however, a distinction between: (a) not saying anything, and (b) saying something which is misleading.

It is not an offence to not say anything, but if the person chooses to speak and knowingly misleads the police by giving false information or making false statements or accusations, it amounts to offence punishable by a fine and/or to imprisonment (section 64 of the Police Force Ordinance (Cap 232)).

https://www.elegislation.gov.hk/hk/cap232!en?xid=ID_1438402865608_001

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

As explained in (b) above, generally speaking, a person has a right to remain silent and is not obliged to respond to any allegations, comments or questions made by a police officer.

If you decide to exercise your right to silence, it may be prudent to expressly inform the police officer that you are exercising such right, and that you will not offer any response to the officer's allegations, comments or questions.

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?

If you are arrested, you have a right to be informed of the reason for arresting you. The police must also inform you of your right to remain silent.

If you are not informed "you are under arrest" and not inform the rights (e.g. seeking the legal advice), the evidence given by you during the process may not be admissible as evidence in court.

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

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

If you are acting in a suspicious manner, and if the police officer considers it necessary, the police officer is allowed to search you for anything that may present a danger to the police officer. You do not have to agree to this before the police officer can search you.

[Section 54 of the Police Force Ordinance](#)

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

A person has the right to remain silence when being asked by the Police. However, if you decide to provide answers voluntarily, you should not provide misleading information to the Police.

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.

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

Broadly speaking, yes. You do not have to actually do anything wrong for the Police to be able to stop you. Police officers have broad powers to stop a person and ask them to provide proof of identity if the police reasonably believe it is necessary to prevent, detect or investigate an offence. Every person aged 15 or above who is resident of Hong Kong must carry proof of identity. Also, if any person acts in a suspicious manner, the police may detain that person for a reasonable period of time and search the person for anything that may present a danger to the police officer.

LEGAL REFERENCES:

1. Under section 54(1) of the Police Force Ordinance (Cap 232), if a police officer finds a person in any street, public place, etc., who acts in a suspicious manner, the police officer may: (i) stop the person and demand proof of identity, (ii) detain the person for a reasonable period of time to make enquiries, and (iii) search the person for anything that may present a danger to the police officer.
2. Under section 49 of the Public Order Ordinance (Cap 245), a police officer may require a person to produce proof of identity for inspection if the police officer reasonably believes that it is necessary to prevent, detect or investigate any offence. Failure to comply may lead to a fine or imprisonment.
3. Under section 17C(2) of the Immigration Ordinance (Cap 115), every person aged 15 or above who is a resident of Hong Kong must carry proof of identity at all times. A police officer or immigration officer may demand such proof of identity for inspection. Failure to produce proof of identity amounts to an offence.

https://www.elegislation.gov.hk/hk/cap232!en?xid=ID_1438402865405_001

[back to top](#)

https://www.elegislation.gov.hk/hk/cap245?xid=ID_1438402886215_001

https://www.elegislation.gov.hk/hk/cap115?xid=ID_1438402609284_001

Can I ask for the reason they stopped me?

Yes, you may ask the police officer for the reason why he or she stopped you. They will most likely tell you the reason, but there does not appear to be any law which requires them to do so.

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

You may do so if you wish, but do not obstruct a police officer in the discharge of his / her duties.

Generally speaking, it is best to keep what you say at a minimum. Exercising your right to silence does not amount to an admission of guilt.

Once you start talking to the police, there will be a natural inclination to offer information. This increases the risk that you may say things that incriminate yourself or the person who you are together with.

[https://www.clc.org.hk/en/topics/FreedomOfAssemblyProcessionDemonstration/RelatedOffences/Offences against Public Officers/Assaulting public officer](https://www.clc.org.hk/en/topics/FreedomOfAssemblyProcessionDemonstration/RelatedOffences/Offences%20against%20Public%20Officers/Assaulting%20public%20officer)

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

You may ask the police officer to explain the basis and reasons for stopping you. However, you must be careful that what you do does not obstruct a police officer in the discharge of his / her duties. Generally speaking, it is best to stay calm and keep what you say to a minimum.

You may also lodge a formal complaint as soon as possible after the event. You should try to collect evidence (e.g. video and audio recordings) of the incident. This will be important if there are any investigations or court proceedings later on.

Contact details to file a complaint: https://www.police.gov.hk/ppp_en/11_useful_info/cap.html

How Do You Know If You Are Under Arrest?

Proposed Information

It is important to follow this advice:

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

[back to top](#)

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

If you are under arrest, the police officer has to tell you that you are under arrest and the reasons for your arrest. [[Guidance to an Arrested Person on Arrest and Detention \(police.gov.hk\)](#)] At the time of arrest, the police officer must inform you of the offence or the crime for which you are suspected to have committed, as well as the essential legal and factual grounds for your arrest. [Question 7, [POLICE & CRIME | Community Legal Information Centre \(CLIC\)](#)] If you are not sure, you should ask the police officer.

If you are arrested, you have a right to be informed of the reason for arresting you. The police must also inform you of your right to remain silent.

https://www.clic.org.hk/en/topics/policeAndCrime/police_powers/q8

Immediately after the arrest, the police officer must also inform you of your right to remain silent. What that means is that you may choose not to say anything or answer any question asked by the police unless you wish to do so (e.g. you are not compelled to admit / confess to any guilt / wrongdoing). If you choose to say anything, what you say may be used as evidence against you in court. [Question 8, [POLICE & CRIME | Community Legal Information Centre \(CLIC\)](#)]

If you are arrested, you should be brought to the nearest police station before the Duty Officer. The Duty Officer will examine the reasons for your arrest and should be satisfied that your arrest is lawful. If the Duty Officer is not satisfied that you should be further detained, you will be released. [[Guidance to an Arrested Person on Arrest and Detention \(police.gov.hk\)](#)]

If you are under the age of 16, the police officer should make all reasonable efforts to inform your parent(s) or guardian to come to the police station whilst you are being held. [[POLICE GENERAL ORDERS CHAPTER 49 PERSONS IN POLICE CUSTODY](#)]

Under Hong Kong law:

1. It is lawful for any police officer to arrest any person who he reasonably believes will be charged with, or whom he reasonably suspects of being guilty of any offence for which the sentence is fixed by law, or for which a person may (on a first conviction for that offence) be sentenced to imprisonment, or any offence if it appears to the police officer that service of a summons is impracticable, or any person whom he reasonably suspects of being liable to deportation from Hong Kong. (Section 50, Police Force Ordinance, Cap. 232)
2. Police officers will only make arrests in accordance with the law which are necessary for the purpose of the maintenance of law and order. Arrests may be made lawfully by a police officer with or without a warrant issued by the court.
3. If you are arrested by a police officer, you will be informed that you are under arrest and the reasons for your arrest.
4. Following arrest, you will be brought before the Duty Officer of the police station covering the area in which you were arrested for inquiry. The Duty Officer will examine the reasons for your arrest and shall be satisfied that your arrest is lawful. If the Duty Officer is not satisfied that you should be further detained, you will be released forthwith.

What is the difference between detention and arrest?

An **arrest** is the act of a police officer apprehending (i.e. taking into custody) a person if the police officer believes the person is guilty of an offence (i.e. that the person has violated the law). [Section 50(1) of the Police Force Ordinance <https://www.hkii.org/eng/hk/legis/ord/232/cur.html>] The police officer must tell you that you

are under arrest and the reason for arrest. [<https://www.police.gov.hk/info/doc/pol/en/Pol-1128.pdf>]

Detention is the period that you are in police custody after an arrest. If the police detains you, he must bring you before a judge as soon as possible and generally within 48 hours from the time that you are arrested.

[https://clic.org.hk/en/topics/policeAndCrime/police_powers/q10#:~:text=A%20person%20who%20is%20detained%20in%20custody%20by,detention%20in%20respect%20of%20deportation%20is%20applied%20for.]

If you are arrested and under the age of 16, you should be brought before a juvenile court. [Section 4 of the [Juvenile Offenders Ordinance](#)]

I am handcuffed, am I arrested?

In most cases – Yes, being handcuffed means that you are being arrested.

However, there are other circumstances where handcuffs may be used even though the person is not under arrest (e.g. to prevent that person from attempting suicide).

If you are under arrest, the police officer must tell you that you are under arrest and the reasons for arresting you at the time of the arrest. If you are not sure of the reason, you should ask. [Question 8, [POLICE & CRIME | Community Legal Information Centre \(CLIC\)](#)]

A person (such as a police officer) may use such force as is reasonable in the circumstances in the prevention of crime or in effecting or assisting in a lawful arrest. [Section 101A of the [Criminal Procedure Ordinance](#)] Whether it is reasonable or not depends on the circumstances. For example, if you are likely to escape, a police officer may use a handcuff to arrest you to prevent you from escaping. [Question 8, [POLICE & CRIME | Community Legal Information Centre \(CLIC\)](#)]

If my liberty is restricted, am I under arrest?

A police officer can stop you if they believe you are acting in a suspicious manner and ask you to show your proof of identity (i.e., your Hong Kong ID card or passport). They can also keep or detain you on the spot for a reasonable period of time and question you if they suspect that you have committed a crime.

[https://www.clic.org.hk/en/topics/policeAndCrime/police_powers/q1. s54(1) Police Force Ordinance <https://www.hkll.org/eng/hk/legis/ord/232/cur.html>. Section 49 of the [Public Order Ordinance](#) <https://www.hkll.org/eng/hk/legis/ord/245/cur.html>]

They can also stop you if they believe you have committed a crime or are about to commit a crime and question and search you. [s54(2) Police Force Ordinance <https://www.hkll.org/eng/hk/legis/ord/232/cur.html>]

If you fail to provide proof of your identity without a reasonable excuse, you may be committing an offence and it is possible for the police to arrest you [s49 Public Order Ordinance <https://www.hkll.org/eng/hk/legis/ord/245/cur.html>]. Under Hong Kong law, a person aged 15 and above must carry proof of identity [section 17C(2) of the [Immigration Ordinance \(Cap. 115\)](#)]. This does not apply to tourists and other foreign visitors who are staying in Hong Kong for less than 180 days.

https://www.clic.org.hk/en/topics/policeAndCrime/police_powers/q1

https://www.clic.org.hk/en/topics/policeAndCrime/police_powers/q2

If you are simply asked to help police with an investigation, you don't have to assist or go to the police station. It is open to you to decide whether if you want to assist the police, and you can leave at any time. However, if the police arrest you, then you must go with them to the police station.

https://www.clic.org.hk/en/topics/policeAndCrime/police_powers/q9

If you are under arrest, the police officer must tell you that you are under arrest and the reasons for your arrest.

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

Yes. Police officers are required to produce their warrant card under the following circumstances:

- If the officer is in plain clothing: They must identify themselves and produce their warrant card when exercising their police powers.
- If the officer is in uniform: They must produce their warrant card if so requested, unless the circumstances do not allow or if the request is unreasonable.

The warrant card will show the officer's photo, name rank, identification number, etc.

https://www.police.gov.hk/ppp_en/13_faqs/faq_g.html

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 a lawyer) by saying that you want to use that right.
- Exercising the right of silence in itself does not amount to an admission of guilt / wrongdoing.
- If you decide to waive your right to silence by, for example, saying "Yes, I understand my rights but I am ready to talk to you." However, this is risky thing to do without a lawyer present.
- Make sure you know the risks involved in giving up your rights. You may run the risk of saying something that may incriminate yourself and be used as evidence against you in court.
- If you are unsure, the safest approach would generally be to remain silent until your lawyer arrives and has had a chance to speak to you privately about the case.

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

If a police officer has reasonable grounds (on an objective basis with valid reasons) to suspect that you have committed an offence, the police officer must read you a "caution" (similar to reading your rights to you) before questioning, interviewing or taking statements from you.

Generally, as far as possible, anyone under the age of 16 years (whether suspected of crime or not) should only be interviewed in the presence of a parent or guardian, or, in their absence, some person who is not a police officer and is of the same sex as the child. A child or young person should not be arrested, or even interviewed, at school if such action can be avoided. Where it is found essential to conduct the interview at school, this should be done only with the consent, and in the presence, of the head teacher, or their nominee.

The caution is as follows: "You are not obliged to say anything unless you wish to do so but whatever you say will be put into writing and may be given in evidence." This means that whatever you say will be written down by the police officer and may be used as evidence.

[back to top](#)

After you've received this "caution", you have the right to be silent and not answer any question asked by the police (except that you may need to provide your name and address to the police). You can also request to obtain legal advice before deciding whether or not to answer any questions, and you can also have your lawyer present during the questioning and taking of any statement.

[Source: See generally the Police Force Ordinance, Cap. 232 ([Cap. 232 Police Force Ordinance \(elegislation.gov.hk\)](#)) and the Hong Kong Bill of Rights Ordinance, Cap. 383 ([Cap. 383 Hong Kong Bill of Rights Ordinance \(elegislation.gov.hk\)](#)), and see also: [Police powers | Community Legal Information Centre \(CLIC\)](#)]

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

No, it does not matter where the police read you your rights.

Police Questioning You

Proposed Information

It is important to follow this advice:

- You are not required to make a statement, answer police questions or participate in a police investigation, and you do not have to go anywhere with the police unless they have arrested you.
- If the police have arrested you and if you are under the age of 18, the police are required to immediately notify your parent, caretaker or legal guardian.

Am I required to make a statement?

No. Before taking a statement from you, the police officer must first caution you (i.e. warn you of the consequences of making a statement). You may choose whether or not to answer any question asked by the police, as you have a right to silence.

If you want to exercise your right, you should make it clear that "I want to remain silent", and you do not need to give any reasons.

Source: Article 11(2g) of [Section 8](#) of the Hong Kong Bill of Rights Ordinance (Chapter 383)

Must police notify my guardian?

According to Chapter 49 of the Police General Orders, when a juvenile is arrested, the police should make all reasonable efforts to inform the parents to come to the police station where a juvenile is being held. If the parent or guardian is not located before the child or young person is sent to the Tuen Mun Children and Juvenile Home ("TMCJH"), then efforts shall continue to warn the parent or guardian to attend the court before which the child or young person will be brought. ([POLICE GENERAL ORDERS CHAPTER 49 PERSONS IN POLICE CUSTODY](#)).

Must I confess?

No. It is up to you if you wish to confess. The police cannot force you to confess. In most cases, you have the right to silence, which means that you do not have to answer or speak to the officer if you do not wish to do so.

You may tell them that you have "nothing to say", or alternatively, simply remain silent.

Source: Article 11(2g) of [Section 8](#) of the Hong Kong Bill of Rights Ordinance (Chapter 383).

Sometimes, the police may try to convince you to cooperate with them by confessing. However, the key point to note is that confessing (if you decide to do so) does not

necessarily mean that you will be allowed to leave freely and that there will be no further action against you. The police may use your confession as evidence to prosecute you. There is no guarantee that it will be the end of the matter after you confess.

What adults can I ask to be with me?

Generally speaking, you can ask an "appropriate adult" to be with you. This includes a parent, relative, guardian or other person responsible for your care or custody.

"Appropriate adult" also includes someone who has experience of dealing with a person with a particular special need, such as a social worker, or some other responsible adult who is not a police officer nor employed by the police.

We note that according to a recent press release (published on November 13, 2019), "social worker" is excluded from the definition of "someone who has experience of dealing with a person with a particular special need". Hence, depending on the circumstances, you may not be able to request for a social worker to be present during police interviews.

In addition to an "appropriate adult" defined above, you also have the right to have a lawyer present during any interview with the police.

If you are a foreign national, you can receive visits from representatives from the consulate or the relevant authority of your home country.

Sources:

[Chapter 49 of the Police General Orders;](#)

[Press release dated November 13, 2019;](#)

[Notice To Persons In Police Custody Or Involved In Police Enquiries](#)

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

According to Chapter 49 of the Police General Orders, if you are under 16 and arrested, the police must do their best to inform your parent(s) or legal guardian to come to the station.

Source: Police General Orders [POLICE GENERAL ORDERS CHAPTER 49 PERSONS IN POLICE CUSTODY](#)

How do I Contact A Lawyer and When?

Proposed Information

It is important to follow this advice:

- **You should always contact a lawyer before making any statements to anyone in a criminal case or investigation.**
- This applies even if you are told that (i) police officers only want to question you and/or (ii) you are only a witness.
- While you do have to wait until you attend court to get a lawyer appointed if you cannot afford your own lawyer, you should still ask for a lawyer as soon as you are questioned or arrested by the police. If you are arrested, you have the right to remain silent and to not speak until your lawyer is present.

What if I am just a witness?

REMEMBER: Your evidence can help the court to decide whether a person is guilty or not. Make sure to speak the truth. If you are not sure of something, say so. Take your time to

Speak slowly and clearly. Ask for questions to be repeated or clarified if you do not understand or cannot hear clearly.

Vulnerable witnesses including children, the mentally incapacitated and witnesses in fear may give evidence via a video link television system.

Source: [How to be a witness in court | Hong Kong Police Force](#)

What if I can't afford a lawyer?

You may ask the police for a list of lawyers who can help you. The police have a duty to provide the list to you upon request, and allow you to telephone a lawyer unless this will seriously affect their investigation. However, free legal services are not available to you at this stage. Legal Aid Scheme and Duty Lawyer Services are only available after you have been charged with an offence and brought before the court.

You can apply to the Duty Lawyer Service in order to seek free legal representation at your first hearing or subsequent hearings in a Magistrates' Court. For hearings at the District Court or the Court of First Instance, you can apply to the Legal Aid Department for free or discounted legal services.

Source: [13. If I am detained by the police in the police station, how can I find a lawyer? Can I obtain free legal services at this stage if I cannot afford a private lawyer? | Community Legal Information Centre \(CLIC\)](#)

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.

Can the police lie to me?

The police may not share all information with you, or may use certain tactics when questioning you.

The tactics may make you feel pressured to confess to something that you did not do, or to share information that you do not have to share. Ensure that you understand the question before answering.

The police are not permitted to act in a way that is unethical. If they do, you would have a right to complain afterwards.

Source: <https://www.police.gov.hk/info/doc/ethics&IntegrityPaper.pdf>

Do I have to tell the police the truth?

You may remain silent and choose to not say anything to the police, but you should not lie to the police (e.g. by making up evidence and saying things which are untrue).

Remaining silent by saying nothing is different from lying. You may remain silent, but you cannot say anything to mislead the police.

Source: [Article 11\(2g\) of section 8 of the Hong Kong Bill of Rights Ordinance \(Cap. 383\)](#)

You do have to prove your identity if requested by the police, for example by showing your Hong Kong ID card or passport. It can be a criminal offence to refuse to show proof of your identity when asked.

Source: [Section 49](#) of the [Public Order Ordinance \(Cap. 245\)](#)

If you are speaking with your lawyer in private, do be honest and truthful. This helps your lawyer to properly advise you. The communications between you and your lawyer are strictly confidential. You should not tell the police what was said between you and your lawyer. The police cannot force you to reveal the contents of those discussions.

- If you tell your lawyer that you have committed a criminal act, he/she cannot tell a court or the police without your consent.
- Source: https://www.clc.org.hk/en/topics/policeAndCrime/case_illustration

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:

You have the right to make a complaint. You can do this in person at any police station or the Reporting Centre of the Complaints Against Police Office (also called "CAPO"), or through other ways, such as:

- by 24-hour complaint hotline with recording function: 2866 7700;
- by fax (fax number: 2200 4460 / 2200 4461 / 2200 4462);
- by letter to Complaints Against Police Reporting Centre;
- use the [e-report form](#); or
- through the 'e-Report Centre' of the Police's smart-phone application.

[Source: HK Police Force website: [Information on Complaints Against Police | Hong Kong Police Force](#) and see also: Complaints Against Police Office's Guide for Complainants: [Complaints Against Police Office - A Guide for Complainants](#)

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

Proposed Information

It is important to follow this advice:

If you make a complaint to CAPO about the police, you will receive an acknowledgement letter within 1 working day after CAPO receives your complaint.

CAPO will then seek to contact you personally within 2 working days. They will explain the complaint investigation procedures to you.

The investigation may take some time. CAPO will update you on the progress from time to time.

[Source: HK Police Force website: https://www.police.gov.hk/ppp_en/01_about_us/pp_capo.html]

Options after you receive a decision on your complaint

Proposed Information

It is important to follow this advice:

If you are unhappy about the result of the investigation into your complaint, you may ask CAPO to conduct a review. The time limit for doing so is within 30 days from the date of the reply letter from CAPO.

After reviewing your complaint, CAPO will inform the Independent Police Complaints Council ("IPCC") of the result of the review. You will be informed by the IPCC of the findings of the review. The IPCC is an independent body that reviews the investigations performed by CAPO.

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

Proposed Information

It is important to follow this advice:

If you feel you have been discriminated against by the conduct or practice or procedure of the police, you have the right to make a complaint. You can lodge your complaint to the report room of any police station or the Reporting Centre of the Complaints Against Police Office (CAPO) in person, by telephone, by letter, by fax or by e-mail (source: [A Guide for Complainants - Hong Kong Police Force](#)).

If you fail to get any positive reply after complaining to the discriminator, you can lodge a complaint with the Equal Opportunities Commission (EOC). Alternatively, you may bring your case to the District Court. You should do it within 12 months of the occurrence of the incident which you feel you were a victim of discrimination or racism if you wish to lodge a complaint with the EOC (source: [Section 78\(4\)\(c\)](#) of the [Race Discrimination Ordinance, Cap. 602](#)) and two years if you decide to take legal proceedings in the District Court (source: [Section 80](#) of the [Race Discrimination Ordinance, Cap. 602](#))

Resources to contact if you feel you were a victim of discrimination or racism

Proposed Information

It is important to follow this advice:

You may consider seeking help from or making a complaint with the Equal Opportunities Commission ("EOC"). The EOC is an independent statutory body responsible for overseeing the implementation and enforcement of the laws relating to discrimination concerning sex, disability, family status and race.

Their contact details are as follows:

Address: 16/F., 41 Heung Yip Road, Wong Chuk Hang, Hong Kong

Tel: (852) 2511 8211

Email Address (for general enquiries only): eoc@eoc.org.hk

Office Hours: Mondays – Fridays (8:45 am – 5:45 pm)

Source: <https://www.eoc.org.hk/en/about-the-eoc/contact-us>

In addition, there are charitable organizations in Hong Kong which provide support services to ethnic minorities:

Hong Kong Christian Service (provides free telephone interpretation service in various Asian languages, including Bahasa Indonesia, Nepali, Urdu, Punjabi, Tagalog, Thai, Hindi and Vietnamese)

Tel: 3106 3104

New Home Association

Tel: 3610 4418 or 3610 4428

International Social Service - Hong Kong Branch

Tel: 5188 8044 or 2836 3598

Hong Kong Community Network

Tel: 3955 1555

Hong Kong Lutheran Social Service

Tel: 2305 2080

The Neighbourhood Advice-Action Council

Tel: 2988 1422

Yuen Long Town Hall Support Service Centre for Ethnic Minorities

Tel: 2479 9757

Source: https://www.had.gov.hk/rru/english/programmes/support_service_centres.htm

How can I respond to circumstances involving discrimination?

Proposed Information

It is important to follow this advice:

You may consider first raising the issue with the person or organization that acted in a way which you consider to be discriminatory. Try to keep documentary records of your communications (e.g. audio recording of the discussions) with them. This evidence will be important for complaint purposes.

If the problem persists, you may consider filing a complaint with the EOC (see above).

Source: <https://www.eoc.org.hk/en/about-the-eoc/contact-us>

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:

There are several things you may do:

1. Ask the police officer for his or her name and unique identification number (UI number) and make a note of this.
2. Ask to speak to the duty supervisor of the officer and ask the duty supervisor to make a written record of your concerns. This is typically someone at the rank of Station Sergeant or above.
3. File a report with the Complaints Against Police Office (CAPO). This is a team within the Hong Kong Police Force which handles complaints against police officers.

4. Seek legal advice. If you are unable to afford paying for legal representation, you may try to contact the Duty Lawyer Service, or the Hong Kong Bar Association's Free Legal Services Scheme, or the Law Society of Hong Kong's Free Legal helpline to see if they can give you some basic legal advice.

You should also try to gather evidence of what, when and how the incident happened (e.g. photos, videos, notes). It helps if you are able to identify the police officer based on their rank, warrant card number, physical features, etc., as this will assist in tracking down the relevant officer later on.

Sources:

https://www.police.gov.hk/ppp_en/11_useful_info/cap.html

<https://www.gov.hk/en/residents/government/legal/advice/advice.htm>

<https://www.hkba.org/content/bar-free-legal-services-scheme>

<https://www.hklawsoc.org.hk/en/Serve-the-Public/List-of-pro-bono-legal-services/Free-Legal-Helpline>

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Law is generally described as of July 2024.

[back to top](#)