

# Real Rights: young people engaging with law enforcement



Kingston, Jamaica



## SITE IN DEVELOPMENT - FEEDBACK NEEDED

The launch of the Real Rights platform as a DRAFT site in order to obtain feedback from people across the globe. The information included herein represents initial research and responses that need review and commentary on a broader scale. We actively encourage any World Congress attendees or reviewers of this site to provide any comments you may have on the website and the content either by clicking on the "Feedback" button in each city page or by emailing [realrights@bakermckenzie.com](mailto:realrights@bakermckenzie.com).

# Rights:

What rights do I have when I encounter law enforcement?

## Question Asked

- Stopped By The Police On The Street, Now What?
- Can The Police Arrest You For Refusing To Answer Questions?
- Do I have To Comply If An Officer Asks Me To Go Down To The Station But I Am Not Under Arrest? If I Refuse Can The Officer Arrest Me?
- When Can Police Search Your and Your Surroundings?
- Reasons Police May Detain or Arrest You
- Do Police Need A Warrant To Arrest You?
- How Do You Know If You Are Under Arrest?
- Who can I ask to have with me after an arrest (e.g., an attorney, my parents/legal guardian, etc.)?
- What To Do After Being Warned of Your Rights
- Police Questioning You
- Reporting Crimes To The Police
- Responding To Bad Treatment By The Police
- How do I Contact A Lawyer and When?

## 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.
  - Listen carefully and pay attention as it may be important to repeat exactly what happened and what was said if you have a complaint later.
  - It is not a good idea to touch the officers. Keep your hands where the police can see them and in a non-threatening pose.
  - It is not a good idea to resist, even if you're innocent or if you think the police are acting unfairly or unlawfully.
  - Comply with all instructions given by the police officer even if you think they are wrong. Make a complaint and seek any remedies after the event instead of resisting.
  - Never pay or bribe a police officer that has stopped you on the street. This is a crime. A police officer cannot ask you to pay a fine on the spot. Paying this money may be a crime.
  - If you are unsure of why you are being searched or questions, ask: "Why am I being questioned/ searched/apprehended/arrested, Officer?"

- If you are in a vehicle:
  - You must stop when requested by a police officer in uniform. If you do not, or you attempt to escape you will be guilty of an offence.
  - Slow down and pull over as soon as it is safe to do so. Unwind the windows if they are tinted and stay in the driver's seat with both hands clearly in sight on the steering wheel. Do not exit the vehicle unless asked to do so.
  - Where the vehicle is unmarked and you doubt that it is a police vehicle, drive below the speed limit to a well-lit, populated place and pull over, or go to the nearest police station or attract the attention of a uniformed officer.
  - When asked to do so you must provide your driver's licence, registration and proof of insurance.
  - Do not pay money to a police officer. Under no circumstances may the police ask you to pay a fine for a traffic violation at the time it occurs or negotiate any other terms. Asking for such a payment, as well as making one is illegal.

*The Code of Conduct For Police Citizen Relations in Jamaica, available at:*  
[http://www.oas.org/es/sla/dlc/mesicic/docs/jam\\_res26.pdf](http://www.oas.org/es/sla/dlc/mesicic/docs/jam_res26.pdf)

*One on One with the Police, Citizen Security and Justice Programme. Available at:*  
<https://www.csjp.gov.jm/police/your-rights-and-responsibilities>

*Youth Jamaica, Legal Resources. Available at:*  
<https://www.youthjamaica.com/content/what-do-when-driving-and-stopped-police>

*Section 56-58 Road Traffic Act*  
[https://moj.gov.jm/sites/default/files/laws/Road%20Traffic%20Act\\_1.pdf](https://moj.gov.jm/sites/default/files/laws/Road%20Traffic%20Act_1.pdf)

## **Can The Police Arrest You For Refusing To Answer Questions?**

### **Proposed Information**

It is important to follow this advice:

- You have the right to remain silent and you cannot be forced to answer questions.
- You have a right to refuse to answer any questions until you have a legal representative present, if you want to have one.

*Gayle, Lennox v Regina 2015 HCV 04405*  
<https://supremecourt.gov.jm/content/gayle-lennox-v-regina>

## **Do I have to comply if an officer asks me to go down to the station but I am not under arrest? If I refuse can the officer arrest me?**

### **Proposed Information**

It is important to follow this advice:

- You have the right to remain silent and you cannot be forced to answer questions. If an officer asks you to go with them to a police station to answer questions, you can refuse. There is no legal obligation that you must accompany the police officer to the police station, unless you are under arrest.
- The police officer cannot arrest you simply for refusing to go to the police station.
- A police officer must have reasonable suspicion that you have committed an offence in order to arrest you. If your refusal to answer the police officer's questions leads to them having a reasonable suspicion that you have committed an offense, then the police officer might arrest you in order to take you to the police station and answer their questions.

*Rice v Connolly [1996] 2 All ER 649*  
[http://www.hrcr.org/safrica/arrested\\_rights/Rice\\_Connolly.htm](http://www.hrcr.org/safrica/arrested_rights/Rice_Connolly.htm)

*Collins v Wilcock [1984] 3 All ER 374*  
<https://ipsaloquitur.com/criminal-law/cases/collins-v-wilcock/>

## When Can Police Search Your and Your Surroundings?

### Proposed Information

It is important to follow this advice:

#### When can the police search you?

- The police do not need a warrant to search you. (A warrant is an order that allows the police to perform a certain action).
- When you are approached by the police, stay calm and do not run away no matter how scared you may feel. Remember that you have the right to remain silent when being questioned by the police. You are allowed to get in touch with a lawyer before answering any questions. If the police are taking your statement/questioning you and you are a minor, the statement must be taken if your parent/guardian or social worker is also present.
- When the police approach you, you have the right to ask the police officer for their identification booklet. The identification booklet will contain information about the police officer such as their name and signature.
- When you are being searched by the police you can ask them questions such as:
  - “Why am I being questioned/searched/apprehended/arrested, Officer?”
  - “Officer, please let me explain:
    - why I am here OR
    - why I am holding this... (money/knife) OR
    - why I did not respond OR
    - why I hit the man”
- Women and girls must only be searched by a female officer. If that isn't possible, a female member of the public may be asked to assist, only with your consent.

*Code of Conduct For Police Citizen Relations in Jamaica. Available at:*

[http://www.oas.org/es/sla/dlc/mesicic/docs/jam\\_res26.pdf](http://www.oas.org/es/sla/dlc/mesicic/docs/jam_res26.pdf)

*Clause 69(2) Childcare and Protection Act*

[https://moj.gov.jm/sites/default/files/laws/Child%20Care%20and%20Protection%20Act\\_0.pdf](https://moj.gov.jm/sites/default/files/laws/Child%20Care%20and%20Protection%20Act_0.pdf)

#### When can the police search your premises?

- Police need a warrant to search your premises. If the police do not have a warrant, they can still legally search the premises in specific cases:
  - You or the owner of the house give the police permission to search
  - They have followed a suspect to the house
  - They have reasons to believe that an offence has been committed already or will be committed soon
  - They believe stolen property is being kept there and the owner of the house or someone present at the house has been charged with stealing
- Remember that if the police tell you they have been instructed to search the premises for drugs, they must have written proof of this. You have the right to ask for a written copy of this proof.

*Clause 50(D) - The Constabulary Force Act*

<https://moj.gov.jm/sites/default/files/laws/The%20Constabulary%20Force%20Act.pdf>

*Clause 21(4) The Dangerous Drugs Act*

<https://moj.gov.jm/sites/default/files/laws/The%20Dangerous%20Drugs%20Act.pdf>

## Reasons Police May Detain or Arrest You

### Proposed Information

It is important to follow this advice:

- The police can detain or arrest you if they know you have committed a crime or suspect you of committing a crime or violating the law.
- If you are below 12 years of age, the police cannot charge you.
- If the police are detaining you to investigate whether you may have committed a crime, this is unlawful. Remember, if you feel that you have been wrongfully detained by the police, you have the right to file a complaint with the relevant authorities. As soon as you can, report this to your area's Community Conflict Resolution Council (CCRC).

*The Constabulary Force Act (Part 1 - Clause 15), Code of Conduct For Police Citizen Relations in Jamaica.*  
Available at: [http://www.oas.org/es/sla/dlc/mesicic/docs/jam\\_res26.pdf](http://www.oas.org/es/sla/dlc/mesicic/docs/jam_res26.pdf)

*Part IV, Clause 63 - Childcare and Protection Act.*  
[https://moj.gov.jm/sites/default/files/laws/Child%20Care%20and%20Protection%20Act\\_0.pdf](https://moj.gov.jm/sites/default/files/laws/Child%20Care%20and%20Protection%20Act_0.pdf)

*Attorney General's Ruling 1985*  
*Constitution of Jamaica, Section 15 (1)*  
[https://www.constituteproject.org/constitution/Jamaica\\_2011.pdf](https://www.constituteproject.org/constitution/Jamaica_2011.pdf)

- You may make a complaint in person to any of the following:
  - **The Police Public Complaints Authority**  
4th Floor, 12 Ocean Boulevard,  
Kingston  
Tel: 967-3603/967-4063 Toll free:1-888-367-4357
  - **The Jamaica Constabulary Force**  
The Office of Professional Responsibility  
34 Duke Street, Kingston  
Tel: 967-4347/924-9057/924-9059
  - **The Office of the Attorney General**  
79 Barry Street, Kingston  
Tel: 922-4658/922-6140
  - **The Office of the Public Defender**  
78 Harbour Street, Kingston  
Tel: 922-7089/922-7090/922-7190
  - **The Human Rights Consultant Ministry of National Security and Justice Mutual Life Bldg.,**  
Oxford Road, Kingston 5  
Tel: 929-7119/929-7122

*Jamaica Ministry of Justice - Dispute Resolution Foundation*  
<https://moj.gov.jm/dispute-resolution-foundation>

- You can also reach out to the Office of the Children's Advocate at:
  - **Air Jamaica Building, 72 Harbour Street, Kingston, Jamaica**  
Tel: 876-967-3225
- While you are being detained, you should not be pressured into confessing guilt. Any statement you make should be given without pressure and should be voluntary.
- When at the police station, the police are legally required to ensure your safety by separating you from other adults who are not your relatives while you are being detained.
- If a charge is made against you, it should be communicated to you in a written format and in a language you are able to understand. You are able to access an interpreter free of cost if needed. Your parents/ legal guardians should be included to the greatest extent possible. Decisions made between your arrest and sentencing should occur promptly and in a timely manner.

Code of Conduct For Police Citizen Relations in Jamaica. Available at:  
[http://www.oas.org/es/sla/dlc/mesicic/docs/jam\\_res26.pdf](http://www.oas.org/es/sla/dlc/mesicic/docs/jam_res26.pdf)

Part IV, Clause 66 - Childcare and Protection Act  
[https://moj.gov.jm/sites/default/files/laws/Child%20Care%20and%20Protection%20Act\\_0.pdf](https://moj.gov.jm/sites/default/files/laws/Child%20Care%20and%20Protection%20Act_0.pdf)

General Comment No. 10 (Children's Rights in Juvenile Justice - Fact sheet #5)  
[https://defenceforchildren.org/wp-content/uploads/2015/11/GC-10-FactSheet5\\_Guaranteeing-a-Fair-Trial\\_EN.pdf](https://defenceforchildren.org/wp-content/uploads/2015/11/GC-10-FactSheet5_Guaranteeing-a-Fair-Trial_EN.pdf)

## 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 you committed a felony, whether or not the act was done in front of them.
- The police have to inform you of your rights and tell you why you are being arrested. They must say the following:

***"Do you wish to say anything? You are not obliged to say anything unless you wish to do so. Whatever you say will be taken down in writing and may be given in evidence."***

Part I, Clause 15 - Childcare and Protection Act  
[https://moj.gov.jm/sites/default/files/laws/Child%20Care%20and%20Protection%20Act\\_0.pdf](https://moj.gov.jm/sites/default/files/laws/Child%20Care%20and%20Protection%20Act_0.pdf)

Constabulary Force Act Section 13,14, 15 [Duties of the police force]. Available here:  
<https://moj.gov.jm/sites/default/files/laws/The%20Constabulary%20Force%20Act.pdf>

Office of The Children's Advocate. Available here:  
<https://www.welcome.oca.gov.jm/>

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

### Proposed Information

It is important to follow this advice:

- The arresting officer must inform you that you are under arrest and the reason(s) for the arrest. If they don't do this, it is a good idea to respectfully ask something like "am I under arrest?". As a citizen you have the right to ask the officer why you are being questioned, handcuffed as well as asking them to produce identification, especially if they are in plain clothing.
- If the police officer tells you that you are not under arrest, you do not have to answer any questions and cannot be held against your will. If the police officer tells you that you are being arrested, they should also tell you of your rights, in particular the right to "remain silent, as anything said will be taken down in writing and used as evidence in court". This is known as a 'caution'.
- Remember to remain calm, do not run away and make sure you listen to everything you are being told, instructed or ordered to do as you may be requested to repeat everything you were told at a later date should you wish to make a complaint against the police. You may be put in handcuffs and then transported to the police station when arrested.
- If you are a child (this is anyone under the age of 18) who is placed under arrest, the arresting officer must inform you in plain, simple and child friendly manner why you are being detained. The child's parents/legal guardians should also be immediately contacted and notified by the police of the arrest and the reason for the arrest.
- If you are a child who has not been charged within 24 hours of being arrested or detained, you should be released back into the care of your parents or legal guardians.

The Constabulary Force Act section 50F (2) - Arrest and Detention 14/1994 s.2. Available at: [http://www.oas.org/juridico/spanish/jam\\_res37.pdf](http://www.oas.org/juridico/spanish/jam_res37.pdf)

Citizen Security and Justice Programme: Arrest. Available at: <https://www.csjp.gov.jm/police/arrest>

Jamaica Information Service: Know Your Rights: What to Do If You Are Arrested. Available at: <https://jis.gov.jm/know-rights-arrested/>

Code of Conduct For Police Citizen Relations in Jamaica. Available at: [http://www.oas.org/es/sla/dlc/mesicic/docs/jam\\_res26.pdf](http://www.oas.org/es/sla/dlc/mesicic/docs/jam_res26.pdf)

Preliminary section of The Child Care and Protection Act  
[https://moj.gov.jm/sites/default/files/laws/Child%20Care%20and%20Protection%20Act\\_0.pdf](https://moj.gov.jm/sites/default/files/laws/Child%20Care%20and%20Protection%20Act_0.pdf)

## Who can I ask to have with me after an arrest (e.g., an attorney, my parents/legal guardian, etc.)?

### Proposed Information

It is important to follow this advice:

#### What are my other rights whilst under arrest? Do I have additional rights as a minor?

- When you are taken to the police station you have the right to contact a person of your choice by telephone or other appropriate means. You are entitled to at least one telephone call from the station.
- As a minor, your parents or legal guardians should be contacted by the police and be informed of your arrest along with information on where you have been detained.
- As a minor, the police do not have the right to question you without legal representation. They should contact a Government Agency e.g. Office of the Children's Advocate (OCA) or Duty Counsel on the Legal Aid List if you are a minor that has been arrested and does not have any legal representation.
- Children are not supposed to be kept in prison cells but should be sent to special remand or correctional centers which are specifically for children.

Citizen Security and Justice Programme: Arrest. Available at: <https://www.csjp.gov.jm/police/arrest>

s.69(2) The Child Care and Protection Act  
[https://moj.gov.jm/sites/default/files/laws/Child%20Care%20and%20Protection%20Act\\_0.pdf](https://moj.gov.jm/sites/default/files/laws/Child%20Care%20and%20Protection%20Act_0.pdf)

## What To Do After Being Warned of Your Rights

### Proposed Information

It is important to follow this advice:

- If you have been charged with an offence you must be cautioned by the police in the following terms:  
***“Do you wish to say anything? You are not obliged to say anything unless you wish to do so but whatever you say will be taken down in writing and may be given in evidence.”***
- Remember:
  - You have the right to refuse to answer questions until your lawyer or legal representative is present.
  - It is a good idea to have a lawyer or legal representative present before answering any questions relating to the alleged incident as you may end up saying things which could incriminate you.
  - If you are taken in a police vehicle, ask a friend or bystander to take down the licence number of the vehicle and tell your family. You can also make a note of these details.
  - Try to get the name, rank and badge number of at least one officer who is removing or arresting you.
  - You should only be taken to a police station (unless you are injured then you should be taken to the hospital to be treated).
  - You have a right to ask for a phone call.

Citizen Security and Justice Programme: Arrest. Available at: <https://www.csjp.gov.jm/police/arrest>

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## Police Questioning You

### Proposed Information

It is important to follow this advice:

- It is important to stay calm. You have the right to have your privacy respected. You do not have to respond to any questions or participate in an investigation voluntarily so you can remain silent or ask why you're being questioned and/or say "Respectfully, I am not obliged to answer these questions".
- If you are asked to give a statement, remember that if you're under 16, Police can only do this in the presence of a parent/guardian or social worker and you are within your rights to remind the officer(s) of this.
- It is important to remain respectful and show restraint even if you feel the questioning is unfair - remember you can make a complaint afterwards. Being calm will also help you remember what has happened - this can be important if you do want to make a complaint later. As soon as you can, write down what happened while it is fresh in your memory.
- If you are being arrested and charged, follow the advice above.

*Code of Conduct For Police Citizen Relations in Jamaica. Available at:*  
[http://www.oas.org/es/sla/dlc/mesicic/docs/jam\\_res26.pdf](http://www.oas.org/es/sla/dlc/mesicic/docs/jam_res26.pdf)

## Reporting Crimes To The Police

### Proposed Information

It is important to follow this advice:

- There is no legal obligation to contact the police to report a crime. Should you wish to do so, there are several ways to report crime to the police:
  - **Emergencies:**
    - In an emergency you should phone 119 and ask for the police.
  - **Non-emergency situations:**
    - In non-emergency situations you should contact your local police station by phone or go to the nearest police station with a front desk
  - **Anonymous:**
    - If you wish to remain anonymous you can report a crime to Crimestoppers by phoning 311.
    - If you are approached by the police and are being asked questions about a crime, remember that you do not have to answer. If you have information about a crime that may be helpful, you may first want to speak to a lawyer.
    - It is never a good idea to give false information to the police.
    - If you are responsible for something or have information that police want, make sure you get legal advice or representation before speaking to the police. Remember, as a minor, the police do not have the right to question you without legal representation.

*Office of the Director of Public Prosecutions: Reporting a Crime. Available here:*  
[https://dpp.gov.jm/reporting\\_crime\\_2](https://dpp.gov.jm/reporting_crime_2)

*s.69(2) The Child Care and Protection Act*  
[https://moj.gov.jm/sites/default/files/laws/Child%20Care%20and%20Protection%20Act\\_0.pdf](https://moj.gov.jm/sites/default/files/laws/Child%20Care%20and%20Protection%20Act_0.pdf)



## Responding To Bad Treatment By The Police

### Proposed Information

It is important to follow this advice:

If you are harassed or receive bad treatment from the police, you should:

- **Record:** Carefully write down each time it happens. Record the date, time, location, officer details (names, badge numbers, physical appearance), witnesses, conversation and actions of all participants, etc. with great detail. Your notes will be used as the basis for any formal complaint you may file later.
- **Make a complaint:** complete details of obtaining a lawyer and making a complaint are found under Question 13 and 14. You should make a complaint in person to any of the following:
  - **The Police Public Complaints Authority**  
4th Floor, 12 Ocean Boulevard, Kingston  
Tel: 967-3603/967-4063  
Toll free: 1-888-367-4357
  - **The Jamaica Constabulary Force - The Office of Professional Responsibility**  
34 Duke Street, Kingston  
Tel: 967-4347/924-9057/924-9059
  - **The Office of the Attorney General**  
79 Barry Street, Kingston  
Tel: 922-4658/922-6140
  - **The Office of the Public Defender**  
78 Harbour Street, Kingston  
Tel: 922-7089/922-7090/922-7190
  - **The Human Rights Consultant** - Ministry of National Security and Justice Mutual Life Bldg.,  
Oxford Road, Kingston 5  
Tel: 929-7119/929-7122
- Report the matter to your local Community Conflict Resolution Council (CCRC).

*Code of Conduct For Police Citizen Relations in Jamaica. Available at:*  
[http://www.oas.org/es/sla/dlc/mesicic/docs/jam\\_res26.pdf](http://www.oas.org/es/sla/dlc/mesicic/docs/jam_res26.pdf)

## How do I Contact A Lawyer and When?

### Proposed Information

It is important to follow this advice:

- If you need advice, you can contact the following:
  - The Legal Aid Council 72 Harbour Street, in Kingston at 948-6999 or 948-7275 or Montego Bay office at 42B Union Street, National Housing Trust (NHT) Building to request legal aid services
  - The Kingston Legal Aid Clinic Ltd. 131 Tower Street, Kingston Tel: 922-3792/922-3761
  - The Norman Manley Law School Legal Aid Clinic Gibraltar Camp Road Mona Campus, University of the West Indies Kingston 7 Tel: 927-100
  - An Attorney-at-Law

Jamaican Information Service, Legal Aid Council Helping Protect The Rights of Children. Available at: <https://jis.gov.jm/legal-aid-council-helping-protect-rights-children/>

Jamaica Code of Conduct for Police - Citizen Relations in Jamaica. Available at: [http://digjamaica.com/m/police\\_citizen\\_rights/](http://digjamaica.com/m/police_citizen_rights/)

- In addition, you can seek advice from the following organisations:
  - Jamaicans for Justice 1 Grants Pen Road, Kingston 8 Tel: 755-4524-26
  - The Independent Jamaica Council for Human Rights 131-3 Tower Street, King
- Police Station
  - If you are taken into custody, the police are responsible for your safety and the arresting officer should tell you that you are entitled to legal representation. If you do not have a lawyer, one should be notified from a list of names of duty counsels (lawyers) posted at the station.

You have the right to privacy during discussions with a family member or legal representative.

You have the right to be informed about and to be assisted by (if you want) in contacting the Children's Advocate. This is a commission of Parliament that can help grant a certificate for legal aid where you might need it.

s.62(j) The Child Care and Protection Act  
[https://moj.gov.jm/sites/default/files/laws/Child%20Care%20and%20Protection%20Act\\_0.pdf](https://moj.gov.jm/sites/default/files/laws/Child%20Care%20and%20Protection%20Act_0.pdf)

s.62(k) and s.4 The Child Care and Protection Act  
[https://moj.gov.jm/sites/default/files/laws/Child%20Care%20and%20Protection%20Act\\_0.pdf](https://moj.gov.jm/sites/default/files/laws/Child%20Care%20and%20Protection%20Act_0.pdf)

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Law is generally described as of November 2021.