

# Real Rights: young people engaging with law enforcement



The Real Rights project has been developed by Baker McKenzie and the Global Initiative on Justice with Children to provide young people – especially young people of colour, minority and vulnerable populations – with specific guidance for interactions with law enforcement. Thanks to the Real Rights project and the pro bono work of over 1,500 volunteer professionals, we have created a clear and accessible data base of answers to child questions when they are in contact with the police – from initial contact, questioning, to stop and report.

If you are interested to support us in this project, click on the "Feedback" button provided in each city page or email [realrights@bakermckenzie.com](mailto:realrights@bakermckenzie.com).

## Rights:

What rights do I have when I encounter law enforcement?

### Question Asked

- Stopped By The Police On The Street, Now What?
- When Can Police Search You and Your Surroundings?
- Reasons Police May Detain or Arrest You
- The Difference Between Police TELLING Me What To Do And Asking Me To Do Something
- Do Police Need A Warrant To Arrest You?
- How Do You Know If You Are Under Arrest?
- What To Do After Being Warned of Your Rights
- Police Questioning You
- How do I Contact A Lawyer and When?
- Do Police Always Have To Tell The Truth?
- How do I make a complaint if I have questions or feel my rights have been violated?
- What if I feel I was a victim of discrimination or racism?
- How can I respond to circumstances involving discrimination?
- What can you do if the police perform an improper search? Or I was improperly detained?

## 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.

<https://www.minneapolispolice.org/media/-/www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

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

In Minnesota, you cannot be arrested just for refusing to answer questions asked by the police. You have the right to remain silent. For example, you do not have to answer any questions about where you come from or are going, what you are doing, or where you live. The police cannot require you to identify yourself for no reason.

If you do answer questions from the police, what you say could be used to arrest or detain you. Even if you choose to speak to the police you can decide to stop at any time.

If you are stopped by the police when you are in a car, you don't have to answer a police officer's questions, but you must show a driver's license and proof of insurance. Your car may be searched without a warrant and without your consent under certain circumstances (if, for example, the police see criminal activity such as illegal drug use in plain view). The police do not have the right to arrest you simply for refusing to consent to a search.

[https://www.revisor.mn.gov/court\\_rules/cr/id/5/](https://www.revisor.mn.gov/court_rules/cr/id/5/)

<https://www.revisor.mn.gov/statutes/cite/171.08>

(2021 Minnesota Statutes TRANSPORTATION Chapter 171 Section 171.08)

According to the police manual and MN state statute 8-304, minors under age 10 cannot commit a crime and cannot be arrested but may be detained for an investigation.

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

If a police officer stops you, you can ask them to show you who they are and their badge or ID. Police officers in uniform have to wear a badge with their name and number on it, and they're not allowed to hide it according to the Minneapolis Police Department Policy and Procedures Manual:

<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

(MPD 3-124)

Plainclothes officers (officers who are not in uniform) should still have a badge or ID to show you. (MPD 10-202)

Undercover officers will not have a badge or police ID. (MPD 10-202 IV. D)

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

You don't have to answer any questions the police ask you. You can ask the police to show you who they are and show you their badge or ID. You can also tell the police that you don't want to talk and that you're using your right to silence under the 5th Amendment of the US Constitution. If you don't want to talk, just let the police know that you're using your right to silence.

<https://constitution.congress.gov/constitution/amendment-5>

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

Plain clothes police officers should identify themselves as a police officer if they are taking police action. Undercover police officer will not reveal their identity if you ask them.

<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

(MPD 10-202 III. B)

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

Yes. The United States Constitution gives you the right to talk to a lawyer before you talk to the police. This right is called the 6th Amendment, and it says that in any criminal case, you have the right to have a lawyer help you. If you're ever in a situation where the police want to talk to you, you can ask to talk to a lawyer first.

<https://constitution.congress.gov/constitution/amendment-6/>

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

The laws in Minnesota don't say if sitting down is considered resisting arrest or not. But the law is very broad and the police might argue that sitting down is resisting arrest in some cases. It's best to follow the police's instructions and not do anything that could be seen as resisting arrest.

Minnesota statute 609.50 says that one who "obstructs, hinders, or prevents the lawful execution of any legal process, civil or criminal, or apprehension of another on a charge or conviction of a criminal offense" may be charged. The fact that the language sweeps in any conduct that "obstructs, hinders, or prevents...any legal process" would allow the police to argue that sitting is obstruction of process.

<https://www.revisor.mn.gov/statutes/cite/609.50>

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

No. Running away from or hiding from a police officer may be a misdemeanor. Running away might also be active resistance of the police.

Sec. 609.487 MN Statutes Subd. 6.

<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

(MPD 5-301 II)

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

No. Running away from or hiding from a police officer may be a misdemeanor. Sec. 609.487 MN Statutes Subd. 6. If you tell others to run, this may be interpreted as interfering with police work and lead to an arrest.

<https://www.revisor.mn.gov/statutes/cite/609.50>

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

You can tell the police that English is not your first language and they have to help you understand what they're saying. This won't change your rights. If you need help understanding the police, they have to help you.

<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

(MPD 7-1001, 7-1002)

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

Yes. The police can only stop and question you if they have a good reason to think you were involved in a crime. They must be able to explain why they stopped you. During the stop, the police can only ask questions and do things that are related to their reason for stopping you. You need to cooperate with the police until they find out their suspicion is wrong.

## When Can Police Search Your and Your Surroundings?

### Proposed Information

It is important to follow this advice:

Under the 4th Amendment of the US Constitution, you have the right to refuse a search of your person, car, home, or other property by the police if they do not have a warrant. However, if the police have a warrant, they are authorized to conduct a search by a court and you must comply.

<https://constitution.congress.gov/constitution/amendment-4>

<https://www.revisor.mn.gov/statutes/cite/626.14>

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

You do not have to give the police your phone. You can refuse a search of your body, your belongings or the car you are in without a warrant.

If you have been arrested, the police still need to have a warrant in order to search your cell phone.

<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

(MPD 9-301 III)

In 2014, the Supreme Court held that the warrantless search and seizure of the contents of a cell phone is unconstitutional.

<https://supreme.justia.com/cases/federal/us/573/373/>

Riley v. California, 573 US 373 (2014).

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

If the police do not have a warrant to search your cellphone, you do not have to give them your phone or the password to your phone.

<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

(MPD 9-301 III)

The case *Steve v. Diamond* says if the police have a warrant and have obtained the cell phone lawfully, and they cannot unlock your phone without your fingerprint, the police can require you to provide your fingerprint to unlock the phone so they can search it. However, the court has not decided on the issue of whether the police can require you to provide your password if they have a warrant to search your phone.

[https://caselaw.findlaw.com/mn-supreme-court/1886157.html#footnote\\_1](https://caselaw.findlaw.com/mn-supreme-court/1886157.html#footnote_1)

State v. Diamond, 890 N.W.2d 143 (Minn. Ct. App. 2017).

In 2014, the Supreme Court held that the warrantless search and seizure of the contents of a cell phone is unconstitutional.

<https://supreme.justia.com/cases/federal/us/573/373/>

Riley v. California, 573 US 373 (2014)

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

If the police have your phone for any reason (including because you gave it to them willingly), you can refuse to give them your password or any other information. The police need your consent to a search (which includes access to your phone) and even if you agree to something (like giving them your phone), you can refuse to continue at any time. You can make it clear that you do not consent to their having access to your phone and ask for it back.

In 2014, the Supreme Court held that the warrantless search and seizure of the contents of a cell phone is unconstitutional.

<https://supreme.justia.com/cases/federal/us/573/373/>

Riley v. California, 573 US 373 (2014)

If the police have a warrant they can compel you to give a fingerprint or other features (such as using your face to unlock your phone).

[https://caselaw.findlaw.com/mn-supreme-court/1886157.html#footnote\\_1](https://caselaw.findlaw.com/mn-supreme-court/1886157.html#footnote_1)

State v. Diamond, 890 N.W.2d 143 (Minn. Ct. App. 2017).

### **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?**

No, you do not have to give them your device password if they demand it from you or if they ask for your fingerprint or another way to unlock your phone. However, you may have to give your fingerprint or use your face to unlock your phone if they have a warrant, *but you are not obliged to give them your password*.

In 2014, the Supreme Court held that the warrantless search and seizure of the contents of a cell phone is unconstitutional. Riley v. California, 573 US 373 (2014)

<https://supreme.justia.com/cases/federal/us/573/373/>

If the police ask for your password do not give it to them, because anything that is found could be used against you in court.

[https://caselaw.findlaw.com/mn-supreme-court/1886157.html#footnote\\_1](https://caselaw.findlaw.com/mn-supreme-court/1886157.html#footnote_1)

State v. Diamond, 890 N.W.2d 143 (Minn. Ct. App. 2017).

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

The Minneapolis Police Department and other city departments are not allowed to use facial recognition technology or use data obtained from facial recognition technology to find out information about you.

The Hennepin County Sheriff's Office and private businesses can use facial recognition technology but Minneapolis city departments including the Minneapolis Police Department are not allowed to ask the Hennepin County Sheriff's Office to use facial recognition technology on their behalf.

[https://lims.minneapolismn.gov/Download/MetaData/20406/2021-006\\_Id\\_20406.pdf](https://lims.minneapolismn.gov/Download/MetaData/20406/2021-006_Id_20406.pdf)

City of Minneapolis Ordinance No. 2021-006 (effective February 20, 2021)

Minnesota law enforcement agencies have used Cognitec (facial biometrics system) Intrepid Response (adds geolocation to photos) Clear (combines cellphone, license plate and arrest

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data), PIPS Technology (reads fixed and mobile license plate information), Securonet (combines cellphone footage with closed circuit television (CCTV) footage), and BriefCam (a transit surveillance camera system that collects commuter information).

[https://www.revisor.mn.gov/statutes/2021/cite/13.824?keyword\\_type=all&keyword=surveillance](https://www.revisor.mn.gov/statutes/2021/cite/13.824?keyword_type=all&keyword=surveillance)

Automated License Plate Readers (13.824)

[https://www.revisor.mn.gov/statutes/2021/cite/13.82?keyword\\_type=all&keyword=surveillance](https://www.revisor.mn.gov/statutes/2021/cite/13.82?keyword_type=all&keyword=surveillance)

Comprehensive Law Enforcement Data (13.82)

[https://www.revisor.mn.gov/statutes/2021/cite/13.825?keyword\\_type=all&keyword=surveillance](https://www.revisor.mn.gov/statutes/2021/cite/13.825?keyword_type=all&keyword=surveillance)

Portable Recording Systems (13.825)

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

Police need your consent (or a warrant) to search you, your belongings or the car you're in.

If the police ask to conduct a search and you agree, then you give them permission to search you.

If the police ask to conduct a search, you can refuse to be searched. Refusing consent may not stop a police officer from searching you, but you can clearly and calmly object before or during the search which can help your case in any later legal proceeding.

<https://constitution.congress.gov/constitution/amendment-4>

<https://www.revisor.mn.gov/statutes/cite/626.14>

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

The police may record you and under Minneapolis Police Department policy they may even be required to do so depending on the circumstances of the interaction.

<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

MPD Policy and Procedures Sections 4-218 (Mobile and Video Recording (MVR) Policy), 4-223 (Body Worn Cameras), 4-224 (Employee Cell Phones and Recording Devices Used to Capture Evidence), and 4-225 (Public Safety Camera Platforms), and 10-206 (Electronic Recording of Custodial Interrogations/Interviews).

[https://www.revisor.mn.gov/statutes/2021/cite/13.825?keyword\\_type=all&keyword=surveillance](https://www.revisor.mn.gov/statutes/2021/cite/13.825?keyword_type=all&keyword=surveillance)

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

You have the right to remain silent, which includes not saying where you're going or why. If you are exercising this right you should say so out loud.

You are not required to answer the officer's questions. You may ask the officer to identify themselves. You may also notify the officer that you are invoking your right to silence under the fifth amendment of the US Constitution. If you do not wish to speak to the officer, you should tell them you are invoking your right to silence.

<https://constitution.congress.gov/constitution/amendment-5>



## Can the police search my school locker?

In Minnesota, school lockers are owned by the school district and they can inspect the inside of lockers at any time without telling the student or having a warrant. However, to search a student's personal belongings, such as a backpack, school authorities must have a good reason to believe they will find evidence of a law breaking or school rule violation. The school must tell the student about the search unless it would get in the way of a police or school investigation.

<https://www.revisor.mn.gov/statutes/cite/121A.72>

## Reasons Police May Detain or Arrest You

### Proposed Information

It is important to follow this advice:

If the police suspect you of breaking the law or have evidence of a crime, they may arrest you. If they have a warrant, they will show it to you. When you are arrested, the police also have the right to search you, and any evidence they find can be used against you in court.

<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

(MPD 10-213)

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

No, you have the right to remain silent. Even if you choose to speak to the police you can decide to stop at any time.

<https://constitution.congress.gov/constitution/amendment-5>

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

You don't have to correct them and can choose to remain silent. In fact, if you talk without a lawyer, you may say something that hurts you without realizing it.

The U.S. Constitution provides everyone the right to remain silent when interacting with the police. If a person is arrested, the police are required to read them their "Miranda Rights," which include the right to remain silent. An individual being questioned by the police should state that they are invoking their right to silence rather than simply not responding to questions.

<https://constitution.congress.gov/constitution/amendment-5/#:~:text=No%20person%20shall%20be%20held,the%20same%20offence%20to%20be>

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

When the police contact someone, they often don't really "just want to talk". It's more likely that they already have some evidence and want to confirm their suspicions. They may think you're a witness, but it could also mean they think you're a suspect. You are not required to answer the officer's questions. You may ask the officer to identify themselves. You may also notify the officer that you are invoking your right to silence under the fifth amendment of the US Constitution. If you do not wish to speak to the officer, you should tell them you are invoking your right to silence.

<https://constitution.congress.gov/constitution/amendment-5/#:~:text=No%20person%20shall%20be%20held,the%20same%20offence%20to%20be>



## **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?**

The police may use any information you provide them against you whether or not you are under arrest. You may ask the officer if you are under arrest. If you are under arrest, the officer is required to tell you your "Miranda Rights," which include your right to not answer questions, your right to a lawyer, and the fact that anything you say they can use against you. Importantly, if you are not under arrest, the officer probably does not have to tell you these rights but you still have them and what you say can still be used against you. If you wish you invoke your right to not answer questions, you should state that you are invoking your right to silence to the officer.

<https://constitution.congress.gov/constitution/amendment-5/#:~:text=No%20person%20shall%20be%20held,the%20same%20offence%20to%20be>

<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

(MPD 10-213)

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

### **Proposed Information**

It is important to follow this advice:

You have the right to remain silent (not say anything) in either situation. In either situation, anything you say can be used against you.

<https://constitution.congress.gov/constitution/amendment-5>

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

You do not have to consent to any search of yourself, your car or your house. However, the police may "pat-down" your clothing if they suspect a concealed weapon.

4th Amendment to U.S. Constitution:

<https://constitution.congress.gov/constitution/amendment-4>

Art. 1, Section 10 of the MN Constitution:

<https://www.revisor.mn.gov/constitution/#:~:text=No%20person%20shall%20be%20held,with%20out%20due%20process%20of%20law>.

Minnesota Police Department Policy and Procedure Manual, Section 9-201.

<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

A police officer usually needs a warrant to search you. However, there are some exceptions where they can search you without a warrant. These exceptions include:

If you give permission for the search (consent search)

If you have been arrested (arrest incident)

If they see something illegal in plain sight (plain view)

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If they have a strong reason to believe a crime has been committed or is about to be committed (probable cause)

If they believe their safety or the safety of others is in danger (exigent circumstances)

If they need to help someone in a medical emergency or to save a life. (medical emergency)

<https://www.minneapolispolice.org/media/-/www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

(MPD 9-201)

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

You have the right to remain silent (not say anything) in either situation. In either situation, anything you say can be used against you.

<https://constitution.congress.gov/constitution/amendment-5>

## **Do Police Need A Warrant To Arrest You?**

### **Proposed Information**

It is important to follow this advice:

Not always. 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.

<https://www.revisor.mn.gov/statutes/cite/629.34>

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

Yes, the police can stop you even if you do not believe you have done anything wrong.

<https://www.aclu-mn.org/en/know-your-rights/what-if-im-stopped-police#:~:text=A.,-If%20you%20are&text=You%20have%20the%20right%20to%20remain%20silent%20and%20to%20talk,your%20lawyer%20decide%20is%20best.>

If the police order you to stop - you must stop (it is a misdemeanor not to stop).

<https://www.revisor.mn.gov/statutes/cite/169.02#:~:text=2.,%2C%20control%2C%20or%20regulate%20traffic.>

Minnesota Statutes - 169.02 SCOPE. Subd 2.

However, the police must have a reason to stop you.

When you are driving, the police can stop you for traffic law violations, but they cannot stop you for:

- Expired registration tabs
- An item dangling from the rearview mirror, unless that object makes it unsafe to drive your vehicle
- Inoperable license plate lights

<https://www.minneapolispolice.org/media/-/www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

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Minneapolis Police Dept. Policy and Procedure Manual - 7-501.01 Traffic Accident Reports

An officer may frisk you if the officer reasonably believes that you may be armed. This frisk is limited to a pat down of your clothes.

<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

Minneapolis Police Dept. Policy and Procedure Manual - 9-201 Search and Seizure

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

Yes, you have the right to ask why you are being stopped. The police should explain the reason to you unless they have some reason to protect the safety of themselves or other people.

<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

(MPD 5-104 IV. B)

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

Generally, you shouldn't if you are not a lawyer. If you speak up when being stopped, you could be charged with obstructing legal process or arrest if the officer says that you were interfering with his or her duties.

If you choose to speak, things you say can be used to arrest or detain you. Even if you choose to speak, at any time you can stop.

<https://www.revisor.mn.gov/statutes/2011/>

<https://www.revisor.mn.gov/statutes/2011/part/Crimes%252C%2520Criminals>

<https://www.revisor.mn.gov/statutes/2011/cite/609>

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

If you think a stop is unjustified, you do not have to say anything or answer any police questions and you do not have to consent to letting the police search you or your belongings. Do not fight the police on the scene, you can file a complaint later.

You may file a complaint with the Office of Police Conduct Review. You must make your complaint within 270 days (about 9 months) after the incident that occurred by going to this website:

<https://www.minneapolismn.gov/report-an-issue/police-officer-complaint/>

You may also file a complaint in person at City Hall or a police precinct.

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

All police officers should wear their Minneapolis Police Department badge or employee ID card on their coat.

All police department employees are required to show their MPD ID if you request.

<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

(MPD 3-116)

# 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 must only warn you of your rights before the police question you. This means an officer can arrest you before warning you of your rights.
- An arrest without a Miranda Warning is still a valid arrest; it just may mean that evidence collected from it is not admissible in court later.

<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

(MPD 10-213)

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

You can ask if you are under arrest and why. The police must give you an answer.

Being arrested means that one is taken into police custody. A person can be arrested if police have probable cause to believe that the person committed a crime, but it doesn't automatically mean that the person is guilty, or will even face charges.

If you are arrested, you have the right to remain silent and to talk to a lawyer before you talk to the police. Tell the police nothing except your name and address. Don't give any explanations, excuses or stories. You can make your defense later, in court, based on what you and your lawyer decide is best.

Ask to see a lawyer immediately. If you can't pay for a lawyer, you have the right to a free one, and should ask the police how the lawyer can be contacted. Don't say anything without a lawyer.

<https://constitution.congress.gov/constitution/amendment-6/>

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

When a police officer stops someone for a "brief and not significant" moment to ask questions, it's called a detention. The person is not free to leave, but they are not under arrest yet. The police might make an arrest if they have a reason to believe the person has committed a crime. Factors that determine if a detention has become an arrest include:

- How much force the police used
- If they thought the person was dangerous
- The number of officers involved
- If the person was handcuffed

- How long the person was stopped

<https://law.justia.com/cases/federal/appellate-courts/ca11/16-14714/16-14714-2017-02-16.html>

(U.S. v. Vargas, 369 F.3d 98 (2d Cir. 2004), In re Hoch, 82 A.3d 1167 (Vt. 2013).)

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

The use of handcuffs doesn't necessarily mean you have been arrested -- officers can handcuff people if they're concerned for their own or public safety. If an officer handcuffs you and tells you are under arrest, then you have been arrested. If in doubt, ask the police calmly.

<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

(MPD 5-302 III. C)

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

Not necessarily. Restraint is one factor in arrest, but there are others (such as the length of time you're restrained, the manner of restraint, the amount of force). If in doubt, ask the police calmly.

<https://law.justia.com/cases/federal/appellate-courts/ca11/16-14714/16-14714-2017-02-16.html>

(U.S. v. Vargas, 369 F.3d 98 (2d Cir. 2004), In re Hoch, 82 A.3d 1167 (Vt. 2013).)

## **What To Do After Being Warned of Your Rights**

### **Proposed Information**

It is important to follow this advice:

- You can use your right to remain silent or any of your other rights (e.g., the right to an attorney) by saying that you want to use that right.
- You are also able to waive your rights (that is, not use them) by, for example, saying 'Yes, I understand my rights but I am ready to talk to you.' This is not a good idea without a lawyer present.
- Make sure you know what you're doing in giving up your rights

<https://constitution.congress.gov/constitution/amendment-5/>

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

You are read your Miranda rights by police because you are in police custody and you are about to be asked questions by the police that the police will use as evidence. Anything you say after your Miranda rights are read to you can be used by the police to prove that you committed a crime.

<https://supreme.justia.com/cases/federal/us/384/436/>

Miranda v. Arizona, 384 U.S. 436 (1966)

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

No, it does not matter where you are being questioned.

# Police Questioning You

## Proposed Information

It is important to follow this advice:

- You are not required to make a statement, answer police questions or participate in a police investigation, and you never have to go anywhere with the police unless they have arrested you.
- If police have arrested you and if you are under the age of 18, police are required to immediately notify your parent, caretaker or legal guardian.

<https://constitution.congress.gov/constitution/amendment-5/>

<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

(MPD 8-104)

### Am I required to make a statement?

You have the right to remain silent. For example, you do not have to answer any questions about where you are going, where you are traveling from, what you are doing, or where you live. If you wish to exercise your right to remain silent, say so out loud.

<https://constitution.congress.gov/constitution/amendment-5/>

### Must police notify my guardian?

No if just for questioning, yes if you are taken into custody.

Police can question you without notifying your parents or legal guardian or receiving their consent. Police are not required to contact parents or legal guardians before approaching and questioning you.

If you are stopped by the police for questioning, take a breath. Be calm and respectful.

Police are free to approach children and question them about whether they were involved in a crime but, just as an adult can never be forced to answer questions from police in an interrogation, the child is not required to answer. The child can refuse to answer questions and can request that a lawyer or a parent be present. A parent or lawyer also can refuse to allow the child to answer questions.

If police, including officers on the street and school police officers, begin questioning a child and the child asks to call a parent or have a parent present, the police should stop and allow the child to do so.

But police are not required to contact parents or obtain parental permission before approaching and questioning a child.

If you are taken into custody, the Minneapolis Police Department Policy and Procedure Manual, states in Section 8-104 that..."the transporting officer(s) shall ensure a reasonable attempt is made to notify the parent/legal guardian as to the juvenile's status. It shall be the responsibility of the investigator/investigative unit to notify the parent/legal guardian, when a juvenile is received by them from officers."

<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

(MPD 8-104)

## **Must I confess?**

No, you don't have to say anything to the police. If you are forced to make a confession, it can't be used against you.

A confession is only considered valid if the person who made it was not under any pressure or influence from the police. The police should not threaten or promise anything to get a confession.

A confession alone is not enough to convict you of a crime. It also cannot be used as evidence against you if it was made while you were feeling scared or threatened by the police.

<https://www.revisor.mn.gov/statutes/cite/634.03>

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

A child can request that a lawyer, guardian, or a parent be present. A parent, guardian, or lawyer can refuse to allow the child to answer questions.

If police, including officers on the street and school police officers, begin questioning a child and the child asks to call a parent or have a parent present, the police should stop and allow the child to do so.

But police are not required to contact parents or obtain parental permission before approaching and questioning a child.

<https://constitution.congress.gov/constitution/amendment-6>

<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

(MPD 8-104, 107)

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

Police are not required to contact parents or legal guardians before approaching and questioning you.

If you are taken into custody, the police must notify your parent/legal guardian.

<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

(MPD 8-104)

## **How do I Contact A Lawyer and When?**

### **Proposed Information**

It is important to follow this advice:

It's important to talk to a lawyer before you say anything about a criminal case or investigation. This is true even if the police just want to ask you questions or if you are just a witness. If you can't afford a lawyer, you can ask for one in court, but you should still ask for one as soon as the police start questioning you or arresting you. If you're arrested, you have the right to remain silent and not say anything until your lawyer is with you.

<https://constitution.congress.gov/constitution/amendment-6>



## What if I am just a witness?

Even if you are just a witness, and not under arrest or investigation, you should contact a lawyer. You should ask for a lawyer as soon as you are questioned by the police.

## 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. Police can use deception during criminal investigations or interrogations as permitted under law.

<https://www.minneapolispolice.org/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

### Can the police lie to me?

In short, police officers can lie to you during an investigation. There's no law that makes it illegal for them to do so.

The police may lie when they talk to you. They may pretend to have evidence against you to get you to confess or say something that can be used against you. There is a case where the police officer lies about the reason for a traffic stop, and a court still thinks it's legal.

<https://caselaw.findlaw.com/us-9th-circuit/1730709.html>

U.S. v. Magallon-Lopez, 817 F.3d 671, 675 (9th Cir. 2016).

It's important to be cautious and think before you speak, especially if you're not sure whether the police officer is being truthful. If you're unsure, it's always best to remain silent and speak with a lawyer.

<https://www.minneapolispolice.org/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

(5-102 III. B)

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

If you decide to say something to the police, you have to tell the truth. Remember, you have the right to remain silent in your interactions with police officers, and by remaining silent you avoid lying to police and the potential consequences that could follow.

In certain situations and to avoid severe consequences, you will need to tell police the truth. Lying to police may be considered obstruction of the judicial process in Minnesota, which means you could face serious penalties for obstruction of justice.

For example, if you give a fake name or birth date to a police officer who asks for identification, that is considered a misdemeanor punishable by up to 90 days in jail with fines up to \$1,000. If you give someone else's real information to a police officer or a court official, or use someone else's ID card, that is considered a gross misdemeanor, which is punishable by up to one year in jail with fines up to \$3,000.

<https://www.revisor.mn.gov/statutes/cite/609.506>; <https://aacriminallaw.com/consequences-lying-police-minnesota/>

Frequently, police officers will charge a person with a misdemeanor for Obstructing Legal Process if the person simply lies to them or otherwise interferes with their official duties.

<https://www.revisor.mn.gov/statutes/cite/609.50>; <https://lundgrenjohnson.com/practice-areas/criminal-defense/obstructing-legal-process/>

Under Minnesota law, the act of knowingly making false statements to law enforcement or public officials may also rise to the level of perjury, and perjury is punishable by up to five years in prison and up to \$10,000 in fines.

<https://www.revisor.mn.gov/statutes/cite/609.48>; <https://aacriminallaw.com/perjury-penalties-and-defenses-in-minnesota/>

## 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:

There are many ways to file a complaint against law enforcement and several important considerations.

First, if you feel that your civil rights have been violated or that you have been the victim of police misconduct in Minnesota, you should consider contacting a lawyer who is licensed to practice law in Minnesota. Most law firms that practice in the area of civil rights or police misconduct will offer a free case evaluation, and, if you do have a case, it is very important that the complaints you file against law enforcement elsewhere are truthful and consistent.

Second, you can file complaints to the law enforcement agencies that employ and have oversight over the officer. There are several law enforcement agencies that patrol in Minneapolis, including the Minneapolis Police Department, the Hennepin County Sheriff's Office, and the Minnesota State Patrol. Minnesota law requires that all law enforcement agencies have a policy on Allegations of Misconduct that outlines the acceptance, investigation and resolution of citizen complaints. You should be given a time frame in which you should expect a response to your complaint. Minnesota Statute requires that you are notified by the law enforcement agency of a final disposition on your complaint.

<https://dps.mn.gov/entity/post/Pages/complaints.aspx>

If the officer involved was with the Minneapolis Police Department, you can file a complaint by completing the Police Conduct Complaint Form online or in person. You must file a complaint within 270 days (about nine months) of the date of the alleged misconduct. It is important to provide as much detail as possible, including the date and location of the incident, any information you have about the officer (e.g., name, badge number, etc.), and any witnesses. It is also important to remain truthful in your statements.

<https://www.minneapolismn.gov/resident-services/public-safety/complaints-and-compliments/police-officer-complaint-process/>; <https://www.minneapolismn.gov/report-an-issue/police-officer-complaint/>

If the officer involved was with the Minnesota State Patrol, you can file a complaint with the Department of Public Safety. The appropriate contact information for that complaint is: Internal Affairs/Affirmative Action, 445 Minnesota Street, Suite 530, St. Paul, MN 55101-5530, Telephone: (651) 201-7136, Email: [dps.ia@state.mn.us](mailto:dps.ia@state.mn.us).

<https://dps.mn.gov/divisions/ia/Pages/complaints.aspx>

Complaints against a Hennepin County Sheriff can be made with their Internal Affairs Unit. Contact 612-348-3744, or you can submit a complaint online.

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

### Proposed Information

It is important to follow this advice:

Do not fight the police officer on the scene. If you try to challenge or resist a police officer, you could be arrested and cited with obstruction

(<https://www.revisor.mn.gov/statutes/cite/609.50>, subd. 1)

or disorderly conduct (<https://www.revisor.mn.gov/statutes/cite/609.72>, subd. 1)

If you believe you have been discriminated against or have been the victim of racial bias, you should file a complaint with the Minnesota Department of Human Rights ("MDHR"). MDHR is the state's civil rights enforcement agency and is charged with upholding the civil rights of Minnesotans by enforcing the Minnesota Human Rights Act.

You can submit your complaint to MDHR through an online form found here:

<https://mn.gov/mdhr/intake/consultationinquiryform/>

You can also call the Discrimination Helpline at 1-833-454-0148.

Importantly, you must file your complaint within one (1) year from the date the discrimination occurred. After the complaint is filed, MDHR will conduct an investigation into the facts alleged, determine what happened, and determine whether if there was a violation of the Minnesota Human Rights Act. <https://mn.gov/mdhr/intake/>

You should also consider filing a complaint with the United States Department of Justice ("DOJ"). The Civil Rights Division of the DOJ enforces federal laws that protect people from unlawful discrimination based on many factors, and it enforces laws that protect people from human trafficking, law enforcement misconduct, and hate crimes. If you believe your civil rights, or someone else's, have been violated, submit a report to DOJ's Civil Rights Division by using its online form found here: <https://civilrights.justice.gov/> or <https://www.justice.gov/actioncenter/submit-complaint>.

Lastly, if you believe you have been discriminated against or have been the victim of racial bias, you should contact a lawyer who is licensed to practice law in Minnesota. Most law firms that practice in the area of discrimination will offer a free case evaluation, and, if you do have a case, it is very important that the complaints you file are truthful and consistent.

## How can I respond to circumstances involving discrimination?

### Proposed Information

It is important to follow this advice:

Do not fight the police officer on the scene. If you try to challenge or resist a police officer, you could be arrested and cited with obstruction

(<https://www.revisor.mn.gov/statutes/cite/609.50>, subd. 1)

or disorderly conduct (<https://www.revisor.mn.gov/statutes/cite/609.72>, subd. 1)

You can file a complaint after the encounter.

You will need information to file a complaint. To gather information during the encounter:

(1) All police officers should wear their Minneapolis Police Department badge or employee ID card on their outermost garment.

All employees are required to show their MPD ID upon request.

<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>

(MPD 3-116)

(2) You or anyone with you has the right to record any interaction with police as long as you don't interfere with any police activity. If you aren't interfering, police aren't allowed to ask you to delete your recording or to stop recording. (MPD policy manual)

(3) State law says that people who are the subject of video footage (if you can be seen or heard) can request to see footage. You can request the footage by:

- Making an online request at: <https://minneapolis.service-now.com/opencityportal>
- Appearing in-person at the Minneapolis Public Service Center

You will need to provide a color copy of your photo identification.

<https://www.revisor.mn.gov/statutes/cite/13.825>

## **What can you do if the police perform an improper search? Or I was improperly detained?**

### **Proposed Information**

It is important to follow this advice:

If the police performed an improper search or unlawfully detained you, you can file a motion to request the return of the property, and, if you are facing charges as a result, you can request that any evidence obtained from these unlawful acts be thrown out. If the Judge does throw the evidence out ("suppresses" it), then your charges could possibly be dropped, because the prosecution cannot pursue a case without evidence. There is more detail below as far as the place and time of filing such a motion.

If you were unlawfully searched or detained, but no property was taken and you are not facing any charges, but still want to take action, you could file a complaint against the police office using this form: <https://www.minneapolismn.gov/report-an-issue/police-officer-complaint/complaint-form/>

<https://www.revisor.mn.gov/statutes/cite/626.21>

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Law is generally described as of February 2023.

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