

Real Rights: young people engaging with law enforcement



Montpelier, Vermont



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.

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.

See e.g., [13 V.S.A. § 3015](#); [13 V.S.A. § 3017](#); [Miranda v. Arizona, 384 U.S. 436 \(1966\)](#)

Can the police arrest you for refusing to answer questions?

No, you are not required to speak to police. You have the right to remain silent and do not have to answer any questions. See e.g., [5th Amendment](#); [Malloy v. Hogan, 378 U.S. 1, pg. 1 \(1964\)](#)

It should be noted that you must identify yourself (your name, address, and what you're doing) to a law enforcement officer if asked, but this does not mean you have to be carrying any particular piece of identification with you at any time. You risk arrest if you fail to identify yourself in a situation where the police reasonably believe you are involved in a criminal activity or if they believe that you are a threat to public safety. However, you can tell the officer you wish to exercise your right to remain silent under the [5th Amendment](#). See e.g., [Hiibel v. Sixth Judicial District Court of Nevada, Humboldt City, 542 U.S. 177, pg. 1 \(2004\)](#); [24 V.S.A. § 1983](#)

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

You don't have to speak with police. You have the right to remain silent. You could say something like "I don't want to talk to you" or "I don't want to answer that". But, if an officer stops and questions you, your calm and direct responses may be the best way to quickly resolve the situation. Anything you say can be used against you in a court of law, so it is a good idea to be careful about what you say, if you choose to say anything. [5th Amendment](#); [Malloy v. Hogan, 378 U.S. 1, pg. 1 \(1964\)](#)

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

Yes, you have the right to have a lawyer present during questioning, and one can be provided to you if you can't afford one. Any information you talk with your lawyer about will be kept private by your lawyer. See e.g., [6th Amendment](#); [Gideon v. Wainwright, 372 U.S. 335 \(1963\)](#)

In addition, you are not required to speak with police. You have the right to remain silent. [5th Amendment](#); [Malloy v. Hogan, 378 U.S. 1, pg. 1 \(1964\)](#)

If the police start questioning you without telling you your rights upon arrest (known as a "Miranda Warning"), then they can't use anything you say as direct evidence against you in court. See e.g., [Miranda v. Arizona, 384 U.S. at 444 \(1966\)](#). It is a good idea to speak up as soon as possible and tell the police you want to talk to a lawyer right away. If you want to stay silent, you can also say so out loud. Even if you do not want to speak without a lawyer, you are still required to tell police your name and address to identify yourself. [24 V.S.A. § 1983](#)

If I sit down, am I resisting?

Yes. You cannot sit down to avoid arrest or prevent an officer from doing his job in any way. The officer may view this as passively "resisting arrest", which is a separate crime in Vermont. If the officer does not tell you to sit down, it is not a good idea to sit down, or do anything else that could be seen as resisting, like arguing with the officer or struggling while they place you into handcuffs. See e.g., [13 V.S.A. § 3017](#)

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

No, you cannot run from the officer if you think you are about to be arrested, even if others in your group run. Even if you are not being arrested, running from law enforcement is a bad idea. Doing so could give the officer the belief that you have been, are, or will be involved in criminal activity. See e.g., [13 V.S.A. § 3017](#)

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

No, you cannot tell someone else to run from the police. This may be viewed as interfering with an arrest. In addition, doing so could give the officer the belief that you have been, are, or will be involved in criminal activity. See e.g., [13 V.S.A. § 3018](#)

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

Yes, you can tell the officer that the officer's language is not your first language. This will not waive your rights if you tell the officer immediately after that you wish to remain silent. You are entitled to an interpreter for interactions between you and the police/court. See e.g., [5th Amendment](#); [Malloy v. Hogan, 378 U.S. 1, pg. 1 \(1964\)](#); [Montpelier PD - Limited English Proficiency \(LEP\)](#)

You also have the right to have an attorney present during questioning, and one can be provided to you if you can't afford one. Any information you talk with your lawyer about will be kept private by your lawyer. See e.g., [6th Amendment](#); [Gideon v. Wainwright, 372 U.S. 335 \(1963\)](#)

When Can Police Search Your and Your Surroundings?

Proposed Information

It is important to follow this advice:

- You have the right to say no to searches of yourself.
- You have the right to say no to searches of your car, house or other things you own or control.
- You cannot be arrested for refusing to consent (give permission) to a search without a warrant.
- A warrant is an official document from the court that allows police to search you or your belongs without your consent. See e.g., [4th Amendment](#)
- Police can conduct a brief search and can continue to conduct the search. See e.g., [Riley v. California, 573 U.S. 373, pg. 28 \(2014\)](#)

What if a police officer wants to search my phone?

Officers are prohibited from conducting unreasonable searches and seizures. Unreasonable can refer to anything that is inappropriate, aggressive, over the top, or harmful to you or anyone involved. See e.g., [4th Amendment](#); [Riley v. California, 573 U.S. 373, pg. 28 \(2014\)](#); [Constitution of the State of Vermont, Article 11](#)

Generally, the police must obtain your permission, a warrant from the court to search the data on your phone, or have an exigent circumstance for a search apply (for example, the police believe the evidence is about to be destroyed). However, the police can search the physical aspects of your phone (for example, they can remove the phone from case or remove the battery). See, e.g., [Riley v. California, 573 U.S. 373, pg. 28 \(2014\)](#); [Vt. R. Crim. P. 41](#)

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

You do not have to provide your password (this includes your fingerprint or face scan) unless the police have a warrant from the court. You may refuse to hand your phone over or provide a password to it, even if you are being arrested, so long as the police do not have a warrant from the court for the search of your phone. To give your password, fingerprint, or face scan is to give your consent; you can revoke your consent at any time during the search. See, e.g., [Riley v. California, 573 U.S. 373, pg. 28 \(2014\)](#); [13 V.S.A. § 4701](#); [Vt. R. Crim. P. 41](#)

In addition, officers are prohibited from conducting unreasonable searches and seizures. Unreasonable can refer to anything that is inappropriate, aggressive, over the top, or harmful to you or anyone involved. See, e.g., [4th Amendment; Constitution of the State of Vermont, Article 11](#)

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

You may refuse to allow access to your phone if asked. If they do not have your permission or permission from the court in the form of a search warrant, they cannot force you to give them your password or any access to your phone. See e.g., [Riley v. California, 573 U.S. 373, pg. 28 \(2014\); 13 V.S.A. § 4701](#)

In addition, officers are prohibited from conducting “unreasonable” searches and seizures. “Unreasonable” can refer to anything that is inappropriate, aggressive, over the top, or harmful to you or anyone else involved. See e.g., [4th Amendment; Vermont Constitution, Article I § 11](#)

You cannot be forced to give any government or law enforcement official testimony (evidence) that could incriminate you in court. See e.g., [5th Amendment; Malloy v. Hogan, 378 U.S. 1, pg. 1 \(1964\)](#)

However, just as you don't have to consent to a search of your phone, you do not need to voluntarily provide the password or other access to your phone. If the police obtain a warrant for your phone, it is possible that you still don't have to provide this information, though you could be required by the court to do so at a later date. Please note that the law on this is unsettled, meaning not all courts come to the same decision. For example, some courts believe that you don't need to provide this information because it could mean you are providing evidence against yourself, which violates another law (the 5th Amendment). Other courts do not take that position. See e.g., [United States v. Apple MacPro Computer, 851 F.3d 238, 247 \(3rd Cir. 2017\); In re: Grand Jury Subpoena Duces Tecum Dated March 25, 2011 v. John Doe, 670 F.3d 1335, 1341 \(11th Cir. 2012\)](#).

Do I have to give them my device password if they demand it from me if I am not under arrest? What if they just ask for it?

If you are not under arrest, you do not have to give the police your password. Police cannot force you to give them your password, fingerprint, or face scan to unlock your phone. You can refuse to give them this information. However, it is important to note that if you do give them your phone or password, they have the right to search. You may revoke this consent at any time. See e.g., [Riley v. California, 573 U.S. 373, pg. 28 \(2014\)](#).

In addition, officers are prohibited from conducting “unreasonable” searches and seizures. “Unreasonable” can refer to anything that is inappropriate, aggressive, over the top, or harmful to you or anyone else involved. See e.g., [4th Amendment; Vermont Constitution, Article I § 11](#)

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

As of 2020, Vermont has banned the use of facial recognition technology by police without the express consent of the legislature. See e.g., [2020 Acts and Resolves No. 166](#)

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

The police cannot search your backpack or any other item you're carrying without your permission or permission from the court (a warrant). You can withdraw your consent at any time, but until you do, the police can continue to conduct the search. See e.g., [4th Amendment; 13 V.S.A. § 4701](#)

Police may pat down your clothing if they “reasonably” believe that you have a weapon, and that someone's safety may be at risk because of that weapon. If you are under 16 years old,

it is illegal to carry a handgun in public or anywhere else where you do not have permission. See e.g., [Terry v. Ohio, 392 U.S. 1 \(1968\)](#); [13 V.S.A. § 4008](#)

If you are arrested, the officer may search you and your belongings, as they have probable cause to do so. This may include your backpack if it is within arm's reach, or you are wearing it at the time. This may also include your vehicle if it's within your vicinity at the time of searching, or if you are driving it at the time of searching. See e.g., [United States v. Robinson, 414 U.S. 218, pg. 1 \(1973\)](#); [Vermont Constitution, Article I § 11](#)

Can they take my picture or record me?

Yes, the Montpelier Police Department is advised to record all public interactions using body cameras. A law enforcement officer may also take fingerprints and photos of a person who is arrested. [Montpelier PD - Body Worn Camera Program](#); [20 V.S.A. § 2061](#)

Can they ask me where I am going and why?

Yes, the police can ask where you are going and why. If you are not being detained, you can exercise your right to remain silent. Responding to their questions means that you are consenting to the officer's requests. See e.g., [5th Amendment](#); [Malloy v. Hogan, 378 U.S. 1, pg. 1 \(1964\)](#)

It should be noted that you must identify yourself (your name, address, and what you're doing) to a law enforcement officer if asked. You risk arrest if you fail to identify yourself in a situation where the police reasonably believe that you are involved in criminal activity or if they believe that you are a threat to public safety. However, you can tell the officer you wish to exercise your right to remain silent under the [5th Amendment](#). See e.g., [Hiibel v. Sixth Judicial District Court of Nevada, Humboldt City, 542 U.S. 177, pg. 1 \(2004\)](#); [24 V.S.A. § 1983](#)

Reasons Police May Detain or Arrest You

Proposed Information

It is important to follow this advice:

- The police may arrest or detain 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. See e.g., [Terry v. Ohio, 392 U.S. 1 \(1968\)](#); [Vt. R. Crim. P. 3](#)
- Sometimes police have a warrant from the court, giving law enforcement the ability to search or arrest you, depending on what the warrant is for. You should make sure you understand what kind of warrant is being presented to you.
- 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. See e.g., [United States v. Robinson, 414 U.S. 218, pg. 1 \(1973\)](#)

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

No, you are not required to speak with police. You have the right to remain silent. See e.g., [5th Amendment](#); [Malloy v. Hogan, 378 U.S. 1, pg. 1 \(1964\)](#)

You also have the right to have an attorney present during questioning, and one can be provided to you if you can't afford one. Any information you talk with your lawyer about will be kept private by your lawyer. See e.g., [6th Amendment](#); [Gideon v. Wainwright, 372 U.S. 335 \(1963\)](#)

It should be noted that you must identify yourself (your name, address, and what you're doing) to a law enforcement officer if asked. You risk arrest if you fail to identify yourself in a situation where the police reasonably believe that you are involved in criminal activity or if they believe that you are a threat to public safety. However, you can tell the officer you wish to exercise your right to remain silent under the [5th Amendment](#). See e.g., [Hiibel v. Sixth Judicial District Court of Nevada, Humboldt City, 542 U.S. 177, pg. 1 \(2004\)](#); [24 V.S.A. § 1983](#)

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

No, you are not required to speak with police. You have the right to remain silent. However, you should correct the officer whenever the officer misunderstands anything you say, or if you tell the officer something that is incorrect. Failing to do so is illegal and punishable under state law. [5th Amendment](#); [13 V.S.A. § 1754](#)

You also have the right to have an attorney present during questioning, and one can be provided to you if you can't afford one. Any information you talk with your lawyer about will be kept private by your lawyer. See e.g., [6th Amendment](#); [Gideon v. Wainwright, 372 U.S. 335 \(1963\)](#).

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

You are not required to speak with the police unless being asked to identify yourself. You have the right to remain silent. See e.g., [5th Amendment](#); [Malloy v. Hogan, 378 U.S. 1, pg. 1 \(1964\)](#); [24 V.S.A. § 1983](#)

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?

In either scenario, you are not required to speak with the police, and have a right to remain silent. If the police start questioning you without telling you your rights (known as a Miranda warning), then they can't use anything you say as direct evidence against you in court. Being detained means that you are being held for questioning by the police and although you are not under arrest, you are not free to leave. Being under arrest means the police have taken you into custody and accused you of a crime. See e.g., [Miranda v. Arizona, 384 U.S. 436 \(1966\)](#), [13 V.S.A. § 5234](#)

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

Proposed Information

It is important to follow this advice:

- The Constitution prevents you from being searched in unreasonable circumstances. See e.g., [4th Amendment](#); [Mapp v. Ohio, 367 U.S. 643, IV-V](#)
- You do have to identify yourself to the police when asked. See e.g., [Hiibel v. Sixth Judicial District Court of Nevada, Humboldt City, 542 U.S. 177, pg. 1 \(2004\)](#); [24 V.S.A. § 1983](#)
- You can refuse to consent to a search, despite what a police officer may say.

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

The police cannot search your belongings without your permission or permission from the court, known as a warrant. You can withdraw your consent at any time, but until you do, the police can continue to conduct the search. See e.g., [4th Amendment](#)

In addition, officers are prohibited from conducting “unreasonable” searches and seizures. Unreasonable can refer to anything that is inappropriate, aggressive, over the top, or harmful to you or anyone involved. See e.g., [4th Amendment](#); [Vermont Constitution, Article I § 11](#)

You cannot be forced to give any government or law enforcement official testimony (evidence) that could incriminate you in court. See e.g., [5th Amendment](#); [Malloy v. Hogan, 378 U.S. 1, pg. 1 \(1964\)](#)

Police may pay down your clothing if they “reasonably” believe that you have a weapon, and that someone’s safety may be at risk because of that weapon. If you are under 16 years old, it is illegal to carry a handgun in public or anywhere else where you do not have permission. See e.g., [Terry v. Ohio, 392 U.S. 1 \(1968\)](#); [13 V.S.A. § 4008](#)

If you are arrested, the officer may search you and your belongings, as they have probable cause to do so. This may include your backpack if it is within arm’s reach or you are wearing it at the time. This may also include your vehicle if it’s within your vicinity at the time of searching, or if you are driving it at the time of searching. See e.g., [United States v. Robinson, 414 U.S. 218, pg. 1 \(1973\)](#); [Vermont Constitution, Article I § 11](#)

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.

See e.g., [13 V.S.A. § 4954](#); [13 V.S.A. § 5041](#)

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

The police can only stop you if they have a “reasonable suspicion” that you have committed, are committing, or are about to commit a crime. Even if you are not doing anything, if the police think something is suspicious, they can stop you. See e.g., [Terry v. Ohio, 392 U.S. 1 \(1968\)](#); [State v. Pratt, 2007 VT 68, 932 A.2d 1039, 182 Vt. 165, 2007 Vt. 68](#)

Can I ask for the reason they stopped me?

You may ask why you are being stopped, but the police are not required to tell you unless you are under arrest. See e.g., [State v. Pontbriand, 2005 VT 20, 178 Vt. 120, 878 A.2d 227](#)

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

Advocating for another young person stopped by police is risky, as you can be arrested for interfering with law enforcement in any way. See e.g., [13 V.S.A. § 3018](#)

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

If you believe your rights have been violated during your interaction with law enforcement, you can file a written complaint with the [Vermont State Police Internal Affairs Unit](#). These complaints are addressed by either a commander in the area where the incident occurred or through an investigation conducted by the Office of Internal Affairs. In addition, you are not required to speak with the police or answer any questions they might ask you. See e.g., [5th Amendment](#); [Malloy v. Hogan, 378 U.S. 1, pg. 1 \(1964\)](#)

However, resisting the police is never a good idea, as you can be arrested for interfering with law enforcement in any way. See e.g., [13 V.S.A. § 3018](#)

It should be noted that you must identify yourself (your name, address, and what you're doing) to a law enforcement officer if asked. You risk arrest if you fail to identify yourself in a situation where the police reasonably believe that you are involved in criminal activity or if they believe that you are a threat to public safety. However, you can tell the officer you wish to exercise your right to remain silent under the [5th Amendment](#). See e.g., [Hiibel v. Sixth Judicial District Court of Nevada, Humboldt City, 542 U.S. 177, pg. 1 \(2004\)](#); [24 V.S.A. § 1983](#)

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

Yes, you can ask the officer in badge number. And since all Vermont State Police officers are required to wear body cameras, you can contact the agency the officer works for and review the recording of the encounter with the officer's supervisor. [Montpelier PD - Rules and Regulations of Conduct](#); [Montpelier PD - Body Camera Statewide Policy](#)

How Do You Know If You Are Under Arrest?

Proposed Information

It is important to follow this advice:

- You are likely under police custody if you do not feel free to leave an officer's presence, or if a person in your shoes would not reasonably 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 a Miranda Warning is still a valid arrest; it just may mean that evidence collected from it is not admissible in court later. See e.g., [Miranda v. Arizona, 384 U.S. 436 \(1966\)](#)

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

You can ask if you are being detained, being arrested, or are free to leave. If you are being detained/arrested and are unable to leave, it is not a good idea to resist. See e.g., [13 V.S.A. § 3017](#)

In either case, you are not required to speak with or provide any information to police. You have the right to remain silent. See e.g., [5th Amendment](#); [Malloy v. Hogan, 378 U.S. 1, pg. 1 \(1964\)](#)

What is the difference between detention and arrest?

If a police officer is reasonably suspicious that you either committed a crime or are about to, they can detain you, but only for a brief period of time. If you are detained, you are not arrested, so you are not considered to be in police custody. If you are arrested, the police have to have probable cause, and you are officially in custody. See e.g., [Terry v. Ohio, 392 U.S. 1 \(1968\)](#)

If my liberty is restricted, am I under arrest?

If the restriction on liberty is significant, likely yes. You are deemed to be in custody when you are deprived of your freedom of action in any significant way. See e.g., [Miranda v. Arizona, 384 U.S. 436 \(1966\)](#); [State v. Kolts, 205 A.3d 504 \(Vt. 2018\)](#)

However, your liberty can also be restricted if you are being detained by police, not arrested. This detainment can take many forms. See e.g., [United States v. Hensley, 469 U.S. 221 \(1985\)](#)

For example, the officer can ask for your identity, to which you must identify yourself (your name, address, and what you're doing) to a law enforcement officer if asked. You risk arrest if you fail to identify yourself in a situation where the police reasonably believe you are involved in a criminal activity or if they believe that you are a threat to public safety. However, you can tell the officer you wish to exercise your right to remain silent under the [5th Amendment](#). See e.g., [Hiibel v. Sixth Judicial District Court of Nevada, Humboldt City, 542 U.S. 177, pg. 1 \(2004\)](#); [24 V.S.A. § 1983](#)

Police may pat down your clothing if they "reasonably" believe that you have a weapon, and that someone's safety may be at risk because of that weapon. If you are under 16 years old, it is illegal to carry a handgun in public or anywhere else where you do not have permission. See e.g., [Terry v. Ohio, 392 U.S. 1 \(1968\)](#); [13 V.S.A. § 4008](#)

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); for example, by 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. See e.g., [5th Amendment](#); [6th Amendment](#); [Miranda v. Arizona, 384 U.S. 436 \(1966\)](#)*

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

If the police start questioning you but haven't read you your Miranda Rights (right to remain silent, right to an attorney, etc.), then they can't use anything you say as direct evidence against you in court. Only after they read you your rights can they use anything you say against you in court. See e.g., [5th Amendment](#); [6th Amendment](#); [Miranda v. Arizona, 384 U.S. 436 \(1966\)](#)

If you are read your rights, it means you are in police custody. The important part is that the police have said or done something to make you think you are no longer free to leave. See e.g., [Miranda v. Arizona, 384 U.S. 436 \(1966\)](#); [State v. Kolts, 205 A.3d 504 \(Vt. 2018\)](#)

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

No. You must be read your rights upon arrest, no matter where you are being arrested. This could happen on the street, in the police car, or later at the police station. See e.g., [Miranda v. Arizona, 384 U.S. 436 \(1966\)](#)

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. See e.g., [5th Amendment; Malloy v. Hogan, 378 U.S. 1, pg. 1 \(1964\)](#)
- 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. See e.g., [13 V.S.A. § 5511](#)

Am I required to make a statement?

No, you are not required to make a statement. You have the right to remain silent. See e.g., [5th Amendment; Malloy v. Hogan, 378 U.S. 1, pg. 1 \(1964\)](#)

You also have the right to have an attorney present during questioning, and one can be provided to you if you cannot afford one. Any information you talk with your lawyer about will be kept private by your lawyer. See e.g., [6th Amendment; Gideon v. Wainwright, 372 U.S. 335 \(1963\)](#)

Must police notify my guardian?

If you are taken into custody and if you are under the age of 18, a law enforcement officer must try to notify your parent(s) or guardian as soon as they can. See e.g., [13 V.S.A. § 5511](#)

Must I confess?

No, you are not required to confess to police, nor can police force you to do so. You have the right to remain silent. See e.g., [5th Amendment; Malloy v. Hogan, 378 U.S. 1, pg. 1 \(1964\)](#)

What adults can I ask to be with me?

If you are taken into custody and if you are under the age of 18, a law enforcement officer must try to notify your parent(s) or guardian as soon as they can. See e.g., [13 V.S.A. § 5511; In re E. T. C., 141 Vt. 375, 449 A.2d 937 \(1982\)](#)

You also have the right to have an attorney present during questioning, and one can be provided for you if you can't afford one. Any information you talk with your lawyer about will be kept private by your lawyer. See e.g., [6th Amendment; Gideon v. Wainwright, 372 U.S. 335 \(1963\)](#)

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

If you are taken into custody and if you are under the age of 18, a law enforcement officer must try to notify your parent(s) or guardian as soon as they can. See e.g., [13 V.S.A. § 5511](#)

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 police only want to question you and/or 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 can 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. See e.g., [6th Amendment](#); [Gideon v. Wainwright, 372 U.S. 335 \(1963\)](#)

What if I am just a witness?

If you are just a witness, police may still question you. To detain you as a witness, the police must identify themselves. From there, police can demand identification to which you must identify yourself (your name, address, and what you're doing) to a law enforcement officer if asked. You risk arrest if you fail to identify yourself in a situation where the police reasonably believe that you are involved in criminal activity or if they believe that you are a threat to public safety. See e.g., [Hiibel v. Sixth Judicial District Court of Nevada, Humboldt City, 542 U.S. 177, pg. 1 \(2004\)](#); [24 V.S.A. § 1983](#)

However, you do have the right to remain silent, to which you should tell the officer you are exercising this right if so. See e.g., [5th Amendment](#); [Malloy v. Hogan, 378 U.S. 1, pg. 1 \(1964\)](#)

You also have the right to have an attorney present during questioning, and one can be provided to you if you can't afford one. Any information you talk with your lawyer about will be kept private by your lawyer. See e.g., [6th Amendment](#); [Gideon v. Wainwright, 372 U.S. 335 \(1963\)](#)

If you are a witness to a crime and are legally summoned to appear in court, you are required to appear in court at the designated date, time, and place. If you refuse to attend and testify, you can be fined \$10 to \$100 or put in prison for up to six months, or both. See e.g., [13 V.S.A. § 6603](#)

You may receive some compensation for the time and expense of going to the court to testify. You may receive \$0.10/mile for the ordinary traveled route to and from the court, plus \$10.00/day for each day you are required to travel and attend as a witness. This is paid by the party who requested your appearance at court. See e.g., [13 V.S.A. § 6647](#)

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 an investigation. This includes lying about the strength of the case they have against you and evidence they have in their possession.
- Sometimes police will lie to try and get you to talk more.
- See e.g., [United States v. Russell, 411 U.S. 423 \(1973\)](#)

Can the police lie to me?

Yes, the police can lie. The police cannot physically hurt you, threaten you or use drugs to make you confess to something or to obtain information from you. See e.g., [United States v. Russell, 411 U.S. 423 \(1973\)](#)

Do I have to tell the police the truth?

Yes, lying to the police could result in you being charged with a crime. You risk arrest if you provide false information to law enforcement. See e.g., [13 V.S.A. § 1754](#)

However, you do have the right to remain silent. You should tell the officer you are exercising this right if so. See e.g., [5th Amendment](#); [Malloy v. Hogan, 378 U.S. 1, pg. 1 \(1964\)](#)

You also have the right to have an attorney present during questioning, and one can be provided to you if you can't afford one. Any information you talk with your lawyer about will be kept private by your lawyer. See e.g., [6th Amendment](#); [Gideon v. Wainwright, 372 U.S. 335 \(1963\)](#)

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:

If possible, you should write down the officers' badge and patrol car numbers and everything else you remember about the incident. Try to find witnesses and their names and phone numbers. If you are injured, seek medical attention and take photographs of the injuries as soon as possible.

You do not need to complain on the scene or tell the police they're wrong or that you're going to file a complaint. Complaints about officer behavior can be submitted to the Vermont State Police Department's Internal Affairs Division [HERE](#) or via email (DPS.IAComplaint@vermont.gov). You can also submit complaints to the City of Montpelier Police Department by completing this [form](#) in person with an on-duty supervisor or via the mail.

You may also call the Vermont ACLU at 1-802-223-6304 or submit a request for legal assistance [HERE](#).

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

Proposed Information

It is important to follow this advice:

Complaints about an officer you believe has exhibited discrimination or racism can be submitted to the Vermont State Police Department's Internal Affairs Division [HERE](#) or via email (DPS.IAComplaint@vermont.gov). You can also submit complaints to the City of Montpelier Police Department by completing this [form](#) in person with an on-duty supervisor or via the mail.

You may also call the Vermont ACLU at 1-802-223-6304 or submit a request for legal assistance [HERE](#).

You can also speak with a lawyer with experience in police misconduct or civil rights law to help evaluate your case and guide you through the legal process.

How can I respond to circumstances involving discrimination?

Proposed Information

It is important to follow this advice:

If you were involved in circumstances involving discrimination, complaints about an officer can be submitted to the Vermont State Police Department's Internal Affairs Division [HERE](#) or via email (DPS.IAComplaint@vermont.gov). You can also submit complaints to the City of Montpelier Police Department by completing this [form](#) in person with an on-duty supervisor or via the mail.

You may also call the Vermont ACLU at 1-802-223-6304 or submit a request for legal assistance [HERE](#).

You can also speak with a lawyer with experience in police misconduct or civil rights law to help evaluate your case and guide you through the legal process.

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 you believe that an officer improperly detained or searched you, a complaint can be submitted to the Vermont State Police Department's Internal Affairs Division [HERE](#) or via email (DPS.IAComplaint@vermont.gov). You can also submit complaints to the City of Montpelier Police Department by completing this [form](#) in person with an on-duty supervisor or via the mail.

You may also call the Vermont ACLU at 1-802-223-6304 or submit a request for legal assistance [HERE](#).

You can also speak with a lawyer with experience in police misconduct or civil rights law to help evaluate your case and guide you through the legal process.

Disclaimer

The materials and content provided on this website are for general information only and are not intended as legal advice. Although we strive to provide accurate and up to date legal information, we cannot promise it is error free or that it is suitable for your specific concerns. Therefore, you should contact an attorney to obtain legal advice for any issue specific to your situation. If you use the materials and information provided on this site or links to other websites, it does not create an attorney-client relationship between us or any providers of information you find on this website, and we take no responsibility for any information linked to this website.

The materials and content are provided as-is with no warranty of any kind. We disclaim all express and implied warranties, including the implied warranties of merchantability, fitness for particular purpose. Under no circumstances will we or our contributors be liable for any consequential, indirect, incidental, special or punitive damages or lost profits, whether foreseeable or unforeseeable, under any legal theory. Some states do not allow the exclusion of implied warranties or the limitation of incidental or consequential damages, so the above limitation and exclusions may not apply to you.

Please note that the Real Rights Platform is in development and does not represent the final version of the work product. We will continue to update this Real Rights Platform as updates and edits are received across the globe.

Baker McKenzie International is a Swiss Verein with member law firms around the world. In accordance with the common terminology used in professional service organizations, reference to a "partner" means a person who is a partner, or equivalent, in such a law firm. Similarly, reference to an "office" means an office of any such law firm.

Law is generally described as of August 2021.

[back to top](#)