

Real Rights: young people engaging with law enforcement

 Netherlands



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

Rights:

What rights do I have when I encounter law enforcement?

Question Asked

- Stopped By The Police On The Street, Now What?
- When Can Police Search You and Your Surroundings?
- Reasons Police May Detain or Arrest You
- The Difference Between Police TELLING Me What To Do And Asking Me To Do Something
- Do Police Need A Warrant To Arrest You?
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- Police Questioning You
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- 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 or resist, even if you are innocent or think the officer is acting unfairly or unlawfully.
- Speak carefully and clearly. It is not a good idea to lie or give false information. Anything you say can be used against you in a court of law.
- Do not touch the officer. Keep your hands where the officer can see them.

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

No. You are entitled to a number of rights under the Dutch Code of Criminal Procedure, including the right to remain silent when being questioned by a judge or officer. Before you are questioned for a suspected crime, the judge or officer must inform you that you are not

obliged to answer any questions. Moreover, judges and officers are restricted in the kinds of questions they can ask you. Judges and officers must refrain from any act aimed at obtaining a statement that is not freely given by you.

However, note that judges and officers are generally entitled to ask you questions about your identity and request proof of identification.

Source:

[Section 27a\(2\) Code of Criminal Procedure \(*Wetboek van Strafvordering*\)](#)

[Section 29\(1\)\(2\) Code of Criminal Procedure \(*Wetboek van Strafvordering*\)](#)

[https://legislationline.org/sites/default/files/documents/d2/Netherlands CPC am2012 en.pdf](https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf)¹

What if the police officer is not in uniform or do not identify himself or herself as an officer?

Police officers have investigative powers that they can exercise whether or not they are in uniform and whether or not they are currently working a shift. This means officers can exercise their police powers while off duty, even when they are in plain clothes and not in uniform. However, officers in plain clothes must provide you with proof of their identity **without being asked**. This obligation is clearly stipulated in the federal guidance on police codes of conduct (linked below).

Thus, if someone wearing ordinary clothing tells you that he or she is an officer, remember that he or she is obligated to show you his or her police identification card, even if you did not ask for it. If the officer does not show you any proof of identity, it may be a good idea to politely ask the officer to show you his or her police identification.

On the other hand, officers in uniform only have to show you their proof of identity if you ask them to see it. If someone is reluctant to show you his or her proof of identity, there is a risk that the person is not being truthful. Be careful of these situations.

Source:

<https://www.government.nl/topics/police/police-powers>

What if a police officer just starts speaking to you but does not order you to do anything?

Under the Dutch Code of Criminal Procedure, you have the right to remain silent when you are being asked questions by an officer. This means that you generally do not have to answer or speak to the officer if you do not wish to do so. For example, you are not required to answer any questions about where you are going or what you are doing. It may be a good idea to say so out loud if you want to exercise your right to remain silent.

However, the officer does have the right to order you to show your identity through an identity document (for example, by showing your driver's license), but you are only required to do so if this is requested by the officer. Otherwise, if an officer just starts talking to you, while it may be a good idea to cooperate, remember that you generally do not have to answer if you do not wish to do so. You may consider speaking to a lawyer or a parent or guardian before answering any questions about a crime.

Source:

[Section 29\(2\) Code of Criminal Procedure \(*Wetboek van Strafvordering*\)](#)

[https://legislationline.org/sites/default/files/documents/d2/Netherlands CPC am2012 en.pdf](https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf)

¹ Please note that this is an uncertified translation. Under all circumstances the original text in Dutch language of the Code of Criminal Procedure (*Wetboek van Strafvordering*) prevails.

Can you tell the police officer that you do not want to speak without a lawyer?

Yes. The Dutch Code of Criminal Procedure makes clear that suspects and defendants are entitled to speak to a lawyer when being questioned by a judge or police officer. You can either choose and hire your own lawyer, or if you cannot afford one, you have the right to have a government-appointed lawyer. Thus, if you are being suspected of a crime and asked questions by a judge or officer, you can choose to remain silent and request to have a lawyer present before you answer any questions asked by a judge or officer. Remember that if you do not already have a lawyer or cannot afford one, you can wait until a lawyer is appointed for you before answering any questions.

If you want to exercise this right, you should avoid ambiguous statements such as "Maybe I should talk to a lawyer." Instead, state clearly that "I want to remain silent" and "I want to talk to a lawyer," and you do not need to give any explanations or excuses for making such request. If you decide to seek the assistance of a lawyer, it is not a good idea to say anything, sign anything, or make any decisions without your lawyer's presence.

Source:

[Section 28\(1\)\(2\) Code of Criminal Procedure \(*Wetboek van Strafvordering*\)](#)

[Section 29\(2\) Code of Criminal Procedure \(*Wetboek van Strafvordering*\)](#)

[https://legislationline.org/sites/default/files/documents/d2/Netherlands CPC am2012 en.pdf](https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf)

If you sit down, are you resisting?

It depends on the circumstances. Generally, the act of "resistance" under the Dutch Criminal Code requires resisting by an act of violence or by a threat of violence, such as by forcefully pushing off an officer when he or she is trying to arrest you. A person is guilty of the crime of resisting if the person resists a civil servant when the civil servant is lawfully performing his or her duties or a private citizen who is assisting that civil servant to do so.

Resisting can be a serious offense and is punishable for up to one year in prison. Thus, when interacting with an officer, it may be risky to sit down, especially if the officer has asked you to stand. Listen to what the officer is asking you to do during the full interaction, because it is not a good idea to refuse complying with the officer's orders. A better strategy may be to simply stay silent and request to speak to a lawyer or a parent or guardian. It is also best to keep your hands where the officer can see them at all times.

Source:

[Section 180 Criminal Code \(*Wetboek van Strafrecht*\)](#)

<https://antislaverylaw.ac.uk/wp-content/uploads/2019/08/Netherlands-Criminal-Code.pdf>²

If you are stopped in a group and some kids run, can you run?

Running from a police officer is not a good idea. First, even if you have not committed any criminal offense, running could be interpreted under the Dutch Criminal Code as resisting officer or preventing officer from performing an official act. Both offenses could lead to jail times if you are ultimately found guilty.

Second, running from an officer can be extremely dangerous, as it can raise tensions and force the officer to make decisions in the heat of the moment, increasing the chance that the officer will use physical force against you. An alternative and better approach would be to simply remain silent, request to speak to a lawyer, a parent or guardian, and cooperate with the officer.

² Please note that this is an uncertified translation. Under all circumstances the original text in Dutch language of the Criminal Code (*Wetboek van Strafrecht*) prevails.

Source:

[Section 179 Criminal Code \(Wetboek van Strafrecht\)](#)

[Section 180 Criminal Code \(Wetboek van Strafrecht\)](#)

<https://antislaverylaw.ac.uk/wp-content/uploads/2019/08/Netherlands-Criminal-Code.pdf>

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

It is not a good idea to tell others to run for the same reasons why it would not be a good idea for you to run from a police officer. First, even if they have not committed any criminal offense, running could be interpreted under the Dutch Criminal Code as resisting police or preventing officer from performing an official act. Both offenses could lead to jail times if someone is ultimately found guilty.

Second, running from an officer can be extremely dangerous, as it can raise tensions and force the officer to make decisions in the heat of the moment, increasing the chance that the officer will use physical force against the person. An alternative and better approach would be to recommend others to simply remain silent, request to speak to a lawyer, a parent or guardian, and cooperate with the officer.

Source:

[Section 179 Criminal Code \(Wetboek van Strafrecht\); Section 180 Criminal Code \(Wetboek van Strafrecht\)](#)

<https://antislaverylaw.ac.uk/wp-content/uploads/2019/08/Netherlands-Criminal-Code.pdf>

If the police officer's language is not your first language, what should you do?

From the moment you are first arrested, if you do not understand Dutch or are not comfortable speaking in Dutch, you can request the help of an interpreter. As soon as you request the help of an interpreter, the police officer is authorized to appoint one for you under the Dutch Code of Criminal Procedure. This includes, in the case of a suspect who cannot hear or speak, or who has difficulty hearing or speaking, assistance by a suitable person as an interpreter. Initially, the officer assesses whether the suspect has (sufficient) command of the Dutch language. If the officer and the suspect have a difference of opinion regarding the choice of language, the officer contacts the (assistant) public prosecutor, who will then decide on the matter. When in doubt, his principle is that an interpreter is always called in.

If your request is granted and an interpreter is appointed for you, the interpreter is required to perform their duties in good conscience, meaning they must act professionally and objectively.

Source:

[Section 29b Code of Criminal Procedure \(Wetboek van Strafvordering\); Section 131b Code of Criminal Procedure \(Wetboek van Strafvordering\)](#)

[Section 5\(2\) and Section 6\(3\) of the European Convention on Human Rights \(Europees Verdrag van de Rechten van de Mens\)](#)

<https://www.om.nl/onderwerpen/beleidsregels/aanwijzingen/algemeen/aanwijzing-bijstand-van-tolken-en-vertalers-bij-de-opsporing-en-vervolg#::~:~:text=Op%20grond%20van%20art.,politieverhoor%20bijgestaan%20door%20een%20tolk>

If you did not do anything, can they stop you?

Under the Dutch Code of Criminal Procedure, you have the right to remain silent when you are being asked questions by an officer. This means that you generally do not have to

answer or speak to the officer if you do not wish to do so. For example, you are not required to answer any questions about where you are going or what you are doing. It may be a good idea to say so out loud if you want to exercise your right to remain silent.

However, the officer does have the right to order you to show your identity through an identity document (for example, by showing your driver's license), but you are only required to do so if this is requested by the officer. Otherwise, if an officer just starts talking to you, while it may be a good idea to cooperate, remember that you generally do not have to answer if you do not wish to do so.

Source:

[Section 29\(2\) Code of Criminal Procedure \(*Wetboek van Strafvordering*\)](#)

https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf

When can police search you and your surroundings?

Proposed Information

It is important to follow this advice:

- You have the right to say no to searches of your person without a warrant.
- You have the right to say no to searches of your car, house, or other surroundings without a warrant.
- You cannot be arrested for refusing to consent to a search without a warrant.
- A warrant is a court order so you have no choice but to consent.

What if a police officer wants to search your phone?

A police officer can search a smartphone as long as it does not disproportionately infringe on the owner's privacy. Based on a 2017 Dutch Supreme Court judgment, an officer's access to a device is restricted and they cannot get full access to the owner's contacts, call history, messages, and photos. If the search goes as far as to provide a complete image of the personal life of its owner, the search could constitute a violation of the right to privacy guaranteed under the European Convention on Human Rights and the Netherlands Constitution. This can be the case if the officer analyzes data on a smartphone systematically using a technical system. If the officer wants to do this, he or she must first obtain permission from the public prosecutor or judge-commissioner, such as by means of a search warrant.

Source:

<https://www.liberties.eu/en/stories/dutch-police-can-search-smartphone/11769>

What if a police officer asks you for your password or other access to your phone?

A suspect cannot be forced to provide a police officer his or her phone's password, as such request goes against the principle that a suspect cannot be forced to cooperate with his or her own conviction.

However, officers are generally allowed to order suspects to unlock their phone with a fingerprint scan or other biometric data. According to a 2019 court decision in Netherlands, this method does not conflict with the principle that a suspect cannot be forced to cooperate with his or her own conviction. This act is considered lawful because placing the thumb against the fingerprint scanner does not require "active cooperation" from the suspect and is therefore only a limited infringement of physical integrity.

If you are asked by an officer to provide access to your phone, consider request speaking to a lawyer or parent before agreeing to do so.

Source:

<https://nltimes.nl/2019/03/01/dutch-police-allowed-force-suspects-unlock-phone-fingerprint-court-rules>

What tools or technology (facial recognition, hidden cameras, finger print searches, etc.) can a police officer use to search you?

The Dutch police uses different biometric identification services to conduct searches. Specifically, suspects and criminal defendants are required under the Dutch Code of Criminal Procedure to comply with orders from officers to provide their fingerprints. The Dutch police has also adopted a facial recognition solution that allows the officers to submit a facial image for search against databases of previously collected facial images.

Source:

[Section 27\(a\) Code of Criminal Procedure \(*Wetboek van Strafvordering*\)](#)

https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf

<https://www.biometricupdate.com/201703/dutch-police-use-safran-facial-recognition-technology-to-help-identify-suspects>

Can a police officer search your backpack or other items you are carrying?

If you commit a crime in the presence of a police officer or are suspected of having committed a serious offense, an investigating officer may search any place for the purpose of arresting you. Unless in the case of an emergency, the investigating officer must be authorized by the public prosecutor to conduct the search.

An officer also has the power to search the clothing of a suspect stopped for questioning or arrested and examine the objects he or she is carrying on or with him or her if it is necessary to establish that person's identity.

Source:

[Section 55\(a\) and 55\(b\) Code of Criminal Procedure \(*Wetboek van Strafvordering*\)](#)

https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf

Can a police officer take your picture or record you?

A police officer should be able to establish your identity by asking for your name, date of birth, address, and ID card, meaning in most cases, an officer should not need to take your picture or record you. An officer may take a photo of you and get your fingerprints in order to establish your identity if you are arrested or are being questioned for a serious offense. However, there are specific rules that the officers need to follow regarding the use and processing of your photo.

You should be aware that sometimes, an officer may wear a small but visible body camera. These cameras record police actions as well as your actions to provide visual and audio evidence of an event if necessary.

Source:

[Section 27\(a\)\(1\) Code of Criminal Procedure \(*Wetboek van Strafvordering*\);
Section 55\(c\)\(2\)\(3\) Code of Criminal Procedure \(*Wetboek van Strafvordering*\)](#)

https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf

Can a police officer ask you where you are going and why?

Yes, a police officer can ask you where you are going and why, but under the Dutch Code of Criminal Procedure, you have the right to remain silent when you are being asked questions by an officer. This means that you generally do not have to answer or speak to the officer if you do not wish to do so. It may be a good idea to say so out loud if you want to exercise your right to remain silent.

However, the officer does have the right to order you to show your identity through an identity document (for example, by showing your driver's license), but you are only required to do so if this is requested by the officer. Otherwise, if an officer just asks you where you are going, while it may be a good idea to cooperate, remember that you generally do not have to answer if you do not wish to do so. You may consider speaking to a lawyer or a parent or guardian before answering any questions about a crime.

Source:

[Section 28 Code of Criminal Procedure \(Wetboek van Strafvordering\); Section 29\(2\) Code of Criminal Procedure \(Wetboek van Strafvordering\).](#)

[https://legislationline.org/sites/default/files/documents/d2/Netherlands CPC_am2012_en.pdf](https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf)

Reasons the police may detain or arrest you

Proposed Information

It is important to follow this advice:

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

What if you did not do anything illegal, are you required to speak to the police officer and answer questions?

No, you are not required to speak to the police officer. Under the Dutch Code of Criminal Procedure, you have the right to remain silent when you are being asked questions by an officer. This means that you generally do not have to answer or speak to the officer if you do not wish to do so. It may be a good idea to say so out loud if you want to exercise your right to remain silent. Moreover, judges and officers are restricted in the kinds of questions they can ask you. Judges and officers must refrain from any act aimed at obtaining a statement that is not freely given by you.

However, note that judges and officers are generally entitled to ask you questions about your identity and request proof of identification. While it may be a good idea to cooperate, remember that you generally do not have to answer if you do not wish to do so. You may consider speaking to a lawyer or a parent or guardian before answering any questions about a crime.

Source:

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[Section 28 Code of Criminal Procedure \(Wetboek van Strafvordering\)](#)

[Section 29\(2\) Code of Criminal Procedure \(Wetboek van Strafvordering\)](#)

[Section 29\(a\)\(2\) Code of Criminal Procedure \(Wetboek van Strafvordering\)](#)

https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf

What if the police officer tells you something they are investigating and you know it is wrong? Do you need to correct them?

No, you are generally not required to correct the police officer or say anything. Under the Dutch Code of Criminal Procedure, you have the right to remain silent when you are being asked questions by an officer. This means that you generally do not have to answer or correct the officer if you do not wish to do so. If you are unsure whether you should correct an officer or speak to the officer at all, consider speaking to a lawyer or a parent or guardian for additional advice first. Remember that any statement voluntarily made to the officer could ultimately be used against you and it is a good idea to think very carefully before you say anything.

Source:

[Section 29\(2\) Code of Criminal Procedure \(Wetboek van Strafvordering\)](#)

https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf

What if a police officer just starts talking to you but does not order you to do anything?

Under the Dutch Code of Criminal Procedure, you have the right to remain silent when you are being asked questions by an officer. This means that you generally do not have to answer or speak to the officer if you do not wish to do so. For example, you are not required to answer any questions about where you are going or what you are doing. It may be a good idea to say so out loud if you want to exercise your right to remain silent.

However, the officer does have the right to order you to show your identity through an identity document (for example, by showing your driver's license), but you are only required to do so if this is requested by the officer. Otherwise, if an officer just starts talking to you, while it may be a good idea to cooperate, remember that you generally do not have to answer if you do not wish to do so. You may consider speaking to a lawyer or a parent or guardian before answering any questions about a crime.

Source:

[Section 29\(2\) Code of Criminal Procedure \(Wetboek van Strafvordering\);](#)

https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf

What is the legal difference between talking to a police officer before being told you are under arrest, versus after you are informed that you are under arrest?

You generally do not have an obligation to speak to a police officer either before or after being arrested. Under the Dutch Code of Criminal Procedure, you have the right to remain silent when you are being asked questions by an officer, meaning you generally do not have to answer or speak to the officer if you do not wish to do so. You also have a right to talk to a lawyer when being questioned by an officer either before or after being arrested. While it may be a good idea to cooperate, remember that you generally do not have to answer if you do not wish to do so. You may consider speaking to a lawyer or a parent or guardian before answering any questions about a crime.

Source:

[Section 28 Code of Criminal Procedure \(Wetboek van Strafvordering\)](#)

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

Proposed Information

It is important to follow this advice:

- Anything found during a search and any statement you made to the police officer can be used as evidence against you.
- It is a good idea to not consent to a search and not voluntarily provide information to the officer.

What is the difference between the police officer deciding to search you or your belongings (for example phone, backpack) and you agreeing to the search?

When you agree or give permission to a police officer searching your person or belongings (for example, backpack, phone), you are essentially waiving your rights to later raise a defense during court proceedings that the officer did not have a right to lawfully carry out the search. Officers are only allowed to search your person and belongings in certain limited circumstances, and they will generally need to prove during a trial that they satisfied the necessary criteria to be entitled to such a right. Therefore, it may generally be a better idea to not give permission to a search and make sure the officer knows you do not agree by clearly stating that "I do not consent to a search." They might search you anyway, but you should make your opposition known. If they do in fact carry out a search, it is a good idea to cooperate with the officer and you can later speak to your lawyer about whether the evidence discovered during the search should be excluded in court.

Source:

[Section 95 Code of Criminal Procedure \(Wetboek van Strafvordering\)](#)

[Section 96 Code of Criminal Procedure \(Wetboek van Strafvordering\)](#)

[https://legislationline.org/sites/default/files/documents/d2/Netherlands CPC am2012 en.pdf](https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf)

What if the police officer asks you to give them information?

Under the Dutch Code of Criminal Procedure, you have the right to remain silent when you are being asked questions by a police officer, meaning you generally do not have to answer or speak to the officer if you do not wish to do so. Therefore, when asked to provide them with information, you can lawfully decline to do so and it is a good idea to do so respectfully even when it is within your rights to do so to minimize tension.

Volunteering any statements to the officer can be risky as any statement voluntarily made could ultimately be used as evidence against you if you are arrested and your case proceeds to trial. Before volunteering any information to an officer, it is a good idea to first talk to a lawyer or a parent or guardian. Remember that even if you do not already have a lawyer or cannot afford one, you have the right to a government-appointed lawyer.

Source:

[Section 28 Code of Criminal Procedure \(Wetboek van Strafvordering\)](#)

[Section 29\(2\) Code of Criminal Procedure \(Wetboek van Strafvordering\)](#)

[https://legislationline.org/sites/default/files/documents/d2/Netherlands CPC am2012 en.pdf](https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_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 officer; or
 - When the officer has probable cause (reason to suspect) that the suspect committed a felony, whether or not the act was done in front of them.

If you did not do anything, can a police officer stop you?

Yes. However, if a police officer stops you, the officer will tell you which offence he or she is stopping you for. If he then wants to interrogate you on the street, he or she will tell you that you have the right to remain silent. It is also possible that you will be arrested and taken to the police station for questioning. Before the interrogation, the officer will inform you about your right to seek advice from a lawyer. Remember that volunteering any statements to the officer can be risky as any statement voluntarily made could ultimately be used as evidence against you if you are arrested and your case proceeds to trial. Before volunteering any information to an officer, it is a good idea to first talk to a lawyer or a parent or guardian. Note that even if you do not already have a lawyer or cannot afford one, you have the right to a government-appointed lawyer.

Source:

[Section 28 Code of Criminal Procedure \(Wetboek van Strafvordering\)](#)

[Section 29 Code of Criminal Procedure \(Wetboek van Strafvordering\)](#)

https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf

Can you ask for the reason that a police officer has stopped you?

Yes. If a police officer stops you, he or she should tell you the reason and offence they have stopped you for.

Source:

<https://www.politie.nl/informatie/welke-informatie-krijg-ik-bij-een-staandehouding.html>

[Section 27c Code of Criminal Procedure \(Wetboek van Strafvordering\)](#)

https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf

If you are stopped by a police officer with another young person, can you advocate for the young person?

A more appropriate course of action would be to inform the young person of the following rights they have:

- the right to stay silent and not to answer any questions;
- the right to have a lawyer present before answering any questions; and
- the right to have a parent or guardian present.

Source:

[Section 28 Code of Criminal Procedure \(Wetboek van Strafvordering\)](#)

https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf

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

Police officers can stop and question you if they have a good reason to suspect that you have committed a crime. If you are stopped and you believe the officer is not justified to stop you, you should consider speaking to a lawyer as soon as possible. If you are being questioned, the officer must let you know you have the right to remain silent and must not force you to answer any questions.

If the officer decides to arrest you, it is generally a good idea to remain calm and cooperate with the officer during the arrest and not argue or resist the officer even if you think you are being wrongfully arrested. Not cooperating during an arrest can be risky as it can raise tensions and increase the chance that the officer will use physical force against you or charge you for resisting arrest. Cooperating with the officer will not undermine your ability to pursue a legitimate claim later. Indeed, it will help with your case. You have the right to remain silent and request to speak to a lawyer, a parent or a guardian. If the officer is indeed unjustified to make the arrest, your lawyer and/or parent or guardian will be able to assist you at a later time. In other words, it is generally best to cooperate first and complain later.

Source:

[Section 29 Code of Criminal Procedure \(*Wetboek van Strafvordering*\)](#)

[Section 52 Code of Criminal Procedure \(*Wetboek van Strafvordering*\)](#)

https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf

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

Yes, you can ask a police officer for proof of identity and it is a good idea to do so respectfully.

Officers in plain clothes are required to provide you their proof of identity without being asked. This obligation is clearly stipulated in the federal guidance on police codes of conduct (linked below). Thus, if someone wearing ordinary clothing tells you that he or she is an officer, remember that he or she is obligated to show you his or her police identification card even if you did not ask for it. If the officer does not show you any proof of identity, it may be a good idea to politely ask the officer to show you his or her police identification. Officers in uniform only have to show you their proof of identity if you ask them to.

Source:

<https://www.government.nl/topics/police/police-powers>

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 a police 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.

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- An officer only has to warn you of your rights before questioning you. This means an officer can arrest you before warning you of your rights.
- An arrest without warning about your rights is still a valid arrest; it just means that evidence collected from it may not be admissible in court later.

What if you do not know if you are under arrest?

The quintessential example of being under arrest is the use of handcuffs and if the officer tells you that you are under arrest. Being informed of certain rights including the right to remain silent and seek the assistance of a lawyer is also an indicator that you have been arrested. If you are unsure whether you have been arrested, you can ask the police officer respectfully.

When you have been arrested and taken to a police station, the officer must tell you what criminal offence they suspect you have committed. It is a good idea to exercise your right to remain silent and request to have a lawyer present before answering any questions.

Source:

[22403201 Informatieblad Je wordt verdacht \(Nederlands\) \(overheid.nl\).](https://overheid.nl/22403201/informatieblad-je-wordt-verdacht)

What is the difference between detention and arrest?

Detention occurs when someone is held in custody for a limited period of time for interrogation for the purpose of finding out more facts about a possible crime. Generally, suspects can be detained if there is reasonable suspicion. On the other hand, arrest occurs when someone is taken into custody for allegedly committing a crime, which generally requires more solid evidence and proof. An arrest is more serious than a detention, but a detention has the potential to turn into an arrest. Note that you still have the right to remain silent and ask for an attorney during both a detention and an arrest.

Specifically, in Netherlands, a suspect can be held without being charged for questioning as part of an investigation regarding an offence for up to 6 hours, but if 6 hours proves to be insufficient for the purposes of investigation, the assistant public prosecutor may order the suspect to be taken into police custody for a maximum of 3 days. To obtain a further 3-day extension of this period, the suspect must be brought before the public prosecutor. After the period of remand in police custody, the public prosecutor may apply to the examining magistrate for an order to remand the suspect in custody. This order means that the suspect can be held for a period of 14 days. At the end of this period, the public prosecutor can apply to the district court for a detention order for a period not exceeding 90 days. The total time spent in pre-trial detention may not exceed 110 days. Please note: the time between 00:00 midnight and 09:00 am is not included but you may be interrogated by the police during the night.

Source:

<https://www.government.nl/topics/administration-of-justice-and-dispute-settlement/going-to-court>

If you are handcuffed, are you arrested?

You are arrested if you are temporarily and involuntarily being deprived of your freedom. Being handcuffed is a significant restriction of your freedom, so this is most likely a form of arrest. If you are unsure whether you have been arrested, you can ask the police officer respectfully. Remember, it is also a good idea to exercise your right to remain silent and request to have a lawyer present before answering any questions.

Source:

If your liberty is restricted, are you under arrest?

Not necessarily. You can be detained, but not arrested. You can generally be detained for up to six hours for investigation purposes even if you are not arrested. Generally, after the end of your detention period, you will be released. If you are unsure whether you are under arrest, you can ask the police officer respectfully. It is also a good idea to exercise your right to remain silent and request to have a lawyer present before answering any questions.

Source:

[Section 56a Code of Criminal Procedure \(*Wetboek van Strafvordering*\)](#)

https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf

What to do after being warned of your rights

Proposed Information

It is important to follow this advice:

- If you decide to exercise your right to remain silent or any other rights (for example, the right to an attorney), you should avoid ambiguous statements. For example, you should state clearly that "I want to remain silent," or "I want to talk to a lawyer."
- Remember that your rights can be waived even if you do not expressly say that you are waiving your rights. You may be waiving your rights if you voluntarily talk to the police officer after you are read your rights by the officer. It is a good idea to have a lawyer present before making any decisions.
- Make sure you fully understand the consequences before you give up your rights.

How do things change if the police officer reads you your rights?

If the police officer did not read you your rights before questioning you, any statement or evidence collected might not be admissible in court.

However, if you decide to talk to the officer even after you have been told what your rights are, you might be implicitly waiving your rights to remain silent and have a lawyer present, and any statement you make to the officer can be used against you in court.

Source:

[Section 29 Code of Criminal Procedure \(*Wetboek van Strafvordering*\)](#)

https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf

Does it matter where you are when the police officer reads you your rights? (street, station, police car, etc.)

It does not matter where you are when the police officer reads you your rights. When the suspect is stopped or arrested, he or she is informed of the criminal offense for which he or she has been identified as a suspect. In other cases, this information will be given to the suspect no later than prior to the first interrogation. The suspect's other rights will be told to him no later than before the first interrogation. If the requirement to inform the suspect that he is not obliged to answer is not met before the start of the first interrogation, the statement given by the suspect is excluded as evidence. There is an exception to this, namely that it does not apply if the suspect may be deemed not to have had his or her interests harmed.

Source:

[Section 27c Code of Criminal Procedure \(Wetboek van Strafvordering\)](#)

[https://legislationline.org/sites/default/files/documents/d2/Netherlands CPC am2012 en.pdf](https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf)

<https://uitspraken.rechtspraak.nl/details?id=ECLI:NL:HR:2013:BY5706>

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. You are not required to go anywhere with the police officer unless you are arrested.
- If an officer has arrested you and you are under the age of 18, the officer is required to immediately notify your parent, caretaker, or legal guardian.

Are you required to make a statement?

Under the Dutch Code of Criminal Procedure, you have the right to remain silent when you are being asked questions by a police officer, meaning you generally do not have to answer or speak to the officer if you do not wish to do so. Therefore, when asked to provide them with information, you can lawfully decline to do so and it is a good idea to do so respectfully even when it is within your rights to do so to minimize tension.

Volunteering any statements to the officer can be risky as any statement voluntarily made could ultimately be used as evidence against you if you are arrested and your case proceeds to trial. Before volunteering any information to an officer, it is a good idea to first talk to a lawyer or a parent or guardian. Remember that even if you do not already have a lawyer or can't afford one, you have the right to a government-appointed lawyer

Source:

[Section 28 Code of Criminal Procedure \(Wetboek van Strafvordering\)](#)

[Section 29\(2\) Code of Criminal Procedure \(Wetboek van Strafvordering\)](#)

[https://legislationline.org/sites/default/files/documents/d2/Netherlands CPC am2012 en.pdf](https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf)

Must the police officer notify your guardian?

Yes. In June 2009, the Dutch Supreme Court ruled that all arrested suspects have the right to consult a lawyer prior to the first police interrogation and that juvenile suspects have the additional right to have a lawyer or other representative present during the police interrogation. Under section 488 of the Dutch Code of Criminal Procedure, a minor is generally considered to be an individual under the age of 18.

Source:

<https://uitspraken.rechtspraak.nl/details?id=ECLI:NL:PHR:2009:BH3081>; [Section 28 Code of Criminal Procedure \(Wetboek van Strafvordering\)](#)

[Section 29\(2\) Code of Criminal Procedure \(Wetboek van Strafvordering\)](#)

[https://legislationline.org/sites/default/files/documents/d2/Netherlands CPC am2012 en.pdf](https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf)

Must you confess?

No. You do not have to confess, or answer any questions. Under the Dutch Code of Criminal Procedure, you have the right to remain silent when you are being asked questions by an

officer. This means that you generally do not have to answer or speak to the officer if you do not wish to do so. For example, you are not required to answer any questions about where you are going or what you are doing. It may be a good idea to say so out loud if you want to exercise your right to remain silent.

However, the officer does have the right to order you to show your identity through an identity document (for example, by showing your driver's license), but you are only required to do so if this is requested by the officer. Otherwise, if an officer just starts talking to you, while it may be a good idea to cooperate, remember that you generally do not have to answer if you do not wish to do so. You may consider speaking to a lawyer or a parent or guardian before answering any questions about a crime.

Source:

[Section 29\(2\) Code of Criminal Procedure \(*Wetboek van Strafvordering*\)](#)

https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf

What adults can you ask to be with you?

The Dutch Code of Criminal Procedure defines "parents of a minor" broadly. It includes anyone "who exercise parental authority over the minor." Some persons are required to appear at court. The parents or the guardian are required to appear at the court session and will be informed about it in advance. If parents or the guardian do not comply with this obligation, the court may order that the parents or the guardian be brought forcibly.

Source:

[Section 131 Code of Criminal Procedure \(*Wetboek van Strafvordering*\); Section 496\(1\) Code of Criminal Procedure \(*Wetboek van Strafvordering*\)](#)

https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf

Who do police officers have to contact if you are a legal minor?

Officers generally have to contact the "parents of a minor." The Dutch Code of Criminal Procedure defines "parents of a minor" broadly. It includes anyone "who exercise parental authority over the minor."

Source:

[Section 131 Code of Criminal Procedure \(*Wetboek van Strafvordering*\)](#)

https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf

How do I contact a lawyer and when?

Proposed Information

It is important to follow this advice:

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

As a defendant?

You do not have to retain a lawyer; however, it is highly recommended to do so if you are accused of a serious offense. In fact, section 28 of the Dutch Code of Criminal Procedure entitles you to have a lawyer present when being questioned by a judge or police. If you cannot afford a lawyer, financial assistance (such as legal aid) may be available for you if you meet certain requirements, but you may have to pay a part of your lawyer's fees. Your lawyer can apply on your behalf. Your lawyer or the Juridisch Loket (local legal advice centre) can provide more information on legal aid.

Source:

<https://www.rechtspraak.nl/SiteCollectionDocuments/On-trial.pdf>; [Section 28 Code of Criminal Procedure \(Wetboek van Strafvordering\)](#)

https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf

As a witness?

In Dutch criminal law, there are no rules specific to child witnesses. This means that the general rules on all witnesses apply. The police officer may ask you to make a statement as a witness of a crime, or lodge a criminal complaint; however, you generally have the right to remain silent and say nothing under the Dutch Code of Criminal Procedure. If you do choose to make a statement as a witness of a crime, you can give as many details as you would like to and you can consider asking the officer for their contact details if you think of something else you'd like to add to your statement. You have the right to be assisted by a lawyer, but legal aid is not automatically given to you as a witness. You must submit a request to the Council for Legal Aid.

As a witness, you are also entitled to legal assistance during the hearing and can request to be considered a threatened witness (Bedreigde getuige) or to remain anonymous.

Source:

<https://www.government.nl/topics/administration-of-justice-and-dispute-settlement/going-to-court>

<https://data.europa.eu/euodp/repository/ec/dg-justi/criminal-justice/contextual-overviews/Netherlands.pdf>

As a victim?

Every victim has the right to legal advice and assistance. There are no specific rules for child victims. The victim is free to obtain legal advice and assistance from friends, family members, staff from Victim Support Netherlands (Slachtofferhulp Nederland), or a lawyer.

Free legal counsel is not automatically appointed to assist the witness and the witness has to make a request to the Council for Legal Aid for financial assistance.

Source:

<https://data.europa.eu/euodp/repository/ec/dg-justi/criminal-justice/contextual-overviews/Netherlands.pdf>

Do the police always have to tell the truth?

Proposed Information

It is important to follow this advice:

- No. The police officer 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

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they have in their possession. Sometimes the officer will lie to you to try and get you to talk more.

Can the police officer lie to you?

Generally, yes. Police officers do not necessarily need to be truthful with you under the Dutch Code of Criminal Procedure. However, this is a fine balance because officers are restricted from questioning a suspect or defendant in a manner that would result in obtaining statements that "cannot be said to have been freely given." If you are unsure whether the officers are being truthful with you, one course of action would be to remain silent, request to speak to a lawyer, parent, or guardian, and not volunteer any statements that could ultimately be used against you during court proceedings.

Source:

[Section 29\(1\) Code of Criminal Procedure \(*Wetboek van Strafvordering*\)](#)

https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf

Do you have to tell the police officer the truth?

As a general rule, you do not have to speak to the police officer or answer their questions if you do not want to. This is a right that you are entitled to under the Dutch Code of Criminal Procedure. Rather than lying to the officer, which could create evidence at a future criminal trial that you were not cooperating with officer, an alternative course of action would be to exercise your right to remain silent and, if asked any questions that you do not want to answer with a truthful answer, exercise your right to request a lawyer to be present. Remember that if you do not already have a lawyer or cannot afford one, you can wait until a lawyer is appointed for you before answering any questions.

If you want to exercise these rights, you should avoid ambiguous statements such as "Maybe I should talk to a lawyer." Instead, state clearly that "I want to remain silent" and "I want to talk to a lawyer," and you do not need to give any explanations or excuses for making such request.

Source:

[Section 28 Code of Criminal Procedure \(*Wetboek van Strafvordering*\); Section 29\(2\) Code of Criminal Procedure \(*Wetboek van Strafvordering*\)](#)

https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf

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:

The best way to make a complaint is to contact the Netherlands Police by phone, in-person at a police station, or with a contact form through this webpage:

<https://www.politie.nl/en/contact/file-a-complaint.html>.

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

Proposed Information

It is important to follow this advice:

There are several routes you can take if you believe you were a victim of discrimination or racism by police officer. First, you can contact the Netherlands Police by phone, in-person at a police station, or with a contact form through this webpage:
<https://www.politie.nl/en/contact/file-a-complaint.html>.

You can also contact a lawyer, parent, or guardian for additional advice. If you cannot afford a lawyer, consider contacting a free legal clinic that is offered in your jurisdiction. For a list of reputable legal clinics in Amsterdam, browse the following webpage:
<https://www.uva.nl/en/about-the-uva/organisation/faculties/amsterdam-law-school/education/masters-programmes/amsterdam-law-practice/amsterdam-law-clinics.html?cb>.

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:

You have the right to speak to a lawyer when you are being questioned by a police officer or judge, or are otherwise suspected of a crime. You also have the right to remain silent when being questioned by an officer. You are generally not obligated to answer any questions they pose you. Thus, if you are subject to an improper search or detention, consider exercising your right to remain silent. Do not volunteer any statements especially if they may potentially be incriminating, as such statements could ultimately be used as evidence against you during a criminal trial.

Even if you are subject to an improper search or detention, it is generally a good idea to remain calm and cooperate with the officer and not argue or resist the officer. Not cooperating can be risky as it can raise tensions and increase the chance that the officer will use physical force against you or charge you for resisting arrest. If you might have incriminating evidence that could be found in a search, you may wish to voice that you did not give the officer permission to conduct the search, but nevertheless cooperate. Any evidence they find might be challenged by your lawyer at a future trial.

Source:

[Section 28 Code of Criminal Procedure \(*Wetboek van Strafvordering*\)](#)

[https://legislationline.org/sites/default/files/documents/d2/Netherlands CPC_am2012_en.pdf](https://legislationline.org/sites/default/files/documents/d2/Netherlands_CPC_am2012_en.pdf)

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Law is generally described as of August 2024.

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