

Real Rights: young people engaging with law enforcement



San Juan, Puerto Rico



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
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- 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?
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- What can you do if the police perform an improper search? Or I was improperly detained?
- What can I do as a minor without my parent(s) or legal guardian(s)?

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, clearly, and politely. 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 are innocent or if you think the police are acting unfairly or unlawfully.

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Can the police arrest you for refusing to answer questions?

No. You have the constitutional right to remain silent. To exercise that right, you should tell the police: "I would like to remain silent."

If you are stopped while driving a car, upon request, you are required to show your driver's license, registration, and proof of insurance.

Note: Puerto Rico does not have a "stop and identify" law, which would require a person to provide identification when there is a reasonable belief that: a crime has been committed, is currently being committed, or was committed.

<https://www.aclu.org/know-your-rights/what-do-when-encountering-law-enforcement-questioning/>

<https://www.aclu-il.org/en/know-your-rights/engaging-law-enforcement>

[ea-otdr-en la calle.pdf \(espaciosabiertos.org\)](#)

What if the officers do not identify themselves?

The officer is supposed to identify and have their badge visible at all times, unless the agent is undercover (Source: [click here](#)).

In any case, please be aware that the members of the Puerto Rico Police Bureau are required by law and guidelines to make professional and respectful interventions, guaranteeing the protection of civil rights (you can find more information at the following link policia.pr.gov).

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

The officer can speak to you, but you have the constitutional right to remain silent. To exercise that right, you should tell the police: "I would like to remain silent."

To arrest you, an officer must have a motive for the arrest. In other words, they need good reasons to believe you committed a crime.

You are under arrest if you are not free to leave. If you are a suspect and an officer arrests you, they must read you first the Miranda warnings to start asking questions.

United States Supreme Court

[MIRANDA v. ARIZONA 384 US 486 \(1966\)](#)

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

He does not need to be in uniform. If the officer has a motive or probable cause he can arrest you.

"In all but the most unusual circumstances, where identification would itself make the situation more dangerous, plainclothes officers must identify themselves when they initiate a stop." - [Doornbos v. City of Chicago, No. 16-1770 \(7th Cir. 2017\):: Justia](#)

Rule 11 Rules of Criminal Procedures - Arrest by a public officer

T.34 Ap. II R.11

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

Yes, you have the constitutional right to talk to a lawyer before answering questions, whether or not the police tell you about that right. Once you say that you want to talk to a lawyer, police should stop asking you questions. If they continue to ask you questions, you still have the right remain silent and may repeat your request to speak to your lawyer.

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That is a constitutional right stated in the Bill of Rights and is part of the Miranda warnings that the police must read and explain to you, and if you are a minor your legal guardian must be present.

United States Supreme Court

[MIRANDA v. ARIZONA 384 US 486 \(1966\)](#)

If I sit down, am I resisting?

Technically no, but in this scenario you are not a suspect. If, in fact, the officer has a motive for the intervention and you sit down you could be charged with obstruction to the public authority.

[PR Laws tit. 33, § 5336 \(2018\)](#)

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

You cannot run if the officer stopped you for a valid reason or motive. Running may also create reason for suspicion.

ILLINOIS V. WARDLOW, 528 U.S. 119 (2000) (holding that police may use the fact that an individual ran in an analysis of whether reasonable suspicion exists).

<https://supreme.justia.com/cases/federal/us/528/119/>

Rule 11 Rules of Criminal Procedures - Arrest by a public officer

T.34 Ap. II R.11

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

While it is true that running from police is not a crime, it may create reasonable suspicion for the police officer to make an investigative stop.

TERRY V. OHIO, 392 U.S. 1 (1968) (landmark decision stating that a police officer may "stop and frisk" a person they reasonably suspect to be armed and involved in a crime). <https://supreme.justia.com/cases/federal/us/392/1/>

ILLINOIS V. WARDLOW, 528 U.S. 119 (2000) (holding that police may use the fact that an individual ran in an analysis of whether reasonable suspicion exists). <https://supreme.justia.com/cases/federal/us/528/119/>

If the officer's language is not my first language, what should I do?

You need to ask for an interpreter. A Miranda waiver must be intelligent and voluntary and if you are a minor and adult representing your interest must be present (parents, tutors). To learn more, click [here](#).

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

They can, if they have a reason to, but you have the constitutional right to remain silent. To exercise that right, you should tell the police: "I would like to remain silent."

You also don't have to consent to a search on yourself or your belongings, but police may pat down your clothing if they suspect you carry a weapon. To learn more, click [here](#).

You can calmly ask the police officer the reason of the stop. You can also ask them: "Can I leave?" If they respond that you can, calmly leave. For more information on the topic in Spanish, click [here](#).

The [ACLU recommends](#) the following if you believe that your rights were violated and you were stopped for no reason:

- Write down everything you remember, including officers' badges and patrol car numbers, which agency the officers were from, and any other details. Get contact information for witnesses.
- If you're injured, seek medical attention immediately and take photographs of your injuries.
- File a written complaint with the agency's internal affairs division or civilian complaint board. In most cases, you can file a complaint anonymously if you wish.

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 your person.
- You have the right to say no to searches of your car, house or other surroundings.
- 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.

Sources:

<https://www.govinfo.gov/content/pkg/GPO-CONAN-1992/pdf/GPO-CONAN-1992-10-5.pdf>

https://www.law.cornell.edu/wex/fourth_amendment

What if a police officer wants to search my phone?

Police needs a warrant or a probable cause to search your phone. The search-incident-to-arrest exception does not authorize the warrantless search of data on a cell phone seized from an arrestee's person. See [Riley v. California, 573 U.S. 373 \(2014\)](#). This Supreme Court decision was made to clarify the extent of 4th Amendment protections.

A person does indeed have a reasonable expectation of privacy regarding their cell phone. As such, police should not search an arrestee's cell phone without a valid warrant or unless the arrestee provides voluntary consent for the search.

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

You are not obligated to provide your password unless the police have a warrant to search the phone. See [Riley v. California, 573 U.S. 373 \(2014\)](#).

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

You can refuse to give the police your password or other access to the phone if the police does not have a warrant.

The search-incident-to-arrest exception does not authorize the warrantless search of data on a cell phone seized from an arrestee's person. See [Riley v. California, 573 U.S. 373 \(2014\)](#).

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

No. Even if you are arrested, the police needs a warrant to search your phone.

The Supreme Court held that the police do not have a right to search a cell phone without a warrant even during an arrest.

[Riley v. California:: 573 U.S. 373 \(2014\):: Justia US Supreme Court Center](#)

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

Police may only pat down your clothing if they suspect a weapon.

SOURCE: <https://www.aclu.org/know-your-rights/stopped-by-police/#ive-been-stopped-by-the-police-in-public>

The minor will be protected against unreasonable searches, attachments and seizures. A judicial warrant authorizing a search and seizure against a minor shall only be issued when there is probable cause based on a sworn statement or declaration and specifically stating the person or place to be searched and the things to be seized.

SOURCE: <https://casetext.com/statute/laws-of-puerto-rico/title-thirty-four-code-of-criminal-procedure/part-xiii-minors/chapter-151-minors-act/2207-search-and-seizure>

Can they search my backpack or other item I am carrying without a warrant?

You can refuse that they search yourself or your belongings, but police may pat down your clothing if they suspect a weapon. Note that refusing may not stop the officer from carrying out the search against your will, but if you object before or during the search, this can help preserve your rights in any later legal proceeding.

Sources: <https://www.aclu.org/know-your-rights/stopped-by-police/#ive-been-stopped-by-the-police-in-public>

Terry v. Ohio, <https://www.law.cornell.edu/supremecourt/text/392/1>

The Fourth Amendment protects citizens from unreasonable searches and seizures by the government unless a warrant is obtained upon probable cause. The Constitutional requirements of the Fourth Amendment apply to Puerto Rico (see [Torres v. Puerto Rico, 442 U.S. 465 \(1979\)](#)).

Can they take my picture or record me?

Probably yes, if you are in a public place. To learn more, click [here](#).

Can they ask me where I am going and why?

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

The U.S. Constitution's Fourth and Fifth Amendment protections apply to Puerto Rico. See *Torres v. Puerto Rico*, 442 U.S. 465 (1979); see also *Calero-Toledo v. Pearson Yacht Leasing Co.*, 416 U.S. 663 (1974). For more information, click [here](#).

Sources:

<https://www.aclu.org/know-your-rights/stopped-by-police/>

<https://www.lexjuris.com/lexlex/leyes2004/lexl2004453.htm> ("El privilegio del acusado tiene su origen en la Quinta Enmienda de la Constitución de los Estados Unidos de América y en la Sección 11, del Artículo II de la Constitución del Estado Libre Asociado de Puerto Rico. El privilegio protege en los casos criminales el derecho que tiene el imputado o acusado a guardar silencio, a no declarar y a que no se haga comentario alguno o se realice inferencia en su contra por ese hecho. Este derecho, de rango constitucional, se activa aun en etapas previas al inicio de la acción penal cuando la maquinaria de la justicia se centra en un individuo como sospechoso, objeto de una investigación y sujeto a un interrogatorio.")

Reasons Police May Detain or Arrest You

Proposed Information

It is important to follow this advice:

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

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

Generally, No.

No. You can remain silent and you cannot be punished for refusing to answer a question. In general, you do not have to talk to law enforcement officers (or anyone else), even if you do not feel free to walk away from the officer, you are arrested, or you are in jail.

The U.S. Constitution's Fourth and Fifth Amendment protections apply to Puerto Rico. See *Torres v. Puerto Rico*, 442 U.S. 465 (1979); see also *Calero-Toledo v. Pearson Yacht Leasing Co.*, 416 U.S. 663 (1974). For more information, click [here](#).

See also:

Know Your Rights: [What to Do When Encountering Questions from Law Enforcement, ACLU](#).

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

You do not have to correct them. You have the right remain silent because anything you say can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford an attorney, one will be provided for you.

Source:

<http://www.mirandawarning.org/whatareyourmirandarights.html#:~:text=%E2%80%9CYou%20have%20the%20right%20to,will%20be%20provided%20for%20you>. - Miranda Rights (Miranda is a United States Supreme Court decision stating what police are required to tell anyone who are in police custody or under arrest).

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

Generally (with few exceptions), you are not required to answer any questions by law enforcement officers. In some circumstances, you may be required to identify yourself or provide identification to a law enforcement officer.

The U.S. Constitution's Fourth and Fifth Amendment protections apply to Puerto Rico. See *Torres v. Puerto Rico*, 442 U.S. 465 (1979); see also *Calero-Toledo v. Pearson Yacht Leasing Co.*, 416 U.S. 663 (1974). Under the Fifth Amendment of the U.S. Constitution,

individuals generally are not required to talk to law enforcement officers (they have the right to remain silent), regardless of whether the individual does not feel free to walk away from the officer, are placed under arrest, or are in jail. *Know Your Rights: What to Do When Encountering Questions from Law Enforcement*, ACLU (available at <https://www.aclu.org/know-your-rights/what-do-when-encountering-law-enforcement-questioning/#do-i-have-to-answer-questions-asked-by-law-enforcement-officers>).

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?

Regardless of whether you are placed under arrest, any statement you make to a law enforcement officer can be used against you in court.

You have the right to remain silent (with a few limited exceptions). This right applies both before and after an arrest (for example, if a law enforcement officer approaches you on the street). A difference is that if you are under arrest the police must list your Miranda rights before questioning you. The Miranda rights are the rights to remain silent, the right to an attorney or to have one appointed. *Know Your Rights: What to Do When Encountering Questions from Law Enforcement*, ACLU (available at <https://www.aclu.org/know-your-rights/what-do-when-encountering-law-enforcement-questioning/#do-i-have-to-answer-questions-asked-by-law-enforcement-officers>).

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

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

If the police ask to search you or your belongings, you do not have to consent.

Even if you refuse to consent, the police may still carry out a search.

However, refusing consent, or stating that you object, to a search can help your rights in any later legal action that might be brought against you.

(Source does not specify this is for children; rather this is a general right)

(Source: ACLU website; Puerto Rico Constitution Article II - Bill of Rights, section 10)

The Supreme Court held that the police do not have a right to search a cell phone without a warrant even during an arrest.

[Riley v. California:: 573 U.S. 373 \(2014\):: Justia US Supreme Court Center](#)

Probable cause is needed to search a purse or back pack but a warrant is not always needed if probable cause exists [Wyoming v. Houghton:: 526 U.S. 295 \(1999\):: Justia US Supreme Court Center](#)

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

You have the right to remain silent. You do not need to answer questions about where you were born, whether you are a US citizen or how you entered the country (with exceptions to provide your name in certain states).

If you wish to use this right to remain silent, you should tell the police you are exercising it.

(Source: [ACLU website](#); [Puerto Rico Constitution Article II - Bill of Rights, section 1](#))

(See also Q3c - "What if an officer just begins speaking to me but does not order me to do anything?" - which also contains notes/sources that indicate the US constitution's fifth amendment applies to Puerto Rico)

Do Police Need A Warrant To Arrest You?

Proposed Information

It is important to follow this advice:

- No. Police officers can legally arrest you without a warrant in several circumstances:
 - When the crime is committed in front of the police officers; or
 - When the officer has probable cause (reason to suspect) that the suspect committed a felony, whether or not the act was done in front of them.

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

The police can stop you and inquire about a suspected crime where they have a "reasonable suspicion" a crime has taken place ([Terry v Ohio, 392 US 1 \(1968\)](#) ([Fourth Amendment](#)). To "arrest" you, police officers require more than a reasonable suspicion; rather, they require "probable cause" under the [Fourth Amendment](#), or where there is a [reasonable](#) basis for believing a crime may have been committed (for an arrest) or when evidence of the crime is present in the place to be searched (for a search). Under [exigent circumstances](#), probable cause can also justify a warrantless [search or seizure](#). Finally, police can also arrest you where they have a warrant to do so, although police generally require "probable cause" in order to obtain a warrant from a judge.

When you are arrested or are in police custody (for example you are placed in a police vehicle), you are entitled to an additional set of constitutional protections, as set forth in [Miranda v Arizona, 384 US 336](#) (1966): the right to remain silent when being questioned by police and the right to speak to a lawyer.

Sources - [Rule 13.1. Search warrant; requirements; form and contents, P.R. Laws Ap. tit. 34A, § 1-A, Rule 13.1](#)

Can I ask for the reason they stopped me?

If you have been stopped by the police, you have the right to know why, and the right to speak to a lawyer within a reasonable period.

If you have been stopped, but it is not clear if you are under arrest, you can ask the officer "am I free to leave?"

If they answer YES: calmly, retreat.

If they answer NO: do not walk away as you may be under arrest.

If you are under arrest, you have a right to know why and so you can ask "why you are under arrest".

Make sure you do not bad-mouth the police officer or run away, even if you believe what is happened is unreasonable.

If you are under arrest, you have the right to remain silent and to take to a lawyer before the police. You should state these rights to the police. You should not tell the police anything except your name and address (and to ask the question why you are under arrest). Do not give any explanations, excuses or stories to the police. You can make your defense later, in court based on what you and your lawyer decide is best.

Ask to see a lawyer immediately. If you can't pay for a lawyer, you have the right to a free one, and you should ask the police how the lawyer can be contacted.

Sources - [Can the police stop and question you? - FREE Legal Information | Legal Line](#) and [DWB Bust Card7/04 \(aclu-pr.org\)](#) and [What to do when a policeman stops you? | ayudalegalpr.org](#)

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

Stand at a safe distance and, if possible, use your phone to record video of what is happening. As long as you do not interfere with what the officers are doing and do not stand close enough to obstruct their movements, you have the right to observe and record events that are plainly visible in public spaces.

<https://www.aclu.org/know-your-rights/stopped-by-police/>

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

The police can stop you and inquire about a suspected crime where they have a "reasonable suspicion" that a crime has taken place ([Terry v Ohio, 392 US 1 \(1968\)](#)) ([Fourth Amendment](#)). To "arrest" you, police officers require more than a reasonable suspicion; rather, they require "probable cause" under the [Fourth Amendment](#), or where there is a [reasonable](#) basis for believing that a crime may have been committed (for an arrest) or when evidence of the crime is present in the place to be searched (for a search). Under [exigent circumstances](#), probable cause can also justify a warrantless [search or seizure](#). Finally, police can also arrest you where they have a warrant to do so, although police generally require "probable cause" in order to obtain a warrant from a judge

Without some sense that illegal activity has taken place, or is about to, police have no "probable cause" to stop you. Meaning, they have no basis to suspect you've done anything wrong.

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

You should always try to remember an officers' badge number and patrol car numbers. If you can, you should always try to write down everything you remember from the stop as soon as you can afterwards.

Then, if you feel your rights have been violated, you should file a written complaint with the police department's internal affairs division or civilian complaint board.

Source - [DWB Bust Card7/04 \(aclu-pr.org\)](#).

How Do You Know If You Are Under Arrest?

Proposed Information

It is important to follow this advice:

- You are under police custody if you do not feel free to leave an officer's presence, or if a reasonable person in your shoes would not feel free to leave.
- If the following happens, you are likely under arrest under the law:
 - an officer handcuffs you;
 - an officer forcibly holds you down;
 - an officer puts you into the back seat of a police car; or
 - an officer warns you about your rights.

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

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

The police officer has to let you know if you are under arrest. You have the right to ask a police officer why you are being stopped and why are they are asking questions because under the U.S. and Puerto Rico Constitutions, and under Puerto Rico criminal law and procedure the police cannot stop you unless there is a justified reason which they must communicate. A police officer can ask you basic information about your name and address and can generally talk to you but cannot ask questions related to criminal or suspected criminal activity.

Additional source:

<https://ayudalegalpr.org/resource/gua-sobre-la-ley-nm-88-ley-de-menores-de-puerto-rico-faltas>;

<https://ayudalegalpr.org/resource/derechos-al-momento-del-interrogatorio>

What is the difference between detention and arrest?

In Puerto Rico if a police officer tells detains you and says that you cannot leave it is similar to being arrested and they must tell you what is the suspected crime (for minors in Puerto Rico this is called "*falta*"), they must contact your parent or guardian before they read you the Miranda Rights.

An arrest occurs when the police suspect you of a crime and tell that you are suspected of a crime and you are read the list of Miranda Rights which includes the right to remain silent because what you say could be used against you, that you have a right to an attorney and that if the person cannot afford a lawyer one will be provided. Your parent or guardian must be present when the Miranda Rights are read. If you decide to speak to the police while under detention or arrest without a lawyer present you can stop at any time and ask for one.

Source: PR Criminal Procedure Chapter 11; Miranda v. Arizona;
<https://ayudalegalpr.org/resource/arrestan-a-mi-hijo-y-ahora-qu>; "*Ley de Menores de Puerto Rico*" (Ley Núm. 88)

If I am handcuffed, am I arrested?

If you are handcuffed you are under the custody of the police and if you do not have the freedom to leave the police custody and you are asked questions, you are detained and if you are detained it is treated the same as an arrest and the rights you have during the arrest process apply including the reading of the Miranda Rights: You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford an attorney, one will be provided for you.

Source: <https://ayudalegalpr.org/resource/arrestan-a-mi-hijo-y-ahora-qu>

If my liberty is restricted, am I under arrest?

Not necessarily. To qualify as an arrest, the person subject to the arrest must be read the Miranda Rights. Any violation to this process, may frustrate the arrest and may qualify as an illegal detention:

Illegal detention has been defined by our Supreme Court as "the act of restricting illegally a person against his or her will or freedom of action" [Ayala v. San Juan Racing Corp, 112 D.P.R. 804 \(1982\)](#). On the other hand, jurisprudence established the elements of the cause of action for illegal detention that the plaintiff must demonstrate:

1. intention to effect a restriction on the person's liberty;
2. that there is a positive or affirmative act aimed at producing the restriction of freedom;
3. that the restriction of the freedom of the injured party occurs;
4. that it is involuntary;
5. that the injured party is aware that his freedom has been restricted, and
6. that there is an adequate causal relationship between the act of restriction of liberty and the damage claimed by the plaintiff.

Source: [Parrilla v. Ranger América of P.R., 133 D.P.R. 263 \(1993\)](#).

In case of a minor, they do not qualify for an arrest as per the "*Regla de Procedimientos de Asuntos de Menores*". However, the rule of law states that they may be apprehended, so we talk about "apprehension" instead.

Apprehension is the restriction of liberty of a minor, either with a judicial order, or without one for extraordinary exceptions established by the rules, related to investigation purposes, when tied to an unlawful act or as a result of a complaint.

An apprehension may be done by functionaries or agents of the law, or agents of the Police Department in Puerto Rico to intervene in matters of minors; or judicial officials or a private individual. The minor will not be subject to further restrictions than those indispensable for his or her apprehension.

Source: [Regla de Procedimientos de Asuntos de Menores](#)

What To Do After Being Warned of Your Rights

Proposed Information

It is important to follow this advice:

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

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

If you are read your rights by a police or a governmental officer, you are considered a suspect subject to custodial interrogation.

You have the right to remain silent because anything you say can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford an attorney, one will be provided for you.

"Miranda warnings must be given before a suspect is subjected to custodial 17 interrogation." [United States v. Trueber, 238 F.3d 79, 90 \(1st Cir. 2001\)](#) (quoting [United States v. Ventura, 85 F.3d 708, 710 \(1st Cir.1996\)](#)).

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

No, it does not matter where they read your Miranda Rights if you are detained (that is, you do not have freedom to leave the custody of the police) or arrested by the police. *Miranda v. Arizona* is a US supreme court decision that says what the police are required to tell anyone who is under arrest or even just in police custody.

The police can question you briefly without reading you your Miranda Rights if they have reasonable suspicion of criminal activity. This is known as a "Terry Stop".

Sources: <https://ayudalegalpr.org/resource/de-dnde-surgen-los-derechos-en-casos-criminales>

[MIRANDA v. ARIZONA | FindLaw](#)

[Terry v. Ohio:: 392 U.S. 1 \(1968\):: Justia US Supreme Court Center](#)

Police Questioning You

Proposed Information

It is important to follow this advice:

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

Am I required to make a statement?

No. Your statement must be free and voluntary and no pressure may be exerted on you to make a statement. This right is one of your Miranda Rights. *Miranda v. Arizona* is a US supreme court decision that says what the police are required to tell anyone who is under arrest or even just in police custody. One of the Miranda rights is the right to remain silent. You also have the right to stop answering at any time even if you start.

Other Miranda rights are the right to an attorney and the right to be provided an attorney if you can't afford one.

<https://ayudalegalpr.org/resource/arrestan-a-mi-hijo-y-ahora-qu>

Must police notify my guardian?

The waiving by a minor of any constitutional right that protects him will not be admitted unless his parents or tutor and his attorney are present, and there is a decision of the judge that the waiver is free, intelligent and that the minor is aware of the consequences thereof. However, the presence of the attorney shall not be required in order to waive the right to legal counsel.

<https://casetext.com/statute/laws-of-puerto-rico/title-thirty-four-code-of-criminal-procedure/part-xiii-minors/chapter-151-minors-act/2211-waiver-of-rights>

Must I confess?

No, you have the right to remain silent in accordance with your Miranda Rights.

(*Miranda* is a US supreme court decision that says what the police are required to tell anyone who is under arrest or even just in police custody.)

What adults can I ask to be with me?

You can request legal representation (an attorney) to be present with you during questioning. This is one of your Miranda rights.

You can also notify the officer of and the names and residential address of parents or guardians and the officer has the obligation to contact immediately any of the parents, relatives or guardians which are known, for them to be present during the hearing before the judge.

Sources:

P.R. Laws Ap. tit. 34A, § 1–A, Rule 2.6

[Rule 2.6. Information about parents or guardians, P.R. Laws Ap. tit. 34A, § 1–A, Rule 2.6](#)

<https://ayudalegalpr.org/resource/arrestan-a-mi-hijo-y-ahora-qu>

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

You have the right to an attorney. This is one of your Miranda Rights.

You can also notify the officer of and the names and residential address of parents or guardians and the officer has the obligation to contact immediately any of the parents, relatives or guardians which are known, in order for them to be present during the hearing before the judge.

Sources:

P.R. Laws Ap. tit. 34A, § 1–A, Rule 2.6

[Rule 2.6. Information about parents or guardians, P.R. Laws Ap. tit. 34A, § 1–A, Rule 2.6](#)

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.

What if I am just a witness?

According to the Bill of Rights of Victims and Witnesses of Crime, when a minor under 18 years old has to testify in court he or she is allowed to be accompanied by support such as a family member or friend, a counselor or competent professional. In fact, the law establishes that technical support personnel may accompany the minor throughout all stages of the proceedings, with the purpose of providing emotional support and looking out for the minor's well-being.

In [*Re Gault*](#), the U.S. Supreme Court recognized that youth need the "guiding hand of counsel" to assist them in court, and if a child cannot afford an attorney, the court must appoint one to represent them.

Under the aforementioned law, the court has the authority to name a minor who is a crime witness a "*defensor judicial*" or legal representative if they do not have the financial means to retain one.

Sources:

[25 L.P.R.A. sec. 937a-1 & 937a-2.](#)

[25 L.P.R.A. sec. 973b](#)P.R.

Laws Ann. tit. 32, Ap. IV, § 26-A(B)

Do Police Always Have To Tell The Truth?

Proposed Information

It is important to follow this advice:

- No. The police may lie to you during the course of an investigation, including lying about the strength of the case they have against you and particular evidence they have in their possession.
- Sometimes police will lie to try and get you to talk more.

Can the police lie to me?

Yes.

[Frazier v. Cupp, 394 U.S. 731 \(1969\)](#) affirmed the legality of deceptive interrogation tactics.

Do I have to tell the police the truth?

Yes. A person should tell the truth in an interrogatory. You can deny answering questions. If you lie to an agent of the law you can commit a crime.

How do I make a complaint if I have questions or feel my rights have been violated?

REMEDIES:

There are deficiencies in the Puerto Rico Police Department's civilian complaint process including an intake process that discourages civilians from filing complaints. There are not enough procedures to ensure investigations are completed on time. There are also a lack of investigators and resources.

This website ([Office of The Federal Police Monitor of Puerto Rico \(fpmpr.org\)](https://fpmpr.org)) offers general information regarding the Federal Monitor's role in the Puerto Rico Police Department Reform and enables you to leave comments that may assist the Federal Monitor's office to

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determine PRPB's overall compliance with the Agreement. However, it is difficult to find the form to lodge a complaint directly if you have questions or feel your rights have been violated.

https://www.justice.gov/sites/default/files/crt/legacy/2011/09/08/prpd_letter.pdf (page 68) - this investigation is from 2011

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

REMEDIES:

No rights can be denied as a result of race, color, religion, gender (including equal pay for equal work), gender identity, genetic information, pregnancy, real or perceived sexual orientation, national origin, age, social condition, political ideas, serological status, veteran condition, for being a victim or perceived victim of domestic violence, sexual assault or any irrelevant impediment of the requirements of an occupation.

Below are a few resources where you can learn more about venues and organizations that can help you defend your rights.

[Civil Rights – ACT \(pr.gov\)](#)

Civil Rights Act, Title VI: [Civil Rights Requirements Title VI of the Civil Rights Act | HHS.gov](#)

[Legal Assistance: Puerto Rico/Virgin Islands | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)

[Puerto Rico \(PR\) Civil Legal Aid – Voices for Civil Justice](#)

[Sociedad para Asistencia Legal de Puerto Rico \(salpr.org\)](#)

[Servicios Legales de Puerto Rico – Bufete sin fines de lucro](#)

[ACLU of Puerto Rico \(aclu-pr.org\)](#)

How can I respond to circumstances involving discrimination?

Any specific complaints need to be addressed directly to the PRPD, not the Federal Monitor's office.

https://fpmpr.org/contact?lang=en_US

There are community resources where there may be an opportunity to voice concerns [Community - Office of The Federal Police Monitor of Puerto Rico \(fpmpr.org\)](#)

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

REMEDIES:

The writ of habeas corpus is a fundamental right in the Constitution that protects against unlawful and indefinite imprisonment. See <https://www.aclu.org/other/what-you-should-know-about-habeas-corpus>.

By a writ of habeas corpus a person, who is private illegally of his freedom, requests the judicial authority competent, to investigate the causes of his arrest. Article 469 of the Code of Criminal procedure, 34 LPRA sec. 1741; Quiles v. Del Valle, 167 DPR 458 (2006); [Ramos Rosa v. Maldonado Vázquez, 123 DPR 885, 889 \(1989\)](#). Among others the writ of habeas corpus is regulated by the Criminal Procedure Code, which provides, in its article 469: "[c] any person who is imprisoned or illegally deprived of your liberty, you can request a writ of

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habeas corpus in order to investigate the cause of said deprivation ". 34 LPRA sec. 1741. Also, to prevail in a cause of action in damages for illegal detention the injured party is not required to be arrested or imprisoned; the mere interference of the defendant with the total freedom of movement of the injured party. Similarly, the duration detention will only influence the extent of the damages suffered, for which, a momentary illegal detention will suffice to have right to a cause of action. Lastly, you don't need to use either of force, nor that the detainee offers violent resistance or initiation legal proceedings leading to an arrest. [Alamo Pérez v. Supermercado Grande, 158 D.P.R. 98 \(2002\)](#).

Rule 6.9. Motion to suppress evidence

The minor affected by a search or illegal search may request the court to suppress any evidence obtained by virtue of such search or illegal search, or the return of the property, for any of the following reasons:

Rules of Procedure for Juvenile Matters 22

1. That the property was illegally occupied without a search warrant or search.
2. That the search warrant or search is insufficient on its own.
3. That the property occupied or the person or place registered does not correspond to the description made in the search warrant or search.
4. That there was no probable cause to believe in the existence of the grounds for the search or search warrant.
5. That the search warrant was issued or carried out illegally.
6. That any sworn statement that served as the basis for the issuance of the search warrant is insufficient because the statement under oath in the statement is totally or partially false.
7. Any other cause recognized by law as resulting in the illegality of the search or search

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Law is generally described as of December 2022.

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