

**Baker  
McKenzie.**

# Real Rights: young people engaging with law enforcement

 Tokyo, Japan



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

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

## Rights:

What rights do I have when I encounter law enforcement?

### Question Asked

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

## Stopped By The Police On The Street, Now What?

### Proposed Information

It is important to follow this advice:

- Stay calm. It is not a good idea to run. Speak carefully and clearly. Anything you say can be used against you in a court of law.
- It is not a good idea to touch the officers. Keep your hands where the police can see them.
- It is not a good idea to resist, even if you're innocent or if you think the police are acting unfairly or unlawfully.

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

No, police officers cannot arrest you for refusing to answer questions. However, you should reasonably cooperate with them so that they release you earlier.

Although police officers may stop and question any person in certain circumstances, you are not obligated to answer the questions. (The Police Duties Execution Act Article 2.1 and 2.3)

Generally, police officers may not detain, search, arrest any person without a warrant\* unless you are committing a crime or immediately after a crime. (Code of Criminal Procedure Article 62, 106, 199.1, 212.1, 212.2, and 213.)

\*A warrant is a document issued by a judge that gives the police the right to make searches, seize property or make arrests.

Primary Source:

The Police Duties Execution Act

[警察官職務執行法 - 日英対照表 - 日本法令外国語訳 DB システム \(japaneselawtranslation.go.jp\)](http://japaneselawtranslation.go.jp)

Code of Criminal Procedure

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## What if the officers do not identify themselves?

You may request a police officer if she/he stopped and questioned you. Keep in mind that you can always ask a police officer to show you their police badge or identification card so you know she/he is actually a police officer.

Police officers must show a police badge and identification card when they need to show a proof of their identification to perform their duty. (Rules of Police Handbook Article 5.)

Rules of Police Handbook (there is no English translation version.)

[警察手帳規則 | e-Gov 法令検索](#)

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

Please be polite and reasonably cooperate with them when they tell you the reason. Although you may refuse to answer police officer's questions, it is a recommended choice to answer questions to a reasonable extent so that they release you earlier.

Although police officers may stop and question any person in certain circumstances, you are not obligated to answer the questions. (Police Duties Execution Act Article 2.1 and 2.3.)

Generally, police officers may not detain, search, arrest any person without a warrant\* unless you are committing a crime or immediately after a crime. (Code of Criminal Procedure Article 62, 106, 199.1, 212.1, 212.2, and 213.)

The court may issue detention/arrest warrant if there is probable cause/sufficient probable cause to suspect that someone has committed a crime. (Code of Criminal Procedure Article 60.1 and 199.1.)

\*A warrant is a document issued by a judge that gives the police the right to make searches, seize property or make arrests.

Primary Source:

The Police Duties Execution Act

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

You can request the person to show a police budge or identification card if she/he stopped and questioned you.

Police officers must show a police badge and identification card when they need to show a proof of their identification to perform their duty. (Rules of Police Handbook Article 5.)

Rules of Police Handbook (there is no English translation version.)

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

Yes. You can ask for a lawyer anytime including, while you are stopped and questioned by a police officer, under arrest or in detention. Also, you can remain silent. However, the police are allowed to begin their initial questioning before you see a lawyer.

A person who are under arrest or in detention may remain silent at all times or may refuse to answer questions before and after indictment. (Code of Criminal Procedure Article 198.2 and Article 311.1)

A person who are under arrest or in detention has a right to counsel, and, if the person was indigent to retain a lawyer, the person may retain a lawyer that the Japanese government pays its fee. (Code of Criminal Procedure Article 77.1 and 203.1)

However, nothing in the Code of Criminal Procedure prohibits police officers, prosecutors, and judges from asking questions to you before you see a lawyer.

Primary Source:

Code of Criminal Procedure

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

It depends on your situation. However, in any case, you should not do so unless you have justifiable reason, such as, you are feeling unwell. Sitting down itself is not a violation of law, however, police officers may consider you are not cooperative and it could put you on unfavorable condition. If you need to do so, you should tell them first.

Primary Source

There is no source because this is a general statement.

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

No. Although you can refuse to answer the questions, police officers can use reasonable force to stop you to ask the questions. Also, you may be charged as obstructing or compelling of public duty, which is criminal liability, when you assault or intimidate the police officers while running away.

Police officers may stop and question any person when "there is sufficient probable cause to suspect that the person is involved in a crime. (The Police Duties Execution Act Article 2.1.)

Generally, Japanese Supreme Court has held that police officers may use reasonable force to stop and question a suspicious person under Police Duties Execution Act Article 2. However, The Supreme Court has not clearly defined what is the "reasonable force."\*

If you assault or intimidating them while you are running away when police officers stopped and questioned you and obstructed their duty, you may be charged as obstructing or compelling of public duty. (Penal Law Article 95.1.)

Primary Source

Police Duties Execution Act

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\*There was no case information available for free. Some law firm articles explain about the "reasonable force" in Japanese.

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

No. You definitely should not do so in any case.

Police officers can use force or a weapon against persons when they think it is necessary for arrest or preventing the persons from escaping. (Police Duties Execution Act Article 7.) Telling others to escape exposes them to risk of injury when a police officer has reasonable grounds or a warrant to arrest her/him.

Moreover, if you harbored or enabled "the escape of another person who has either committed a crime punishable with a fine or a severer punishment or has escaped from confinement," you would be charged as Harboring of Criminals, which is criminal liability. (Penal Code Article 103)

If police officers just stopped others and asked questions without warrant, and if you told them to run, you would not be charged as criminal liability. However, it may cause the police officer to stop you and ask questions why you did so. (The Police Duties Execution Act Article 2.1.) Keep in mind that police officers may use reasonable force to stop and question a suspicious person under Police Duties Execution Act Article 2.1 (The Supreme Court has not clearly defined what is the "reasonable force."\*).

Keep in mind that if you tried to run when police officers stopped and questioned you and then you assaulted or intimidated the police officer, you would be charged as obstructing or compelling of public duty which is criminal liability. (Penal Law Article 95.1.)

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\*There was no case information available for free. Some law firm articles explain about the "reasonable force" in Japanese language.

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

You can tell them the language is not your first language.

If you are detained or arrested abroad, you should communicate with police officers that you want your country's consular officials notified. The Japanese authorities have an obligation, under the Vienna Convention on Consular Relations, to advise you of your right of access to a consular representative. They are not, however, obliged to inform a consular post of your detention or arrest, unless you ask them to do so.

Please use example sentences below.

1. "I cannot speak Japanese." = "Watashi wa Nihon-go ga hanase masen." (日本語を話すことができません。)
2. "Please notify US consular" = "America no ryo-ji-kan ni oshirase kudasai." (米国領事館にお知らせください。)

[An overview of the criminal law system in Japan - Travel.gc.ca](http://Travel.gc.ca)

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

Yes. Police officers may stop and question any person when "there is sufficient probable cause to suspect that the person is involved in a crime. (The Police Duties Execution Act Article 2.1.) Even if you did not do anything, police officers may stop and question judging on the basis of surrounding circumstances.

Although you may refuse to answer police officer's questions, it is a recommended choice to answer questions to a reasonable extent so that you can explain that you did not do anything and they release you earlier.

Police Duties Execution Act

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## 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 you without warrants.
- You have the right to say no to searches of your car, house or other surroundings without warrants.
- 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 my phone?

Police officers must have a warrant to search or seize your cell phone, unless you are arrested and the search or seizure is conducted at the place and time of arrest and to the extent necessary to investigate the relevant crime. (Code of Criminal Procedure Article 218.1. and 220.1(ii).)

Primary Source

Code of Criminal Procedure

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

You are not required to tell them your password to your phone, even if the police have a warrant to search or seize your phone. That being said, if your phone is legally seized under a warrant, the police may hire a third-party service provider to unlock your phone. (Code of Criminal Procedure Article 222.1, 111.2)

Primary Source

Code of Criminal Procedure

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

You are not required to tell them your password or other access to your phone, even if the police have a warrant to search or seize your phone. That being said, if your phone is legally seized under a warrant, the police may hire a third-party service provider to unlock your phone. (Code of Criminal Procedure Article 222.1, 111.2)

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

You are not required to tell them your password to your phone. That being said, if your phone is legally seized under a warrant, the police may hire a third-party service provider to unlock your device. (Code of Criminal Procedure Article 222, 111 and 197.)

Primary Source

Code of Criminal Procedure

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

The police can use almost all tools, including facial recognition and finger print searches. Private entities and individuals must cooperate with the police by, such as, providing information on SNS, if they have a search warrant. (Code of Criminal Procedure Article 218.1.)

Also, in serious criminal cases (such as, murder, arson, robbery, larceny, transact illegal substances), the police can intercept private communications, such as, conversations on the phone, under an interception warrant. (Act on Communications Interception for Criminal Investigation Article 3.1.)

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Code of Criminal Procedure

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Act on Communications Interception for Criminal Investigation

[犯罪捜査のための通信傍受に関する法律 - 日本語/英語 - 日本法令外国語訳 DB システム \(japaneselawtranslation.go.jp\)](http://japaneselawtranslation.go.jp)

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

No. They cannot search your backpack or item you are carrying unless police officers have a search warrant, or unless you are arrested and the search or seizure is conducted at the place and time of arrest and to the extent necessary to investigate the relevant crime. (Code of Criminal Procedure Article 218.1. and 220.1(ii).)

Although you need not to show your belongings to them, you should reasonably cooperate with them. You need to note that the police officer has authority to stop you and ask questions in certain circumstances. (Police Duties Execution Act Article 2.1 and 2.3)

Primary Source:

The Police Duties Execution Act

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

Yes, they can take your picture or record without your permission if (a) they have a warrant or (b) such an action is conducted to the reasonable extent urgently required to secure evidence of crime at the time when a crime has actually been committed or shortly thereafter. (Code of Criminal Procedure Article 218.1. and 220.1(ii).)

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

Yes they can, although you can refuse to answer to those questions and also can ask why you are being stopped. (Police Duties Execution Act Article 2.1 and 2.3.). However, you should reasonably cooperate them, as the police officer may stop you longer if you refuse to answer to them.

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The Police Duties Execution Act

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## **Reasons Police May Arrest You**

### **Proposed Information**

It is important to follow this advice:

A police officer may arrest you because (i) they suspect you of a probable cause of committing (or having committed) an offense and (ii) they find a necessity of arrest in consideration of a risk that the suspect may flee, conceal or destruct evidence.

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In principle, the police officer has to prepare a warrant in advance of the arrest (The Constitution of Japan Article 33 and the Code of Criminal Procedure Article 199).

However, the police officer may arrest you without preparing the warrant in advance in some urgent and exceptional cases where (i) you are (or deemed to be) a person who is caught in the act of committing or having just committed an offense (The Code of Criminal Procedure Articles 212 and 213), or (ii) they suspect you of a sufficient probable cause of committing (or having committed) a serious offense punishable by the death penalty, life imprisonment, life imprisonment without work, or imprisonment or imprisonment without work having maximum term is three years or more (The Code of Criminal Procedure Article 210)\*\*.

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 the police/warrant carefully, to ensure you understand what exactly is covered.

If the police officer arrests you, he/she also have the right to search you and/or your residence. Anything found during this search may be used as evidence against you, as long as there is any illegality when they obtain such evidence.

\*A warrant is a document issued by a judge that gives the police the right to make searches, seize property or arrests when it finds that these action to be taken by a police officer meet the applicable legal requirements.

\*\* The Code of Criminal Procedure Article 210 requires the procedure for issuance of the arrest warrant must be taken immediately after such arrest has been made.

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

Yes.

Although a police officer may stop and question any person in suspicious circumstances, you are not detained or obligated to answer the questions (The Police Duties Execution Act Articles 2.1 and 2.3). Thus, you can refuse to answer those questions or just remain silent. However, if you did not do anything illegal, it is recommended that you speak with the police officer and answer questions as much as possible. The police officer may stop you for a longer time period than you expected if you just refuse to answer the questions. Please keep in mind that the police officer may use reasonable force to stop you in suspicious circumstances and that you can ask them why you are stopped and being asked questions.

Generally, the Japanese Supreme Court has held that a police officer may use reasonable force to stop and question a suspicious person under the Police Duties Execution Act Article 2. Although there have been some cases where the Japanese Courts (including the Supreme Court) have given decisions regarding the "reasonable force", the Supreme Court has not clearly defined what is the "reasonable force" permissible to the police officer.

Primary Source:

The Constitution of Japan

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

You can and should correct them. Basically, the best thing you can do is to try to cooperate with the police officers as much as possible. However, please note that when they require you to come by a police station, a police box, or a residential police box for more information, you can refuse to go there if there is no warrant to arrest you.

Similarly, please note that when they try to force you to answer questions, you can also refuse to answer (The Police Duties Execution Act Article 2.3).

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The Police Duties Execution Act

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

Be polite and reasonably cooperate with him/her and ask the reason. Although you may refuse to answer such police officer's questions, it is a better to answer these questions as much as possible so that they will release you early.

Although a police officer may stop and question any person in suspicious circumstances, you are not obligated to answer the questions (The Police Duties Execution Act Articles 2.1 and 2.3).

Generally, a police officer may not search, seize property or arrest any person without a warrant unless (i) you are committing a crime or immediately after committing a crime, or (ii) there is a sufficient probable cause of you committing (or having committed) a serious offense and immediate necessity of arresting you (The Constitution of Japan Articles 33 and 35 and the Code of Criminal Procedure Articles 199, 210, 212 213 and 220).

A judge may issue an arrest warrant if (i) there is a probable cause of committing (or having committed) an offense and (ii) they find a necessity of arrest in consideration of a risk that the suspect may flee, conceal or destruct evidence (The Code of Criminal Procedure Article 199).

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## **What is the legal difference between talking to a police officer without being told me that I am under arrest, versus talking to him/her after being informed that I am under arrest?**

There is no big difference between these two situations. In either case, what you talk to a police officer would constitute evidence during the criminal procedure. Please note that you are not required to make any statement against your will.

A police officer may stop and question any person in suspicious circumstances, however, if they try to force you to answer such questions, you can refuse to do so (The Police Duties Execution Act Article 2.3).

A person who are under arrest or in detention may remain silent at all times or may refuse to answer questions before and after indictment (The Constitution of Japan Article 38 and the Code of Criminal Procedure Articles 198, 291 and 311).

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The Constitution of Japan

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## 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?**

The difference is whether police officers have a warrant for the search or not. If the police officers do not have the warrant, you do not need to permit them to search you or your belongings. On the other hand, if they have the warrant for the search issued by a judge when it finds necessary for criminal investigation, they may search you and seize your belongings by showing the warrant (The Constitution of Japan Article 35 and the Code of Criminal Procedure Article 218).

In addition, if you were arrested by a warrant for such an arrest or in the act of committing or having just committed an offense, police officers are permitted to search you and seize your belongings (The Constitution of Japan Article 35 and the Code of Criminal Procedure Articles 199, 212, 213 and 220).

Although you are, in principle (i.e. other than the exceptional cases as above), not obligated to permit police officers to search you or your belongings, they may stop and ask you about your belongings when they consider there is reasonable and probable cause to suspect that you are involved in a crime (The Police Duties Execution Act Articles 2(1) and 2(3)). You can refuse to answer their questions and search, however, if you do not commit any illegal acts, you should cooperate with them as much as possible so that they will release you early (see 3-a. to 3-c. above).

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

The difference depends on whether you are under arrest or not. If police officers just ask you to give them information in case where you are not arrested or detained, you need not to answer anything. However, you should reasonably cooperate with them as long as you can (see 3-a. to 3-c. above).

Although you are not obligated to answer police officers' questions, they may stop and ask you questions if they have sufficient probable cause to suspect that you are involved in a crime (The Police Duties Execution Act Articles 2(1) and 2(3)).

A person who is under arrest or in detention may remain silent at all times or may refuse to answer questions before and after indictment (The Constitution of Japan Article 38 and the Code of Criminal Procedure Articles 198, 291 and 311). Thus, if police officers arrest or detain you, you may remain silent. In this case, please keep in mind that you should firstly notify the U.S. embassy or consulate and hire a lawyer before answering police officers' questions. However, please note that nothing in the Code of Criminal Procedure prohibits police officers, prosecutors, and judges from asking questions before you see a lawyer.

Please also note that a person who is under arrest or in detention, or its legal representative, curator, spouse, lineal relative or sibling has a right to appoint a counsel (The Constitution of Japan Article 34 and the Code of Criminal Procedure Article 30).

If the person is indigent to retain a lawyer, the Japanese government appoints a court-appointed counsel (The Constitution of Japan Article 37(3) and the Code of Criminal Procedure Articles 36 and from 37 to 37-5).

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## Do Police Need A Warrant To Arrest You?

### Proposed Information

It is important to follow this advice:

- Not always. Police officers can legally arrest you without a warrant under the following circumstances:
  - When the crime has been or is being committed in front of the police officers (The Code of Criminal Procedure, Articles 212.1 and 213);

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- When it is clearly recognized that it has not been long since the crime has been committed by a person who is:
  - being pursued as a criminal;
  - in possession of a stolen item or a weapon apparently used in a crime;
  - with conspicuous evidence of a crime on his/her body or clothing; or
  - attempting to flee after being sued for a crime (The Code of Criminal Procedure, Articles 212.2 and 213); or
- When the officer has probable cause (sufficient reason to suspect) that the suspect committed a felony, whether or not the act was done in front of them, and the situation is too urgent to request judges of an arrest warrant (The Code of Criminal Procedure, Article 210).

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

Yes. Police officers can stop you and ask you questions when there is sufficient probable cause to suspect that you are involved in a crime. Although you can refuse to answer to their questions, you should answer their question as long as you can, even if you thought you did nothing, because they suspect you. In reality, it would be difficult to refuse their questions because police officers with legal responsibility of preventing and suppressing crimes would not give up pursuing the truth so easily and would try to stop the suspect by all means. Therefore, refusal to the questions may make the stop longer. Keep in mind that you can ask them why you are stopped and asked questions.

Police officers may stop and question any person when there is sufficient probable cause to suspect that the person is involved in a crime. However, you are not obligated to answer the questions. (The Police Duties Execution Act, Articles 2.1 and 2.3)

Generally, Japanese Supreme Court has held that a police officer may use reasonable force to stop and question a suspicious person under Article 2 of the Police Duties Execution Act. However, The Supreme Court has not clearly defined what is the "reasonable force", but for instance, the forces used by police officers in the following cases were considered reasonable by The Supreme Court:

- A police officer was suspicious of the behavior and appearance of a man who was riding a bicycle at a high speed, so he stopped and questioned him and accompanied him to the police station. As the man suddenly ran away from the police station, the officer followed him for approximately 130 meters and stopped him by grabbing his arm from behind (July 15, 1954).
- A police officer stopped a car driver disobeyed a traffic light who got out of the car and smelled an odor of alcohol, and asked the driver to produce his driver's license. When the driver took his driver's license from the officer and tried to get into the car to start it, the officer extended his hand through the driver's window and turned off the engine key (September 22, 1978).
- A police officer who was engaged in traffic control, etc. grabbed a passerby by his chest and pushed him onto the sidewalk when he spit on the police officer (September 26, 1989).
- When questioning a suspected methamphetamine user, the police officer pushed open a door that was being held from the inside of the hotel room where the suspect was staying, and stepped on the threshold between the inner entrance and the guest room to prevent the door from being closed (May 26, 2003).\*

Primary Source:

## The Police Duties Execution Act

[警察官職務執行法 - 日英対照表 - 日本法令外国語訳 DB システム \(japaneselawtranslation.go.jp\)](#)

## The Code of Criminal Procedure

[刑事訴訟法 - 日本語/英語 - 日本法令外国語訳 DB システム \(japaneselawtranslation.go.jp\)](#)

\* Further case information is available for free but only in Japanese language. Some law firm articles explain about the "reasonable force" in Japanese language.

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

Yes. You can ask for the reason why they stopped you. If you are under arrest or in detention, they will tell you why you are under arrest or in detention.

Police officers may stop and question any person when there is sufficient probable cause to suspect that the person is involved in a crime. (The Police Duties Execution Act, Article 2.1.) Nothing in the Police Duties Execution Act prohibits you to ask the reason the police officers stopped you.

A person must be informed of the case before being in detention. (The Code of Criminal Procedure, Article 61.)

If police officers arrested with a warrant, the warrant must be shown to the suspect. Arrest warrants contains "the charged offense, an outline of the alleged facts of the crime." (The Code of Criminal Procedure, Articles 200.1 and 201.1.)

Primary Source:

#### The Police Duties Execution Act

[警察官職務執行法 - 日英対照表 - 日本法令外国語訳 DB システム \(japaneselawtranslation.go.jp\)](#)

#### The Code of Criminal Procedure

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

You can advocate for another young person stopped by police officers so long as you don't obstruct police officer's duty. However, you cannot advocate the person after the person was arrested/detained.

You can advocate another person with you while police officers stop the person. Police officers may stop and question any person when there is sufficient probable cause to suspect that the person is involved in a crime. (The Police Duties Execution Act, Article 2.1.) Nothing in Police Duties Execution Act prohibits you from advocating for another person with you when police officers stop and ask question the person.

However, you cannot advocate the person after formal proceeding stated. A person who are under arrest or in detention has a right to counsel, and, if the person was indigent to retain a lawyer, the person may retain a lawyer that the Japanese government pays its fee. A defense counsel must be appointed from among attorneys. (The Code of Criminal Procedure, Articles 31.1, 77.1 and 203.1.)

Primary Source:

#### The Police Duties Execution Act

[警察官職務執行法 - 日英対照表 - 日本法令外国語訳 DB システム \(japaneselawtranslation.go.jp\)](#)

Code of Criminal Procedure

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

You can ask why police officers stop you, but you should not challenge them. Refusal to the questions may make the stop longer. They have authority to stop and ask you questions when they consider that you are involved in a crime. Also, you may be charged as criminal liability if you resist them.

A police officer may stop and question any person when there is sufficient probable cause to suspect that the person is involved in a crime. (The Police Duties Execution Act, Article 2.1.)

Generally, the Japanese Supreme Court has held that a police officer may use reasonable force to stop and question a suspicious person under Article 2 of the Police Duties Execution Act. However, the Supreme Court has not clearly defined what is the "reasonable force."\*

If you challenged the stop and assaulted or intimidated police officers, you might be charged as obstructing or compelling of public. (The Penal Law, Article 95.1.)

A person who has a complaint against performance of police officers may file complaint in writing to the local Public Safety Commission. (The Police Act, Article 79.1.)

Primary Source

The Police Duties Execution Act

[警察官職務執行法 - 日英対照表 - 日本法令外国語訳 DB システム \(japaneselawtranslation.go.jp\)](#)

\*There was no case information available for free. Some law firm articles explain about the "reasonable force" in Japanese language.

The Penal Code

[刑法 - 日本語/英語 - 日本法令外国語訳 DB システム \(japaneselawtranslation.go.jp\)](#)

The Police Act (there is no English translation version.)

[Microsoft Word - 警察 I~V.doc \(npa.go.jp\)](#)

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

Yes. You can request police officers to show a police badge and identification card if they stopped you. You can also file a complaint to the local Public safety commission.

Police officers must carry a police badge and identification card at all times and show it when they need to show a proof of their identification to perform their duty. (The Rules of Police Badge, Articles 5 and 6.)

A person who has a complaint against performance of police officers may file a complaint in writing to the local Public Safety Commission. (The Police Act, Article 79.1.)

Primary Source

The Rules of Police Badge (there is no English translation version.)

The Police Act (there is no English translation version.)

[Microsoft Word - 警察 I~V.doc \(npa.go.jp\)](#)

## 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 forcibly puts you into the back seat of a police car; or
  - you are in long-time investigation with lodging.
- An officer only has to warn you of your rights before the police question you. This means an officer can arrest you before warning you of your rights.
- An arrest without rights warnings is still a valid arrest; it just may mean that evidence collected from it is admissible in court later.

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

You probably know when you are under arrest. Police officers must show a warrant to arrest you so that you can know you are under arrest. Arrest without a warrant is illegal unless you are caught while or immediately after committing a crime.

If police officers arrested with a warrant, the warrant must be shown to the suspect. (Code of Criminal Procedure Article 201.1.)

Any person may arrest an offender caught in the act without an arrest warrant. (Code of Criminal Procedure Article 213.)

Primary Source

Code of Criminal Procedure

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

There is no big difference between detention and arrest. Both of them is to investigate and prosecute you as a criminal. Therefore, in either case, you should retain your lawyer to defend yourself.

Police officers may detain/arrest a person when there is probable cause/sufficient probable cause that someone has committed a crime. (Code of Criminal Procedure Article 60.1 and 199.1.)

Primary Source

Code of Criminal Procedure



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

Probably, yes. Generally, police officers use handcuffs when they detain or arrest a person.

Generally, police officers may detain/arrest a person when there is probable cause/sufficient probable cause that someone has committed a crime. (Code of Criminal Procedure Article 60.1 and 199.1)

Primary Source

Code of Criminal Procedure

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

It depends on how much your freedom is restricted. If you feel you are restricted because police officers stop and not allow you to go, this is not likely to be an arrest. If they show you a warrant or explain you are a suspect of a possible crime, and restrict your freedom, it is highly likely to be an arrest or a detention.

A police officer may stop and question any person when they have a probable cause that you are involved in a crime. However, you are not obligated to answer their questions. (Police Duties Execution Act Article 2.1 and 2.3.)

You may not be detained unless you have been informed of the case and a statement has been taken from you. (Code of Criminal Procedure Article 61.)

If police officers arrested with a warrant, the warrant must be shown to the suspect. (Code of Criminal Procedure Article 201.1.)

Primary Source

The Police Duties Execution Act

[警察官職務執行法 - 日英対照表 - 日本法令外国語訳 DB システム \(japaneselawtranslation.go.jp\)](http://japaneselawtranslation.go.jp)

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## **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. For clarity, to use right to remain silent, you don't have to tell to do.
- 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's advice.
- 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?

After you are under arrest or in detention, you have a right to counsel, right to remain silent. If you are indigent, you can retain a lawyer that Japanese government pays its fee.

A person who are under arrest or in detention may remain silent at all times or may refuse to answer questions. (The Constitution of Japan Article 38 and Code of Criminal Procedure Article 198.2)

A person who are under arrest or in detention has a right to counsel, and, if the person was indigent to retain a lawyer, the person may retain a lawyer that Japanese government pays its fee. (Code of Criminal Procedure Article 77.1 and 203.1.)

However, keep in mind that nothing in the Code of Criminal Procedure prohibits police officers, prosecutors, and judges from asking questions to you before you see a lawyer.

Primary Source:

Code of Criminal Procedure

[刑事訴訟法 - 日本語/英語 - 日本法令外国語訳 DB システム \(japaneselawtranslation.go.jp\)](http://japaneselawtranslation.go.jp)

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

No. There is no restriction where arrested person's rights should be read. After you are under arrest or in detention, you have a right to counsel. If you are indigent, you have a lawyer that Japanese government pays its fee.

A person who are under arrest or in detention may remain silent at all times or may refuse to answer questions. (The Constitution of Japan Article 38 and Code of Criminal Procedure Article 198.2)

A person who are under arrest or in detention has a right to counsel, and, if the person was indigent to retain a lawyer, the person may retain a lawyer that Japanese government pays its fee. (Code of Criminal Procedure Article 77.1 and 203.1.)

Primary Source:

Code of Criminal Procedure

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## 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 has arrested you and if you are under the age of 20, police generally notifies your parent, caretaker or legal guardian immediately in practice.

## Am I required to make a statement?

No. You need not to make a statement against your will.

Under Article 38 of the Constitution of Japan, no person shall be compelled to testify against him/herself, nor shall a forced confession be used as evidence. It is the court, which is independent from the investigative authorities, that determines whether or not a confession has been made voluntarily.

In accordance with the Article 38 of the Constitution of Japan, Article 198(2) of the Code of Criminal Procedure stipulates that you will be notified that you are not required to make a statement against your will in an interrogation.

Suspects also have the right to remain silent and the right to appoint a lawyer and to consult with him/her without the presence of others. (Constitution of Japan Articles 34, 37(3) and 38(3), Code of Criminal Procedure Articles 30(1), 39(1), 77(1), 198(2), 203(1), and 311(1).)

In cases of certain serious crimes, such as those punishable by death or indefinite term of imprisonment, etc., audio and video recording of the interrogation of suspects is mandatory. Even when it is not mandatory, the prosecutors conduct audio and video recording of interrogation in many cases.

As such, there are measures in place to ensure appropriate interrogation by the investigative authorities. It is therefore not the case that excessive importance is given to confessions in Japan.

Primary Source:

Code of Criminal Procedure

[刑事訴訟法 - 日本語/英語 - 日本法令外国語訳 DB システム \(japaneselawtranslation.go.jp\)](http://japaneselawtranslation.go.jp)

Japanese Constitution

[THE CONSTITUTION OF JAPAN \(kantei.go.jp\)](http://kantei.go.jp)

Secondary Source

<https://www.moj.go.jp/EN/hisho/kouhou/20200120enQandA.html#Q6>

## Must police notify my guardian?

Although there is no statute that police officers must notify your guardian if you are a minor and are detained or arrested, as a practice, they notify the minor's guardian.

For purpose of Penal Code and Code of Criminal Procedure, minor is the one who are less than 20 years old. (Juveniles Act Article 2(1).)

Primary Source

Juveniles Act

[少年法 - 日本語/英語 - 日本法令外国語訳 DB システム \(japaneselawtranslation.go.jp\)](http://japaneselawtranslation.go.jp)

## Must I confess?

No, according to Article 198(2) of the Code of Criminal Procedure, you need not to make a statement against your will in an interrogation.

Primary Source:

Code of Criminal Procedure

[刑事訴訟法 - 日本語/英語 - 日本法令外国語訳 DB システム \(japaneselawtranslation.go.jp\)](http://japaneselawtranslation.go.jp)

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

You should ask a lawyer with you while investigation as an attendant. If you are under 14 years of age, and if the family court permits, your guardian can be an attendant instead of a lawyer. The attendant will be your defense lawyer if the family court decides that you should be prosecuted.

A person who are under arrest or in detention has a right to appoint a lawyer, and, if the person was indigent to retain a lawyer, the Japanese government will appoint a court-appointed counsel. (Code of Criminal Procedure Articles 77(1) and 203(1).)

The juveniles and their guardians may at any time appoint an attendant for attending the investigation by police officers when the juveniles are under 14 years of age and suspected to commit a crime. (Juveniles Act Article 6-3.)

A lawyer is always eligible to be an attendant. The guardians of the juveniles are eligible to be an attendant if the family court permits. (Juveniles Act Articles 10(1) and 10(2).)

The attendant who is a lawyer appointed by the juvenile or the guardian is deemed to be the defense counsel of the juvenile if the family court decides that the juvenile should be prosecuted. (Juveniles Act Article 45(vi).)

Primary Source

Code of Criminal Procedure

[刑事訴訟法 - 日本語/英語 - 日本法令外国語訳 DB システム \(japaneselawtranslation.go.jp\)](http://japaneselawtranslation.go.jp)

Juveniles Act

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

Although there is no statute that police officers must contact someone if you are a legal minor and are detained or arrested, as a practice, they notify the minor's guardian.

## 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 police. If you are arrested, you have the right to remain silent and to not speak until your lawyer is present. In addition, you have the right to appoint a lawyer and to consult with him/her without any official being present, although a prosecutor or police officer may designate the date, place and time of the

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consultation when it is necessary for their investigation (Code of Criminal Procedure Articles 39(1) and 39(3)).

### **What if I am just a witness?**

You must testify before the court under oath upon request of the court except when your testimony would incriminate oneself or one's relatives, etc. and falls within the privileged matter (e.g., lawyer's confidential communication with a client.) (Code of Criminal Procedure Articles 146, 147 and 149). If you refuse to testify without justifiable reason or tell a lie under oath, you may be subject to a criminal liability or fine (Penal Code Articles 169, and the Code of Criminal Procedure Articles 146, 147 and 149). If you testify before the court upon request of the court, you can request expenses to testify (Code of Criminal Procedure Article 164(1)). You have no right to counsel if you are just a witness.

The court may, except as otherwise provided in the Code of Criminal Procedure, examine any person as a witness. (Code of Criminal Procedure Article 143.)

The court must, except as otherwise provided in the Code of Criminal Procedure, have witnesses swear an oath. (Code of Criminal Procedure Article 154.) Any person who refuses to swear an oath or testify without a justifiable reason is punished by a fine of not more than 100,000 yen or penal detention (Code of Criminal Procedure Article 161(1).) Any person summoned as a witness who does not appear without a justifiable reason is punished by a fine of not more than 100,000 yen or penal detention. (Code of Criminal Procedure Article 151(1).)

Any person may refuse to give testimony when there is a concern that such testimony may result in said person's or said person's relatives' criminal prosecution or conviction. (Code of Criminal Procedure Articles 146 and 147.)

A physician, dentist, midwife, nurse, attorney (including a foreign lawyer registered in Japan), patent attorney, notary public or a person engaged in a religious occupation, or any other person who was formerly engaged in any of these professions may refuse to give testimony on particulars pertaining to the confidential information that said person came to know through entrusted professional conduct. (Code of Criminal Procedure Article 149.)

When a witness who has sworn in accordance with law gives false testimony, the person is charged as perjury, which is a criminal liability. (Penal Code Article 169.)

A witness is entitled to expenses to testify, including travel expenses, a daily allowance and accommodation fees. (Code of Criminal Procedure Article 164(1).)

Primary Source

Code of Criminal Procedure

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Penal Code

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## **Do Police Always Have To Tell The Truth?**

### **Proposed Information**

It is important to follow this advice:

- No. Although a confession obtained through a lie by police may not be admissible as evidence at trial pursuant to certain court precedents, the police may lie to you during

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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?**

Generally, police officers are not supposed to lie to you and are not allowed to do so. If they tell a lie to you and cause you injury or damage, they may be subject to civil and criminal liability. In addition, a confession obtained through a lie by police may not be admissible as evidence at trial.

Police Act prohibits police officers from abusing their authority. (Police Act Article 2(2).)

When police officers abuse their authority, they may be subject to criminal liabilities as follows. If a police officer abuses their authority and causes another person to do something that the person is not obligated to do, or obstructs the person from exercising their right, the police officer is charged as Abuse of Authority by Public Employee. (Penal Code Article 193.) Also, if a police officer abuses their authority and unlawfully captures or confines another, the police officer is charged as Abuse of Authority by Specialized Public Employees. (Penal Code Article 194.) Both of them are felonies.

Also, the Japanese government may be subject to civil liability to compensate your damages if a police officer tells a lie to you and you suffered damages under State Redress Act. Japanese/local government may be subject to civil liability under State Redress Act and must compensate damages you suffered, if a police officer unlawfully damages you intentionally or negligently. (State Redress Act Article 1(1).)

However, it is ultimately uncertain whether the Japanese/local government compensates US citizen under State Redress Act. According to State Redress Act Article 6, this Act may not apply, and the Japanese/local government does not compensate a foreign victim, where there is no mutual guarantee of compensation to Japanese victim in the same or similar case by the foreign government to which the foreigner belongs. There is a trial case that there is the mutual guarantee between US and Japan. However, trial cases cannot render judgements which binds other court in Japan. (A guide to State Redress Act. P415.)

Further, according to certain court precedents a confession obtained through a lie by police may not be admissible as evidence at trial, because there is doubt as to the voluntariness of such confession. (Supreme Court of Japan, Grand Chamber Decision, November 25, 1970 (Keishu 24 · 12 · 1670)).

Primary Source

Police Act

[https://www.npa.go.jp/english/keidai/Guidelines\\_of\\_Police\\_Policy/Laws\\_and\\_Orders\\_relevant\\_to\\_Police\\_Issues.pdf](https://www.npa.go.jp/english/keidai/Guidelines_of_Police_Policy/Laws_and_Orders_relevant_to_Police_Issues.pdf)

Penal Code

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State Redress Act

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Secondary Source (There is no English version.)

A guide to State Redress Act. P415

<https://yamanaka-bengoshi.jp/wp-content/uploads/2021/03/%E5%9B%BD%E5%AE%B6%E8%B3%A0%E5%84%9F%E8%A8%B4%E8%A8%9F%E3%81%AE%E6%89%8B%E5%BC%95%EF%BC%88%E7%AC%AC%EF%BC%94%E7%89%88%E3%83%BB%E5%B9%B3%E6%88%90%EF%BC%92%EF%BC%92%E5%B9%B4%EF%BC%93%E6%9C%88%EF%BC%89.pdf>

Supreme Court of Japan, Grand Chamber Decision, November 25, 1970 (Keishu 24 · 12 · 1670).

[https://www.courts.go.jp/app/files/hanrei\\_jp/835/050835\\_hanrei.pdf](https://www.courts.go.jp/app/files/hanrei_jp/835/050835_hanrei.pdf)

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

Yes. Although it is not necessary for you to respond to questions from the police honestly (you can remain silent if you do not want to tell anything), it is not recommended to tell a lie to the police. It puts you in a difficult position in the criminal prosecution if it turns out you told a lie to them. Also, you may be considered as unrepentant and may receive a heavy sentence. Moreover, you may be charged as Harboring of Criminals, which is a criminal liability, if you tell a lie to assist a criminal to escape.

A person who is under arrest or in detention may remain silent at all times or may refuse to answer questions before and after indictment. (Code of Criminal Procedure Article 198(2) and Article 311(1).)

If you assisted "the escape of another person who has either committed a crime punishable with a fine or a severer punishment or has escaped from confinement," you would be charged as Harboring of Criminals, which is criminal liability. (Penal Code Article 103.)

Also, keep in mind you have an obligation to tell the truth while you are "under oath" before a court while in a criminal proceeding, and if you were to lie while under oath, you could be found guilty of the crime of perjury as per Article 169 of the Penal Code.

Primary Source

Code of Criminal Procedure

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Penal Code

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## **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:

You can file a complaint in writing to the local Public Safety Commission. In this case, you might want to hire a lawyer who can speak English to file it because there may be seldom personnel who can speak English in the local Public Safety Commission.

A person who has a complaint against performance of police officers may file complaint in writing to the local Public Safety Commission. (Police Act Article 79(1).)

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Police Act

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### **I came to the police station voluntarily. What kind of rights do I have and can I claim? (Can I call my family or go home by the next day?)**

If you come to the police station voluntarily, it is only on a voluntary basis, so you can ask to leave at any time. If you can not get home, you should call a lawyer and ask the name of the police officer who does not allow you to return. It is illegal that police officers do not allow you to leave against your will when you come to the police station voluntarily without being shown a warrant. The Code of Criminal Procedure also provides as follows.

Article 198.1

A public prosecutor, public prosecutor's assistant officer or judicial police official may ask any suspect to appear in their offices and interrogate said person when it is necessary for the investigation of a crime; provided however, that the suspect may, except in cases where said person is under arrest or under detention, refuse to appear or after said person has appeared, may withdraw at any time.

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

### **Proposed Information**

It is important to follow this advice:

If you are a Japanese citizen, then Article 14 of the Constitution protects you from discrimination based on race, creed, sex, social status or family origin.

As of 2018, there was no specific department of the police to deal with hate speech and hate crimes. The Hate Speech Elimination Act does have some shortcomings because it is for residents from foreign countries and not for foreign tourists, does not ban hate speech, and does not set any penalties for committing hate speech.

If you are not Japanese, you may be able to report the discrimination or racism to your embassy.

Primary Source

Act on the Promotion of Efforts to Eliminate Unfair Discriminatory Speech and Behavior against Persons Originating from Outside Japan (Hate Speech Elimination Act)

[本邦外出身者に対する不当な差別的言動の解消に向けた取組の推進に関する法律 - 日本語/英語 - 日本法令外国語訳 DB システム \(japaneselawtranslation.go.jp\)](#)

Secondary Sources:

[Japan police urge officers to avoid impression of racial profiling \(kyodonews.net\)](#)

extension://elhekieabhbkmcefcobjddigcaadp/

[https://tbinternet.ohchr.org/Treaties/CERD/SharedDocuments/JPN/INT\\_CERD\\_NGO\\_JPN\\_31918\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CERD/SharedDocuments/JPN/INT_CERD_NGO_JPN_31918_E.pdf)

### **I am a black man, and I clearly feel that I receive more questions by police officer than other Japanese man.**

There is no clear definition of discrimination under Japanese law. Police officers can stop and ask questions if there is sufficient probable cause that a person is involved in a crime.

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Stopping itself is not considered as a violation of law so long as police officers considers that there is the sufficient probable cause.

A police officer may stop and question any person if there is sufficient probable cause that a person is involved in a crime. (According to The Police Duties Execution Act Article 2(1).)

The Japanese Constitution states, in Article 14, "All of the people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin."

However, there are no laws prohibiting discrimination against tourists from foreign countries by public authorities such as police nor from private individuals or companies. Japan has not agreed to international conventions or treaties that would criminalize racial discrimination.

Primary Source:

Constitution

[THE CONSTITUTION OF JAPAN \(kantei.go.jp\)](http://kantei.go.jp)

The Police Duties Execution Act

[警察官職務執行法 - 日英対照表 - 日本法令外国語訳 DB システム \(japaneselawtranslation.go.jp\)](http://japaneselawtranslation.go.jp)

Secondary source:

<https://thediplomat.com/2020/06/japan-holds-anti-racism-rally-protesting-homegrown-police-brutality-in-solidarity-with-black-lives-matter/>

## How can I respond to circumstances involving discrimination?

### Proposed Information

It is important to follow this advice:

You can file a complaint in writing to the local Public Safety Commission. In this case, you might want to hire a lawyer who can speak English to file it because there may be seldom personnel who can speak English in the local Public Safety Commission.

A person who has a complaint against performance of police officers may file a complaint in writing to the local Public Safety Commission. (Police Act Article 79.1.)

However, there are no laws prohibiting discrimination by public authorities against tourists from foreign countries. \*Japan has yet to adopt subparagraphs (a) and (b) under Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, which criminalize the dissemination of ideas based on racial superiority.

Primary Source

Police Act

[Microsoft Word - 警察 I~V.doc \(npa.go.jp\)](http://npa.go.jp)

Secondary Source\*

[Japan Holds Anti-Racism Rally, Protesting Homegrown Police Brutality in Solidarity With Black Lives Matter – The Diplomat](https://thediplomat.com/2020/06/japan-holds-anti-racism-rally-protesting-homegrown-police-brutality-in-solidarity-with-black-lives-matter/)

## **A police officer used an obviously discriminatory word against me. What can I do to protest this?**

You can file a complaint in writing to the local Public Safety Commission. In this case, you might want to hire a lawyer who can speak English to file it because there may be seldom personnel who can speak English in the local Public Safety Commission.

A person who has a complaint against performance of police officers may file a complaint in writing to the local Public Safety Commission. (Police Act Article 79.)

However, there are no laws prohibiting discrimination by public authorities against tourists from foreign countries. \*Japan has yet to adopt subparagraphs (a) and (b) under Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, which criminalize the dissemination of ideas based on racial superiority.

Primary Source

Police Act

[Microsoft Word - 警察 I~V.doc \(npa.go.jp\)](#)

Secondary Source\*

<https://thediplomat.com/2020/06/japan-holds-anti-racism-rally-protesting-homegrown-police-brutality-in-solidarity-with-black-lives-matter/>

## **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 should consult with a lawyer. Even if you are illegally arrested, detained, or searched, the court would exclude a confession or evidences obtained through the illegal arrest, detention, or search from a criminal proceeding. Keep in mind you have a right to appoint counsel (Code of Criminal Procedure Articles 30(1) and 31-2(1)) and need not to make any statement against your will (The Constitution of Japan Article 38(1) and Code of Criminal Procedure Article 198(2)). If a detention warrant is issued and you are unable to appoint counsel due to indigence or any other grounds, the judge must appoint defence counsel for you upon request (Code of Criminal Procedure Article 37-2(1)).

Generally, police officers may not detain, search, or arrest a person or place without a warrant unless you are committing a crime or immediately after a crime. (Code of Criminal Procedure Articles 62, 106, 199(1), 212(1), 212(2), 213, 218, 220(1) and 222.)

The court may issue detention/arrest warrant if there is probable cause/sufficient probable cause to suspect that someone has committed a crime. (Code of Criminal Procedure Article 60(1) /199(1).)

Japanese Supreme Court held that illegally obtained evidences should be excluded in a criminal procedure where there is serious illegality that subverts a warrant policy under Code of Criminal Procedure and the exclusion is justified to prevent future illegal searches. (\*Japanese Supreme Court the first petty bench, September 7, 1978.)

Confession under coercion, torture, threats, after unduly prolonged detention or when there is doubt about said confession being voluntary may not be admitted as evidence. (Constitution of Japan Article 38(2) and Code of Criminal Procedure Article 319(1).)

Primary Source:

## Code of Criminal Procedure

[刑事訴訟法 - 日本語/英語 - 日本法令外国語訳 DB システム \(japaneselawtranslation.go.jp\)](http://japaneselawtranslation.go.jp)  
(Note: In relation to Article 37-2.1, this is an English translation of the pre-amended article, which provides that the right to request the counsel arises only for certain serious crime.)

## Secondary Source

\*there is no available case for free. Also, there is no available English link.

The source of Exclusionary rule, Page 37-38 [C:\Users\hamadasumio\Downloads\HS\\_59-37.pdf](C:\Users\hamadasumio\Downloads\HS_59-37.pdf)

## **What can you do if police officers investigate in improper manner, such as, telling others that I am an accused while I am not formally indicted, and your reputation was adversely affected.**

It depends on the degree of the improper investigation. You can consult with lawyer and file a complaint to the local Public Safety Commission. Also, if the police officers defamed your reputation while you did not commit a crime, the local government may be subject to civil liability under State Redress Act.

A person who has a complaint against performance of police officers may file complaint in writing to the local Public Safety Commission. (Police Act Article 79(1).)

Japanese/local government may be subject to civil liability under State Redress Act and must compensate damages you suffered, if a police officer unlawfully damages you intentionally or negligently. (State Redress Act Article 1(1).)

However, it is ultimately uncertain whether local government compensates US citizen under State Redress Act. According to State Redress Act Article 6, this Act may not apply, and local government does not compensate a foreign victim, where there is no mutual guarantee of compensation to Japanese victim in the same or similar case by the foreign government to which the foreigner belongs. There is a trial case that there is the mutual guarantee between US and Japan. However, trial cases cannot render judgements which binds other court in Japan. (A guide to State Redress Act. Page 415.)

## Primary Source

### Police Act

[https://www.npa.go.jp/english/keidai/Guidelines\\_of\\_Police\\_Policy/Laws\\_and\\_Orders\\_relevant\\_to\\_Police\\_Issues.pdf](https://www.npa.go.jp/english/keidai/Guidelines_of_Police_Policy/Laws_and_Orders_relevant_to_Police_Issues.pdf)

### State Redress Act

[国家賠償法 - 日英対照表 - 日本法令外国語訳 DB システム \(japaneselawtranslation.go.jp\)](http://japaneselawtranslation.go.jp)

## **Even though I didn't agree, I was forced to check my bag. Is this illegal? What should I do in that case?**

Yes, it is illegal. If police officers want to search, seize, or inspect they must have a warrant issued by a judge. In that case, you can consult with a lawyer and file a complaint to the local Public Safety Commission.

A person who has a complaint against performance of police officers may file a complaint in writing to the local Public Safety Commission. (Police Act Article 79(1).)

Police officers may not search, seize, or inspect without a warrant unless you are committing a crime or immediately after a crime. (Code of Criminal Procedure Articles 199, 210(1), 220(1) and 220(3).)

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Code of Criminal Procedure

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Police Act

[Microsoft Word - 警察 I~V.doc \(npa.go.jp\)](http://npa.go.jp)

**The policeman threatened me, gave me high-pressure words, and yelled at me. Are these words and actions inappropriate? What should I do in that case?**

It depends on the degree of the police officer's improper behavior. If the degree was excessive, the police officer is subject to criminal liability, and local government to which the officer belongs may be subject to civil liability. You can consult with lawyer and file a complaint to the local Public Safety Commission.

A person who has a complaint against performance of police officers may file complaint in writing to the local Public Safety Commission. (Police Act Article 79(1).)

When a police officer abuses their authority, the officer may be subject to criminal liabilities as follows. When a police officer commits, in the performance of their duties, an act of assault or physical or mental cruelty upon the accused, suspect or any other person, the officer is charged as Assault and Cruelty by Specialized Public Employees. (Penal Code Article 195(1).)

Also, Japanese/local government may be subject to civil liability under State Redress Act and must compensate damages you suffered, if a police officer unlawfully damages you intentionally or negligently. (State Redress Act Article 1(1).)

However, it is ultimately uncertain whether Japanese/local government compensates US citizen under State Redress Act. According to State Redress Act Article 6, this Act may not apply, and Japanese/local government does not compensate a foreign victim, where there is no mutual guarantee of compensation to Japanese victim in the same or similar case by the foreign government to which the foreigner belongs. There is a trial case that there is the mutual guarantee between US and Japan. However, trial cases cannot render judgements which binds other court in Japan. (A guide to State Redress Act. Page 415.)

Primary Source

Penal Code

[刑法 - 日本語/英語 - 日本法令外国語訳 DB システム \(japaneselawtranslation.go.jp\)](http://japaneselawtranslation.go.jp)

Police Act

[https://www.npa.go.jp/english/keidai/Guidelines\\_of\\_Police\\_Policy/Laws\\_and\\_Orders\\_relevant\\_to\\_Police\\_Issues.pdf](https://www.npa.go.jp/english/keidai/Guidelines_of_Police_Policy/Laws_and_Orders_relevant_to_Police_Issues.pdf)

State Redress Act

[国家賠償法 - 日英対照表 - 日本法令外国語訳 DB システム \(japaneselawtranslation.go.jp\)](http://japaneselawtranslation.go.jp)

**I came to the police station voluntarily, but I couldn't get home back. What should I do?**

You should call a lawyer and ask the name of the police officer who does not allow you to get home. It is illegal that police officers do not allow you to leave against your will when you come to the police station voluntarily without being shown a warrant. Also, keep in mind you have no obligation to go to the police station unless police officers have a warrant.

If police officers considered that there is a probable cause that a person is involved in a crime and also considers that questioning on the spot will disadvantage the person or

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impede traffic, the police officers may request the person to accompany the police official to a nearby police station, police box or residential police box for the purpose of questioning. But, the person is not obligated to accompany with them. (The Police Duties Execution Act Article 2(2) and 2(3).)

A judicial police official may ask any suspect to appear in their offices and interrogate the suspect when it is necessary for the investigation of a crime. However, the suspect may withdraw at any time unless the suspect is under arrest or in detention. (Code of Criminal Procedure Article 198(1).)

#### Primary Source

##### The Police Duties Execution Act

[警察官職務執行法 - 日英対照表 - 日本法令外国語訳 DB システム \(japaneselawtranslation.go.jp\)](#)

##### Code of Criminal Procedure

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Law is generally described as of December 2022.

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