

YOU'RE UNDER ARREST

The legal details you hopefully never have to learn first-hand

Sometimes situations escalate and people find themselves in trouble with police officers. The following information will help you understand your rights during an arrest. If you are arrested keep calm and do not panic. Remember that you have the right to be treated fairly and with respect by the police. Read and share the following information.

What should I do if a police officer stops me?

If a police officer stops you, stop and comply with his/her requests. Remember to be respectful and answer his/her questions honestly. Behaving impolitely and/or giving false information can get you into trouble. Remember that police officers have the duty of protecting the public.

If you have something to hide or you feel uncomfortable telling the police officer the truth, you might want to consider telling the officer that you are exercising your right to remain silent or that you want your lawyer present.

Remember that there is a difference between being stopped for questioning and being arrested. If you are stopped for questioning you are NOT under arrest. You can be stopped for questioning if a police officer simply wants to inquire about a situation. There is no law against the police stopping you to talk to you. There are a number of reasons for police to stop and question people in public places - investigating drugs; weapons, liquor and motor vehicle offences are a few examples. They may also be looking for help to find suspects. Questioning is usually brief and you will be free to go about your way.

If an officer stops you for no clear reason and begins to ask questions, generally, you do not have to answer. The law does not require you to identify yourself or supply any information, unless the officer gives you a legal reason for making such a request.

Keep the following in mind:

- If the police stop you in a public place you are not required to answer questions. If you are not under arrest, you are entitled to go on your way.
- If the police stop you while you are driving a motor vehicle, you are not required to answer questions except about your driver's license, insurance and motor vehicle registration. If you refuse to show them these documents, the police can arrest you. Others in the vehicle are not required to answer questions.
- If the police stop you for any offence, you must give them your name and address. If you refuse, the police can arrest you.
- The police have no right generally to search you. However, depending on the situation they may have the right to conduct a safety search if they detain you.

What if I give the police officer false information?

Giving false information or obstructing a police officer in the lawful execution of his/her duty is an offence. Do not make any false statements to the police. Depending on the situation, you risk being charged for an offence, given a fine or placed under arrest.

Remember that you gave the right to remain silent when being questioned by the police. You are not required to answer any questions asked by police. If you have been placed under arrest, police are required to inform you of your right to silence as well as warn you that any statement you provide may be used against you in a court of law.

You also gave the right to consult a lawyer before answering any questions asked by police. It is always a good idea to consult a lawyer to discuss your situation.

Do I have to co-operate with the officer if I think that I am being treated unfairly?

You should always try and cooperate with police officers. If you think that you are being questioned unfairly, or are being discriminated against, listen to the officer and remain calm at all times. You can file a complaint after the incident. If you try to resist arrest or question the officer in a disrespectful manner you could be charged for your actions regardless of whether you think you were justified.

Police officers follow a code ethics. This code established the duties and standards of conduct of police officers when performing their duties. Among others, police officers should not;

- Use obscene, blasphemous or insulting language
- Act or make insulting statements based on race, color, sex, sexual orientation, religion, political convictions, language, age, social condition, disability, etc.
- Treat a person impolitely or without respect
- Forget or refuse to identify himself with an official document when a person asks him to do so
- Forget to wear a prescribed identification mark (badge, uniform, etc.) in his direct relations with members of the public
- Abuse his authority in his relations with the public (threats, harassment, use of unnecessary force, etc.)
- Disobey the law (for example, illegal arrest or detention)

Can I walk away from the officer if I don't think I did anything wrong?

No, you cannot walk away from a police officer if you are being questioned. If you are stopped by a police officer on duty, try to remain as calm and courteous in the presence of authorities.

Can I insult an officer if he or she disrespected me?

No, you should not insult a police officer even if you feel disrespected. By insulting an officer, you run the risk of making your situation worse. If you feel that you were disrespected by a police officer, you can file a complaint later.

If you would like to file a complaint against a police officer you could go to your nearest police station or visit <http://www.spvm.qc.ca>.

Do I have to obey a police officer?

Yes, you should always follow the instructions of authority. If an officer acts within the limits of his duties as prescribed by the law you should always obey his instructions. If you feel that a police officer acts in way that is not proscribed by law and your life is in danger call the police.

If the officer does not put you in harm's way, you could file a complaint with the **Commissaire à la déontologie policière** after the fact. You have one year from the "incident" to file the complaint in writing.

The staff at the Commissioner's office must help you with the wording of the complaint if you ask them to do so. The services provided by the Commissioner's office are free.

You may also reach the commissioner using the following:

Email: deontologie-policiere.quebec@msp.gouv.qc.ca

Website : <http://www.deontologie-policiere.gouv.qc.ca/>

Telephone : 1-877- 237-7897 or 514 864-1784

What is a 'body search' and when can an officer search me?

A body search occurs when the police look for evidence of an offence on a person. For example, the police might search a person, her bag, or her clothing.

Seizure is the act of taking and keeping the objects discovered during a search.

During an arrest, a police officer can search the person arrested as well as the person's immediate surroundings. This means that your car can be searched without a warrant to ensure the safety of police and to preserve evidence that could otherwise be lost or destroyed.

In practice the police search every person they arrest. This search must be brief (pockets, bags, etc.) as opposed to a strip search that is more invasive.

If a police officer finds something illegal in my possession, can they take it?

Yes, this is called seizure. If a police officer performs a body search or sees something in plain view while he is questioning you he can take it away and charge you for possession of an illegal object, such as: marihuana, a knife or any other illegal object in your pocket.

Can I carry a knife or box-cutter?

It is an offence to use or carry a prohibited weapon without a lawful excuse. A knife or a box cutter, depending on the situation, could be considered a weapon. If you carry a knife or a box-cutter during a move, it is not considered illegal.

Are slingshots and BB guns weapons?

It is possible to have a slingshot or BB gun with sufficient power to cause serious bodily harm. If you use a slingshot or BB gun in a careless manner or without reasonable precautions for the safety of other persons, it becomes an offence.

Can I hide a weapon in my backpack?

No, it is an offence to carry a concealed weapon. You may only carry a concealed weapon if you are authorized to do so under the *Firearms Act*.

How do I know if I'm under arrest?

If you are under arrest, the police are required by law to tell you that they will be placing you under arrest and their reason for doing so. They must thereafter inform you of your right to remain silent and your right to a lawyer.

If you are arrested because you pose a threat to the officer or another person's life, the officer can wait until you are restrained and/or handcuffed before telling you that you are being placed under arrest and reading you your rights.

If I get arrested do my parents need to find out?

If you are a minor, the police have to notify your parents of your arrest. Both parents must be notified. If your parents cannot be reached, an adult that can be responsible for you will be notified (ex. An older sibling or an older relative).

During questioning however, in addition to a lawyer, you can also consult your mother, your father or any other adult. At your request, the police can question you without your parents in the room.

What is the right to remain silent?

The right to remain silent is a constitutional right that is protected by the Canadian Charter of Rights and Freedoms. One's right to silence exists when he/she knowingly deals with a person

in a position of authority (ex. police officer). This means that you are not covered by the right to silence if you talk to an undercover police officer. So, if you make a statement to an undercover police officer these statements may be admitted as evidence if there is a legal proceeding against you unless the police officer acted in a way that would shock the community. To exercise your right to remain silent you simply have to tell the police officer that you are exercising your right to silence.

You also have the right to silence during legal proceedings. The law states, that no one, who is accused, may not be forced to testify against himself/herself. Exercising this right does not have any negative impact on your case.

When do I need a lawyer?

You have the right to ask for a lawyer after you have been arrested and prior to questioning. A lawyer can help you understand and assert your legal rights. If you are arrested, a lawyer can also help you set a bail amount and get your charges reduced or dropped. You have the right to retain and instruct a lawyer at any stage of the legal proceedings.

How do I get a lawyer?

Upon arrest, a police officer must notify you of your right to a lawyer. The police officer is also required to give you a list of lawyers as well as provide you with a free telephone call. The police must tell you about the availability of legal-aid, free preliminary legal advice or the availability of duty counsel to help you. You are also free to contact a lawyer of your choice.