

The Justice System

Lesson Plan 3: How to deal with cops and what is under arrest

Introduction

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.

Topic 1: Example of Arrest and the consequences

A man stole money from a grocery store and ran. The police saw Jérôme Hawes running down the street away from the store. They thought he was probably the robber. The police stopped Jérôme and took him to the police station.

This is called arrest. There are rules for the police when they are arresting people. An arrested person also has rights:

- The police officer has to say who he or she is and why he or she is arresting Jérôme¹.
- The police officer has to let Jérôme phone a lawyer right away².
- If Jérôme wants to talk to the lawyer alone, the police officer has to let him.
- When the police officer asks, Jérôme should tell the officer his name and address³.
- He doesn't have to say more until he talks to a lawyer⁴.
- Within 24 hours, the police have to take Jérôme to court or let him go⁵.

There are different ways that Jérôme could be arrested: The police may stop Jérôme, but not arrest him. They may let him go home if the charge against him is not serious.

Once the investigation has been completed, the police can arrest Jérôme if they have reasonable grounds to believe that he committed a criminal offence⁶. They can deprive him of his freedom, in most cases temporarily. If Jérôme is under the age of 18, they can also apply extrajudicial measures against him.

If the police decide to release Jérôme, they may also:

- give Jérôme an appearance notice⁷;
- have Jérôme sign a promise to appear, and then give Jérôme a copy⁸; or

¹ *Charte canadienne des droits et libertés*, Loi de 1982 sur le Canada, Annexe B, 1982 (R-U), ch11, art 10 a).

² *Charte canadienne des droits et libertés*, Loi de 1982 sur le Canada, Annexe B, 1982 (R-U), ch11, art 10 b).

³ *Code criminel*, LRC, (1985) ch C-46, art 495; *R c Moore*, [1979] 1 RCS 195 à la p 211.

⁴ *R c Manninen*, [1987] 1 RCS 1233 (CSC) au para 23.

⁵ *Code criminel*, LRC, (1985) ch C-46, art 503.

⁶ *Code criminel*, LRC, (1985) ch C-46, art 495(1)a).

⁷ *Code criminel*, LRC, (1985) ch C-46, art 498(1)b).

⁸ *Code criminel*, LRC, (1985) ch C-46, art 498(1)c).

- ask Jérôme to enter into a recognizance.

The documents all state where and when Jérôme must attend court, along with other information⁹.

If the police do not give Jérôme any document when you are released, Jérôme may receive an appearance notice later, stating where and when Jérôme must attend court.

An arrest warrant may also be issued against Jérôme.

Types of extrajudicial measures

Extrajudicial means outside the court if Jérôme's age is between 12 to 17 years old. An extrajudicial measure is a way of holding teenagers accountable for their actions without going through the traditional court process¹⁰. When police stop a teenager, they decide whether an extrajudicial measure is the best way to deal with the teen's case. If the police decide on an extrajudicial measure, the teenager will not have to go to court. These are the extrajudicial measures police can take, depending on what the teenager has done:

- They can do nothing further. Doing nothing is still an extrajudicial measure.
- They can give the teenager a warning.
- They can refer the teenager to an Organisme de justice alternative or OJA (alternative justice organization)¹¹.

If a teenager is stopped by the police, the police officer must tell the teen about these rights:

- the right to know why the officer stopped the teenager¹²
- the right to talk to a lawyer¹³
- the right to remain silent¹⁴

The officer must also contact the teen's parents to let them know what is happening¹⁵.

Topic 2: How to deal with cops

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

⁹ *Code criminel*, LRC, (1985) ch C-46, art 500(1)c) et 501(2).

¹⁰ *Loi sur le système de justice pénale pour les adolescents*, LC 2002, art 2.

¹¹ *Loi sur la justice pénale pour les adolescents*, LC 2002 ch 1, art 6(1).

¹² *Charte canadienne des droits et libertés*, Loi de 1982 sur le Canada, Annexe B, 1982 (R-U), ch11, art 10 a).

¹³ *Charte canadienne des droits et libertés*, Loi de 1982 sur le Canada, Annexe B, 1982 (R-U), ch11, art 10 b); *Loi sur la justice pénale pour les adolescents*, LC 2002 ch 1, art 25(2).

¹⁴ *Charte canadienne des droits et libertés*, Loi de 1982 sur le Canada, Annexe B, 1982 (R-U), ch11, art 7; *R c Singh*, [2007] 3 RCS 405 (CSC) aux paras 32-33.

¹⁵ *Loi sur la justice pénale pour les adolescents*, LC 2002 ch 1, art 26(1)-(4); *Code de procédure pénale*, RLRQ c C-251, art 159.

get you into trouble¹⁶. 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. This is called detention – police will have to inform someone that they are not free to go.

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 information¹⁷, unless the officer gives you a legal reason for making such a request¹⁸. You can always ask if you are free to go.

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 license¹⁹, insurance²⁰ and motor vehicle registration²¹. 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 address²². If you refuse, the police can arrest you.
- The police have no right generally to search you²³. However, depending on the situation they may have the right to conduct a safety search if they detain you²⁴.

What if I am detained?

The police have a right to briefly detain you if they are investigating a crime and have reasonable grounds to believe that you are connected to that crime²⁵. This type of detention is

¹⁶ *Code criminel*, LRC, (1985) ch C-46, art 129 a) d) e).

¹⁷ *R c Turcotte*, [2005] 2 RCS 519 (CSC) au para 55.

¹⁸ *Code criminel*, LRC, (1985) ch C-46, art 495; *R c Moore*, [1979] 1 RCS 195 à la p 211.

¹⁹ *Code de la sécurité routière*, RLRQ c C-242, art 102.

²⁰ *Code de la sécurité routière*, RLRQ c C-242, art 36 et 35(1).

²¹ *Code de la sécurité routière*, RLRQ c C-242, art 36 et 35.

²² *Code criminel*, LRC, (1985) ch C-46, art 495; *R c Moore*, [1979] 1 RCS 195 à la p 211.

²³ *Charte canadienne des droits et libertés*, Loi de 1982 sur le Canada, Annexe B, 1982 (R-U), ch11, art 8.

²⁴ *R c Golden*, [2001] 3 RCS 679 (CSC) au para 75.

²⁵ *Charte canadienne des droits et libertés*, Loi de 1982 sur le Canada, Annexe B, 1982 (R-U), ch11, art 9.

different from being placed under arrest. If you have been detained but not arrested, and a police officer believes that there are reasonable grounds to think that his safety or the safety of others is at risk, the officer may do a “pat-down” search of you to check for weapons²⁶. If you are being detained, you do not have to answer any questions posed by the police²⁷. It is important to distinguish between “detention” and “arrest”. You are being detained as soon as a police officer restricts your liberty, either through physical or psychological means. If police are placing you under arrest, they must clearly say “**You’re under arrest**” and explain why. In general, when police arrest or detain a youth, they will notify the parents right away²⁸. If the youth will be questioned by the police, the youth can ask to be accompanied by a parent. However, the parent can’t replace the youth in answering questions.

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 offence²⁹. Do not make any false statements to the police. Depending on the situation, you risk being charged for an offence³⁰, 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 police³¹. 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 law³².

You also gave the right to consult a lawyer before answering any questions asked by police³³. 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?

If you can, try and cooperate with police officers but remember Right to silence is essential. 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 justified³⁴.

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

²⁶ *Charte canadienne des droits et libertés*, Loi de 1982 sur le Canada, Annexe B, 1982 (R-U), ch11, art 8.

²⁷ *Charte canadienne des droits et libertés*, Loi de 1982 sur le Canada, Annexe B, 1982 (R-U), ch11, art 7.

²⁸ *Loi sur la justice pénale pour les adolescents*, LC 2002 ch 1, art 26(1)-(4).

²⁹ *Code criminel*, LRC, (1985) ch C-46, art 129 a) d) e).

³⁰ *Code criminel*, LRC, (1985) ch C-46, art 129 a) d) e).

³¹ *R c Turcotte*, [2005] 2 RCS 519 (CSC) au para 55.

³² *R c Singh*, [2007] 3 RCS 405 (CSC) aux paras 32-33.

³³ *Charte canadienne des droits et libertés*, Loi de 1982 sur le Canada, Annexe B, 1982 (R-U), ch11, art 10 b).

³⁴ *Code criminel*, LRC, (1985) ch C-46, art 129a).

- Use obscene, blasphemous or insulting language³⁵
- Act or make insulting statements based on race, color, sex, sexual orientation, religion, political convictions, language, age, social condition, disability, etc³⁶.
- Treat a person impolitely or without respect³⁷
- Forget or refuse to identify himself with an official document when a person asks him to do so³⁸
- Forget to wear a prescribed identification mark (badge, uniform, etc.) in his direct relations with members of the public³⁹
- Abuse his authority in his relations with the public (threats, harassment, use of unnecessary force, etc.)⁴⁰
- Disobey the law (for example, illegal arrest or detention)⁴¹

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 questioned⁴². 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?

It is not a good idea! 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 a way that is not prescribed 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

³⁵ *Code de déontologie des policiers du Québec*, RLRQ, c P-131, r 1, art 5 para 1.

³⁶ *Code de déontologie des policiers du Québec*, RLRQ, c P-131, r 1, art 5 para 4.

³⁷ *Code de déontologie des policiers du Québec*, RLRQ, c P-131, r 1, art 5 para 5.

³⁸ *Code de déontologie des policiers du Québec*, RLRQ, c P-131, r 1, art 5 para 2.

³⁹ *Code de déontologie des policiers du Québec*, RLRQ, c P-131, r 1, art 5 para 3.

⁴⁰ *Code de déontologie des policiers du Québec*, RLRQ, c P-131, r 1, art 6.

⁴¹ *Code de déontologie des policiers du Québec*, RLRQ, c P-131, r 1, art 7.

⁴² *Code criminel*, LRC, (1985) ch C-46, art 129 a).

complaint in writing⁴³.

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 : [Commissaire à la déontologie policière - Accueil \(gouv.qc.ca\)](http://Commissaire%20a%20la%20deontologie%20policiere%20-%20Accueil%20(gouv.qc.ca))

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

If the police ask me for ID, I'm I obligated to give them one?

In most cases, the law doesn't require you to provide any information to the police unless you're under arrest. If you're being randomly stopped by the police, they don't have the authority to ask you to show ID, but they may ask you what your name is, your address or your date of birth. Remember that in this case, you always have the right to remain silent by choosing not to answer⁴⁴. However, if you're being stopped by the police while driving, you must show them your driver's license as a way to identify yourself⁴⁵.

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 and their clothing.

Seizure is the act of taking and keeping the objects discovered during a search⁴⁶.

During an arrest, a police officer can search the person arrested as well as the person's immediate surroundings⁴⁷. 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

⁴³

<https://deontologie-policiere.gouv.qc.ca/commissaire/nos-formulaires/deposer-une-plainte/formulaire-depot-plainte.html>

⁴⁴ *Charte canadienne des droits et libertés*, Loi de 1982 sur le Canada, Annexe B, 1982 (R-U), ch11, art 7.

⁴⁵ *Code de la sécurité routière*, RLRQ c C-242, art 102.

⁴⁶ *Code de procédure pénale*, RLRQ c C-251, art 95.

⁴⁷ *Code criminel*, LRC, (1985) ch C-46, art 117.02(1).

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 excuse⁴⁸. A knife or a box cutter, depending on the situation, could be considered a weapon⁴⁹. If you carry a knife or a box-cutter during a move, it could be considered a weapon depending on how it's used.

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 offence⁵⁰.

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**⁵¹. It is important to distinguish between firearms and weapons. Firearms Act doesn't apply to knives for instance

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 so⁵². They must thereafter inform you of your right to remain silent and your right to a lawyer⁵³.

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 arrest⁵⁴. Both parents must be notified. If your parents cannot be reached, an adult that can be responsible for you will be notified⁵⁵ (ex. An older sibling or an older relative).

⁴⁸ *Code criminel*, LRC, (1985) ch C-46, art 86(1).

⁴⁹ *Code criminel*, LRC, (1985) ch C-46, art 84(1).

⁵⁰ *Code criminel*, LRC, (1985) ch C-46, art 86(1).

⁵¹ *Code criminel*, LRC, (1985) ch C-46, art 90(1).

⁵² *Charte canadienne des droits et libertés*, Loi de 1982 sur le Canada, Annexe B, 1982 (R-U), ch11, art 10 a).

⁵³ *Charte canadienne des droits et libertés*, Loi de 1982 sur le Canada, Annexe B, 1982 (R-U), ch11, art 10 b); *R c Singh*, [2007] 3 RCS 405 (CSC) aux paras 32-33.

⁵⁴ *Loi sur la justice pénale pour les adolescents*, LC 2002 ch 1, art 26(1)-(4).

⁵⁵ *Loi sur la justice pénale pour les adolescents*, LC 2002 ch 1, art 26(4).

During questioning however, in addition to a lawyer⁵⁶, you can also consult your mother, your father or any other adult⁵⁷. 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 Freedoms⁵⁸. 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 you⁵⁹ unless the police officer acted in a way that would shock the community⁶⁰. To exercise your right to remain silent you simply have to tell the police officer that you are exercising your right to silence⁶¹.

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/herself⁶². 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 questioning⁶³. 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 lawyer⁶⁴. 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.

Police keep your information

⁵⁶ *Loi sur la justice pénale pour les adolescents*, LC 2002 ch 1, art 146(2)b)iii), c)i), d).

⁵⁷ *Loi sur la justice pénale pour les adolescents*, LC 2002 ch 1, art 146(2)c)ii).

⁵⁸ *Charte canadienne des droits et libertés*, Loi de 1982 sur le Canada, Annexe B, 1982 (R-U), ch11, art 7.

⁵⁹ *R c Hebert*, [1990] 2 RCS 151 (CSC) à la p 34 du pdf.

⁶⁰ *R c Hebert*, [1990] 2 RCS 151 (CSC) aux pp 38-39 du pdf.

⁶¹ *R c Hebert*, [1990] 2 RCS 151 (CSC) à la p 36.

⁶² *Charte canadienne des droits et libertés*, Loi de 1982 sur le Canada, Annexe B, 1982 (R-U), ch11, art 13.

⁶³ *Charte canadienne des droits et libertés*, Loi de 1982 sur le Canada, Annexe B, 1982 (R-U), ch11, art 10 b).

⁶⁴ *Charte canadienne des droits et libertés*, Loi de 1982 sur le Canada, Annexe B, 1982 (R-U), ch11, art 10 b).

Even if the police decide to do nothing, they must record what happened in a database kept by the Centre des renseignements policiers du Québec (CRPQ or Quebec police information centre). This means that, for the next two years, police officers throughout Quebec will be able to see that the police stopped you⁶⁵. Officers will also be able to see how the case was dealt with. If you are accused of another crime, the police will know that an extrajudicial measure was taken against him in the past.

Referral to an Organisme de justice alternative (OJA)

An Organisme de justice alternative or OJA (alternative justice organization) is a community organization that works with teenagers accused of crimes and with victims of crimes. If the police refer you to an OJA, a professional who works at the OJA will contact the teen within a few weeks⁶⁶. The professional will recommend that you take part in an activity or program that is meant to help him. You will usually have to go to information and awareness sessions. They last about two hours. The OJA will ask the parents to attend as well. At the end of the activity, your case will be over and you will not have to go to court⁶⁷.

What if the police decide not to take extrajudicial measures

The police might decide that extrajudicial measures are not the best way to deal with a teenager's case⁶⁸. This could happen if the crime is very serious, or if you refuse to admit that you committed the crime. In cases like this, the police will send the file to the prosecutor. This is a government lawyer who brings cases to court against people accused of crimes⁶⁹. Prosecutors are officially called criminal and penal prosecuting attorneys⁷⁰. The prosecutor will decide what will happen next.

Alleged Police Misconduct

If you feel you are mistreated by police officers or in case of racial profiling you can always reach out to the following organization:

[Center for Research-Action on Race Relations \(CRARR\):](#)

460, rue Sainte-Catherine Ouest, bur. 610

Montréal H3B 1A7

Tél: (514) 939-3342

[À DEUX MAINS / HEAD & HANDS](#)

3465 ave Benny

⁶⁵ [Loi sur le système de justice pénales pour les adolescents, Les mesures extrajudiciaires appliquées par les policiers, Ministère de la Sécurité publique, p. 8.](#)

⁶⁶ Jean Turmel et Mario Giroux, *Chapitre I - La Loi sur le système de justice pénale pour les adolescents*, coll Collection de droit 2020-2021, Yvons Blais, 2020 à la p 309.

⁶⁷ *Loi sur le système de justice pénale pour les adolescents*, LC 2002, art 6(1).

⁶⁸ *Loi sur la justice pénale pour les adolescents*, LC 2002 ch 1, art 6(1).

⁶⁹ *Loi sur le directeur des poursuites criminelles et pénales*, RLRQ c D-911, art 13(1).

⁷⁰ *Loi sur le directeur des poursuites criminelles et pénales*, RLRQ c D-911, art 1(2).

Montreal, QC H4B 2R9
tel: (514) 481-0277

[The Black Coalition of Quebec](#)

5201 Decarie Blvd, Montreal, Quebec H3W 3C2
Tel : (514) 489-3830

[Commission des droits de la personne et des droits de la jeunesse \(CDPDJ\)](#)

360 St Jacques 2, Montreal QC H2Y 1P5
Tel: 450-432-97534

[Projet 10](#)

It offers a telephone hotline, individual intervention sessions and discussion groups for LGBTQ people aged 14 to 25

1575 Ataten, Montreal, QC H2L 3L4.
Tel: 514-989-4585 (call / text)

[AlterHéros](#) – AlterHéros offers Internet-based assistance and support and helps demystify sexual orientation and gender identity.

[Aide aux trans du Québec \(ATQ\)](#) – ATQ provides counselling and assistance via telephone and e-mail, as well as support for transsexual individuals.