

BOOKING

The initial process when you are taken to jail is called booking. The police must give you a receipt for everything that is taken, including your wallet and its contents, clothing, and any packages you are carrying when arrested.

Ask to talk to a lawyer at once. You can do so by phone right after being taken into custody. If you are arrested for a jailable offense and you can't pay for a lawyer, you have the right to free legal advice. The police must put you in touch with a public defender if you request it. Usually it is advisable not to talk to the police until your lawyer is present.



MIRANDA RIGHTS

When you are arrested, you have certain basic rights known as "Miranda rights" (after a famous Supreme Court decision):

- **You have the right to remain silent.**
- **Anything you say can be used against you as evidence in trial.**
- **You have the right to a lawyer before answering any questions.**
- **If you want a lawyer and cannot afford one, a lawyer will be appointed without cost to you.**

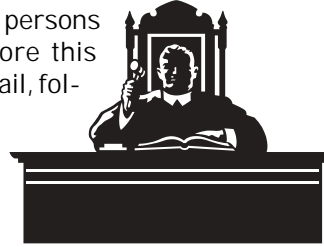
You must be informed of your rights prior to any police interrogation for a suspected crime. The police are not required to inform you of your rights at the time of arrest, unless they begin questioning immediately upon arrest.

If you are not questioned prior to booking, you must be informed of your rights at booking.

If you consent to a waiver of your Miranda rights, by signing a written waiver or by continuing to answer questions, police may proceed with questioning. Any evidence may be used against you in court.

ARRAIGNMENT

You have the right to go into court and see a judge the next court day after you have been detained. This is called arraignment. Demand this right. Some arrested persons may be released before this time, with or without bail, following booking. In cases where the punishment may include imprisonment, if you cannot afford an attorney, one will be appointed for you by the presiding judge at the time of arraignment.



YOU AND THE POLICE



The American Civil Liberties Union of Washington Foundation is the legal, research, and educational arm of the American Civil Liberties Union of Washington, a non-profit, non-partisan membership organization devoted to protecting and extending the civil liberties of all people in Washington.



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This pamphlet provides general guidelines for people facing a police encounter. Sometimes a police encounter can be frightening and confusing. Often there is misunderstanding about the individual's rights and the police officer's responsibilities. Most of these rights and responsibilities flow from the Fourth and Fifth Amendments to the U.S. Constitution and Article I, Sections 3 and 7 of the Washington State Constitution.

It is essential to know what police can do and cannot do, and how best to act in encounters with police. This knowledge can reduce possible conflict and can protect individual rights.

INITIAL CONTACT WITH THE POLICE

To stop you on the street, police must have a "reasonable suspicion" that you are engaged in criminal activity or have information regarding the criminal activity of others. You may ask why you are being stopped, but if the police don't answer, don't argue; file a complaint at a later time if you feel they had no cause to stop you.

When the police stop you, you have the right to remain silent. You don't have to answer any questions, but you must show your driver's license and registration when stopped in a car. In most other situations, Washington law does not make it a crime to refuse to identify yourself to a police officer. However, it is advisable to provide basic information such as name and address if the police request it.

You are not required to answer any further questions. They cannot take you to jail just because you won't talk to them. If the police imply that they can take you to jail or if you are asked additional questions, you may politely refuse to answer and ask if you are under arrest. If you are, you may say you will answer no further questions until you are able to talk to a lawyer. Remember, your refusal to answer any questions cannot be used against you at a later date. However, anything you say can be used against you later. If the

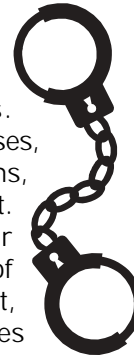


police say that you are not under arrest, you should be free to leave. But never run from a police officer.

The police may frisk you for weapons by patting the outside of your clothing but nothing more. Make it clear that you do not agree to any search.

ARREST

If your freedom of movement is significantly restrained and the police prevent you from leaving, you are technically under arrest. There are two basic types of arrests: misdemeanor and felony arrests. Misdemeanors include most traffic offenses, possession of marijuana under 40 grams, and other crimes such as simple assault. Felonies include possession of other controlled substances, over 40 grams of marijuana, burglary, aggravated assault, rape, and other violent crimes. Felonies carry heavier sentences than misdemeanors.



Obstructing an Officer/Resisting Arrest

Laws prohibiting these two actions are supposed to guard against interference with an officer in the lawful performance of his/her duty. Problems arise when police interpret criticism or disagreement by a suspect or bystander as obstructing an officer. While the law does not prohibit legitimate criticism, such criticism may anger the officer and increase the level of confrontation. It is best to keep your cool even if you don't agree with what the officer is doing.

If you believe you are unlawfully arrested, don't attempt to resist; file a complaint later. If you witness what you believe to be excessive use of force by police, don't interfere. Interference might result in your own arrest and might not help the victim. Instead, pay close attention so that you can be a witness later. Note the officer's badge number and ask other witnesses for names and phone numbers. Report the incident to the ACLU and the Internal Investigations Unit of the offending police department.

If the police officer uses excessive force, you are entitled to defend yourself against injury. Remember, though, any physical resistance may only make

matters worse. Resist only as a last resort, and file a complaint as soon as possible after the arrest.

Juveniles

If you are under 18 and the police take you into custody, they must take you to a juvenile detention center rather than jail unless a county has no juvenile detention facility. In that case, you can be held in the adult jail no longer than 24 hours (not including the weekends or holidays). The police can take your photograph and fingerprints as part of the booking process.

Probable Cause

Probable cause means that police must have a reasonable belief that a crime has been committed, or is being committed, by the suspect. Probable cause is usually established through victim complaints, witness statements, or the discovery of stolen property, illegal drugs, or other items prohibited by law. Do not resist any arrest. You can be charged with resisting arrest even if other charges are dismissed. File a complaint later.

Search

Whether or not the police have a warrant to search you or your property, you can protect your rights by making it clear that you do not agree to any such search. If the police continue their search, do not physically resist. Police may conduct a reasonable search for weapons when they have reason to believe they are dealing with an armed and dangerous individual, regardless of whether or not they have probable cause to arrest. A search connected to an arrest must be limited to the arrested person's immediate control. Those close by can be subject to a pat-down to ensure they have no weapons.

