

KNOW


YOUR

RIGHTS!

**Help End Discriminatory,
Abusive & Illegal Policing!**

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POLICE
REFORM**

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This brochure describes some of your rights under the law when interacting with the police in New York State and offers some strategies for protecting your rights during police encounters. We know that the reality is that police officers often don't respect our rights, and that there can be a risk that asserting your rights during a police encounter may escalate the situation. Knowing your rights is critical to recognizing when they have been violated, and exercising them in the moment can help you assert them later in court. We encourage people to assert their rights calmly and respectfully and to trust their instincts to protect their safety. If you feel your rights have been violated, tell your lawyer!



IF A POLICE OFFICER APPROACHES AND BEGINS TO QUESTION YOU:

- Even without "reasonable suspicion," police may ask you questions.
- **At this point, you can politely ask, "am I free to go?" in a calm, assertive tone. If the officer does not answer, continue to ask, "am I free to go?" or "are we free to go?"**
- If the officer says, "yes," calmly walk away.
- **If the officer says, "no," then you are being "stopped" or "detained."**
- Police are not legally required to speak with you in your native language.
- Police are supposed to treat everyone with courtesy, professionalism and respect and should never make discriminatory or disparaging comments or remarks.

IF THE POLICE STOP/DETAIN AND FRISK YOU:

- The police can only stop you if they have a “reasonable suspicion” that you have committed, are committing, or are about to commit a crime.
- Once you have been stopped, you no longer have the right to walk away.
- At this point, police will probably ask for your ID. Unless you are in a vehicle, you don’t have to show the police ID. **Not carrying or not having an ID is not a crime in New York**, and the police should not take you to the precinct against your will to verify your identity if you don’t show or have ID unless they have probable cause (more evidence than “reasonable suspicion”) that you committed a crime. **However, as a practical matter, presenting ID may help you avoid an unlawful arrest.**
- You may ask why you’re being stopped, but the police are not required to tell you.
- Remember: Police officers can be unpredictable and can quickly escalate a situation, particularly if they feel unsafe, disrespected, or that they don’t have control of the situation. Therefore, **it’s best to remain calm, cool and collected.** If you make sudden movements, act in a way that is perceived as angry or aggressive, run or physically resist, you might get beaten or even shot.

You don’t have to empty your pockets or purse unless an officer has probable cause. Say, “I do not consent to this search.”

- **You have the right to remain silent!** If you feel you must respond, only answer basic questions (name and address). You do not have to voluntarily tell the police whether you have marijuana or anything else in your pockets, purse, bag or car.
- **Anything you say, can & will be used against you and may give the police a reason to arrest you.** Remember, the police are allowed to say anything to you as part of their investigation, including statements that are not true. Undercover officers are not required to disclose that they are police until they are placing you under arrest.



IF THE POLICE FRISK YOU:

- Police officers can only legally “frisk” you if they have “reasonable suspicion” to believe that you are armed and they are in danger.
- A “frisk” is a pat down of the outside of your clothing or bag to determine if you are armed AND pose a danger to the officer’s safety.
- A “frisk” is a limited search **for weapons not for drugs. Police officers may not reach into your pockets or your bag or purse or require you to empty your pockets simply to find drugs or other evidence of criminal activity.**
- You do NOT have to consent to a frisk. Once an officer starts to frisk you, you can say **in an audible and calm but assertive tone, “I do not consent to this search.”** This may stop the police from illegally searching you, or it may not. **You should never physically resist a search.** But, if you say you do not consent to a search, and they continue to search you anyway, it can help you later!
- Because a frisk is supposed to be a limited and quick pat-down to check for weapons for officer safety, an officer of any gender can frisk you. You can ask to be frisked by an officer of a different gender, but the police don’t have to honor that request.

IF THE POLICE SEARCH YOU:

- A “search” is any inspection of your person that goes beyond a “frisk.” This includes going into your pockets, any bag or closed container you are carrying, feeling the inside of your waistband, taking off your hat, and removing your shoes.
- Police may only “search” you if (1) they have “probable cause” (more evidence than “reasonable suspicion”) that the search will reveal evidence that you committed a crime, are armed or are concealing contraband, (2) if you consent to the search, (3) if they have a warrant, or (4) if you have been arrested.
- You do NOT have to consent to a search of your clothes, your home or your possessions. Say politely, but loudly enough to hear, “I do not consent to this search.” This can help if the police didn’t have a legal justification to search you and then try to use what they find against you in court.
- You do NOT have to empty your pockets or open your purse or backpack on the street at the request of an officer. In fact, if you do so you may be giving the police your consent to search you even when they don’t have probable cause.
- If a search goes beyond a frisk (a quick pat-down of the outside of your clothing to check for weapons), you can request that the search be conducted by an officer of your gender, but this is not a right unless you are at a police precinct.



IF THE POLICE ARREST YOU:

- The police may arrest you if they have “probable cause” (hard evidence) that you committed a crime.
- You can give your name and address. Other than this, **you have the right to remain silent! Use it! Say out loud, “I’m going to remain silent. I want a lawyer.”**
- Don’t talk about anything that has to do with your arrest to anyone without having a lawyer present. Don’t even talk to police officers or district attorneys, even if they say they are trying to help you. Remember, police are trained to trick you into making a confession.
- Do not sign anything without a lawyer present! You may be waiving your rights or confessing to a crime.
- You will be handcuffed, searched, photographed & fingerprinted for most offenses. Once at the precinct, you should be searched by an officer of the same gender or of the gender you request. If this does not happen, you can remind the police that they are required to explain why in their command log.
- If you have children with you, you can ask the police to call a family member or friend before they take you away.

IF THE POLICE ASK YOU QUESTIONS AFTER YOU HAVE BEEN ARRESTED (“INTERROGATE”) YOU:

- Ask for a lawyer. Once you do, all questions should stop.
- Whether or not the police read you your “Miranda” rights, you have the right to remain silent. **If you are arrested, state clearly, “I’m going to remain silent. I’d like to speak to a lawyer.”**
- Even if the police don’t read you your “Miranda” rights, what you say may be used against you. Any time you are questioned while in police custody, you should **say out loud, “I’m going to remain silent! I want a lawyer!”**
- Even if you make a mistake and start talking to the police, it’s not too late to use your rights. Once you do, the police **must** stop interrogating you.

IF YOU ARE IN A CAR OR CAB:

- The car can be stopped if the police have a reasonable suspicion that the driver committed a traffic violation or that the car is involved in criminal activity.
- If the police stop you, they will probably look into the car through the window and might even shine a flashlight inside. If they don't see anything they may not search you or the car. If they search anyway, **say out loud, "I do not consent to this search."**
- If they see contraband or evidence of a crime in plain view, they can search the car without a warrant.
- They can order the driver and passengers out of the car for officer safety. They can also frisk the driver and passengers and search the glove compartment if they have a reasonable suspicion that someone is armed.
- **They cannot search the trunk on the scene without (1) probable cause** to believe a crime has been committed, (2) a warrant, or (3) your permission. If they try to, calmly say out loud, "I do not consent to this search."
- If the car is impounded, they can search it.
- Only the driver of the car is required to show a driver's license. Both the driver and passengers can invoke their right to silence.



IF THE POLICE COME TO YOUR HOUSE:

- In most cases, you do not have to let the police into your house or apartment unless they have a warrant signed by a judge. However police may enter a home without a warrant if they believe someone is in danger, they believe drugs or other evidence are being destroyed, they are in hot pursuit of someone they know committed a serious offense, they are doing a protective sweep, or the home is a crime scene.
- **Ask them to slip the warrant under the door and check it!** If the police don't have a warrant with the correct name and address, or a judge's signature, don't open the door.
- Warrants should be executed within 10 days after they are issued. If the warrant is older than 10 days, don't open the door.
- If you are arrested in your home or office, the police can only search

SEXUAL HARASSMENT:

- **Sexual harassment or assault by police officers is never OK!** If you feel that you are being spoken to or touched inappropriately, you can ask for a supervisor to be called to the scene.
- You don't have to give an officer your phone number.
- If an officer says they will let you go if you do something for them, think twice. They may arrest you anyway.
- Report sexual harassment and abuse by police! Check the information at the end of this pamphlet about what you can do if your rights are violated by police.

IF YOU ARE LESBIAN, GAY, BISEXUAL, TRANSGENDER OR GENDER NON-CONFORMING:

- The police are not allowed to make transphobic or homophobic remarks or discriminate against you based on gender identity or sexual orientation.
- You have the right to be referred to by names, honorifics and pronouns that reflect your gender identity (even if it doesn't match the information on your ID.) It may be a good idea to carry a copy of your legal name change documents if you have them along with your ID.
- **It is illegal for police to frisk or search you to determine your gender.** If this happens to you, be sure to report it! Check the information at the end of this pamphlet about what you can do if your rights are violated by police.
- If you are in police custody, you should be searched by an officer of the gender you request. You should also be held in sex segregated police facilities according to your gender identity, even if it differs from the sex you were assigned at birth, unless there is a concern for your safety.
- If you are concerned for your safety, you should ask to be treated as a "special category prisoner" and held in a cell by yourself. The police cannot handcuff you to rails, bars or chairs for unreasonable periods of time because you asked to be treated as a "special category prisoner."

"I'm going to remain silent. I want a lawyer."



IF YOU ARE UNDER 16:

- If you are arrested, police have to make a "reasonable effort" to reach your parent/guardian before they can try to ask you questions. Your parent/guardian is allowed to be in the room with you while the police question you. **You should always assert your right to remain silent and ask for a lawyer.** Do not answer any questions until a lawyer is present.
- You also have these rights in school if the police, including school safety officers, try to interrogate you.
- Police can stop you if you are not in school during school time or if they think you're a runaway.

IN PUBLIC HOUSING

- You have the same constitutional rights as anyone else on the street or in private housing.
- Police can approach you inside public housing if they think you are violating a NYCHA House Rule, such as hanging out in the lobby. They may ask for ID and ask questions about what you're doing and where you're going. But, unless they have "reasonable suspicion" that you have, are, or are about to commit a crime, you have the right to walk away and not answer their questions. You should handle this situation like any other time police approach you (see prior sections).
- If police check to verify whether you are a resident or a resident's guest, they are detaining you in a "stop." They cannot do this unless they have "reasonable suspicion" that you are trespassing or committing another crime. You should handle this situation like any other time that police stop/detain you (see prior sections).
- If police believe you are trespassing in public housing, they may give you the opportunity to leave before arresting you. If police ask you to leave and you don't, they may arrest you. You should handle this situation like any other time that police arrest you (see prior sections).
- It is the NYPD's policy that they can arrest anyone, including residents, found on the roof, roof landing (top of the stairs), or other alleged "restricted areas" regardless of what you are doing there. Thus, even residents are at risk of arrest if you are on the roof, roof landing, or other restricted area of your own apartment building.

Public housing residents have the same constitutional rights as anyone else on the street or in private housing.

IF YOU ARE HOMELESS:

- You have the same right to use public space as anyone else!
- The following offenses are no longer on the books!
You should never be charged with:
 - "loitering for the purpose of begging" (New York Penal Law 240.35(1));
 - "loitering for the purpose of engaging in sexual behavior of a deviant nature" (New York Penal Law 240.35(3)), and
 - "loitering in a transportation facility and unable to give a satisfactory explanation of your presence" (New York Penal Law 240.35(7)).



IF YOU ARE A NON-CITIZEN:

- **You do not have to answer questions about your immigration status or where you or anyone in your family was born.** If you are asked, assert your right to remain silent and **ask to speak with a lawyer.** Make sure to tell your lawyer if you have concerns about your immigration status. Talk to your lawyer before talking with the police or Immigration and Customs Enforcement (ICE) agents.
- If you are an immigrant who is 18 or older and have been issued valid U.S. immigration documents (such as an unexpired permanent resident card, also known as a “green card”), then you are legally required to carry those documents with you at all times. Failure to carry valid immigration documents is a misdemeanor crime under federal law.
- With the activation of Secure Communities, when you are fingerprinted the police send your information to ICE, regardless of whether or not you are convicted of a crime. Therefore, if you are not a citizen, just getting picked up and charged with a crime may lead ICE to ask the NYPD to hold you while they investigate whether or not you are deportable.
- Convictions of even minor crimes or violations, may have serious immigration consequences. **NEVER accept a plea bargain without consulting an criminal immigration expert first.**
- If you are arrested and held in jail, **you have the right not to speak to immigration (ICE) agents. Tell them you want to speak to your lawyer first.** You should handle this like any other situation where you are stopped or detained (see previous sections).
- If your workplace is raided, you have the right to remain silent & ask for your lawyer. Stay calm, don't answer questions & ask if you may leave. Treat the situation as any other in which you are stopped or detained (see previous sections).
- You have the right to call your consulate if you are arrested. Police must let your consulate visit or speak with you.

NEVER accept a plea bargain without consulting a criminal immigration expert first.



FOR POLICE WATCHERS

- Observing police activity can help de-escalate potentially violent and abusive police interactions with our community members.
- You have the right to observe and document police activity as long as you are standing a “reasonable distance” from the police and are not obstructing them in any way. Use this right!
- If you decide to observe and/or document the police on your own, remember that you will have less security than you do on a formal team. Use your judgment and stay safe! Decide what you feel is a safe distance away from the incident and whether or not you want to film, or just observe. Either way, you being on the scene and watching may help deter police violence.
- If you are interested in building a formal Police Watch team in your community, contact info@peoplesjustice.org.


For information on what to do if the police take away your car or your stuff: <http://bit.ly/b7RV0T>

If you feel your rights have been violated by the police, you can file a complaint with the Civilian Complaint Review Board or file a Notice of Claim and a lawsuit. Consult with a lawyer before deciding what to do!

Communities United for Police Reform (CPR) is an unprecedented, non-partisan campaign to end discriminatory policing practices in New York City. We aim to build a lasting movement that promotes public safety and policing practices based on cooperation and respect—not discriminatory targeting and harassment. CPR member and supporting organizations work to spread Know Your Rights information to all communities in New York City that are affected by discriminatory, abusive and unlawful policing practices. We believe that empowering communities with Know Your Rights knowledge is one tool—along with community organizing, policy reform, observing and documenting police misconduct, public education, research and other strategies—to changing the NYPD!

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