

# Dealing With the Police: General Guidelines for Activists

## I. In General.

When dealing with the police, park rangers, health officers, or other law enforcement officers (collectively referred to as “police”), keep your hands in view and don't make sudden movements. Avoid walking behind the police. Never touch the police or their equipment (vehicles, flashlights, animals, etc.).

## II. Police Encounters.

There are three basic types of encounters with the police: Conversation, Detention, and Arrest.

**Conversation:** When the police are trying to get information, but don't have enough evidence to detain or arrest you, they'll try to get the information from you. They may call this a “casual encounter” or a “friendly conversation.” If you talk to them, you may give them the information they need to arrest you or your friends. In most situations, it's better and safer to refuse to talk to police.

**Detention:** Police can detain you only if they have *reasonable suspicion* that you are involved in a crime. (A “reasonable suspicion” occurs when an officer can point to specific facts that provide some objective manifestation that the person detained may be involved in criminal activity.) Detention means that, though you aren't arrested, you can't leave. Detention is supposed to last a short time and they aren't supposed to move you. During detention, the police can pat you down and may be able to look into your bag to make sure you don't have any weapons. They aren't supposed to go into your pockets unless they first feel a weapon through your clothing.

If the police are asking questions, ask if you are being detained. If not, leave and say nothing else to them. If you are being detained, you may want to ask why. Then you should say: “*I am going to remain silent. I want a lawyer,*” and nothing else.

A detention can easily turn into arrest. If the police are detaining you and they get information that you are involved in a crime, they will arrest you, even if it has nothing to do with your detention. The purpose of many detentions is to try to obtain enough information to arrest you.

**Arrest:** Police can arrest you only if they have *probable cause* that you are involved in a crime. (“Probable cause” exists when the police are aware of facts that would lead an ordinary person to suspect that the person arrested has committed a crime.) When you are arrested, the cops can search you and go through any belongings.

## III. The *Miranda* Warnings.

The police do not necessarily have to read you your rights (also known as the *Miranda* warnings). *Miranda* applies when there is (a) an interrogation (b) by a police officer (c) while the suspect is in police custody. (Please note that you do not have to be formally arrested to be “in custody.”) Even when all these conditions are met, the police intentionally violate *Miranda*. And though your rights have been violated, what you say can be used against you. For this reason, it is better not to wait for the cops – you know what your rights are, so you can invoke them by saying “*I am going to remain silent. I want to see a lawyer.*”

If you've been arrested and realize that you have started answering questions, don't panic. Just re-invoke your rights by saying "I am going to remain silent. I want to see a lawyer." Don't let them trick you into thinking that because you answered some of their questions, you have to answer all of them.

#### **IV. Questioning.**

Do not communicate with the police anything other than your right to remain silent. If you are arrested, you may want to give identifying information, such as name, address, and driver's license, which will help secure your release by citation or be necessary to be released on bail.

It is a serious crime to make a false statement to a police officer. By talking, you could get in trouble because of two inconsistent statements spoken out of fear or forgetfulness. It is also very dangerous to try and outsmart the police. They are trained on how to extract information and trip people up who are lying to them or even telling the truth. They have learned how to get people to talk by making them feel scared, guilty or impolite. Stay strong and stay silent!

Interrogation isn't always bright lights and rubber hoses – usually it's just a conversation. Whenever the police ask you questions, it's legally safest to say these words:

"I am going to remain silent. I want to see a lawyer."

This invokes the rights which protect you from interrogation. When you say this, the police are legally required to stop asking you questions if you have been detained or placed under arrest. They probably won't stop, so just repeat "I am going to remain silent. I want to see a lawyer" or remain silent until they catch on.

Remember, anything you say to the authorities can and will be used against you and your friends in court. There's no way to predict how or what information the police might try to use. Plus, the police often misquote or misrepresent altogether what was said.

One of the jobs of police is to secure information from people, and they often don't have any scruples about how they go about doing so. Police are legally allowed to lie when they're investigating, and they are trained to be manipulative. The only thing you should say to police is: *"I am going to remain silent. I want to see a lawyer."*

Here are some of the statements the police might make:

- "You're not a suspect – just help us understand what happened here and then you can go." If you're not a suspect, ask to leave immediately without answering any questions.
- "If you don't answer my questions, I'll have no choice but to arrest you. Do you *want* to go to jail?" No one wants to be arrested, but regardless of their promises, talking will usually not avoid arrest.
- "If you don't answer my questions, I'm going to charge you with interfering with my investigation." You cannot be charged with interfering or obstructing a police officer by invoking your right not to talk to the police.
- "All of your friends have cooperated and we let them go home. You're the only one left." This is generally a lie – besides, even if that did happen, how

does it benefit you to be a witness against yourself?

- “If you don't talk now, we'll come back with a subpoena.” Most of the time this is an empty threat. The police do not have the power to obtain a subpoena. In connection with the investigation of a crime, the only subpoena that can issue is from a grand jury.
- “If you talk, we will go easy on you.” Police will promise you the world to get you to talk. However, when they have people sign statements, notice they never sign anything saying the police will keep their promises.
- “You seem to be an intelligent kid with a promising future. You don't want to destroy your life over this, do you?” The truth is, the police don't care about you. This is just another way to manipulate you into making a statement.
- “If you're not guilty, then why don't you talk?” This is one of their favorite tactics. We all have the desire to defend ourselves, especially when we know we are innocent. However, the police will attack and dissect everything you say, continually prying to get more and more information. Even if you are innocent, don't talk! A person's innocence has never stopped the authorities from convicting or jailing them. Furthermore, the more you talk, the more likely you are to mention other people's names, leading the police to them.

Police will often try to trick you into talking. Here are some of the techniques they use:

- Good Cop/ Bad Cop: Bad cop is aggressive and menacing, while good cop is nice, friendly, and familiar (usually good cop is the same race and sex as you). The idea is bad cop scares you so badly you are desperately looking for a friend. Good cop is that friend.
- The police will tell you that your friends ratted on you so that you will snitch on them. Meanwhile, they tell your friends the same thing.
- The police will tell you that they have all the evidence they need to convict you and that if you “take responsibility” and confess the judge will be impressed by your honesty and go easy on you. What they really mean is: “We don't have enough evidence yet, please confess.”

Jail is a very isolating and intimidating place. It is really easy to believe what the cops tell you. Insist upon speaking with a lawyer before you answer any questions or sign anything.

The police do not decide your charges; they can only make recommendations. The prosecutor is the only person who can actually charge you.

## **V. Searches.**

Never consent to a search! If the police try to search your house, car, backpack, pockets, or other private property, say “*I do not consent to this search.*” This may not stop them from forcing their way in and searching anyway, but if they search you illegally, they probably won't be able to use the evidence against you in court. You have nothing to lose from refusing to consent to a search and lots to gain. Do not physically resist police when they are trying to search because you could get hurt and charged with resisting arrest or other serious crimes.

If the police have a search warrant, nothing changes – you should not consent to the search. Again, you have nothing to lose from refusing to consent to a search, and lots to gain if the search warrant is incorrect or invalid in some way. But remember not to physically resist police when they are trying to search.

## **VI. Taking Notes.**

Whenever you interact with or observe the police, always write down what is said and who said it. Write down the names and badge numbers of the police and the names and contact information of any witnesses. Record everything that happens. If you are expecting a lot of police contact, get in the habit of carrying a small tape recorder and a camera with you. Be careful – police don't like people taking notes, especially if they are planning on doing something illegal. Observing them and documenting their actions may have very different results; for example, it may cause them to respond aggressively, or it may prevent them from abusing you or your friends.