

APPROACHED BY THE POLICE... KNOW YOUR RIGHTS

What do you do if you are stopped and questioned by the police?

You have a choice. When you are approached by the police, except in some very specific circumstances, some of which are listed below, you can decide whether you will speak with them and/or give them any information, tell them your name, or produce identification. For the most part, you do not have to answer questions asked of you by the police and cannot be arrested for refusing to answer. If you lie about your name or address, however, you can be charged with obstructing justice or the police.

In Toronto, if you give the police your name and/or produce your identification, it is likely that what you provide to them will be put on what the police call a **Form 208**, more formally called Field Information Reports. That form will indicate what your name is, where you were when the police spoke to you, the time and date when they spoke to you, what you said you were doing and who you were with and other personal information. All of that information, along with other kinds of police contact (like 911 calls) can go into the Toronto Police computer system and remain available to police for many years.

It is also likely that if you tell the police your name, they will run a police computer check on you through the RCMP Central Repository system known as CPIC. CPIC will tell the police officer you are dealing with whether there is a warrant for your arrest and whether you are on bail, or any other information police already have. If you are on bail, CPIC will tell the officer the terms of your bail. If you are violating the terms of your bail, the officer will likely arrest you and charge you for breaching your bail. You will be held for a show cause hearing, at which time a decision will be made whether you will be kept in jail pending your trial(s).

In general, the police can ask you any questions they want, but you do not have to talk to them, show them your identification or answer their questions. The main exception to this general rule is that it is probably advisable to identify yourself when you are stopped and questioned by the police as part of an investigative detention, when you are stopped on a bicycle for a traffic offence, when you are stopped while driving a motor vehicle or when you are being investigated for a non-criminal offence such as drinking in a public place.

According to a decision of the Supreme Court of Canada in a case called *R. v. Mann*, the police have no right or power to stop you unless they have reasonable grounds to believe you may have been involved in a criminal offence. If they have such reasonable grounds, they are entitled to briefly stop you for what is called an investigative detention. If the police approach you and tell you about a specific criminal offence they are looking into and that they believe you are involved in it, in that situation you may decide to cooperate with the police by giving them your name and producing identification. But before you give them any information, ask them why they have stopped you and get specific details of the offence they are investigating.

If you are the driver of a car stopped by the police, under the Highway Traffic Act, you must produce your driver's licence, car registration and insurance for the vehicle you are driving. But NOTE: passengers do not have to identify themselves or answer any questions asked by the police (unless the police are doing an investigative detention for a criminal offence).

Similarly, police issuing tickets for by-law offences (e.g. drinking in public, trespassing, Highway Traffic Act offences committed by bicyclists, etc.), can demand identification in order to ensure that they have a correct name and address. Failing to convince the police of your identity in this situation may give them the right to arrest you, even if the offence itself is not a serious one.

Once stopped or detained, the police do not have a general power to search you or to get you to show them what you have in your pockets, or to search your bag or knapsack. We recommend that you politely but firmly decline to be searched. If they have grounds to arrest you, police do have a general power to search you for any items that you might have that could be used to harm the police or provide evidence.

The police in our city have a difficult job to do. We recommend that you deal with them as politely as possible.

CAUTION

While we believe that it is not an offence to assert one's constitutional rights, please note that asserting one's rights around police may result in an aggressive response by the police, and possibly continued detention, arrest, or charges.

We encourage people to carefully consider the possible outcome of any encounter with police.

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