

1. POLICE STOPS YOU

1.1 Not in uniform, ask for identification

Say: "Please, show me your Police authority card".

1.2 Police authority card

Red : Suspended Police Officer. He has no authority to do anything to you. Walk away.

Other colours:

- Blue : Rank of Inspector and above
- Yellow: Below the rank of Inspector
- White : Reserve police

Note his name and ID number

1.3 In uniform

Note his name and ID number on his uniform.

1.4 Police vehicle

Note the number plate of the patrol car or motorcycle.

2. POLICE QUESTION YOU WHEN STOPPED

2.1 Your identification

Only give your name, ID card number and address.

2.2 The police ask other questions

Politely ask "Am I under arrest?"

2.3 When you are under arrest

You are arrested if the police:

- tells you "yes";
- does not allow you to leave/want to take you to the Police Station; or
- handcuffs you

if you are not under arrest, you may walk away/refuse to follow him back to the Police station or anywhere else, if asked.

2.4 When you cannot be arrested

The police cannot arrest you just because you are a potential witness and want to take a statement from you (112/Witness Statement).

3. QUESTIONING BY POLICE WITHOUT ARREST

3.1 112 Statement

When the police are investigating a case and think you have information/knowledge about the case, the police may examine you and take down your answers (112 Statement).

3.2 Informal/Formal Request

Most times, the police make an informal request that you give a 112 Statement. If the place and time is convenient to you, cooperate. If not, tell the police you will do so at a convenient place.

If you refuse to cooperate, the police may issue a formal order in writing, signed by an investigating officer (Police Officer) to ask you to cooperate.

If you disobey a Police Order, you cannot be arrested. However, it is an offence and the police may request the Magistrate to issue a warrant against you to compel you to cooperate.

3.3 Giving a 112 Statement

You have the right to ask a lawyer to accompany you. This is advisable.

In giving a 112 Statement, you may refuse to answer any question/remain silent if the answer is likely to expose you to a criminal offence.

- Bring along a notebook or writing paper with you (Personal Notes).
- Write down every question asked in your Personal Notes.
- Make sure you understand every question asked.
- Take your time and think carefully before writing your answers in your Personal Notes.
- Read your answers to the Police Officer questioning you.
- Keep your Personal Notes for future reference.

3.4 Signing your 112 Statement

Before signing your Statement, read the questions and your answers written by the Police Officer carefully.

- Compare the Statement you are asked to sign with your Personal Notes.
- You have the right to make any corrections/changes to the Statement before signing.
- Sign your signature immediately below the last sentence of your Statement.

4. POLICE ARREST YOU

4.1 Ask: "Why am I under arrest?"

An arrest is unlawful if you are not informed of the reason.

4.2 Do not resist an arrest

The Police have the right to use reasonable force to arrest you if you resist.

4.3 Ask: "Which Police station are you taking me to?"

The arresting Police Officer must immediately take you to the nearest Police station and no other place.

4.4 What to do when arrested

You have the right to telephone call to:-

1. Your relative or friend; and
2. A lawyer.

You may also call a nearby Legal Aid Centre (LAC). Inform them:

- you have been arrested;
- the time, place and reason of the arrest;
- the Police station you will be taken to.

4.5 What happens after arrest

You may be detained up to 24 hours:

- at the Police station, or
- in a lock-up to "assist" police investigation.

5. YOUR RIGHTS AFTER ARREST & DURING DETENTION

5.1 Right to consult a lawyer

Once you request for the presence of a lawyer, you have a right to consult the lawyer at the Police Station. The Police must accord you reasonable facilities and a reasonable time for you to meet and consult the lawyer. The Police may, however, deny you this right, if the delay in questioning you may cause the occurrence of another crime or cause danger to others.

5.2 Clothing

You are allowed to have one set of clothing with you in the lock-up.

5.3 Personal belongings

The Police must record and put all your personal belongings in safe custody. Your personal belongings must be returned to you upon your release.

5.4 Welfare

You are allowed to take a bath two times a day. If you are sick, you have the right to receive immediate medical attention. You are to be given proper and adequate food and water during detention.

5.5 How long may the Police detain you

The Police may only detain you up to 24 hours for investigation.

The duty of the Police is to complete investigations within 24 hours and to release you as soon as possible.

If the Police cannot complete investigations within 24 hours, the Police must bring you before a Magistrate for a remand order to extend your detention beyond 24 hours (Remand Order).

6. REMAND ORDER BY MAGISTRATE AFTER 24 HOURS

6.1 Who is a Magistrate

A Magistrate is a judicial officer. He/She has the power to make a Remand Order to detain you for more than 24 hours.

6.2 Purpose of a Remand Order

It is to give more time to the Police to complete their investigations and decide whether there is evidence to charge you for an offence.

The Police cannot ask for a Remand Order only for the purpose of taking a Statement from you.

6.3 How long is a Remand Order

When the Police bring you before a Magistrate for a Remand Order, the Police must give reasons to the Magistrate why it is necessary to detain you for more than 24 hours.

The Magistrate's duty is to consider carefully the reasons given by the Police.

The Magistrate has the discretion:

- not to make a Remand Order and release you; or
- make a Remand Order for a period shorter than that asked for by the Police.

In any event, the Magistrate has the power to make a Remand Order of not more than 4 days or 7 days depending on the offence being investigated.

The Police may return at the expiration of this time period and apply for a 2nd Remand Order. The Magistrate may make a 2nd Remand Order of not more than 3 days or 7 days depending on the offence being investigated.

6.4 What to say when you are brought before a Magistrate for remand

Tell the Magistrate:

- you want legal representation and you want to contact your lawyer, the LAC and your family;
- you want medical treatment because you are sick or have been beaten;
- if the Police had threatened or beaten you during detention;
- if you had been denied proper and adequate food/water/clothing, the toilet or necessary medical attention during your detention;
- whether you have been detained previously immediately before your current detention;
- whether the Police had carried out any investigations during your detention.

6.5 Ask for a shorter Remand Order from the Magistrate

Before the Magistrate makes the Remand Order, ask for a shorter remand period asked by the Police. Give reasons (Example: "I will cooperate with the Police in their investigation", "I will be available and will not run away" etc).

7. BODY SEARCH WITHOUT ARREST

7.1 When can this be done

If you are at a place (example: disco/karaoke/entertainment outlet) where the Police are conducting a raid to look for something there (example: drugs), the Police may detain and search you if they think you have or are hiding the thing being searched for.

This may only be done in the presence of a Police Officer ranked Inspector and above.

7.2 What to do

- Do not allow the Police officer to put his hands into your clothes or pockets.
- If you are asked to take out your belongings one by one, each time, say "Purse", "keys", "ID card" etc.
- When your pockets/bags are empty, turn your pockets/bags inside out.

7.3 Your rights

- All body searches must be carried out in a professional manner and with decency.
- A female can only be body searched by a female Police Officer.
- If you are forced/threatened to strip naked:
 1. Protest
 2. Remember the Police Officer's name.
 3. Lodge a Police report after the incident.

8. BODY SEARCH UPON ARREST

8.1 When Police can do so

- The Police reasonably suspect that you have evidence relating to a suspected offence.
- You are arrested.
- The body search must be conducted in a confined place. It is your right to be bodily searched in private.

8.2 Types of Body search

The law allows the Police to conduct 4 types of body search:-

1. Pat down search - *act of searching outer clothing*
2. Strip search - *to search for concealed evidence, object, contraband or weapon. May only be conducted with the authorisation of an officer ranked Inspector and above.*
3. Intimate search - *to search beyond the mouth, nose and ears. May only be conducted with the authorisation of an officer ranked Assistant Superintendent (ASP) and above.*
4. Intrusive search - *to determine the existence of objects etc in the body. May only be conducted with the authorisation of the Officer in charge of the Police District (OCPD). Must be conducted by a Government Medical Officer or Medical Officer.*

8.3 Your rights

- All body searches must be carried out in a professional manner and with decency.
- It is advisable to request that you be accompanied by your lawyer for the search.
- A female can only be body searched by a female Police Officer.

9. QUESTIONING BY POLICE AFTER ARREST

9.1 Identity of the Police Officer questioning you

Note the name/rank of the Police Officer questioning you.

9.2 Right to remain silent

The Police Officer will first make friendly conversation/talk (example: ask you about your family and friends etc). You are only obliged to give your full name, age, address and occupation (Personal Particulars).

Other than giving your Personal Particulars, you have the right to remain silent. Be polite. Do not be afraid to remain silent. This is your right.

If you choose the right to remain silent, say: "I would like to exercise my right to silence".

9.3 112 Statement by you during investigation

The Police Officer will ask you questions and then write down your answers.

The Police cannot threaten or force you into making a Statement.

If you have been threatened, beaten or forced, lodge a police report against the Police Officer at first opportunity. This is your right.

9.4 112 Statement is not to be used as evidence

Generally, any Statement you make to the Police during investigations cannot be used as evidence except if you being charged for offences under, for example, the Dangerous Drugs Act, the Kidnapping Act and the Internal Security Act. But you may use the Statement to support your defence during your trial.



POLICE AND YOUR BASIC RIGHTS

Published in conjunction with TANGKAP

(Tindakan Anti Penyalahgunaan Kuasa Polis)

www.malaysianbar.org.my

PUSAT BANTUAN GUAMAN/LEGAL AID CENTRES (LAC)

- Kuala Lumpur : 03-2691 3005 / 03-2693 2072
- Selangor : 03-5510 7007
- Negeri Sembilan : 06-6013 844
- Melaka : 06-2845 519/06-2864 514
- Johor : 07-2235 698
- Perak : 05-2550 523
- Kedah & Perlis : 04-7333 467
- Kelantan : 04-7448 660
- Pahang : 09-5159 244/09-2969 410
- Pulau Pinang : 04-2617 451/ 04-3316 830