



# If You Are Arrested

You still have rights if you are arrested. But what are those rights, and what do they entail? This article is adapted from a brochure the State Bar of Texas has developed that describes what to do if you are arrested. Though being arrested can be scary and wearisome, the brochure may make the process less distressing.

### What rights do you have when you are questioned by the police?

1. You have the right to remain silent.
2. If you choose to speak, anything you say can be used against you in court.
3. If you decide to answer any questions, you may stop at any time and the law requires all questioning to cease.
4. You have a right to consult with your attorney before answering any questions. You have the right to have your

attorney present if you decide to answer any questions, and if you cannot afford an attorney, one will be provided for you or appointed for you by the court without cost to you before any further questions may be asked.

### What are your rights after you have been arrested?

You have a right to know the crime or crimes with which you have been charged.

You have the right to communicate by telephone with your attorney or family or friend or bondsman as soon after you are brought to the police station as practical. The police have a right to complete their booking procedures before you are allowed to use the telephone.

### May a law enforcement officer detain you without arresting you?

If there is a reasonable suspicion that you may be involved in criminal activity, a police officer may require you to identify yourself and explain your presence at a particular time.

If the officer has reasonable grounds to believe that you are armed or may be dangerous, he or she may conduct a limited pat down of your outer garments for the purpose of detecting weapons.

The officer may ask you questions pursuant to an investigation. You have a constitutional right not to answer them, but if you refuse to identify yourself, the officer may have grounds to make an arrest.

At the conclusion of this temporary detention, the officer must either arrest you or let you go.

The information in this article was taken from a brochure titled "If You Are Arrested." The brochure, also available in Spanish, was printed by the State Bar of Texas. Copies of the brochure can be ordered by writing to State Bar of Texas, Public Information Department, P.O. Box 12487, Austin 78701, calling (800)204-2222, ext. 2610, or visiting [www.texasbar.com](http://www.texasbar.com).



### When may you be arrested with a warrant?

A police officer may arrest you at any time if there is a warrant for your arrest or if they have knowledge that a warrant for your arrest has been issued.

A police officer must show the warrant to you as soon as possible and inform you of the offense charged.

### When may you be arrested without a warrant?

A police officer may make an arrest without a warrant only under certain limited circumstances in Texas. An officer may arrest anyone who commits an offense in the officer's presence or within the officer's view. An officer may arrest a person if informed by a credible person that a felony has been committed and that the offender is about to escape and there is no time to get a warrant. Examples of felonies include murder, rape, robbery, burglary, and sale of narcotics.

### When may you be searched?

If you are arrested in your home, officers may conduct a limited search of the immediate area where you are arrested without a search warrant. They may also check the rest of the house for any accomplices. They may seize any contraband, stolen property, or evidence of a crime discovered in plain view in any portion of the house where the officers have a right to be.

When you are arrested while driving your automobile, the officers may make a limited search of your car at that time for the purpose of discovering weapons that might be used against them. They may not make a general search of your automobile unless there is independent probable cause that the vehicle is carrying evidence of crime or contraband. If a search is requested by an officer, you are not required to give consent.

### What procedures are usually followed when you are arrested?

1. The officer will take you to a police station, jail, or other detention facility.

2. Upon arrival at the jail or shortly thereafter, you will be afforded the opportunity to contact an attorney.
3. You will be advised generally as to the charges against you.
4. You may be required to:
  - participate in a lineup;
  - prepare a sample of your handwriting;
  - speak phrases associated with the crime with which you are charged,
  - wear certain clothes; or
  - give a sample of your hair, blood, etc.

*You should request to have your attorney present during any of the procedures below.*

5. You may also be required to be fingerprinted and photographed.
6. You must be taken before a magistrate (a court official who may exercise

some functions of a judge) within a short time of your arrest. The magistrate will inform you of the charge filed against you and your rights.

### How do you arrange for a lawyer?

If you are not acquainted with a lawyer and have no lawyer whom you would call, you may contact the State Bar of Texas Lawyer Referral and Information Service toll-free at (877)983-9227.

If you cannot afford a private lawyer, you should advise the judge of this fact at your first appearance or as soon as possible. The judge will ask you some questions to see if you are eligible for the services of an attorney at public expense. ❖



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