

You CANNOT be penalized for refusing to answer an officer's questions. If you try to cooperate by answering questions while you are being held in police custody, you may create difficulties for your lawyer in defending you. Always ask to speak to a lawyer.

4. You also have the right to:

- Contact, by telephone or otherwise, a responsible person, to tell him or her you have been arrested and what the charges are. You are not limited to one telephone call if more calls are needed to contact someone.
- Refuse any physical or chemical test (such as a polygraph "lie detector," breathalyzer, intoxilizer, field sobriety tests or physical performance tests such as walking a straight line or making other movements, the look-at-the-pen test, or mental ability tests like reciting the alphabet or doing math), until you can talk to your lawyer.
- Have your attorney present at any line-up or other identification procedure in which you are viewed by possible eyewitnesses to a crime.
- Reasonable bail or bond to secure your release from jail unless you are charged with a capital crime. Usually a judge sets the bail or conditions of your release. If you are charged with a misdemeanor, and if no judge is available, the police may, at police headquarters, accept bail in accordance with rules established by the judge.
- Be brought before a court as soon as is reasonably practicable after your arrest, so that you can request a preliminary hearing to test the basis of your arrest and/or trial to determine your guilt or innocence.



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CONSTITUENT
AT A TIME.**

**YOUR RIGHTS IF
QUESTIONED, STOPPED
OR ARRESTED BY THE
POLICE**

MIKE FOLEY

MONTGOMERY COUNTY
CLERK OF COURTS



WHAT ARE MY RIGHTS AND RESPONSIBILITIES IF THE POLICE APPROACH ME AND ASK ME QUESTIONS?

Suppose you are outside your home or in a public place when the police arrive and begin asking questions. Law enforcement officers have a duty to protect the community they serve, its citizens and their property. The law gives police certain powers to help them perform that duty.

Police have the power to approach persons and ask them questions. Simply because you are approached and questioned by the police does not mean you are suspected of having committed a crime. All citizens are encouraged to cooperate with the police so those who break the law can be brought to justice, but, with one exception, discussed below, you have no legal duty to answer any question, and you may refuse to answer. This is called the right of silence. You should never lie to a law enforcement officer, however, if you do, you can get into trouble for "obstructing official business."

IF THE POLICE "STOP" ME AND ASK ME QUESTIONS?

Suppose you are walking down a street when a police officer confronts you and says: "Stop. I need to ask you some questions." A person is "stopped," or "detained," when an officer uses enough force, or a show of authority, to make a reasonable person feel he or she is not free to leave. If, in addition to calling out for you to stop and using his or her authority to make you stop, the officer also pulls out a weapon or uses a threatening tone of voice, it would be even clearer that you have been "stopped." If the officer interferes with your liberty to move about, he or she should first have a reasonable suspicion that you have been involved in a crime. The officer would need to support this suspicion later (should the matter should wind up in court) by referring to specific facts that prompted the suspicion.

The police do not have to tell you that you are a suspect or that they intend to arrest you, but if they use force or a show of authority to keep you from leaving, they probably consider you a suspect, even if you were the person who called the police. If they read or recite your Miranda rights, they suspect you have committed a crime.

You have the right, if you are stopped, to refuse to answer any questions for any reason or no reason. You can invoke your right to silence by saying, "I refuse to answer any questions" or "I want to speak to a lawyer" or "I wish to remain silent." If you do, there is one exception to your right to silence: According to Ohio law since April 2006, if you are in a public place and under certain circumstances, you must give your name, address and date of birth to an officer. If you fail to provide this information under such circumstances, you will be committing a fourth-degree misdemeanor and may be arrested.

Also, if you are only being stopped, you can refuse to give your consent for an officer to search your person, vehicle or home. Your refusal will force the police officer to legally justify any search made without your consent. Be aware, however, that Ohio law does permit some limited searches (such as pat downs) in "stop" situations in order to search for weapons.

Further, anything you say can be used as evidence against you. Sometimes people think that what they are saying won't incriminate them, but it can provide a link in a chain of information that could incriminate them.

Even if you believe the officer has no grounds to stop and question you, do not argue with or resist the police. Arguing or resisting will not help you and may make it more likely that the police will arrest you and bring criminal charges against you. It may also give them grounds to bring even more criminal charges against you, which can make it harder for you to get out of jail on bail if you are charged. Once officers no longer have grounds to detain you, they should say you are free to go before asking to search you or your car.

WHAT ARE MY RIGHTS IF I AM ARRESTED?

1. An officer who wants to ask you questions other than your name and address must advise you that you have a right not to answer the questions.

2. You have the right to be told why you are being arrested and the nature of the charges against you (the crime for which you are being arrested). If you are arrested on a warrant, you have the right to see the warrant within a reasonable time after your arrest, to read it and make certain your name appears on it, and to see the charge against you.

3. You have the right to be told your constitutional rights ("Miranda" rights) before being questioned following your arrest. These Miranda rights are:

- The right to remain silent and not answer any questions;
- The right to know that if you waive (give up) your right to remain silent and do answer questions, the police can use your answers against you in court;
- The right to stop answering questions at any time and talk with an attorney, even if you have begun to answer questions; and
- The right to speak privately with an attorney before answering any questions or signing anything.
- If you cannot afford an attorney and if the crime that prompted your arrest has jail time as a possible penalty, you also have a right to have an attorney appointed to represent you at no cost to you before being questioned, and to have that attorney with you during any questioning to which you may later agree to submit.

