

Rights of non-police (residents) in Police Encounters adapted from ACLU PA and the ACLU

Overall:

- You have the constitutional right to remain silent.
- You cannot be punished for refusing to answer a question (see exception below, when being pulled over in a vehicle, and providing required documentation).
- It is a good idea to talk to a lawyer before agreeing to answer questions.
- In general, only a judge can order you to answer questions.
- If you are carrying a firearm on your person or in your vehicle, you must disclose the weapon if asked.
- Anything you say to a law enforcement officer can be used against you and others. Keep in mind that lying to a government official is a crime but remaining silent until you consult with a lawyer is not. Even if you have already answered some questions, you can refuse to answer other questions until you have a lawyer.

Photographing/recording police interactions:

- You have the right to videotape and audiotape police officers performing official duties in public. It is not a violation of the Pennsylvania Wiretap Law to do so.
- You can record an officer during a traffic stop, during an interrogation, or while he or she is making an arrest.
- If stopped for photography, ask if you are free to go. If the officer says no, then you are being detained, something an officer cannot do without reasonable suspicion that you have or are about to commit a crime or are in the process of doing so. Until you ask to leave, your being stopped is considered voluntary under the law and is legal.
- If you are detained, politely state that you believe you have the right to take pictures or video and that you do not consent to the officer looking through or deleting anything on your camera. But if the officer reaches for your camera or phone, do not resist. Simply repeat that you do not consent to any search or seizure.

On the street:

- First, you may always ask police “Can I go?” If they say yes, you have the right to remain silent and leave. If they say no, you are being detained for questioning.
- If you are being detained on the street: In Pennsylvania, you do not have to give the police information such as your name, address, ID or immigration status. However, if you choose not to, you may be detained for a longer time while police attempt to identify you. For this reason, if you are lawfully present in the United States, you may wish to show your ID or provide your name. If you are undocumented, showing your ID or providing your name may result in your imprisonment by immigration authorities.
- The police can pat down the outside of your clothing only if they have “reasonable suspicion” (i.e., an objective reason to suspect) that you might be armed and dangerous.
- If they search any more than this, say clearly, “I do not consent to a search.” If they keep searching anyway, do not physically resist them.

In your car (when pulled over):

- If police officers signal you to stop your car, you must pull over.
- You must show documents including your driver’s license, vehicle registration and proof of insurance if you have them.
- Officers can also ask you to step outside of the car.
- They may separate passengers and drivers from each other to question them and compare their answers, but no one has to answer any questions.
- You do not have to answer any other questions or show any other documents.
- You should not answer any police officer’s questions about your immigration status.
- The police cannot search your car unless you give them your consent, which you do not have to give, or unless



they have “probable cause” to believe (i.e., knowledge of facts sufficient to support a reasonable belief) that criminal activity is likely taking place, that you have been involved in a crime, or that you have evidence of a crime in your car.

- If you do not want your car searched, clearly state that you do not consent.
- The officer cannot use your refusal to give consent as a basis for doing a search.
- If a police officer writes up a citation, he will ask you to sign the citation. This is not an admission of guilt; you are just agreeing that you received it.
- If a police officer questions a passenger, that person should ask if he can go. If the police officer says yes, the passenger should sit silently or leave.
- If a police officer says that the passenger is not free to go, he may say that he wishes to remain silent and ask for a lawyer immediately.
- The passenger has the right not to answer any questions the police officer may ask. In Pennsylvania, the passenger does not have to give information such as his name, address or immigration status.
- If you are undocumented and a police officer phones immigration and puts you on the phone with an immigration agent, you should only say “I am going to remain silent.”

At home

- You do not have to open the door to any police officer unless he has a search warrant from a court with your address on it.
- If you do not want to let a police officer inside, do not open the door. Ask the agent or officer, through the closed door, if he has a search or arrest warrant.
- You have a right to read the warrant.
- If you live in someone else’s house, you still do not have to open the door unless the immigration agent or police officer has a search or arrest warrant with the correct address on it.
- If you do not understand the police officer or immigration agent, you have the right to an interpreter.

If you are arrested

- The officer must advise you of your constitutional rights to remain silent, to an attorney, and to have an attorney appointed if you cannot afford one.
- You should exercise all these rights, even if the officers don’t tell you about them.
- Anything you say (besides your name) can and will be used against you.
- Ask to see a lawyer immediately.
- Within a reasonable amount of time after your arrest or booking you have the right to a phone call.
- Law enforcement officers may not listen to a call you make to your lawyer, but they can listen to calls you make to other people.
- Do not discuss your case over the phone with anyone other than a lawyer; calls from police stations and jails are monitored or recorded.
- Do not discuss your case with others being held; they may be undercover police.
- You must be taken before a judge as soon as possible—generally within 48 hours of your arrest at the latest.
- A judge will decide if the charges against you are supported by probable cause, and if so, the judge may set bail. Bail may be denied if you don’t have ID.

If your rights have been violated in ANY way, or your are treated poorly (called racially charged names, injured, searched without a warrant or without cause, etc.):

- Write down the officer’s badge number, name or other identifying information. You have a right to ask the officer for this information.
- Try to find witnesses and their names and phone numbers.
- If you are injured, seek medical attention and take pictures of the injuries as soon as you can.
- Call a lawyer or contact your local ACLU office.
- You should also make a complaint to the law enforcement office responsible for the treatment.

