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# KNOW YOUR RIGHTS

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## DISCLAIMER

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The information on this page is intended for educational purposes only. **It is not legal advice.** If you have specific questions, or are experiencing a situation where you need legal advice, you should contact an attorney.

Student Legal Services makes every effort to ensure the accuracy of the information on this page. However, the law changes frequently and this site should not be used as a substitute for legal advice. It is highly recommended that anyone accessing this page consult with an attorney licensed in the state of Wyoming prior to taking any action based on the information provided on this page.

## LAW ENFORCEMENT ENCOUNTERS:

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Encounters with law enforcement officers can be unnerving. Understanding your rights, and how to exercise them, can make encounters with law enforcement less intimidating. When exercising your rights, it is important to stay calm. Be polite when stating that you are exercising your rights. Finally, if you believe you've encountered law enforcement misconduct, remember that it cannot be fought on the street. If you believe you've encountered misconduct remain calm, be polite, and remember every detail of the encounter that you can—you can challenge the misconduct later through the justice system.

## RIGHTS:

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If you encounter law enforcement remember:

- You have the right to remain silent. If you want to exercise that right, say so out loud.
- You have the right to refuse a search of yourself, your car, or your home.
- If you are not under arrest, you have the right to leave calmly.
- You have the right to a lawyer if you are arrested or in a “custodial interrogation.” Ask for one immediately.

**Regardless of your immigration or citizenship status, you have constitutional rights:**

- First amendment protections—speech, religion, assembly, press.
- Fourth amendment protections—search, seizure, warrant requirements.
- Fifth amendment protections—federal due process, *Miranda* warnings, attorney during custodial detentions

- Sixth amendment protections—speedy jury trial, attorney after arrest, confrontation of witnesses
- Fourteenth amendment protections—Equal protection, due process, applies federal constitutional protections to the states

## WHAT TO DO IF YOU ARE STOPPED FOR QUESTIONING:

Individual rights during police stops vary based on the location and type of stop. The information provided below outlines the basics for different types and locations of stops.

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### IF YOU ARE STOPPED ON THE STREET:

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Ask the officer if you are free to go:

- If the officer says yes, then calmly walk away. Do not run from the officer.
- If the officer says no, then you are being detained. Officers can only detain you if they have a “reasonable suspicion” that a crime is underway, a crime occurred, or a crime is about to occur. A reasonable suspicion is an objective reason to suspect. Being detained is not the same as being arrested.
  - You have the right to remain silent. You cannot be punished for staying silent. If you choose to remain silent, say so out loud.
  - **Stop and identify laws:**
    - In certain states officers can demand certain information from people detained.
    - Usually, stop and identify laws require individuals detained by police to give the officer their name, address, and/or identification.
    - Officers must have reasonable suspicion to detain the person and demand identification.
    - At this time, Wyoming does not have a stop and identify law, though most of our neighboring states do.

If an officer detains an individual, several things might happen. The first is a frisk. A frisk consists of a pat down of the outside of the detained individual’s clothing. The purpose of a frisk is to check for weapons or objects that could place the officer’s safety in danger. During a frisk an officer CANNOT:

- Feel inside pockets,
- Search in purses or bags,
- Perform a more thorough search than an exterior pat down for weapons.

If an officer extends the frisk past a pat down of exterior clothing, calmly and clearly say that you do not consent to a search.

Remember, **misconduct cannot be fought on the street**. If you believe an officer conducted an illegal search, do not physically resist. Instead, say that you do not consent and then report the incident later.

A second type of encounter detained individuals may have with police is a search. A search goes beyond a frisk. Officers must have probable cause to perform a search. Probable cause A search may include:

- checking an individual's pockets,
- bags, closed containers,
- feeling inside waistbands,
- and/or removing hats and shoes.

Law enforcement can only perform a search in certain instances.

1. Consent: if an individual consents to the search, officers can search anywhere the person allows. Remember, that if you consent to a search, you can limit the time, and location of the search. You can also withdraw consent at any time.
2. Search incident to arrest: If a person is under arrest, law enforcement can search their person and immediate surroundings.
3. Search warrant: If law enforcement officers have a warrant, they can search for the item(s) listed on the search warrant in the location(s) listed.

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### IF YOU ARE STOPPED IN YOUR CAR:

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If you're worried about a police impersonator, you can call dispatch and have them confirm that it is a real officer pulling you over.

Turn off the car. Keep your hands where the police can see them—usually on the steering wheel. Turn on the internal light, open the window. If asked, you must show your:

- driver's license,
- registration,
- proof of insurance

Officers can also ask you to step outside of the car. If there are multiple people in the vehicle, officers can question them separately and compare their answers. **Every person in the vehicle has the right to remain silent**—even if the officer is asking questions. If you want to exercise your right to remain silent, politely tell the officer you are doing so.

If an officer stops a car in which you are a passenger you can ask the officer if you are free to leave. If the officer says yes, then calmly walk away or sit quietly and wait for the stop to conclude.

Officers need probable cause to search a car unless the individual consents. You do not have to give consent to a search—even if the officer asks. If you do not consent to a search, clearly say so out loud. The officer cannot use your refusal to give consent as a basis for performing a search.

If an officer has probable cause to believe a crime is taking place, likely to take place, took place, or that there is evidence of a crime in the vehicle then the officer can likely search the vehicle.

- The Wyoming Supreme Court has found that probable cause exists: “where the facts and circumstances are sufficient to warrant a man of reasonable prudence in the belief that contraband or evidence of a crime will be found.” *McGarvey v. State*, 200 P.3d 785 (Wyo. 2009).

If the officer searches the vehicle, you can still state that you do not consent to a search—even if the officer states they have probable cause. The officer will likely still search the vehicle, but it could be useful later in court.

They can likely search anywhere in the vehicle where the evidence could be located—including containers. Law enforcement can search any belongings inside the vehicle—regardless of ownership.

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### DOG SNIFFS:

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Officers do not need reasonable suspicion to use a drug dog to sniff a vehicle during a legitimate traffic stop.

If the dog signals that it smells drugs, the officers have probable cause to search the vehicle.

Officers can only detain the individual stopped for a reasonable amount of time. Therefore, if the dog is not on the scene and must be called in, the officer can only make you wait a reasonable amount of time for the dog to arrive. For this reason, it is a good idea to keep track of the length of the traffic stop.

Notably, though officers can perform warrantless dog sniffs of vehicles during legitimate traffic stops, they cannot perform warrantless dog sniffs of homes.

## WHAT TO DO IF LAW ENFORCEMENT COMES TO YOUR HOUSE:

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If law enforcement officers come to your home, you do not have to let them in unless they have certain types of warrants.

- Search warrant for the listed address
- Arrest warrant for someone within the home

Ask the officer to slip the warrant under your door or hold it up so you can see it.

Even if officers have a warrant, you have the right to remain silent.

If you choose to speak to the officers, step outside and close the door.

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### SEARCH WARRANT:

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A search warrant allows police to enter the address listed on the warrant and to search the areas listed for the items listed.

A search warrant must be “particular” which means that it must list:

- the specific item(s) the officers are looking for,
- the area(s) they believe the item is located. You only have to allow them to search in the listed area.

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### ARREST WARRANT:

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An arrest warrant allows police to enter a if they believe the person is inside.

Usually, officers find the individual to be arrested at their own house. However, officers may be able to enter a third party’s house if they have reason to believe that the individual on the warrant is inside.

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### EXCEPTIONS TO THE WARRANT REQUIREMENT:

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There are times when law enforcement officers can enter a residence without a warrant. The most common exceptions are discussed below:

#### CONSENT:

Law enforcement can enter and search a home without a warrant if the person living in the residence consents to the search.

When multiple share a home the issue of consent is more complicated. If one person is home when law enforcement arrives and they consent to a search, then the officers can search common areas and any area that the person home would reasonably have access to. If another resident returns home, they can withdraw consent for the search and the officers must stop the search.

Consent to a search is not all or nothing. If you consent to a search you can:

- limit the amount of time the search lasts.
- limit the scope of the search.
- withdraw consent at any time.
  - The consent must be clearly withdrawn. If you want to withdraw consent, clearly state “I am withdrawing consent to the search.”
  - If you withdraw consent, law enforcement must stop searching immediately.
  - BUT, if the pre-withdrawal search gave the officers independent cause to proceed with a search they do not have to stop.

#### SEARCH INCIDENT TO ARREST:

If a person is being arrested, then law enforcement can search the person and immediate area around the person being arrested.

#### PLAIN VIEW:

If an officer is lawfully in a location, he or she does not need a warrant to seize evidence in plain view.

For example, if a person invites law enforcement into their living room and there are drugs on the coffee table, then the officer can likely seize the drugs without a warrant because they were in plain view.

#### EXIGENT CIRCUMSTANCES:

When an emergency arises law enforcement officers are permitted to forcibly enter a property, without a warrant, for the purpose of rescuing the endangered person.

Additionally, law enforcement may enter a property without a warrant if they reasonably conclude that evidence is being destroyed. For example, if they officers are investigating a drug case and they knock on the door and suddenly hear a large commotion and the toilet flushing repeatedly, then the officers might be able to enter the property because they could reasonably believe that the evidence (drugs in this case) were being flushed down the toilet.

#### HOT PURSUIT:

If a suspect enters a private home while being pursued by officers, the officers can enter the home without a warrant in order to continue the pursuit.

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### ICE WARRANTS

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An ICE warrant is a form issued by certain immigration officers naming an allegedly deportable non-citizen. It directs federal immigration officers to arrest the individual.

**AN ICE WARRANT IS NOT A REAL WARRANT.** ICE warrants are not supported by probable cause or signed by a judge.

Because ICE warrants are not real warrants, they do not give the immigration officer the right to demand entry to a home or private space to make an immigration arrest.

Immigration officials with an ICE warrant can only enter a private space or home with consent.

For more information on ICE warrants visit the Immigrant Legal Resource Center [here](#).

#### WHAT TO DO IF YOU ARE ARRESTED:

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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. These are commonly referred to as *Miranda* rights.

Everyone who is arrested has constitutional rights, even if the officer fails to advise you of your rights. You should know your rights and exercise them.

If you want to exercise your right to remain silent, say so out loud. Do not tell the police anything except your name. Anything else you say 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. Assume your phone calls in prison or jail are being recorded. Law enforcement officers may not listen to calls you make to your lawyer. Law enforcement can and will listen to calls made to people other than your lawyer. Anything you say on calls to people other than your lawyer can be used against you.

You must be taken before a judge as soon as possible—generally within 48 hours of your arrest at the latest.

## FOR MORE INFORMATION

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See the [American Civil Liberties Union](#) website.