

Fourth Amendment to the Constitution

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized

Three levels of police encounters

Consensual • Investigative Detention • Arrest

Consensual

The police can approach you without any legal basis to ask questions. You can consent (agree) to answer questions or you can refuse. If an officer asks for consent to search you or your property, you have the right to say no.

Is the interaction consensual? To find out, ask the officer if you are free to leave. For example:

An officer asks, "What brings you here today?" You ask, "Am I free to leave?" If the officer says, "Yes", then you do not have to answer any questions.

You ask the officer, "Am I required to show identification?" If the police officer says, "No," then you do not have to show your ID.

A police officer may seize (take) any item he or she perceives to be illegal, as long as the item can be observed in plain view. For example, an officer who approaches you without a legal basis, but sees you smoking marijuana, can take the marijuana because it was in plain view.

When could a conversation needing your consent (agreement) happen?

- An officer knocks on your door to ask if you saw anything.
- An officer approaches you while you are standing on the sidewalk.
- An officer approaches you while you are sitting in your parked car.

Investigative detention

An officer may legally detain you (keep you from leaving) for investigation to gather more information. In order to keep you from leaving, the officer must be able to state a reasonable suspicion of illegal activity.

Are you being detained for investigation? Ask the officer if you are free to leave. For example:

After stopping your car, a police officer asks, "Do you know why I stopped you?" You ask, "Am I free to leave?" The police officer says, "No."

There is no legal time limit for a temporary detention for an investigation, but it must be reasonable given the stated reason for not letting you leave.

If the officer asks for your identification after stopping your car do you have to provide it? Yes

The investigation must be limited to the reason for the stop. For example, if the police stop you for investigation they do not automatically have the right to search you. They might ask you to agree to a search of you or your belongings, but you have the right to refuse.

- *After stopping you to investigate whether you match the description of someone who committed a crime, the police ask to search your backpack. You ask, "Are you asking for my consent to search my backpack?" If the officer says, "Yes," you do not have to give consent. The officer may not then legally search your backpack.*
- *A police officer pulls you over for speeding and asks, "Mind if I look in your trunk?" You ask, "Are you asking for my permission to search my trunk?"*

You have rights — know them

If the officer says, “yes,” you can say, “No. I do not consent to have you search my truck.”

When could the police temporarily detain you for investigation?

- *If the officer believes that you match the description of the suspect of a crime.*
- *You are pulled over by an officer for some type of traffic violation.*
- *If the officer believes that you are committing a crime.*

Arrest

A police officer may arrest you for probable cause or for an existing warrant. Probable cause means that it is probable that a crime was committed and probable that you committed it. As part of the arrest, the officer has a right to search you.

If an officer asks you questions about a crime you are suspected of committing (even if you are not under arrest), you have a legal right not to answer the questions. Tell the officer, as clearly as you can, that you want a lawyer. When could you be arrested?

- An officer sees you breaking into a business and stealing property.
- You have a warrant for your arrest.
- The officer believes there is enough evidence to charge you with a crime.
- You have been accused of a domestic assault.
- Officers have a warrant to search your home and they find evidence of drug possession or sale such as rolling papers, scales, baggies, or other drug paraphernalia.

Filming a police encounter

You may legally video and audio record a police officer performing official duties while in public.

An officer may not:

- Confiscate (take) your equipment
- Demand to view footage
- Delete without a warrant

You may not:

- Interfere with an officer performing a duty
- Physically resist. If an officer attempts to take your device do not resist, report it.

The ACLU-MN has a free app – Mobile Justice – that can be used to film the police in public. The app is available in Spanish and in English.

[VIDEO: See how it works](#)

Link to MN ACLU mobile justice app <https://www.aclu-mn.org/resources/mobile-justice-app/>