

KNOW YOUR RIGHTS!!!

KNOW YOUR RIGHTS FOR WOMEN OF COLOR & TRANS PEOPLE OF COLOR

Of course, rights enjoyed by everyone also apply to women of color and trans people of color. A general “know your rights” training or pamphlet will provide important information everyone should know. A few good ones can be found at:

- ⇒ <http://www.aclu.org/safefree/general/17444res20040528.html> (information available in multiple languages)
- ⇒ <http://nlg.org/resources/kyr.php> (information available in multiple languages)
- ⇒ http://www.nilc.org/ce/nonnilc/raidsrights_down&nlg&casa.pdf (know your rights for immigration raids)

In this fact sheet, we highlight rights in situations specific to women of color and trans people of color which are often not addressed in general know your rights materials. This fact sheet is not a substitute for legal advice – you should consult a lawyer as soon as possible if you are arrested or detained, and if you believe your rights have been violated.

Most importantly, if you think a cop is doing something wrong to you, you can get in more trouble if you try to resist or fight back. It’s usually a good idea to stay calm and, speaking loud enough for people around you to hear, say that you don’t consent to what the police are doing, and ask for their name and badge number. That info is useful if you want to file a complaint later.

⇒ STOPS

- ⇒ You do not have to talk to the police, FBI, ICE or any other law enforcement agent or investigator. If an officer approaches you and begins speaking to you, **ask “am I free to leave?” and if the answer is yes, walk away slowly and calmly.**
- ⇒ If the answer is no, you are being detained. Cops have a right to detain you for at least short periods of time if they have a reasonable suspicion that you have or are about to commit a crime.
- ⇒ **As a general rule, you should provide police officers with your name if asked. If you have had a legal name change, giving your current legal name should be sufficient,** although, particularly where transgender individuals are concerned, police will often insist on a “real” name, or ask if you have ever been known by any other name. It can be a good idea to carry name change documentation with you if you have it.
- ⇒ **Cops don’t necessarily have a right to demand ID unless they reasonably believe that you are involved in a crime. However, they will probably arrest you if you refuse or fail to show ID.** Where the officer has a “*reasonable articulable suspicion*” that you may be violating a law – an objective reason, not a guess or a stereotype - your obligation to respond to a request for identification depends on state laws. In a number of states, you are required by law to identify yourself when asked by a police officer during a lawful street stop. In some states where such laws exist, failure to identify yourself when asked is a misdemeanor offense; in others it is a factor to be considered when determining whether you are violating loitering laws. If asked for ID, you can ask the officer what the basis is for their suspicion that you are involved in criminal activity, but if they insist that you give them ID, you should probably give it to them.
- ⇒ **You are not required to reveal your immigration status to police officers.** In some jurisdictions where “sanctuary” policies are in effect, police officers are prohibited from asking about a person’s immigration status or otherwise participating in enforcement of immigration laws. In others, police actively cooperate with immigration enforcement, and may ask you about your immigration status or ask to see your immigration papers. **You have a right to not answer these questions just as you have a right to remain silent in response to any other question.** Keep in mind that providing false information to a government official is a crime. It is better to say nothing than to lie.



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- ⇒ If you are driving a vehicle, you must show your license and registration.
- ⇒ **Other than saying your name, you do not have to talk to anyone:** on the street, at your home or office, if you've been arrested, or even if you're in jail. Only a judge has the authority to order you to answer questions. There isn't a bad situation that can't be made worse by talking to the police! **Whether or not you are under arrest, do not answer questions when interrogated by the police. Politely tell them, "I am going to remain silent. I want a lawyer."** Many people invoke their Miranda Rights and then continue to talk. This is a very bad idea. Anything you say to a police officer can and often will be used against you or your friends.
- ⇒ **Sexual harassment - you do not have to give a cop your phone number or address if you are not being stopped or arrested.**
- ⇒ If you are pulled over in a car or on the street, try to stop in a lighted or more populated area – but do not run away or refuse to pull over. If there is no safer area nearby, ask the officer if you can continue the stop in a less isolated or dark location – or at the precinct or some other public facility. **If you are pulled over or stopped alone at night, you can tell the officer you would be more comfortable if a supervisor was called to the scene.** These requests might not be honored, and **you should never refuse to comply with an officer's order to pull over or stop**, but they may signal to an officer that you are watching out for your safety and make them think twice about doing something wrong.

⇒ SEARCHES

There are many types of searches: search of your person, search of your home, searches of automobiles, searches at airports, etc. For each kind of search there are legal restrictions on when and how they are to be conducted.

*Whether or not you believe, or a police officer represents, that they are authorized to conduct one type of search or another, **always clearly state that you do not consent to the search.** If you are silent, unclear, or say something like, "I guess I can't stop you," the police may interpret your actions as consent to a search they otherwise would not be allowed to do.*

There are three main types of searches of your person.

PAT DOWN SEARCH

- ⇒ The police can pat down the outside of your clothing for weapons any time you are in their presence if they think you are armed. This is usually done on a routine basis if you are detained or arrested. **Police are only allowed to do a limited search, or "pat down" outside of your clothing** under these circumstances. Unless they have "reasonable suspicion" or "probable cause" to believe that you have committed a crime, they are not allowed to do a more invasive search such as a strip-search or reaching into a bra or pockets.
- ⇒ If an officer feels something in your clothing s/he believes is a weapon or contraband, s/he is permitted to reach into your clothing to pull it out. If an officer has reason to believe, based on a "sudden" movement toward a pocket or under a piece of clothing, that a person is armed or concealing contraband, s/he may immediately reach for the area in question without first conducting a "pat down."
- ⇒ **Male officers are allowed to "pat down" a woman.** If you feel it is safe to do so, **you can request a pat down by an officer of the same sex**, but it is only a courtesy if the male officer calls for a female officer to search you. Any touching during the search which feels inappropriate or unduly prolonged should be documented. **If the search becomes more intrusive – i.e. you are asked to move or remove clothing other than your coat or outer garments, then you have the right to be searched by an officer of the same sex.**
- ⇒ It is never OK for an officer to use a pat down search to touch you inappropriately or to determine your gender.



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SEARCH INCIDENT TO ARREST

Once someone is arrested, the police can go into their pockets, open any containers found on them, and search their purse or bag. The police can also search the area immediately around the person. This generally includes the entire room in which the person was arrested or the interior of the car they were in. This includes containers in the car and the glove compartment **but not the trunk or engine compartment**. To search the trunk or engine compartment the police need “probable cause” to believe that there are weapons or contraband there.

STRIP SEARCH

This is any removal or rearrangement of clothing which results in any exposure or observations of a person’s body where that person has a reasonable expectation of privacy. A strip search cannot be performed unless an officer has “probable cause” to believe that person is concealing a weapon or contraband on their body. Searching a person’s bra is generally governed by the strip search standard.

Strip searches must be conducted by an officer of the same gender. Unfortunately, most police departments determine “gender” based on genitalia rather than gender identity. If you are not comfortable with the gender of the officer searching you, say so, and ask to be searched by an officer of your preferred gender. If your request is not granted, be sure to remember the names and badge numbers of the officers involved.

It is never OK for an officer to strip search you to humiliate you or to determine your gender.

➔ ENTRAPMENT

The cops can and will lie. For example, an undercover cop does NOT have to tell you the truth if you ask them if they are a cop. That’s the whole point of being undercover.

- ➔ Undercover cops are allowed to do drugs
- ➔ Undercover cops are allowed to take their clothes off
- ➔ Undercover cops are allowed to touch you or be touched as part of undercover policing of sex work or public sex.

Don’t be fooled into thinking there is a way to “test” if someone is an undercover cop – trust your instincts!

Cops can also lie about the evidence they have against you, and about not arresting you in exchange for something. Often, if cop tells you they will not arrest you if you do something for them, they will arrest you anyway.

➔ RELIGIOUS ATTIRE

AT THE AIRPORT:

- ➔ If you activate a metal detector, you can request a personal secondary search to be performed by a female officer in a private area. You may wear a headscarf or a veil during the search. If hair accessories under your scarf trigger an alarm, the female officer must touch the area, and may ask you to remove your scarf.
- ➔ If you are asked to remove your headscarf or another article of clothing in public and are unable to do so for religious reasons, calmly explain that you are not permitted to do so in public for religious reasons. The Transportation and Security Administration has a policy on “religious and cultural sensitivity” available at http://www.tsa.gov/travelers/airtravel/assistant/editorial_1037.shtm
You may want to carry a copy of it when you travel.





Please visit www.incite-national.org for more info!