

RHODE ISLAND PUBLIC DEFENDER

KNOW YOUR RIGHTS WHEN YOU ARE ARRESTED

It is very important for you to understand your rights. This brochure will help you understand what rights you have when arrested.



Mary S. McElroy
Rhode Island Public Defender
Main Office: 160 Pine St., Providence, RI, 02903
Phone: (401) 222-3492
Fax: (401) 222-3289

State Locations:

Providence District Court: 458-3050
Providence Superior Court: 222-1540
Family Court: 222-1530
Kent County: 822-6875
Newport County: 841-8320
Washington County: 782-4180

The job of the police is to enforce laws, not to assist those they suspect committed a crime. In this pamphlet you will find advice and information about how to best protect yourself from further incrimination in the event that you are arrested.

1) Use your right to remain silent.

Don't talk to the police.

2) Use your right to refuse consent. If the police are asking you to tell them or show them something, it is probably because they do not have the right to look without your permission.

You do not have to give consent to a search.

3) Once the police have arrested you, there is little you will be able to say to stop them from filing a charge.

Do not try to talk yourself out of a situation. It almost always makes matters worse.

Section 1: Police Questioning

Officers are allowed to legally detain individuals that they have "reasonable suspicion" committed a crime for up to two hours. The police are permitted to ask for a name and address and can ask questions about an individual's behavior even without an arrest. If the person complies and the police do not place her or him under arrest, the

police must release him or her after the two hour period. After making an arrest, the police must give several warnings, these warnings are generally called "Miranda Warnings".

MIRANDA WARNINGS

1. *"You have the right to remain silent."*

You may think that if you refuse to answer questions, you will look guilty. The law protects you, however, because a refusal to answer questions cannot be admitted in court if you were under arrest at the time you refused. In other words, the judge or jury will never know that you refused to answer questions so they can't hold it against you.

2. *"Anything you say may be used against you in a court of law."* This means that **anything you tell the police may be testified to in court.**

If you say something damaging (incriminating), anyone who heard you say it will testify in court, repeating to the jury what you said to the police. This is why an oral statement can be as damaging to you as a written confession.

3. *"You have the right to an attorney."* You do not need to be alone in the police station. **You are entitled to have a lawyer there with you during any police questioning.**

If there is someone else—parent or a non-lawyer—whom you want to be with you, ask the police if he or she may be present during the questioning. The police do not have to agree, but if they don't, that is another reason not to give a statement.

4. "If you cannot afford an attorney, one will be appointed for you." Usually, a Public Defender lawyer is not appointed until your first time in court (arraignment). However, if you do want to make a statement, or if you do not know whether you want to make a statement or not, the police will ask a Public Defender lawyer to come to the station to consult with you. If no Public Defender is available, wait until you get to court. **DO NOT MAKE A STATEMENT JUST BECAUSE THERE IS NO LAWYER AVAILABLE.**

If giving a confession would help you get a good deal now, which it usually will not, it will help you just as much or more later. The important thing to remember is that there is nothing you can do by yourself in the police station that a lawyer could not do as well or, more likely, better, since s/he is trained for this purpose. You can only hurt your case by giving a confession.

5. "You have the right to stop the questioning at any time." **IF YOU BEGIN TO GIVE A STATEMENT, OR CONFESSION, YOU MAY STOP ANSWERING QUESTIONS AT ANY TIME.** Just because you begin does not mean you are "stuck" with your decision. If you change your mind at any time or become unsure, stop answering questions. Occasionally, it may be true that giving a statement will help your case. In that event, a lawyer will insure that you give a statement which will help your case the most. It never hurts to have a lawyer with you, even while you are giving a statement to the police.

What if you are undocumented?

If you are undocumented or not a citizen, you do not have to tell this to anyone. It will be helpful to tell your lawyer because it may affect your case result. If an immigration agent visits you, do not sign anything or talk to anyone before talking to a lawyer.

Section 2: Rights While at the Station

You have certain guaranteed rights at the police station. The police may not inform you of this, but:

YOU HAVE THE RIGHT TO MAKE A TELEPHONE CALL WITHIN ONE HOUR OF YOUR ARREST

When you make your call, it is best to call a lawyer or to call someone you trust who can call one for you. Make sure they know exactly where you are and that a lawyer comes to the police station as soon as possible. If you call a lawyer, the police cannot listen to the conversation.

Signing papers

The police may ask you to sign several papers while at the station. Some of these papers may be damaging and **it is advisable to not sign any papers at the station without an attorney present.**

The only paper you may want to sign is an **INVENTORY** that lists the items taken from you when you arrived at the station. If you do not sign this, you may not get your belongings back.

Sometimes the police will ask you to sign a *rights form* or a *waiver form*. **You do not have to sign this.** Sometimes the police add items at the end of this form such as "I do not want a lawyer present" or "I want to make a statement" to the bottom of this form. You definitely do not want to sign away these rights at the police station.

Section 3: Bail

After being arrested and taken into custody by the police, there are four things that may happen regarding your bail.

- 1) If the police do not believe there are grounds to prosecute you criminally, they may release you directly from the station and not charge you with a crime.
- 2) If the police believe there are grounds to prosecute you criminally, and if the charge is a misdemeanor, the head officer in the police station may release you and give you a **SUMMONS** to come to court for the next court date.

The summons is very important and if you lose the paper and forget the date and location of your next court date, call the arresting police department and they will give you the information.

- 3) A bail commissioner will come to the station, for a fee, and set your bail late at night. If they do this, you will be released and given a court date.
- 4) You may be held until you are brought into court. This may be for a variety of reasons: it could be because you are charged with a more serious offense, the bail commissioner cannot come in to set your bail, or the head officer does not agree to release you. You have to be brought into court within 24 hours of your arrest if picked up during the work week and within 48 hours of your arrest if held over the weekend.
