

# Your rights if you've been arrested or stopped by the police



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This fact sheet provides advice if you have been stopped or arrested by the police. If you have been warned, cautioned or given a penalty notice by the police, you should read our factsheet 'Police Warnings, Cautions, and Fines'.

If you are a lesbian, gay, bisexual or trans person, you can contact Galop if you require more information about any of the issues raised in this factsheet.

## Stop and search

The police have the power to stop and/or search an individual in a public place if they have 'reasonable grounds for suspicion' that you are in possession of illegal drugs, stolen property or that you are carrying an offensive weapon or have committed an offence.

The police do not have the right to stop you simply because you identify as a lesbian, gay men, or a bisexual or trans person, or because you are Black or Asian, for example. You also should not be stopped simply because you are in a cruising ground. For more information on cottaging, cruising and the law, please see our separate factsheet.

You don't have to give your name, address or date of birth to the police if you're stopped and searched unless you're being reported for an offence. The officer will fill out a form outlining the reason for stopping you, the outcome of the stop and search and their name, and give you a copy. This information won't be held on file unless you're charged with an offence.

The search can take place on the street. If the officer asks you to remove more than your coat and gloves, or asks you to remove anything you wear for religious reasons, then you must be taken somewhere out of public view. You'll be asked to turn out your pockets and show the officers the contents of your bag. All stop and searches must be carried out with courtesy, consideration and respect for the person concerned.

## Strip searches and intimate searches

These searches will only take place in exceptional circumstances. A strip search or intimate search should only be carried out if a police officer has reasonable grounds for believing that you may be

concealing anything that is likely to cause physical harm or injury to you or another person. Specifically, if the police think that you have concealed a class A drug or a weapon and have refused to hand this over.

A **strip search** is a search involving the removal of more than your outer clothing (outer clothing includes your shoes and socks) and should only be requested when it is considered necessary to remove an article which a detainee would not be allowed to keep, such as a weapon or drugs. A strip search is performed by an officer of the same sex and as quickly as possible in a place where you can not be seen by anyone else. Every effort should be made to seek your co-operation in this search.

An **intimate search** is a physical examination of a person's body orifices other than the mouth. It is usually only carried out with your consent and can only be conducted without your consent if the situation is thought to be life threatening; for example, if the police suspect you are armed or have ingested drugs. An intimate search can only be carried out by a qualified medical professional such as a nurse or doctor and should take place at a doctor's surgery or hospital.

## What are my rights as a trans person if I am searched?

Police officers from the Metropolitan Police Service in London should follow specific guidance which has been issued concerning how to address and search trans people, and how to treat trans people when taking them into custody. If you feel that you have not been treated in accordance with this guidance, you can contact Galop for support and advice, or read our factsheet on police complaints.



If you are stopped or questioned by a police officer they should address you as the gender in which you present. Police guidance says that if an officer is not sure how to address you then they should ask you how you like to be addressed and treat you accordance with the gender (or predominant gender) you have stated. You should not be asked whether you hold a Gender Recognition Certificate or subjected to further questions about your gender identity.

Any officer can stop and search any person as long as that search is necessary and restricted to outer clothing. If a more thorough search is required, an officer of the same gender as your stated gender is required to conduct the search. If you are stopped and searched on the street you might be asked to sign a notebook to indicate the preferred gender you want to be treated as. Police guidance says that if you prefer, you can request that two officers (female and male) search appropriate areas of your body.

Police guidance also says that if a person is unwilling to state which gender they prefer to be addressed as, preference then the officer should make every effort to determine the predominant lifestyle of that person and treat them in that gender. If efforts to establish the person's preferred gender with their cooperation fail then the police officer must act in good faith on the basis of what gender the prisoner appears to present to them. The officer must tell the person which gender they believe them to be, and that the officer will be dealing with them on that basis unless they tell the officer otherwise.

## What happens if I am arrested?

If you are arrested you have the right to know why. If you are not being arrested you don't have to go to the police station. If you do go to a police station voluntarily you are entitled to make a phone call to a relative or friend telling them where you are. You are also entitled to free legal advice from a solicitor and to leave at any time you wish.

You can be arrested and taken into custody with or without a warrant. When you are taken to a police station you'll be questioned although this will be postponed if you're drunk or disorderly. You must give the police your name and address but you do not have to answer any further questions, although this may count against you in court if you go to trial.

## Your rights at the police station

You are entitled to see a solicitor, to have someone told where you are and to read a copy of the procedures for arrest known as the Codes of Practice. You should be given a written note of these rights. If you are unsure about why you have been arrested, or the charge is a serious one, it is better not to answer any further questions until a solicitor is present. You can't be kept at a police station for more than 24 hours without being charged, although this can be extended to 36 hours with the authority of a police superintendent, and longer with the authority of a magistrate.

## Your rights as a trans person in custody

If you are arrested and taken into custody police guidance says that you should also be treated as and addressed in your stated gender, as discussed above. You might be asked to sign a custody record to indicate the gender you want to be treated as. Anyone who is detained would always be accommodated in a cell or detention room of their own.

If you are unhappy about any aspect of the way you've been treated by the police or want more advice, contact Galop. Also see Galop's factsheet: Police Complaints. If you have issues relating to criminal records bureau checks you should see Galop's factsheet; CRB checks and gender identity.

## Young people and vulnerable adults

If you are a young people aged under 17 or are a vulnerable adult, an appropriate adult is required to be present during questioning and searching to make sure that you understand what's happening. This might be, for example, a parent or a social worker. The appropriate adult is not allowed to provide legal advice and can't perform this role if you have confided in them about the offence that you are being questioned about.

## Fingerprints and other physical evidence

Fingerprints and other non-intimate samples may then be taken. These can be taken without your consent and include; fingerprints, oral swabs, saliva [used for DNA samples], footwear impressions and photos.



Information from these samples will be stored in a database and may be used to identify you if you're arrested again. In some cases, intimate samples may be requested, such as blood or semen. These require your written consent plus the consent of the Inspector on duty at the police station before they can be taken.

## Bail

If there's not enough evidence to charge you, you'll be released on police bail. You don't have to pay to be released on police bail, but you'll have to return to the station for further questioning when asked. If you're charged and the police think there's a risk that you may commit another offence, fail to turn up at court, intimidate other witnesses or obstruct the

course of justice, they can impose conditional bail. This means your freedom will be restricted in some way. For example, a curfew may be imposed on you if your offence was committed at night. If you've been charged with a serious offence, you may be refused release and remanded in custody until trial. If you are found guilty, the time spent in prison before trial will be deducted from your sentence.

**Always dial 999 if it is an emergency and you think you are in immediate danger.**

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