

Frequently Asked Questions About Police Interrogations

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Do I have to answer questions if the police stop me while I am walking on the street?

The police can stop a person when they have good faith belief that the person was involved in a crime – this is often referred to as a “Terry Stop.” However, under the Fifth Amendment right against self-incrimination, a person does not have to answer any questions. In fact, a person should not answer any questions during a “Terry Stop.” The law only requires a person to give his name, date of birth, address and other information to establish identity if requested. Therefore, if questioned about a crime when walking on a street, do not utter any words except your name. Respectfully, inform the officer that you are exercising your Fifth Amendment Constitutional Rights.

In what circumstances do the police need a warrant to make an arrest?

If the police have “probable cause,” a reasonable suspicion that a person has been committed a crime, it is unnecessary for them to obtain a warrant before arresting someone. However, police must obtain a warrant when arresting a person in his home if it is for a non-serious offense and there is no belief that the person will destroy evidence. The arrest warrant must provide evidence that a crime has been committed, that the person names on the warrant committed the crime and the warrant must comply with all rules of court.

Do police have to give Miranda warnings when making an arrest?

This is a concept that is often misunderstood by clients. No, the police do not need to give the Miranda warnings when making an arrest. Miranda warnings are required only when the police interrogate a person after an arrest. Miranda warnings are also not required when the police interrogate someone prior to an arrest however, everything that you say to the police at any point in time can be used against you.

Will my case be dismissed since the police questioned and arrested me without giving a Miranda warning?

No, the prosecutor can still bring charges against you even if the police failed to give Miranda warnings before conducting a police interrogation. The failure to Mirandize a suspect after arrest and prior to interrogation prevents the prosecutors from being able to use any evidence obtained via the interrogation against the suspect at trial. But the prosecutor can use evidence obtained via another means to secure a conviction.

If I agree to police questioning, can I later decide not to answer questions?

Yes, Miranda warnings give a person the right to stop a police interrogation at any time even if he has already waived his right to remain silent and answered some questions. A person can exercise this right by refusing to answer any more questions or requesting an attorney. Once a person avers Miranda rights, the police must discontinue the interrogation.

What tactics can the police use when questioning a suspect?

Law enforcement is forbidden from using physical or psychological coercion when conducting police interrogations. However (I wish that everyone understood this) the police can lie, trick and employ other types of non-coercive methods to obtain a confession from a suspect. Police are trained in interrogation techniques. They are allowed to make false promises and use scare tactics.

Do the police have the right to take a bodily sample without permission?

Yes. The Fifth Amendment right against self-incrimination applies to communication and does not prohibit the police from collecting physical bodily evidence, *i.e.* blood samples, hair samples...

The best advice I can give every client is Do Not Speak To The Police!