

KNOW YOUR RIGHTS

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when encountering
law enforcement in Colorado

ACLU of Colorado



The information in this ACLU of Colorado Know Your Rights handbook is meant to provide you with basic information about your rights under the United States and Colorado constitutions, and the laws of the State of Colorado. This information can educate you and empower you, but it is informational only and is not legal advice. You should be aware that the law is constantly changing, and may have changed since the time this handbook was last updated. If you need legal advice, you should always consult with an attorney. © 2008 ACLU of Colorado

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A. INTRODUCTION

In this section

1. Where do my rights come from?
2. What kind of law enforcement officers might I encounter?
3. What information do I have a right to ask law enforcement officers to provide?



1. Where do my rights come from?

The United States Constitution protects many of your most fundamental rights. In addition, the Colorado Constitution protects fundamental rights for all persons in Colorado. The Colorado Constitution protects the same rights as the United States Constitution, and in some cases, provides you with greater protection of your rights or protects additional rights. Some of your rights are also protected by federal or state laws, also known as statutes.

The Preamble to the United States Constitution

- **“We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.”**

“

The Framers of the Bill of Rights did not purport to “create” rights. Rather, they designed the Bill of Rights to prohibit our Government from infringing rights and liberties presumed to be preexisting.

”

U.S. SUPREME COURT JUSTICE
WILLIAM J. BRENNAN

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In Colorado, there are four general categories of law enforcement officers: federal law enforcement officers, the Colorado State Patrol, the county sheriff’s departments and the city police departments. For example, in Lakewood, you may encounter the Colorado State Patrol, the Jefferson County Sheriff’s Department or the Lakewood Police Department. Examples of federal law enforcement officers include: Joint Terrorism Task Force members, or federal agents from the FBI, Department of Homeland Security (which includes Immigration and Customs Enforcement and the Border Patrol), and the Drug Enforcement Administration.

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2. What kind of law enforcement officers might I encounter?

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In any police encounter, you have a right to ask for the officer’s badge number, name, or other identifying information. Many Colorado law enforcement agencies, such as the Denver Police Department, have policies that require officers to give their business card or name and badge number upon request (unless doing so at that time might harm the safety or welfare of the police or others). In addition, if you are pulled over while driving, and not issued a citation or arrested, Colorado law requires police officers to give you their business card.¹ Even when officers are not required by department policy to provide you with their identifying information, they cannot retaliate against you for simply asking for that information. If an officer refuses to identify himself or herself when asked or retaliates against you for asking for identification, you may want to register a complaint with that law enforcement jurisdiction. See question G1 for information on registering a complaint.

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3. What information do I have a right to ask law enforcement officers to provide?

B. STOPS

In this Section

1. What if law enforcement officers stop me on the street?
2. What if officers stop me in my car?
3. What if the officer says that I am not free to go?
4. Do I have to answer the questions asked by officers if I am being detained?
5. Are there any exceptions to the general rule that I do not have to answer questions from officers?
6. What if officers threaten me with a grand jury subpoena if I don't answer their questions?

“It is easy to make light of insistence on scrupulous regard for the safeguards of civil liberties when invoked on behalf of the unworthy. History bears testimony that by such disregard are the rights of liberty extinguished, heedlessly at first, then stealthily, and brazenly in the end.”

U.S. SUPREME COURT JUSTICE
FELIX FRANKFURTER

1. What if law enforcement officers stop me on the street?

An officer may approach you on the street and ask you questions for any reason. If you are not being detained or are not under arrest, you have the right to not talk to the officer. If you want to exercise that right, simply ask, “Am I free to go?” If the answer is yes, you have the right to say, “I do not want to talk to you” and walk away.

2. What if officers stop me in my car?

An officer may pull you over while driving only if he or she has reasonable suspicion that you have committed a crime or a traffic violation. In Colorado, state courts have made clear that an officer may not pull you over simply to see your driver's license.² Once you have been pulled over, keep your hands where the police can see them. Upon the officer's request you should show the officer your driver's license, registration and proof of insurance.³ Other than providing the above information, you do not have to answer any questions. You have the right to say, “I am going to remain silent.” Officers can ask you to step outside the car, and they may separate passengers and the

driver from each other to question and then compare their answers. As always, every person has the right to refuse to answer any questions. If you are asked to exit your car, close the door and lock it. An officer may argue that by leaving an open door, you consented to the officer searching your car.

NOTE: Whether you are under arrest or not, if the police see anything indicating illegal activity in the car in plain view, they may seize it.



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If the officer says that you are not free to go, then you are being detained. In Colorado, a police officer may detain you for a reasonable period of time if he or she has a reasonable suspicion that you are involved in criminal activity.⁴ Being detained is not a full arrest, though an arrest could follow.

3. What if the officer says that I am not free to go?

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NOTE: In any police encounter, always assert your rights clearly and try to have at least one witness present. Write down the witness' names and phone numbers after the incident.



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No. Even if you are being detained, you still have the right to remain silent. You cannot be punished for refusing to answer questions related to suspected criminal activity, and the officer cannot use your silence as a basis for searching you. If you believe that you are being inves-

4. Do I have to answer the questions asked by officers if I am being detained?

tigated for or suspected of committing any crime, it is usually best to assert your right to remain silent and wait to speak with a lawyer.

5. Are there any exceptions to the general rule that I do not have to answer questions from officers?

Yes. There are two exceptions. They are explained in detail below:

The Right Against Self-incrimination

The Fifth Amendment

➔ **“No person shall...be compelled in any criminal case to be a witness against himself...”**

In Other Words

Generally speaking, you have a right to remain silent when being questioned by police.

Two Exceptions

1. Driving

If you are driving and you are pulled over for a traffic violation, the officer can require you to show your license, vehicle registration and proof of insurance.⁵

2. “Stop and Identify”

Colorado is one of several states which have a “stop and identify” law. In Colorado, this law gives law enforcement officers the authority to require you to identify yourself if the officer reasonably suspects you are committing, have committed or are about to commit a crime.⁶ (However, this law expressly prohibits officers from asking for your social security number during the stop.)



Warning: It is illegal to lie to a police officer or to provide false identifying information.⁷

6. What if officers threaten me with a grand jury subpoena if I don't answer their questions?

A grand jury subpoena is a written order for you to go to court and testify about information you may have. It is common for the FBI to threaten you with a subpoena

to get you to talk to them. If a law enforcement officer threatens to obtain a subpoena to obtain your testimony, you still have the right to refuse to speak to the officer until he or she has obtained a subpoena, and anything you do say can be used against you. The officer may or may not succeed in getting the subpoena. If you receive a subpoena or an officer threatens seek one to compel your testimony, you should call a lawyer right away. If you are given a subpoena, you must follow the subpoena's direction about when and where to report to the court, but you can still assert your right not to say anything that could be used against you in a criminal case.



C. ARRESTS



In this Section

1. *When does an officer have the authority to arrest me?*
2. *What are my rights once I have been arrested?*
3. *What if the officer fails to read me my rights?*
4. *How soon do I get to see my attorney after I have been arrested?*
5. *Do I have to answer questions before my lawyer arrives?*
6. *What if I speak to officers without my lawyer?*
7. *In what circumstances am I entitled to free legal defense?*
8. *How soon do I get to see the Judge after I have been arrested?*
9. *Will I be allowed to “post bail”?*

1. When does an officer have the authority to arrest me?

An officer may arrest you if he or she (1) has a valid arrest warrant, (2) witnessed you commit a crime, or (3) has probable cause to believe that you committed a crime.⁸ Whether or not the officer had the proper authority to arrest you may be challenged later in court.



NOTE: You should never resist arrest or to attempt to escape, even if you believe the arrest is unlawful.

2. What are my rights once I have been arrested?

If you have been arrested, the constitution and state laws protect your right to be treated humanely and provided with adequate food, shelter, and medical treatment.⁹ After the arrest, officers may advise you of your constitutional right to remain silent, and of your right to an attorney, and of your right to have an attorney appointed if you cannot afford one. Even if the officers do not tell you these rights, you should exercise all of them. You also have the right to refuse to sign any documents.

NOTE: Signing a traffic violation ticket is just your agreement that you will appear in court or otherwise satisfy the charges against you; it is not an admission of a crime.



If you wish to exercise your right to remain silent, simply say, “I am going to remain silent. I want to see a lawyer immediately.” Repeat this statement to every officer who tries to talk to you or question you. Keep in mind that officers can also listen to what you say in a jail cell and on the phone, and can place undercover officers or informants in your jail cell.

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Many people mistakenly believe that anything they say to a law enforcement officer before the officer has read them their rights cannot be used against them, and that if officers fail to read them their rights, any criminal case may be thrown out of court. In fact, officers are only required to read you your rights if they plan to interrogate you after you are in custody. In general, if you are interrogated after you are in custody without having been read your rights, statements made by you during that interrogation cannot be presented in court. If you make voluntary statements before an arrest, however, those statements can be used against you without law enforcement ever needing to read you your rights. Likewise, if you are not interrogated after your arrest, law enforcement may never read you your rights. Even when officers have failed to read you your rights and do interrogate you after you are in custody, there are legal exceptions that may permit that evidence to be introduced anyway. In sum, remember that you always have the right to remain silent and the right to speak with a lawyer, regardless of whether or when the officer informs you of that right. (See the box on page 10 for discussion of *Miranda v. Arizona*.)

3. What if the officer fails to read me my rights?

4. How soon do I get to see my attorney after I have

In Colorado, when you arrive at the police station, sheriff's office, jail, or other facility after arrest, you have the right under Colorado law to make a "reasonable number of telephone calls" at "the earliest time possible" to your attorney and a family member, and if you are transported to a new facility, you have the right to make a new phone call (to both an attorney and a family member).¹¹ In addition, Colorado state law also specifically protects your right to meet with your attorney "forthwith" (at the earliest time possible) in a private confidential place.¹² If you, a relative, a friend, or your attorney demands that your attorney be allowed to meet with you, officers are required to allow you to meet within a reasonable time, and if they do not the law enforcement officer may be liable to pay you a statutory penalty of between \$100 and \$1000.



NOTE: Law enforcement officers cannot listen to a call you make to your lawyer, but they can listen to calls you make to other people.

Miranda v. Arizona ¹⁰

The Background

This case challenged police officers' coercive interrogation methods (both physical and emotional) to force information and confessions out of suspects.

The Ruling

In the landmark 5-4 decision, the Supreme Court held that when a defendant is in police custody and being questioned, the prosecution cannot use any statements made by the defendant later in court unless the defendant was first informed of the right against self-incrimination prior to questioning, and the defendant both understood this right and voluntarily waived it.

The Impact

This case prompted the creation of the "Miranda warning," generally stated as follows:

“**You have the right to remain silent.
Anything you say can and will be used against you in court of law.
You have the right to have an attorney present during questioning.
If you cannot afford an attorney, one will be appointed for you.**”

If you are not properly given your Miranda warning by an officer after being arrested and before being questioned, your lawyer may be able to keep any statements you make to the officer after the time of custodial arrest out of your criminal trial.

The Right to Counsel

- **“In all criminal prosecutions, the**
- **accused shall enjoy the right to ...**
- **have the Assistance of Counsel for**
- **his defence.”**

← **The Sixth Amendment**

In Other Words

The Sixth Amendment gives you the right to consult with an attorney once “judicial proceedings” have been initiated against you (i.e., once you have made an initial appearance before a magistrate judge).¹³ Further, the Fifth Amendment’s protection against self-incrimination has been interpreted as giving you the right to counsel whenever you are being held in custody and questioned.

In Colorado

Colorado law lays out in detail a specific right to counsel under state law:

If you have been committed, imprisoned, or arrested for any cause, whether or not you have been charged with an offense, you have a right to consult with an attorney “forthwith”, alone and in private at the place of custody, as many times and for such period each time as is reasonable.¹⁴

•••••
 No. If you are being questioned while in custody and you have said that you want to talk to a lawyer, officers should stop interrogating you. If law enforcement officers continue to speak to you anyway, you still have the right to remain silent. Even if you do not have a lawyer, you have the right to tell the officer you want to speak to one before answering questions. If you do have a lawyer, keep his or her business card with you. Show it to the officer, and ask to call your lawyer. Remember to get the name, agency and telephone number of any law enforcement officer who stops or visits you, and give that information to your lawyer.

•••••
5. Do I have to answer questions before my lawyer arrives?

6. What if I speak to officers without my lawyer?

Anything you say to a law enforcement officer can be used against you and others. Lying to a government official is a crime, but remaining silent until you consult with a lawyer is not. Even if you have already answered some questions, you can refuse to answer other questions at any point to wait until you have the chance to speak to a lawyer.

7. In what circumstances am I entitled to free legal defense?

If you cannot afford an attorney and you are charged with a crime punishable by time in jail, the judge may appoint you a “public defender.” A public defender is a lawyer whose duty is to represent “indigent” criminal defendants.

DEFINITION



Indigent Defendant:

A person who lacks the financial resources to hire a lawyer for his or her criminal defense, and who therefore may be eligible to receive aid from a court-appointed attorney free of charge.



NOTE: Whether or not you qualify as “indigent” is based on a complex formula that compares income/assets, expenses and family size.¹⁵

Qualifications for Free Legal Defense

(If you are facing immigration proceedings see question F15.)

You may be entitled to free legal defense if:

- ★ You qualify as “indigent;”
AND
- ★ You are under arrest for or charged with committing a felony; or
- ★ You are being charged with a misdemeanor or a municipal code violation AND the prosecuting attorney may be seeking jail time as a penalty against you; or
- ★ You are a juvenile facing delinquency proceedings; or
- ★ You are being held in an institution against your will for treatment of any disease or a disorder.¹⁶

You may not be entitled to free legal defense if:

- ★ You do not qualify as “indigent;” or
- ★ You are involved in a civil suit or immigration case, and not a criminal case; or
- ★ You are being charged with a class 2 or class 3 misdemeanor, petty offense, class 1 or class 2 misdemeanor traffic offense, or a municipal or county ordinance violation, AND the prosecuting attorney is not seeking jail time as a penalty against you.¹⁷



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If you have been arrested *without an arrest warrant*, you must be taken before a judge “without unnecessary delay” and every case within at least 48 hours.¹⁸ If you have been arrested *with a warrant*, in Colorado, you must be taken before a judge “without unnecessary delay.”¹⁹

8. How soon do I get to see the Judge after I have been arrested?

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In Colorado, for most offenses (other than murder and certain violent felonies) you have a constitutional right under the Colorado state constitution to post bail and be released pending future court appearances.²⁰ If your bail is not already set on a warrant or on a preset bail schedule, then your bail should be set at your first appearance before a judge.²¹ If you are in custody and your bail has not been set, you have a right under Colorado law to be brought before a judge “forthwith” as soon as you request your bail to be set.²²

9. Will I be allowed to “post bail”?

Bail:

An amount of money or property that is deposited with the court by a person who has been charged with a crime, as a guarantee to show up for any future court appearances. If the person attends all court appearances, bail is returned to them upon the conclusion of the proceedings. If the person misses a court appearance, bail will be forfeited and not returned.



DEFINITION

NOTE: Professional bail bondsman charge fees for their services that are never returned.



D. SEARCHES AND WARRANTS

In This Section

1. Can law enforcement officers search me if I have not been arrested?
2. What if the officer asks for my consent to search me?
3. What if I think the officer is conducting an unconstitutional search?
4. What should I make sure the warrant says?
5. Do I have a right to see the warrants issued against me?
6. Do I have to answer questions if law enforcement officers have a search or arrest warrant?
7. What should I do if officers come to my house to search it?
8. What if law enforcement officers do not have a search warrant?
9. What if law enforcement officers do not have a search warrant, but they insist on searching my home even after I object?
10. What if law enforcement officers tell me they will come back with a search warrant if I do not let them in?
11. What are my rights regarding strip searches?
12. Can anyone be strip-searched?

The Right to be Free From Unreasonable Searches and Seizures

The Fourth Amendment

- “The right of the people to be secure
- in their persons, houses, papers, and
- effects, against unreasonable search
- es 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.”

1. Can law enforcement officers search me if I have not been arrested?

If you are not under arrest, and you have not consented to being searched, an officer may only search you if he or she reasonably suspects that you are armed and dangerous. This search may only be a limited pat-down of the outside of your clothes to feel for weapons.

If the officer asks for your consent to do a search, you have the right to refuse to be searched. If you do not want to be searched, you should make clear that you do not consent to a search by stating out loud, “I do not consent to a search.” If you voluntarily open a bag or empty your pockets at the officer’s request, the officer may argue that you consented to a search.

2. What if the officer ask for my consent to search me?

If an officer searches you even though you have clearly stated, “I do not consent to a search,” never physically resist even if you think the search is illegal. If you physically resist the search, you might be charged with assaulting a peace officer, obstructing a peace officer, or another crime. If the search is illegal, your lawyer may be able to file a “motion to suppress” to prevent that evidence found during the search from being used against you at trial, and you may also have the right to a civil remedy for the unconstitutional search.

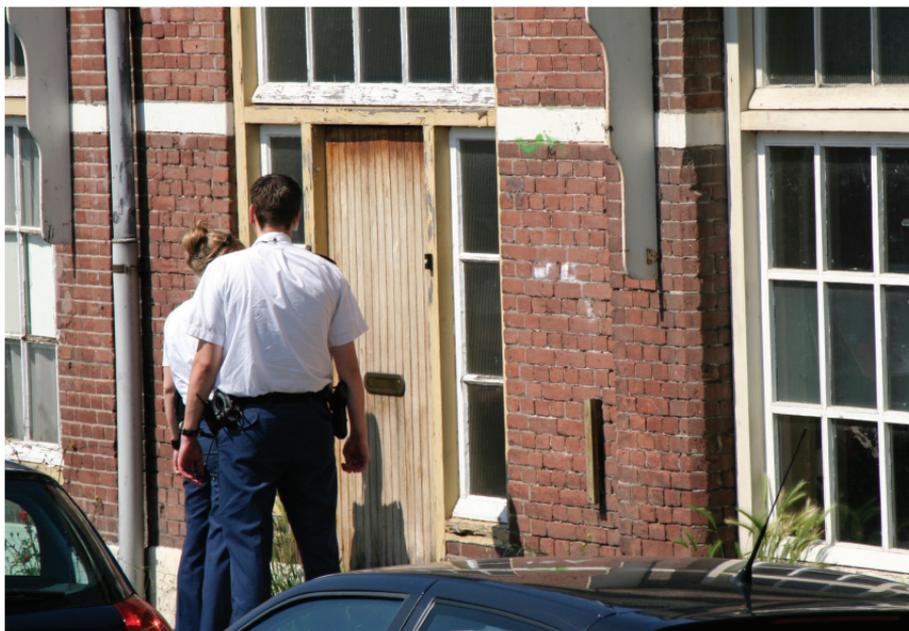
3. What if I think the officer is conducting an unconstitutional search?

Motion to Suppress:

A request that the court prohibit the introduction of illegally obtained evidence at a criminal trial.



DEFINITION



DEFINITION ? **Warrant**

A document signed by a judge giving law enforcement officers permission to enter a home or other building to do a search or make an arrest.

Search Warrant

Allows law enforcement officers to enter the place described in the warrant to look for and take items identified in the warrant.

Arrest Warrant

Allows law enforcement officers to take the person named in the warrant into custody.

→ NOTE: An arrest warrant alone does not give law enforcement officers the right to search your home, but if officers are making an arrest, they can look in places where you might be hiding and they can take evidence that is in plain sight. A search warrant alone does not give officers the right to arrest you, but they can arrest you if they find enough evidence during the search to have probable cause that you committed a crime.

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4. What should I make sure the warrant says?

A warrant must contain the judge's name, your name and address, the date, place to be searched, a description of any items being searched for, and the name of the agency that is conducting the search or arrest. The fact that a piece of paper says "warrant" on it, however, does not always mean that it is an arrest or search warrant. A warrant of deportation/removal, for example, is a kind of administrative warrant and does not grant the same authority to enter a home or other building to do a search or make an arrest.

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5. Do I have a right to see the warrants issued against me?

You have a right to see any arrest warrant which has been issued against you; however, the officer is not required under Colorado law to have the arrest warrant on hand at the time of the arrest.²³ If not, the officer still must tell you what offense you are being accused of, tell you of the fact that a warrant has been issued, and, upon your request, show you the warrant as soon as possible.²⁴ If the officer

does have the warrant on hand, he or she is required under Colorado law to show it to you upon request.²⁵

You have a right to see any search warrant which has been issued against you if an officer takes property from you under the authority of that warrant.²⁶ If an officer takes your property, the officer must not only give you a copy of the warrant, but also a receipt for the property.²⁷

No. Neither a search nor an arrest warrant means you have to answer questions. You still have the right to remain silent.

6. Do I have to answer questions if law enforcement officers have a search or arrest warrant?

7. If officers knock on your door and request to search your house, before opening the door, ask if they have a search warrant. If the answer is no, you have a right to refuse to let them in your home. You also have a right to tell the officer “I do not want to talk to you” and to remain silent. If the officers say that they do have a warrant, you have the right to ask the officers to slip it under the door (or show it to you through a peephole, a window in your door, or a door that is open only enough to see the warrant). Make sure the search warrant contains the correct information, and tell the officers if they are at the wrong address or if you see some other mistake in the warrant. If you think that the warrant is not complete or not accurate, you should say you do not consent to the search, but do not interfere if the officers decide to do the search anyway. Ask if you are allowed to watch the search; if you are allowed to, you should. Take notes, including names, badge numbers, which agency each officer is from, where they searched and what they took. If others are present, have them act as witnesses to watch carefully what is happening. Call your lawyer as soon as possible.

7. What should I do if officers come to my house to search it?



8. You do not have to let law enforcement officers search your home, and you do not have to answer their questions. Law enforcement officers cannot get a warrant based on your refusal, nor can they punish you for refusing to give consent.

8. What if law enforcement officers do not have a search warrant?

9. What if law enforcement officers do not have a search warrant, but they insist on searching my home even after I object?

Do not interfere with the officers; remember that if you interfere with the search in any way you could be arrested. You do have a right to say clearly that you have not consented and that the search is against your wishes. If someone is there with you, ask him or her to witness that you are not giving permission for the search. Take note of the names and badge numbers of the searching officers. Call your lawyer as soon as possible. If the search was unconstitutional and you are later criminally charged, your lawyer can argue that any evidence obtained unlawfully cannot be used against you at trial.

10. What if law enforcement officers tell me they will come back with a search warrant if I do not let them in?

You still have a right to tell them that you do not consent to the search and that they need to get a warrant. The officers may or may not succeed in getting a warrant if they follow through and ask the court for one, but once you give your consent, they do not need to try to get the court's permission to do the search.

11. What are my rights regarding strip searches?

A strip search occurs when you are forced to remove or arrange some or all of your clothing to permit a visual inspection of your private areas. Pursuant to Colorado law, when there is legitimate justification for strip search, any strip search that is conducted of an arrestee must be performed by a person of the same sex as you and at a location where the search cannot be observed by anyone other than the person doing the search.²⁸ Whoever does the search must get written permission from the police commander or sheriff before beginning the search.²⁹

12. Can anyone be strip-searched?

No. There must be justification for a strip search, and Colorado law prohibits any strip-searching prior to arraignment for people who have committed traffic or petty offenses (e.g. loitering, littering, etc.).³⁰ There are, however, three exceptions. If it is prior to arraignment and you have been arrested for a traffic or a petty offense, Colorado law permits a strip search if (1) there is reasonable belief that you are concealing a weapon or a controlled substance; (2) you are a parolee or an offender serving a sentence in any correctional facility in the state; or (3) you have been arrested for driving while under the influence of drugs.³¹

E. LAW ENFORCEMENT AND FREEDOM OF SPEECH AND ASSEMBLY

In This Section

1. *Where can I exercise my right to free speech and assembly?*
2. *How do I obtain a permit?*
3. *Is there speech that is not protected by the Constitution?*
4. *What if law enforcement orders me to stop my free speech, or I am arrested while exercising my right to free speech?*

The Right to Free Speech and Assembly

- Congress shall make no law re-
- specting an establishment of
- religion, or prohibiting the free
- exercise thereof; or abridging the
- freedom of speech, or of the press;
- or the right of the people peaceably
- to assemble, and to petition the
- government for a redress of
- grievances.

←
From the First
Amendment to the
U.S. Constitution

- No law shall be passed impairing
- the freedom of speech; every
- person shall be free to speak, write
- or publish whatever he will on any
- subject, being responsible for all
- abuse of that liberty...

←
Article II, Section 10
Colorado Constitution

1. Where can I exercise my right to free speech and assembly?

The United States Constitution and the Colorado Constitution guarantee the right of free speech and assembly. The right of free speech protects more than just the right to talk. It protects expression and communication of all sorts, including speaking, marching, distributing literature, door-to-door leafleting, gathering petition signatures, dancing, singing, holding signs, carrying flags, and wearing clothes or other items that convey a message or religious belief.

Free speech protections apply not only to speech that the government considers to be truthful and valid, but also to speech that is unpopular, strange, or even hateful. Our nation's founders believed that the best protection against ideas that society believes are wrong is to have a free exchange of opposing ideas, not to censor wrong ideas. Laws and ordinances regulating free speech and assembly may be unconstitutional if they target disfavored speech or are unreasonable in relation to the government interest that motivates the regulation. Government officials may also violate your constitutional rights if they make an unreasonable decision that prevents you from exercising your free speech rights, for example, by refusing to grant you a parade permit without a valid justification. Finally, the government cannot selectively enforce otherwise valid laws only against those engaging in disfavored speech.

“ **Those who won our independence . . . believed that freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth; . . . that the greatest menace to freedom is an inert people; that public discussion is a political duty; and that this should be a fundamental principle of the American Government.** ”

U.S. SUPREME COURT JUSTICE
LOUIS BRANDEIS

Traditional Public Forums: Streets, Sidewalks and Parks

In the United States and Colorado, people have historically had the right to assemble and engage in free speech in public parks, streets and sidewalks. The Supreme Court has termed these places “traditional public forums.” In general, these traditional public forums are reserved to the people for the free exchange of ideas. In traditional public forums, the government can generally only regulate the “time, place and manner” of the speech. In addition to “traditional” public forums, the government may create “designated” public forums: areas that may not have a tradition of being a public forum, but which have taken on the characteristics of a traditional public forum just like public streets, parks and sidewalks. The nature of the regulation the government may impose can depend on the type or location of the speech:

a. Speeches

Generally, people are free to speak as they please on sidewalks. No permit is required even if a large crowd gathers, as long as there is space for passersby. The speaker is not responsible for the presence of hecklers or angry listeners. The presence of hecklers or counter-demonstrators is not, by itself, enough to justify an order to disperse the crowd or arrest the speaker.

b. Picketing and Leafleting

Picketing and handing out leaflets in traditional public forums is also a protected form of speech. Generally, people picketing or leafleting must do so in an orderly fashion. They must not physically disrupt passersby or force them to accept the leaflets. Picketers should leave room on the sidewalk for others to pass.

c. Demonstrations and Rallies in Parks

Public parks are our most traditional public forums. If someone wishes to go alone to a public park to speak or spread his or her message, no permit should be required. Park regulations may require reservations or permits, however, for large demonstrations and rallies or for the use of sound equipment. You should inquire from the city, county or state park department to determine if you need a permit. The government must make a decision about your permit application within a reasonable timeframe. If your

permit is denied, you must be told why and be provided an opportunity to appeal the denial.

d. Marches

A march or rally in a street that would stop or slow traffic usually requires a permit. You should inquire from the city, county or state in advance to determine if you need to apply for a permit. No permit is required for a sidewalk march, however, and individuals may march as far as they like as long as they leave room on the sidewalk for passersby and obey all traffic laws. Organizers of large sidewalk marches sometimes appoint marshals to help keep the march orderly.

e. Sound Equipment

The government may put limits on the volume of sound equipment (measured by decibel level) or limit the use of sound equipment to certain times or certain areas. The restrictions must relate to a substantial government concern such as traffic safety. Of course, the government cannot restrict the sound on the basis of the speaker's message. The government may require a use permit for sound equipment

f. Government Buildings

Not all public property, such as parks and sidewalks, is a traditional public forum. For example, a government office building may be entitled to keep out persons not conducting business there, so that employees are able to do their work. The degree of public access depends on the type of building and the history of past use at the particular building. In some circumstances, government property that is not a traditional public forum might have been designated as a type of limited public forum. You should ask the government agency or building owner for information on any rules and regulations regarding free speech and assembly at government buildings.

g. Shopping Malls and Other Private Commercial Property

The right to free speech and assembly on private commercial property in Colorado is a difficult question and the law is not settled. Although there is no right to engage in free speech and assembly on private commercial property under the First Amendment, the Colorado Supreme Court

determined in a historic case that freedom of speech and assembly on some private commercial property was protected by Article II Section 10 of the Colorado Constitution.³² (See the box below for more details on this case.)



Bock v. Westminster Mall Co

The Background

The plaintiffs sought to distribute pamphlets and collect protest signatures in the common areas inside of a mall. The mall owner would not allow it. Historically, the right to free speech had not been extended to apply private commercial establishments under the First Amendment, but the plaintiffs argued that the Colorado constitution protected their rights to distribute literature at the Westminster Mall.

The Ruling

The Colorado Supreme Court affirmed that Article II Section 10 of the Colorado constitution provided broader protection for speech than the First Amendment, and held that because of the “public function” and “public involvement” regarding this particular shopping mall, such as the mall receiving tax incentives from the government, maintaining a police station within the mall, and actively encouraging government entities such as the armed forces to make presentations at the mall, the right to distribute political pamphlets and gather signatures was protected at that mall by Article II Section 10 of the Colorado Constitution.

The Impact

It is not settled whether the right to free speech that was protected at this particular shopping mall would apply to other shopping malls or other private property in Colorado, which may depend heavily on the facts and characteristics of that private property. Before engaging in free speech activity at private commercial property, you can ask the property manager what they believe are the rules and regulations governing free speech activity on their property. Keep in mind that failing to obey a request to leave private commercial property could result in a charge such as trespass. Regardless, you always have the right to engage in free speech and assembly on the public sidewalks near private commercial property. In cases where there is a right under the Colorado Constitution to engage in free speech at private commercial property, the property owners are still permitted to regulate the “time, place, and manner” of the speech.

2. How do I obtain a Permit?

As discussed above, in some cases, such as large demonstrations or marches, the government may validly require a permit or advance registration. Where permits or advance registration requirements are reasonable, a filing fee may be required. The fee is to pay for administrative costs. It may not be unduly large, nor may it be a tax on speech. An insurance bond or indemnification agreement may be an unreasonable burden on free speech and assembly. Permits may not be withheld because of the philosophy, political ideas, or message of the speakers. Lengthy “advance notice requirements” (requirements that you apply for permits weeks or months in advance) may also unreasonably burden speech.

For information on whether you need a permit, and how to obtain a permit, contact the appropriate city, county or state department in advance of the event.

Groups that are denied a permit for reasons that appear arbitrary, unfair or unreasonable should contact the ACLU of Colorado.

3. Is there speech that is not protected by the Constitution?

The Supreme Court has held that the First Amendment does not protect all types of speech. For example, you may not directly incite a riot or encourage an angry mob to injure someone. You may not directly provoke someone into a fight, and you may face penalties for spreading falsehoods about someone.

It is sometimes difficult to distinguish between legal and illegal speech. It is legal to demonstrate against draft registration, but it is illegal to knowingly counsel an individual to evade registration. It is legal to picket a store, but it is illegal to block entry to the store. It is legal to preach that our form of government is wrong, but it is illegal to directly encourage a crowd to storm the White House. Broadly speaking, we are free to communicate our ideas, but not to encourage immediate crimes.

Demonstrators are encouraged to abide by reasonable rules. They should not harass passersby or cause unreasonable disruptions. If you are instructed not to speak, demonstrate, or engage in some other free speech activity

– whether by a law, a police officer, or other government official – continuing to engage in the activity may result in criminal charges. As is the same with any interaction with law enforcement, you should not disobey the order of a police officer even if you think that the order is violating your free speech rights. Please alert the ACLU of Colorado if you believe an official order has unreasonably restricted your right to free speech or assembly.

If you are arrested while exercising your right to protest, remain calm and do not resist police officers, even if you believe your constitutional rights are being violated. Remember that whenever you are arrested, you have the right to remain silent and you do not have to answer law enforcement officers' questions. In Colorado, you have the right to contact your attorney "at the earliest possible time" after your arrest.³³ If you think your right to free speech or assembly has been unreasonably restricted by regulation, law or the actions of law enforcement, please contact the ACLU of Colorado immediately as described question G6.

4. What if law enforcement orders me to stop my free speech, or I am arrested while exercising my right to free speech?



F. SPECIAL CONCERNS FOR NON-CITIZENS ENCOUNTERING LAW ENFORCEMENT

In This Section

1. *What types of law enforcement officers may try to question me?*
2. *What can I do if law enforcement officers want to question me?*
3. *Do I have to answer questions about whether I am a U.S. citizen, where I was born, where I live, where I am from, or other questions about my immigration status?*
4. *What if I am a non-citizen tourist, non-citizen student or an employee on a work visa?*
5. *When do I have to show officers my immigration documents?*
6. *What if an officer asks for my U.S. immigration documents, and I do not have them with me?*
7. *What happens if I am a non-citizen and I am arrested and charged with a criminal offense?*
8. *What happens if I am contacted by local law enforcement and they suspect that I am in violation of the immigration laws?*
9. *If I'm arrested for a criminal offense and have posted bond or finished my sentence, can a Colorado law enforcement agency continue to detain me for ICE to take custody of me?*
10. *What should I do if there is an immigration raid where I work?*
11. *What can I do if immigration officers are arresting me and I have children in my care or my children need to be picked up and taken care of?*
12. *What should I do if immigration officers arrest me?*
13. *Do I have the right to talk to a lawyer before answering any law enforcement of ficers' questions or signing any immigration papers?*
14. *If I am arrested for immigration violations, do I have the right to a hearing before an immigration judge to defend myself against deportation charges?*
15. *Do I have a right to free counsel in immigration removal proceedings?*
16. *Can I be detained pending the results of my immigration case?*
17. *Can I call my consulate if I am arrested?*
18. *What happens if I give up my right to a hearing or leave the U.S. before the hearing is over?*
19. *What should I do if I want to contact immigration officials?*

In the United States, non-citizens are persons who do not have U.S. citizenship, including lawful permanent residents, refugees and asylum seekers, persons who have permission to come to the U.S. for reasons like work, school or travel, and those without legal immigration status of any kind. Non-citizens who are in the United States – regardless of their immigration status – generally have the same constitutional rights as citizens when law enforcement officers stop, question, arrest, or search them or their homes. However, there are some special concerns that apply to non-citizens, and the following rights and responsibilities are important for non-citizens to know. In addition, there are some Colorado statutes that apply to police interactions with non-citizens, of which non-citizens should be aware.

Different kinds of law enforcement officers might question you or ask you to agree to an interview where they would ask questions about your background, immigration status, relatives, colleagues and other topics. You may encounter state law enforcement officers such as the Colorado State Patrol, the county sheriff's departments, the city police departments, as well as federal law enforcement officers such as Immigration and Customs Enforcement (ICE) Officers.

You have the same right to remain silent that U.S. citizens have (see Sections B-C for more detail). Customs officials, however, can require you to answer questions regarding your immigration status at "international borders," such as airports and border checkpoints.

You do not have to answer any of the above questions if you do not want to answer them. If you are a U.S. citizen, you may say so and doing so may avoid further questioning, but never falsely claim U.S. citizenship. You always have the right to speak with a lawyer before you answer questions about your immigration status. Immigration law is very complicated and you could have a problem without realizing it, or you may have rights of which you are unaware. A lawyer can help protect your rights, advise you, and help you avoid a problem. Always remember that even if you have answered some questions, you can still decide at any time that you do not want to answer any more questions and choose to remain silent until you have the chance to speak with your consulate or a lawyer.

If you are a non-citizen who is authorized to be in the U.S. for a particular reason or activity, usually for a limited period of time, such as a person with a tourist, student, or work visa, you are considered a "nonimmigrant." Immigration officers can require nonimmigrants to provide documents related to their immigration status, if they have a reasonable suspicion that justifies the request. You can still assert your right to remain silent, and say that you would like to have your lawyer with you before you answer questions.

1. What types of law enforcement officer may try to question me?

2. What can I do if law enforcement officers want to question me?

3. Do I have to answer questions about whether I am a U.S. citizen, where I was born, where I live, where I am from, or other questions about my immigration status?

4. What if I am a non-citizen tourist, non-citizen student or an employee on a work visa?

5. When do I have to show officers my immigration documents?

Police and immigration officers should not stop you and require you to answer questions about your immigration status unless they have a reasonable suspicion that you are not legally in the United States, or that you are committing or about to commit a crime. If an officer stops you to request your immigration documents and you are a non-citizen, you may ask whether the request is voluntary. If it is voluntary, you have a right to terminate the conversation with the officer and walk away. If you are told it is not voluntary, you should provide any valid immigration documents to the officer.

Federal law requires non-citizens who are 18 or older and who have been issued valid U.S. immigration documents to carry those documents with them at all times.³⁴ (These immigration documents are often called “alien registration” documents. The type you need to carry depends on your immigration status. Some examples include a permanent resident card (“green card”), I-94, Employment Authorization Document (EAD), or border crossing card.) Failure to carry these documents can be a misdemeanor crime. If you have your valid U.S. immigration documents and any officer asks you for them, show them. Keep a copy of your documents in a safe place and apply for a replacement immediately if you lose your documents or if they are going to expire.



You should never show an officer fake immigration documents or pretend that someone else's immigration documents are yours. Colorado law makes it a crime to present a false document, including a passport, alien registration receipt card, permanent resident card, or employment authorization card.³⁵ If you are unsure about your immigration status, you can decide not to answer questions about your citizenship or immigration status until you have a chance to talk to a lawyer. If you are arrested because you do not have your U.S. immigration documents with you, but you have them elsewhere, ask a friend or family member to bring them to you.

6. What if an officer asks for my U.S. immigration documents, and I do not have them with me?

Criminal charges can have serious immigration consequences for non-citizens. Before you agree to any plea agreement in a criminal case, it is very important to understand how the criminal charges may affect your immigration status. Criminal law and immigration law, however, are very different areas of the law and a lawyer skilled in one area may know very little about the other. If your criminal attorney does not know the potential immigration consequences of a criminal charge, you should make sure to talk to an attorney with immigration expertise before confessing to any charges in your criminal case.

7. What happens if I am a non-citizen and I am arrested and charged with a criminal offense?

If you are contacted by a Colorado police officer and that officer has probable cause to believe that you are not legally present in the United States, that officer is required by a Colorado law (commonly known as Senate Bill 90) to report that suspicion to an Immigration and Customs Enforcement (ICE) officer.³⁶ The officer is required to make the report to ICE only if he or she has probable cause to believe a person is not lawfully present in the country based upon objective, non-discriminatory factors.

8. What happens if I am contacted by local law enforcement and they suspect that I am in violation of the immigration laws?

Under the United States and Colorado constitutions, however, no law enforcement officer can stop or detain you to investigate your immigration status based only upon your race, ethnicity, national origin, or religion; this is a prohibited practice known as racial profiling. If you believe you have been stopped or detained based only upon your race,

ethnicity, national origin or religion, you should obtain the business card of the officer, register a complaint with the law enforcement agency, and you may want to speak with a lawyer or write the ACLU of Colorado.

9. If I'm arrested for a criminal offense and have posted bond or finished my sentence, can a Colorado law enforcement agency continue to detain me for ICE to take custody of me?

In general, citizens and non-citizens alike have the right to be immediately released from custody after they have paid their bond, finished their criminal sentence, or are otherwise entitled to be released. If you are a non-citizen suspected of violating the immigration laws, however, federal law permits a federal immigration officer to keep you in custody by placing you under an "ICE detainer."³⁷ An "ICE detainer" is a request by ICE that local law enforcement detain you until an ICE officer can arrive at your place of detention to investigate your immigration status, and potentially take you into ICE custody. An "ICE detainer" only gives local law enforcement officials the right to detain you for 48 hours, excluding holidays and weekends, after you are entitled to be released. If you are subject to an ICE detainer, and 48 hours has passed since you have posted your bond, finished your criminal sentence, or been ordered released, and ICE has not taken custody of you, officers must release you immediately. If more than 48 hours (excluding holidays and weekends) has passed, you or your lawyer should file a grievance or complaint with the jail demanding your immediate release. If you are held more than 48 hours on an ICE detainer, you may also consider filing a complaint with the law enforcement agency or writing the ACLU of Colorado.

10. What should I do if there is an immigration raid where I work?

If your workplace is raided, it may not be clear to you whether you are free to leave. You have the right to remain silent – you do not have to answer questions about your citizenship, immigration status or anything else. If you do reveal that you are not a U.S. citizen, you will likely be asked to produce immigration documents showing your immigration status. If you try to run away, the immigration officers may argue that your running created a suspicion you are in the U.S. illegally and justified your arrest. You have the right to continue with your work or calmly ask if you may leave, and, as always you have the right not to answer any questions you do not want to answer.

If you have children with you when you are arrested, ask the officers if you can call a family member or friend to come take care of them before the officers take you away. If you are arrested when your children are at school, call a friend or family member as soon as possible so that a responsible adult will be able to take care of them.

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Assert your rights. Non-citizens have rights that are important for their immigration cases. You do not have to answer questions. You can tell the officer you want to speak with a lawyer. You should talk to a lawyer before signing anything or making a decision about your situation. You do not have to sign anything giving up your rights, and should never sign anything without reading, understanding and knowing the consequences of signing it. The immigration laws are complex. There may be options for you that the immigration officers will not explain to you. If possible, carry with you the name and telephone number of a lawyer to contact.

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Yes. You have the right to call a lawyer or your family if you are detained, and you have the right to be visited by a lawyer in detention. You have the right to have your attorney with you at any hearing before an immigration judge.

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Yes. In most cases only an immigration judge can order you deported. But if you waive your rights, sign something called a “Stipulated Removal Order,” or take “voluntary departure,” agreeing to leave the country, you could be deported without a hearing. There are some reasons why a person might not have a right to see an immigration judge, but even if you are told that this is your situation, you should first speak with a lawyer immediately. Immigration officers do not always know or tell you about exceptions that may apply to you, and you could have rights that you do not know about. Also, it is very important that you tell the officer, and contact a lawyer immediately, if you fear persecution or torture in your home country – you have additional rights if you have this fear, and you may be able to win the right to stay in the U.S.

11. What can I do if immigration officers are arresting me and I have children in my care or my children need to be picked up and taken care of?

12. What should I do if immigration officers arrest me?

13. Do I have the right to talk to a lawyer before answering any law enforcement officers' questions or signing any immigration papers?

14. If I am arrested for immigration violations, do I have the right to a hearing before an immigration judge to defend myself against deportation charges?

15. Do I have a right to free counsel in immigration removal proceed-

No. You do have the right to hire your own attorney to represent you in removal proceedings. You also have a right to an adequate period of time to secure an attorney, as well as a government-provided list of attorneys who can represent you including free or low-cost legal service providers.³⁸ However, you do not have the same right to free, government-provided counsel, as you do in criminal proceedings. If you can afford an attorney, you should hire one, since immigration proceedings are extremely complicated. For information about procuring legal assistance, see the legal resources listed in Section H.

16. Can I be detained pending the results of my immigration case?

The government may have the right to detain you during your immigration proceedings, but most people are eligible to be released on bond or other conditions that might require you to report periodically to immigration officials. If you are denied release after you are arrested for an immigration violation, ask for a bond hearing before an immigration judge. In many cases, an immigration judge can order that you be released or that your bond be lowered.

17. Can I call my consulate if I am arrested?

Yes. Under the Vienna Convention, non-citizens arrested in the U.S. have the right to call their consulate or to have the law enforcement officer tell the consulate of their arrest.³⁹ Law enforcement must let consular officials visit or speak with you if consular officials decide to do so. Your consulate might help you find a lawyer or offer other help or information.

18. What happens if I give up my right to a hearing or leave the U.S. before the hearing is over?

If you are deported, you could lose your eligibility for certain immigration benefits, and you could be barred from returning to the U.S. for a number of years or, in some cases, permanently. The same is true if you do not go to your hearing and the immigration judge rules against you in your absence. If the government allows you to make a “voluntary departure,” you may avoid some of the problems that come with having a deportation order and you may have a better chance at being permitted to return to the U.S. However, you should discuss your case with a lawyer because even with voluntary departure, there can be obstacles to returning, and you may be eligible for

alternative relief in immigration court. You should always talk to an immigration lawyer before you decide to give up your right to a hearing.

Always try to talk to a lawyer before contacting immigration officials, even on the phone. Many immigration officials view “enforcement” as their primary job and will not tell you all of your options. You could have a problem with your immigration status without knowing it.

19. What should I do if I want to contact immigration officials?

G. Mistreatment by Law Enforcement

In This Section

1. *How do I file a complaint if I have been treated badly by the police?*
2. *What if I have been injured by the police?*
3. *What if I have been a victim of profiling?*
4. *How do I request records under the Colorado open records laws?*
5. *What if my criminal records contain incorrect information?*
6. *Who can help me if I was treated badly by the police?*

You have a right to be treated with dignity and respect by law enforcement. If you are threatened, assaulted or mistreated in any other way, you have a right to complain about that treatment and in some cases may have a civil legal remedy.

1. If you have been treated badly or believe your rights have been violated by law enforcement, you should make a complaint to the law enforcement agency responsible for the treatment. The complaint can usually be made to the law enforcement agency’s Internal Affairs Bureau or Internal Affairs Department. It is always a good idea to submit complaints in writing and keep a copy for your records.

1. How do I file a complaint if I have been treated badly by the police?

If the law enforcement agency refuses to take your complaint or tells you that you cannot file your complaint, you should make sure to get the name and badge number of the officer who prevents you from filing your complaint, and then file the complaint by fax, registered letter, or email.

➔ NOTE: If you are facing criminal charges relating to the law enforcement conduct you wish to complain about, you should always first speak with your criminal defense attorney before filing any complaint. Information submitted in a complaint may be used against you in a pending criminal case. If an internal affairs officer contacts you at any time and you are facing criminal charges, you should always first speak to your attorney before answering any questions from the internal affairs officer. If you decide to speak with the internal affairs officer, you have the right to have your lawyer present for the interview.

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2. What if I have been injured by the police?

If you have been injured, seek immediate medical attention and document the injuries as soon as you can. If you are imprisoned, you should request that the law enforcement officers or jail staff document your injuries. After you seek medical attention, you should obtain a copy of your medical records. Colorado law gives you the right to access your medical records.⁴⁰ Specific procedures for obtaining medical records vary by health care provider. Often, your provider will have a form for requesting your medical record. If there is no form, you should check to see what information they require. Your health care provider may require that you provide photo identification and/or a social security number and may charge a fee for copies of records.⁴¹

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3. What if I have been a victim of profiling?

Profiling refers to law enforcement officers questioning or detaining a suspect based upon that person's race, ethnicity, age, or gender, without having any other reason to stop the particular person.⁴² Doing so violates the United States and Colorado constitutions, and Colorado law.⁴³ Colorado law requires police officers to provide their business card to any person who is pulled over while driving but not issued a citation or arrested.⁴⁴ The business card should include the officer's name, division, precinct, and badge or other identification number, and a telephone number that may be used to report any comments regarding the traffic stop.⁴⁵ Law enforcement agencies must

track the calls received that allege racial profiling.⁴⁶ If you believe that you are a victim of racial profiling you should file a complaint with the law enforcement agency and you may want to write the ACLU of Colorado.

If you have been mistreated by law enforcement officers, it is always a good idea to first obtain a copy of the police report regarding the incident. The Colorado Open Records Act and the Colorado Criminal Justice Records Act require government agencies to provide access to public and criminal justice records. To obtain a copy of a police report in Colorado, you should contact the law enforcement agency's records department to learn their specific procedures and fees for obtaining records. Most departments will accept requests in person or in writing. A request form may be required, and can be obtained either in person, by mail, or online. In order to receive the report, you may need to provide the case number or name(s) of person(s) involved, and the date and location of the incident. Copies of some types of reports can be provided immediately upon request, others may take several days for processing. A copying fee will usually be charged and generally must be paid in advance. For contact information and fee amounts for a number of different law enforcement agencies in Colorado, go to <http://aclu-co.org/docket/obtaining.police.report.2006.pdf>.

4. How do I request records under the Colorado open records laws?

You have a right to challenge the accuracy and completeness of your criminal records, and to request that the records be corrected.⁴⁷ Disputes can be taken directly to the arresting agency, or a "record challenge" may be filed with the Colorado Bureau of Investigation (CBI). For more information, contact the CBI at (303) 239-4208.

NOTE: If you have obtained a "Colorado Criminal History Record" and there is incorrect information on the record, or you have never been arrested and should not have a criminal history record, you may be a victim of criminal impersonation, or "identify theft." Additional information regarding Identity Theft issues may be obtained at <http://cbi.state.co.us/idtheft> or by calling the above CBI phone number.

5. What if my criminal records contain incorrect information?

6. Who can help me if I was treated badly by the police?

If you are treated badly by the police, you should file a complaint with the agency, and you may also want to speak with a lawyer. You can also make a written request for legal assistance to the ACLU of Colorado. The ACLU of Colorado can only offer legal assistance to a very small percentage of those who write us. To request legal assistance from the ACLU of Colorado, send a letter to:

**Intake Department
ACLU of Colorado
400 Corona Street
Denver, CO 80218**

Be sure to provide all necessary information for contacting you by mail and by telephone. It is also helpful to include your email address if you have one. (If you write from a county jail or other temporary facility, please include the name and contact information of a close relative or friend who will always know where you are.)

In your letter, please describe in detail the incident or the issue that prompts you to request legal assistance:

- ★ In describing the incident, it may be helpful to answer the five “W” questions: who, what, when, where, and why.
- ★ If you are writing about police misconduct, please obtain and include copies of police reports, any complaint filed with the agency, and medical records, if any.
- ★ Be sure to identify the persons, business, institutions, or government agencies who are responsible for violating your rights.
- ★ If the offending person or agency provided you with some sort of explanation, please let us know. If possible, please explain why you believe that explanation is not adequate.
- ★ If the specific incident resulted in newspaper coverage, it may be helpful to include copies of the clippings.
- ★ If you have documents, please send copies only; we cannot return originals.
- ★ If you have already taken some action, such as filing an appeal or a complaint, please indicate the status of the matter.
- ★ Please specify whether the ACLU is authorized to write a letter of inquiry or a letter of protest using your name.
- ★ Finally, please note what you are asking the ACLU to do for you.

H. Legal Resources

American Civil Liberties Union of Colorado

(seeks to protect, defend and extend the civil rights and civil liberties of all people in Colorado through litigation, education and advocacy)

303-777-5482

www.aclu-co.org

American Friends Service Committee

(provides online information regarding immigrant rights issues and offers assistance in referring immigrants to attorneys specializing in immigration law)

303- 623-3464

www.afsc.org/immigrants-rights/default.htm

Colorado Civil Rights Division

(seeks to assure that all persons are afforded the equal protection of the law and provides information on filing charges)

303-894-2997 / 800-262-4845

www.dora.state.co.us/civil-rights

Colorado Constitution and Colorado State Statutes

<http://www.michie.com/colorado>

Colorado Racial Profiling and Police Discrimination Hotline

(hotline that takes complaints about the police mistreatment and gives lawyer referrals)

303-654-4109 (Denver Area) 1-866-329-0908 (Statewide)

Colorado Legal Services

(provides civil legal services to the indigent)

303-866-9399

www.ColoradoLegalServices.org

Lawline 9

(free service where callers can ask questions and receive answers from attorneys)

303-698-0999

www.9news.com

The Legal Center for People with Disabilities and Older People

(seeks to open up the legal system to those with a disability or those who are unable to act on their own behalf)

303-722-0300 / 800-288-1376

www.thelegalcenter.org

Rocky Mountain Immigrant Advocacy Network

(seeks to serve indigent and low-income non-United States citizens in immigration proceedings)

303-433-2812

Tear out this page and keep it in your wallet or purse.

4. Sometimes you can be released without bail, or have bail lowered. Have your lawyer ask the judge about this possibility. Bail will be taken before the judge on the next court day after arrest.

5. Do not make any decisions in your case until you have talked with a lawyer.

IN YOUR HOME

1. If the police knock and ask to enter your home, you don't have to admit them unless they have a warrant signed by a judge.
2. However, in some emergency situations (like when a person is screaming for help inside, or when the police are chasing someone) officers are allowed to enter and search your home without a warrant.
3. If you are arrested, the police can search you and the area close by. If you are in a building, "close by" usually means just the room you are in.

We all recognize the need for effective law enforcement, but we should also understand our own rights and responsibilities – especially in our relationships with the police. Everyone, including minors, has the right to courteous and respectful police treatment. If your rights are violated, don't try to deal with the situation at the scene. You can talk to a lawyer afterwards, or file a complaint with the Internal Affairs or Civilian Complaint Board.

Produced by the American Civil Liberties Union.

ARREST THE RACISM. Tell us about your race- or ethnic-based traffic or pedestrian stop. **Call 1-877-6-PROFILE or go to aclu.org/profiling**

What To Do If You're Stopped By The Police

Think carefully about your words, movement, body language, and emotions.

Don't get into an argument with the police. Remember, **anything you say or do** can be used against you.

Keep your hands where the police can see them.

Don't run. Don't touch any police officer.

Don't resist even if you believe you are innocent.

Don't complain on the scene or tell the police they're wrong or that you're going to file a complaint.

Do not make any statements regarding the incident.

Ask for a lawyer immediately upon your arrest.

Remember **officers' badge & patrol car** numbers.

Write down everything you remember ASAP.

Try to find **witnesses** & their names & phone numbers.

If you are injured, **take photographs of the injuries** as soon as possible, but make sure you **seek medical attention** first.

If you feel your rights have been violated, **file a written complaint** with police department's internal affairs division or civilian complaint board, or call the ACLU hotline, **1-877-6-PROFILE**.

**KEEP THIS CARD HANDY!
IF YOU HAVE A POLICE ENCOUNTER,
YOU CAN PROTECT YOURSELF.**



1. What you say to the police is always important.

What you say can be used against you, and it can give the police an excuse to arrest you, especially if you bad-mouth a police officer.

2. You must show your driver's license and registration when stopped in a car. Otherwise, you don't have to answer any questions if you are detained or arrested, with one important exception. The police may ask for your name if you have been properly detained, and you can be arrested in some states for refusing to give it. If you reasonably fear that your name is incriminating, you can claim the right to remain silent, which may be a defense in case you are arrested anyway.

3. You don't have to consent to any search of yourself, your car or your house. If you **DO** consent to a search, it can affect your rights later in court. If the police say they have a search warrant, **ASK TO SEE IT**.

4. Do not interfere with, or obstruct the police – you can be arrested for it.

IF YOU ARE STOPPED FOR QUESTIONING

1. It's not a crime to refuse to answer questions, but refusing to answer might make the police suspicious about you. If you are asked to identify yourself, see paragraph 2 above.

2. Police may "pat-down" your clothing if they suspect a concealed weapon. Don't physically resist, but make it clear that you don't consent to any further search.

3. Ask if you are under arrest. If you are, you have a right to know why.

4. Don't bad-mouth the police officer or run away, even if you believe what is happening is unreasonable. That could lead to your arrest.

IF YOU'RE STOPPED IN YOUR CAR

1. Upon request, show them your driver's license, registration, and proof of insurance. In certain cases, your car can be searched without a warrant as long as the police have probable cause. To protect yourself later, you should make it clear that you do not consent to a search. It is not lawful for police to arrest you simply for refusing to consent to a search.

2. If you're given a ticket, you should sign it; otherwise you can be arrested. You can always fight the case in court later.

3. If you're suspected of drunk driving (DWI) and refuse to take a blood, urine or breath test, your driver's license may be suspended.

IF YOU'RE ARRESTED OR TAKEN TO A POLICE STATION

1. You have the right to remain silent and to talk to a lawyer before you talk to the police. Tell the police nothing except your name and address. Don't give any explanations, excuses or stories. You can make your defense later, in court, based on what you and your lawyer decide is best.

2. Ask to see a lawyer immediately. If you can't pay for a lawyer, you have a right to a free one, and should ask the police how the lawyer can be contacted.

Don't say anything without a lawyer.

3. Within a reasonable time after your arrest, or booking, you have the right to make a local phone call: to a lawyer, bail bondsman, a relative or any other person. The police may not listen to the call to the lawyer.

End Notes

1. Colorado Revised Statutes §24-31-309 (4) (a)
2. *People v. McPherson*, 550 P.2d 311 (Colo. 1976)
3. Colorado Revised Statutes §42-2-115 (1), Colorado Revised Statutes §42-4-1409 (3)
4. See *People v. Smith*, 926 P.2d 186, 188 (Colo. App. 1996)
5. Colorado Revised Statutes §42-2-115 (1), Colorado Revised Statutes §42-4-1409 (3)
6. Colorado Revised Statutes §16-3-103 (1)
7. Colorado Revised Statutes §18-8-111
8. Colorado Revised Statutes §16-3-102
9. Colorado Revised Statutes §16-3-401 (2)
10. *Miranda v. Arizona*, 384 U.S. 436 (1966)
11. Colorado Revised Statutes §16-3-402 (2)
12. Colorado Revised statutes §16-3-404
13. *Rothgery v. Gillepsie*, 2008 U.S. LEXIS 5057 (U.S. June 23, 2008)
14. Colorado Revised Statutes §16-3-402 (1), Colorado Revised Statutes §16-3-403
15. Supreme Court of Colorado Office of the Chief Justice: Appointment of State-Funded Counsel in Criminal and Juvenile Delinquency Cases and for Contempt of Court,
<http://www.courts.state.co.us/supct/directives/04-04.pdf>
16. Colorado Revised Statutes §21-1-103
17. Colorado Revised Statutes §16-5-501
18. *County of Riverside v. McLaughlin*, 500 U.S. 44 (1991)
19. Colo. Crim. P. 5
20. Colo. Const. Art. II, Section 19
21. Colorado Revised Statutes §16-4-103 (1) (a)
22. Colorado Revised Statutes §16-4-102
23. Colo. Crim. P. 4 (c) (1) (III)
24. Colo. Crim. P. 4 (c) (1) (III)
25. Colo. Crim. P. 4 (c) (1) (III)
26. Colo. Crim. P. 41 (d) (5) (VI)
27. Colo. Crim. P. 41 (d) (5) (VI)
28. Colorado Revised Statutes §16-3-405 (3)
29. Colorado Revised Statutes §16-3-405 (4)
30. Colorado Revised Statutes §16-3-405 (1)
31. *ibid.*

32. *Bock v. Westminster Mall Co.*, 819 P.2d 55 (Colo. 1991)
33. Colorado Revised Statutes §16-3-402
34. 8 U.S.C. § 1304(3)
35. Colorado Revised Statutes §8-2-121
36. Colorado Revised Statutes §29-29-103
37. 8 C.F.R. § 287.7
38. 8 C.F.R. § 292.5
39. Vienna Convention on Consular Relations, Apr. 24, 1963, art. 36(1)(b).
40. Colorado Revised Statutes § 25-1-801
41. Joy Pritts and Nina Kudzus, Health Policy Institute, Georgetown University, Your Medical Record Rights in Colorado (A Guide to Consumer Rights Under HIPAA),
<http://ihcrp.georgetown.edu/privacy/stateguides/co/co.pdf>
42. Colorado Revised Statutes §24-31-309 (2)
43. Colorado Revised Statutes §24-31-309 (3)
44. Colorado Revised Statutes §24-31-309 (4) (a)
45. Colorado Revised Statutes §24-31-309 (4) (a)
46. Colorado Revised Statutes §24-31-309(4) (c)
47. Colorado Revised Statutes §24-72-307



in case of emergency contact information

Family Contact: _____

Other Contact: _____

Other Contact: _____

Criminal Defense Attorney: _____

Immigration Attorney: _____

arrest notes

Time of Arrest: _____

Location: _____

Officer Names: _____

Officer Badge Numbers: _____

Officer Jurisdiction: _____

Witnesses: _____

Witness Contact Information: _____

