

must also contact the young person's parent or guardian and let them know the reason for arrest and the place that the young person is being detained..

**Non-Citizen Protesters** – Non-citizens include nationals foreign to Canada (with or without status) and permanent residents. Regardless of your immigration status, if the police or immigration officers are asking you questions for any reason, first ask if you are free to go. If you are being detained or arrested by police, you never need to answer questions about your status.

It is highly improbable that permanent residents or Protected Persons will be detained for immigration reasons (they need a specific warrant). People without any legal status in Canada (including visitors) could be detained by immigration. People without status can only be arrested and detained if the immigration officer knows your name, has reason to believe you are inadmissible, and has reason to believe you are either a danger to the public or unlikely to show up for hearings, appointments or removal.

If you are detained by immigration, you are required to answer the immigration officer's questions truthfully and fully. Lying to an immigration officer can be grounds to remove you, and may prevent your return to Canada for two years. If detained under immigration law, the non-citizen has a right to a detention review within 48 hours or so.

You have the right to contact counsel regardless of your status once detained and you should contact criminal and immigration counsel. Always contact counsel before signing anything and exercise your right to remain silent.



## A Legal Guide for OLYMPIC PROTESTERS

There is a difference between your rights in theory and your rights in practice, and it is important to understand your rights when dealing with the police. This is not legal advice and the laws are always changing.

### Dos and Don'ts Before the Protest

- Do write the lawyer's number on your body in permanent marker.
- Don't bring drugs, weapons or your address book with you to a protest; it will make the cops' jobs easier!
- Do let people know if you do not want to be in an arrest-able situation, but always plan for the possibility of arrest. Make sure someone (friend, family, member of affinity group), knows: the legal numbers to find information about you in case of an arrest; if work or family should be contacted; if pets need to be fed; if children or Elders or others need care arranged, etc.
- Do be aware of considerations that might make you more vulnerable if arrested and be sure to communicate them to your friends. EXAMPLES: people with disabilities, people of colour, visibly queer or trans/intersexed people, precarious immigration status, psych survivors and people with mental health issues, parents or caregivers, people with criminal records, minors, people with medication needs, and known organizers.

### Police Encounters

**Questioning** – Regardless of your legal immigration status, if the police or immigration officers are asking you questions for any reason, first ask if you are free to go. If they say yes – then walk away. You are free to leave any such encounter unless you are being detained or arrested. If you feel the police are not being clear, then specifically ask if you are being detained. You do NOT need to provide ID (see the list of enumerated grounds below). Also be aware of answering any questions regarding your immigration status as that is usually how they figure out your status.

**Identifying Yourself** – You do not have to identify yourself (and never more than name, address, birth date) to police unless:

- You are arrested or are being given a ticket or appearance notice
- You are driving a vehicle (you must show your driver's licence, passengers don't have to identify themselves)
- You are in a bar or movie theatre (you must prove you are old enough)
- You are in a park (some municipal bylaws require you to ID yourself)

Lying or refusing to identify yourself when you must, can lead to further charges of obstruction. Activists who refuse to identify themselves when being arrested will usually be held in custody until they identify themselves or the justice of the peace orders them to identify. If you are a person of colour, carrying status that shows your permanent residency, Indian, or citizenship status may be a good idea. If you are non-status, it's better to have ID that does not indicate this (i.e. driver's license).

**Detention** – If the police stop you and start asking you questions, ask if you are free to go before you answer anything. If the police say “no,” then you are being detained. Specifically ask if you are being detained. Ask why you are being detained – the police must tell you the reason, remember this reason. Take the officer's name, department, and badge number. Remember you do not have to identify yourself or answer their questions if you are being detained. The police can pat you down, but only to look for weapons if there are reasonable grounds to believe that there is a safety risk.

**Arrest** – The police can arrest you only if:

- They have seen you committing an offence or have reasonable grounds to believe you have committed an indictable or hybrid offence
- They have a warrant for your arrest
- They have reason to think you have a mental disorder and are dangerous
- You have breached the peace or are drunk in a public place
- They have reason to believe you are about to commit a terrorist act

Remember to ask if you are free to go. If you are arrested, you have the right to be told what you are charged with and that you have a right to a lawyer of your choice. You have to identify yourself (name, address, birth date only); do NOT provide additional information. Regardless of your legal immigration status, you are not required to answer any questions about your status to police. Legally, the police are only allowed to use as much force as is necessary to arrest you or ensure that the situation is safe. Make sure to note the arresting officer's name and badge number and document any visible injuries. If you are being arrested, any pulling, running or physical struggle will probably result in additional charges. Using passive resistance or going limp does not count as resisting arrest. Sometimes people are released right away with an appearance notice for court, but this is usually only for minor charges when they are sure of your identity, appearance in court, and that you won't continue to break the law.

**Dealing with the Police** – Get the police name, department, and note the date and time of police interaction. Beyond identifying yourself (in the circumstances listed above), you do not need to answer any other questions or make a statement. Choosing to exercise your right to remain silent will not be held against you by the court, although the police might try to convince you otherwise. Anything you say to the police will be used as evidence against you. Trying to say you were not at fault may not help you. Never speak to the

**Police Complaints** – The vpd investigate complaints against themselves. The results from such complaints are nearly always favourable to the police, however, you do have the right to report an officer who abuses you, swears at you or uses prejudicial language, or violates your rights. Remember to always write down the name, branch, and badge number of police and the date/time/location/details of the encounter.

**Olympic Security Zones** – Olympic venues will be zones under fenced security. Security at these zones will entail heavy security and required personal screening of attendees (ID and belongings checks). There are also extended security zones in the surrounding areas that will include additional security, and public video monitoring. The vpd is responsible for security within these extended security zones and outside the fencing generally. When dealing with the police, take note of what branch they are working for. Remember that there is no legal requirement to show ID or to consent to a search outside venues, so always remember to ask if you are free to go, and never give consent to a search.

**Undercovers** – Undercover police officers are allowed to lie about being police officers. They are also allowed to lie about their name, background and anything else. They can also break the law in some situations, so simply seeing someone break the law does not mean that they are not an undercover. You can also be charged for publicly revealing the identity of an undercover officer, so be careful how you address any suspicions.

**Posting** – The posting bylaw prohibits putting posters on public property. If you are ticketed for posting, remember that the police may only: give you a ticket, give you a warning, or go to court and get an injunction to prevent you from future posting. (If you are getting a ticket you are required to provide ID, name, birth date, and address.) They cannot arrest you for posting or continuing to poster, or seize your gear.

**Private Security or Citizen Arrests** – They can only arrest you if they actually see you committing an indictable or hybrid offense or if you are running away from the police. People who own property or are guards protecting property can arrest you if they see you committing a crime related to that property. Privately owned property includes malls, stores, restaurants and bars. If you are asked to leave private property and do not, you become a trespasser and they may use reasonable force to remove you.

**Youth Protesters** – Youth have the same basic legal rights as adults do. However, if you are aged 12 to 17, you are a “young person” under Canadian criminal law. When dealing with a young person, a police officer must first consider measures that do not involve arresting, such as a warning or talking to the young person's parents. If the young person is detained or arrested, he or she must be kept separate from adult detainees. The police must also take extra caution in making sure the young person understands his or her right to call a lawyer and ensure a parent or adult friend is present before trying to get a statement. Police officers

## After An Arrest

**Custody** – If you are being taken into custody, ask to speak to your lawyer immediately and tell the police you want to remain silent. The police may keep asking questions, but you do not have to answer them. Do not make any statements or sign any declarations. Do not discuss your case with anyone while being held in jail, and do not ask others about their cases. The police may have someone planted in the cells posing as prisoners, or a prisoner may act as an informer. Custody may also involve strip searches though that is usually selectively done. Strip searches must be conducted by an officer of the same sex as you and in private.

**Court Appearances** – You must be brought before a justice of the peace “as soon as practicable” and in any case within 24 hours. You might be released from the police station either by the “officer in charge” or by a justice of the peace if one is brought to the station or by teleconference. You may be released in the following ways:

- By the police once you have identified yourself. A notice to appear will be sent to your house by the police and you may be asked to sign a promise to appear (these releases often come with conditions).
- By the justice of the peace, possibly with conditions on your promise to appear, or after a bail hearing in court- you may have to post bail, have a surety sign for you or agree to conditions

If you decide not to identify yourself or to provide your address when you are arrested, you will likely be held for a bail hearing and will likely have additional charges of obstruction laid. You have a right to reasonable bail, and unless there are special circumstances (if you have another case pending or you are non-resident of Canada) it is up to the Crown to demonstrate why you shouldn't be released. The court may refuse release if it believes: you are likely to commit an offense or you will not show up for trial.

**Release Conditions** – People arrested at political events are sometimes given release conditions that restrict what they can do after leaving custody, even if that action would normally be legal. These include non-association orders with others or not being allowed to participate in any further (even lawful) protest. These can later be challenged, with some difficulty, but you may be kept in custody until you sign them and if they are violated you may be taken back into custody. It's always a good idea to speak to a lawyer before signing any conditions.

## Additional Important Information

**Legal Observers** – The BC Civil Liberties Association and Pivot Legal Society will have teams of trained legal observers present during most public demonstrations and assemblies.

police about other people. Police officers are allowed to lie in questioning; they may claim that your friends have told them what happened. The police are not allowed to promise you anything for your cooperation or confession. You are not required to take a lie detector test, they are inadmissible in court and the police will not release you just because you pass such a test. It is better not to say anything to the police than to lie – lying can lead to charges of obstruction. So it is always best to remain silent, especially under arrest, and ask to speak to your lawyer.

**Search and Seizure** – The police cannot search you unless:

- You are arrested (the police can do a full search of you and your possessions, but only to find and prevent the destruction of evidence, and for the safety of officers – searches must not be abusive)
- You are detained (the police can pat you down to feel for weapons that they have a reason to think you might use against them or yourself)
- You have a prior search clause or they have a search warrant
- You consent to a search (so never give consent to a search)



The most common way police overstep their powers with searches is by asking for your consent to search your belongings or person. So always tell the police you are not consenting, even if you think the search might be legal. Do not consent to searching yourself such as turning out your own pockets or giving yourself a pat-down. It is probably not a good idea to physically resist a search, but make sure witnesses hear you refusing the search. Your refusal may make anything they find inadmissible. Strip searches should not be done by an officer of the opposite sex or in a public area, and the police are not supposed to conduct strip searches routinely.

The police are allowed to stop you if you are driving, but are only allowed to search your car if

- You consent (so never give consent to a search of your car)
- You have committed a criminal offence, you are arrested, or there is something in your car that gives them a reasonable cause for doing a search, such as the smell of pot or the presence of beer bottle caps

## Common Charges

**Breach of the Peace** – This gives the police the right to arrest you to prevent or stop a breach of the peace but isn't a charge in itself. There is no record of the charge. They will usually release you soon after the action unless they are going to charge for breaking some other law, and in any case within 24 hours. It is a commonly used police tactic to use breaching charges so the police can round people up, put them in police vehicles, drive them far from their original location, and release them there.

**Causing a Disturbance** – This offence includes fighting, screaming, shouting, swearing, singing, using insulting language, impeding or molesting people, or loitering in a public place and obstructing people. It has to be in or near a public place.

**Unlawful Assembly** – You can commit this offence by getting together with at least two other people, intending to carry out some common purpose, in a manner that causes people nearby to fear that you will “disturb the peace tumultuously,” or without a reasonable cause, provoke others to “disturb the peace tumultuously.” *Tumultuous* involves an element of violence. Although the police will usually announce that an assembly has become unlawful (usually by ordering you to disperse), it is not essential.

**Riot** – This is an unlawful assembly that in fact “has begun to disturb the peace tumultuously.” If a sheriff (or sheriff's deputy, etc.) reads these certain magic words – even if you cannot hear them – after a riot has started and you are still around after 30 minutes you will have committed a much more serious offence. NOTE: Both riot and unlawful assembly are crimes of mere presence. All the Crown needs to demonstrate is that you were part of the “common purpose” (e.g., you were participating in the demo or action), and that you stayed when it became an unlawful assembly. You don't actually have to have done anything to contribute to the “tumultuous” nature of the assembly.

**Contempt of Court** – Contempt of court covers a number of things that are considered disrespectful or disobedient of the court. These can range from things done in the courtroom (like swearing at the judge) to disobeying a court order (e.g. an injunction).

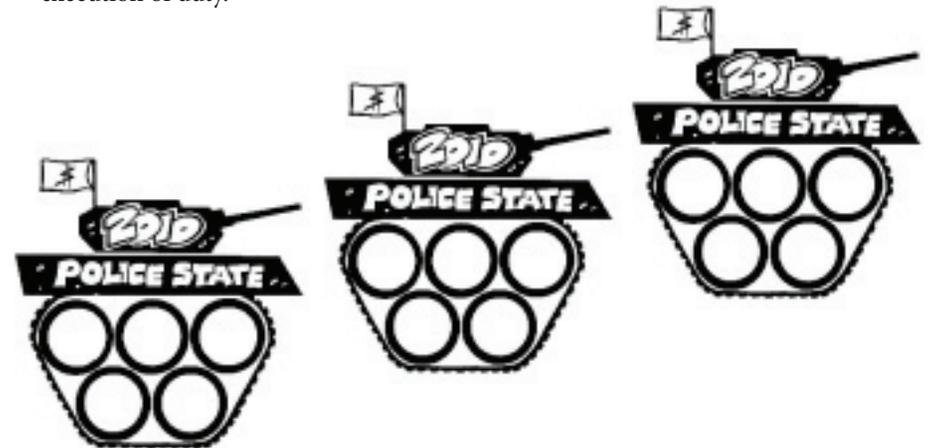
**CIVIL CONTEMPT:** Usually, when someone disobeys a court order, the court will just assess damages against the person.

**CRIMINAL CONTEMPT:** The court has the power to convict someone for contempt under criminal law. In the case of an injunction, the court will only convict you if you knew about the injunction and you disobeyed it in a public, flagrant and continuous way.

**Intimidation by Blocking a Road** – Involves blocking or obstructing a highway without lawful authority, to prevent people from doing something they have a lawful right to do.

**Resisting or Obstructing a Peace Officer** – You can be charged with this if you resist or wilfully obstruct a public officer or peace officer in the execution of his duty or any person lawfully acting in aid of such an officer. This includes resisting arrest – but going limp or refusing to unlock is not resisting. Holding onto a pole or struggling against arrest is resisting. Locking down when the officer has placed you under arrest is resisting. As a general rule, anything you do more than you would do if you were unconscious that is not cooperating with the arresting officer is probably resisting arrest. Anything you do to interfere with an officer in the execution of their duty is considered obstruction, e.g. lying down in front of a police car or getting in the way of an arrest.

**Assaulting a Peace Officer / Resisting Arrest** – This is an assault of a peace officer engaged in the execution of his or her duty or a person acting in aid of such an officer. This offence includes resisting or preventing the lawful arrest or detention of you or another person. If the officer exceeds his or her powers so far as to exceed his or her duty and authority, the officer is no longer acting in the execution of duty.



**Mischief** – Includes wilfully destroying or damaging property, rendering property dangerous, useless, inoperative or ineffective, or obstructing, interrupting or interfering with the lawful use, enjoyment or operation of property. This would include spraypainting, chaining doors shut, or blockading entrances.

**Assault by Trespass** – You are deemed to have committed assault if you trespass on property and resist an attempt by the owner or someone acting under the owner's authority, to prevent your entry or to remove you. While this does not apply to public spaces, many government buildings and offices as well as malls are considered at least partly private, thus this charge would apply. If you do not resist removal by going limp or voluntarily leaving, your trespass is just a provincial ticketable offence, not a criminal charge.