Interacting with Police: Know Your Rights and Responsibilities

This info sheet is designed to provide service providers, employers and volunteers who support migrant workers, with information on the law enforcement protocol in the Province of BC.

Introduction
The police force plays a vital role in Canadian society. Police forces in BC must perform their duties and functions respecting the preservation of peace, the prevention of crime and offences against the law and the administration of justice assigned to it. Police forces in British Columbia include:

- The Provincial Police Force (Royal Canadian Mounted Police (RCMP))
- Municipal Police Departments;
- A designated policing unit (First Nations, Transit, Road Safety and Railway Police)

How to contact the police
In case of an emergency, call 9-1-1. This number is for police, fire or medical emergencies when immediate action is required: someone’s health, safety or property is in jeopardy or a crime is in progress. Please use 9-1-1 responsibly.

For non-emergency situations, the local non-emergency number can be found at nonemergency.ca. It is recommended to have the local non-emergency number saved on your phone. Individuals must not call 9-1-1 to ask for non-emergency numbers or ask to be transferred to the non-emergency line. Non-emergency numbers should be used for situations where an immediate response or dispatch of the police is NOT required.

Policing Protocol
It is vital for all individuals to become aware of the procedures to follow when interacting with police officers.

Detention
The police can only detain an individual for an investigation if there are reasonable grounds to suspect that the individual is connected to a crime and the detention is necessary in the circumstances. If there has not been a formal arrest, but the individual is being held against their will, it is important to:

- Ask the reason for being held.
- Ask the badge number or name of the police officer.

For police to use force to control a subject, three elements must exist:

- Weapon - Did the subject have a weapon?
- Intent - Did words and/or actions lead to believe the subject had the intent to cause injury or death?
- Ability - Did the subject have the ability to use the weapon?

Arrest
If an individual is under arrest, a police officer will notify them that they are under arrest, or somehow make it clear that they are not free to go (e.g. using handcuffs). The individual under arrest has the right to remain silent. This means that they do not have to answer any questions asked by the police. It is also important to know that giving false information may lead to being charged with obstructing justice or obstructing the police. This can occur when an individual hides or provides misleading information to an officer.

A person who has been arrested or detained by police has the right to talk to a lawyer. The police must allow the person to use the phone in privacy as soon as possible at least once during the first 12 hours of custody. The police should also let the arrested person use a phone book if needed. Many police stations will have helpful phone numbers posted near the phone for legal aid and lawyer referral services.

If a person under arrest does not speak English well, the person has the right to ask for an interpreter. This right does not apply during questioning when stopped by the police. However, police may provide one if requested.

Reason for Arrest
A person can be arrested by the police if:

- A police officer sees the person committing a criminal offence;
- A police officer has reasonable grounds to believe the person has committed or is about to commit a criminal offence;
- A person has broken any law (including provincial laws and city bylaws) and the person will not provide name and address;
- There is a warrant for the arrest;
- A police officer has reasonable grounds to think the person has a mental disorder and is dangerous;
- A person has breached the peace or is about to breach the peace (conduct severe enough to cause alarm to ordinary people and threaten serious
disturbance to the community);
- A person is under the influence of alcohol or drugs in public; or
- A police officer has reasonable grounds to think the person is a terrorist about to commit a terrorist act.\(^{13}\)

In the case of a serious offence, police can, and usually will, fingerprint and photograph the arrested person.\(^{14}\)

**Arrest Warrants**

In some cases, police will get a warrant to arrest an individual. A warrant is a document with written permission, given by a court signed by a judge or Justice of the Peace, to carry out a certain action.\(^{15}\) Arrest warrants order the police to arrest a specific person.\(^{16}\) If the police say they have a warrant for arrest, the individual can see the document/warrant. The accused person has the right to see the warrant.\(^{17}\) It is rare however for the police officer to have the warrant – often the police are informed about outstanding warrants by the police computer system. If it is not possible at the time of the arrest, the police officer must show the warrant as soon as possible after the person is arrested. The warrant must include the following:

- Give the accused person’s name or describe what the person looks like;
- Include the reason for the arrest;
- Order that the individual should be arrested; and
- Be signed by a judge or Justice of the Peace.\(^{19}\)

Individuals who are arrested because of a warrant have all the same rights and responsibilities as with an arrest without a warrant. They have the right to remain silent but they must give their name and address. They have the right to talk to a lawyer.\(^{18}\)

**Imprisonment without Charges**

A police officer might imprison a person without charges for the following reasons:

- **Mental Health detention:** Police officers can use force to take a person to a hospital for an exam by a doctor if they think that the person is acting in a way that is dangerous to themselves or other people, and the person seems to have a mental illness that needs treatment.\(^{20}\)
- **Breach of Peace:** A person is causing a disturbance that involves some potential for violence.\(^{21}\)
- **Public Intoxication:** If individuals are in a public area and they are under the influence of alcohol or drugs, the police can arrest them under the Offence Act.\(^{22}\)

Everyone has the right to silence when questioned by the police in a public space. However, individuals may choose to identify themselves with name, address, and date of birth. Officers can arrest someone if they don’t believe that they have identified themselves correctly.\(^{23}\)

Police officers can stop an individual under three general circumstances:\(^{24}\)
1. If they suspect that the individual has committed a crime
2. If they see the individual committing a crime
3. If the individual is driving

**What to do if an officer stops you while you are in a car or on a bike?**

When an individual is driving a car (or a bike) with an immigration status and is stopped by the police, an identification must be shown to the officer if requested. This does not apply to passengers as they have the same rights as if they were stopped in a public place.\(^{25}\)

Officers might also conduct a breathalyzer test to assess whether the driver is under the influence of alcohol. Officers are allowed to demand a breathalyzer test from any driver, even one who is not suspected of impaired driving.

If the individual does not have immigration status, driving puts a higher risk of being arrested during traffic stops by police. For example, if the police stops someone for speeding they may learn of an immigration warrant when they run a check on the driver’s license or name and date of birth through their database. Also, if they can’t find any record of the individual on any database, they may hand the matter over to CBSA.\(^{26}\)

If arrested, immigrants, including migrant workers, have the right to contact their embassy or consulate for support.\(^{27}\)

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13 If you are Arrested. Accessed at https://www2.gov.bc.ca/gov/content/jurisdictions/criminal-justice/bcs-criminal-justice-system/if-you-are-accused-of-a-crime/if-you-are-arrested.
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