

What are my rights?

Most people believe that they know their rights. A week does not go by without someone calling my office complaining that he or she had been arrested but that the police officer did not “read me my rights.” They expect my response to be that their arrest is no good and the charges must be dropped because the officer did not read them their rights. They are surprised and often disappointed to learn that it is just not that easy. Most people who think they know their rights know those rights commonly referred to as *Miranda* rights. They come from the landmark United States Supreme Court case of *Miranda v. Arizona*.

What are my *Miranda* rights?

1. The right to remain silent;
2. The right to consult with an attorney before answering any questions;
3. If you cannot afford an attorney, one will be provided to you free of charge;
4. Even if you start answering questions, you have the right to stop answering at any time;
5. The right to a reasonable bond without first answering questions
6. If you are a juvenile, you have the right to consult with a parent or guardian before answering any questions.

When do these rights apply?

Your *Miranda* rights, however, apply only to custodial interrogations. This means that when a police officer detains your liberty, either by arrest or other circumstances which would reasonably make you conclude that you are in custody, and if the officer wants to question you about your involvement in criminal activity, he or she must first advise you of your *Miranda* rights before the questioning begins. If you choose not to answer, and thus exercise your right to remain silent, the officer cannot legally question you. You are not required to answer a police officer’s questions.

What does it mean to “plead the 5th?”

The right to remain silent has its roots in the 5th Amendment of the United States Constitution. The 5th Amendment gives you the right against self incrimination. Most people have read in the newspaper or have watched on T.V. news where someone pleads the “5th” in response to questions by a prosecutor or law enforcement officers. You do not have to answer a question if the answer might incriminate you in criminal activity. In other words, you do not have to help law enforcement investigate you or help the government prosecute you for criminal activity. The criminal activity could be something major or it could be something as minor as shoplifting or disorderly conduct. You do not have to answer police

questions concerning your involvement in criminal activity, and you should not be afraid to exercise your right to remain silent. If you have questions as to whether your conduct constitutes a crime, you should consult a lawyer. Don't be afraid to talk with a lawyer before talking with the police. There is an old saying, "If someone tells you its not about the money, its about the money." Well I believe that., "if a police officer tells you that you would be better off talking, you won't be better off; if the police officer tells you that he will try to help you if you talk to him, he won't."

What are my rights pertaining to searches?

Along with the right to remain silent, you have the right not to consent to a search of your home or automobile. If police officers have a search warrant, then they have a right to search. There are certain exceptions which allow police officers to conduct a valid search without a warrant. However, you do not have to consent to a warrantless search. If the police officers want to search, they will search. However, you do not have to consent to it, and you can contest the legality of the search in court. When in doubt consult with a lawyer.

NOTE: The Alabama State Bar publishes a series of free brochures on legal topics of interest to the public. For information on the series and/or to receive copies, call 1-800-354-6154, extension 134.

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