

# Law Enforcement and Crime



This section explains important parts of what may happen if law enforcement officials think you have or are committing a crime. Here you can find out when police can stop you, search you, or arrest you, and what your rights are if any of these things happen to you. This section also explains criminal proceedings, beginning with the juvenile justice system. Juvenile justice may be informal or may involve formal proceedings, including the stages of pre-adjudication, adjudication and disposition. But if you are over 18 or if a judge has decided you should be tried in adult court, you will go through adult criminal proceedings which have some important differences from the juvenile justice system. You can find more information about the justice system in Alaska and how it may affect juveniles at [www.beforeyouplea.com/ak](http://www.beforeyouplea.com/ak).

This section also explains some kinds of help you can get if you are the victim of a crime or if you are a witness to a crime. Finally, this section tells you about some kinds of crimes and what behavior can make you guilty of those crimes.

**Important Note:** In this section, the word “police” or “law enforcement officers” includes city or borough police, Alaska State Troopers, or Village Public Safety Officers (VSPO’s).

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## **Encounters with Law Enforcement**



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### **Stops**

**When can a law enforcement officer stop me or my car?**

In Alaska, police can come up to you and talk to you whenever they want to. You can always refuse to talk to them, or walk away. But to “detain you,” which means to prevent you from leaving when you want to leave, police must have a “reasonable, articulable suspicion” that a crime has occurred or that you might be involved in recent serious harm to persons or property. “Reasonable, articulable suspicion” means an officer must have a good reason that he or she can clearly explain to justify the stop. This means that police can't just stop you on the side of the street at any time and make you talk to them.

### **Do I have to answer a police officer's questions?**

You must give the police your name and identifying information if they ask. You don't have to answer other questions. That means you don't have to answer if the police ask questions like “Where are you kids coming from tonight?” or “Do you know anyone around here?” You don't have to volunteer any information. You can ask “Am I free to go?” If they say you are free to go, then you can leave.

### **What are my rights if the police question me?**

Police can continue to question you if don't object and are willing to answer. If police officers say you are not free to go, and ask you more questions, you can ask “Am I under arrest?” If you are under arrest, police must tell you that

- you have the right to remain silent;
- anything you say can be used against you in court;
- you have the right to talk to a lawyer (also called an *attorney*) and have the lawyer with you to help you when police question you; and
- if you cannot afford a lawyer, the court will appoint one for you at public expense.

This information is called the Miranda warning. When a police officer gives you this information, it is called *reading you your Miranda rights*. The information in this section explains what your rights are. [View more information and a card that you can carry with you.](#)

You also have the right to have a parent or other adult present. It is important to tell the police officers that you do want an attorney or your parents to be there for you, because police will stop the questioning until you get an attorney or a parent.

### **If the police stop me and ask questions, are they recording me?**

Most likely, yes. Alaska police officers almost always carry voice recorders in the chest pockets of their uniforms, so your conversation with them is most likely being recorded. They do this to make a record of what you say and what they say, so there is evidence if someone says this questioning happened differently. That means that anything you say to the police (even before they read you your rights) will be recorded, and if you end up going to court, the prosecutors can play it, and ask the jury to consider it to find you guilty of a crime.



Because anything you say to a police officer may be eventually played for your lawyer, your parents, a judge, or a jury, you should keep it respectful.

## **Searches**

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### **Do police get to search me whenever they want to?**

No. You have the right to be free from what the law calls “unreasonable searches and seizures.” This means that the police can't search your clothing or your things unless it is “reasonable” for them to do so. Generally, the police are allowed to search you:

- if they have your permission;
- if they have a search warrant;
- if there is an emergency;
- if you are under arrest; or
- if they think you have a weapon on you.

The legal rules about searches are complicated, so there are also other situations when police may be allowed to search you. One important thing you should know is that if you consent, police can search anything at all. In other words, if you agree to allow them to search, you

give up your right to be free from unreasonable searches. Police officers will often ask you if they can search your things. If this happens, you have the right to say no. The police cannot use your refusal as evidence that you are guilty or that you have something to hide. If you do give your permission, you should be clear about what is okay to search. For example, you could say, "You may search my backpack, but not my body."

### **What is a search warrant?**

If you don't agree to let the police search you, they may get a *search warrant* that allows them to search you, your backpack, your car, your home, or other places specified in the search warrant. The police have to apply for a search warrant by explaining to a judge, in writing, why they think they need to search you. The judge is responsible for deciding whether the reasons the police give in asking for a search warrant are enough under the law to justify a search of you or your things. If police obtain a search warrant, it should describe specifically what they are allowed to search.

### **What if the officer wants to search my car or my backpack or my pockets?**

If you haven't consented and you think the officer is making an improper search, you should politely object. If the officer says he or she has a search warrant, you have a right to see it and read it. If the officer insists on searching without a warrant and without your permission, you should remain cooperative and polite. Remember as much as you can about what happened and tell your lawyer. If the search was illegal, your lawyer may ask the court to *suppress* anything the officer finds. If a court rules that the search was illegal, any *suppressed* items will probably not be allowed as evidence in court.

## **Arrests and your rights in criminal proceedings**

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### **How do I know if I am under arrest?**

If you are **not** allowed to leave, then you are under arrest. If you don't know if you are under arrest, you should politely ask the officer: "Am I under arrest?" If you have been arrested, you can ask the officer what you have been arrested for.

### **When can the police arrest me?**

If a police officer has probable cause to believe that you have just committed a crime, the officer can arrest you on the spot. Probable cause requires only a good reason to think that you have been doing something that is a crime. Usually, to make a legal arrest, the officer must be able to show that at least one of the following is true:

- The officer witnessed you commit or try to commit a crime;
- The officer has a court order to arrest you;
- The officer has probable cause to believe that you have violated conditions of release or probation;
- You have escaped from lawful custody;

- You were lawfully detained by a private citizen;
- You are a runaway or a minor who is abused, abandoned, or in immediate danger.

If the police officer suspects you of committing a crime, a police officer may write up a complaint and bring it to a judge. The judge will decide if there is probable cause to believe that the crime has been committed and that you are the one who committed it. The judge will issue either a summons or an arrest warrant. If the court issues a summons, law enforcement officers will not take you into custody, but you must appear in court on the date and at the time the summons says. If you don't, the court will issue an arrest warrant for you.

If the court issues an arrest warrant, police officers will attempt to find you, take you into custody, and book you into jail. It is important not to try to run or resist the officers when they arrest you. If you do, you could be charged with additional crimes like resisting arrest or assaulting a police officer.

If the police have been investigating you for a crime, especially if the crime is a serious one called a *felony*, the prosecutor could decide to present the evidence against you to a *grand jury* and obtain an *indictment*. An indictment is a determination by a grand jury that there is enough evidence against you for the case to continue. A grand jury is a group of community members who look at the evidence against a suspect and decide if there is probable cause to believe that person committed the crime. If the grand jury decides to indict you, the court will then issue either a summons or an arrest warrant.

## **What will happen if I am arrested?**

If you are arrested, you will be taken to jail and will go through the booking process. Your belongings will be taken from you for safekeeping. You will be allowed to contact an attorney and a friend or family member. Again, the officers may ask to interview you while you are in jail. You do not have to answer their questions. If you clearly request an attorney, the officers must stop questioning you.

Criminal proceedings, including juvenile delinquency proceedings for a person under 18, generally begin with an arrest. Read the links in this section on juvenile justice proceedings or adult criminal proceedings for more information about what will happen after your arrest.

## **What legal rights do I have if I am arrested?**

A person arrested for a crime has legal rights that are intended to make sure the criminal process is fair. If officers want to ask you questions after you are arrested, they must tell you about your rights by giving you information that is called the *Miranda warning*. The exact words of the *Miranda warning* may differ, but the arresting officer must tell you that

- you have the right to remain silent;
- anything you say can be used against you in court;
- you have the right to talk to a lawyer (also called an attorney) and have the lawyer with you to help you when police question you; and

- if you cannot afford a lawyer, the court will appoint one for you at public expense.

These rights are explained more completely below. **You should listen carefully and do your best to remember these rights.** Even if the officers forget to read these rights to you, in some cases, they could still use anything you say against you in court.

### **Do I have a right to make a phone call?**

You have the right to make two phone calls --one to your lawyer and one to a friend or family member.

### **What does “the right to remain silent” mean?**

The *right to remain silent* means that you do not have to answer the officer’s questions or talk to the officer at all. If you do decide to answer the officer’s questions, you are waiving your right to remain silent, and anything you say could be used as evidence against you in a trial in court. This is true even if you have already said that you did not want to answer questions. By voluntarily starting to talk, you are waiving your right to remain silent. But even if you decide at first to talk to the arresting officer, you can change your mind. You can stop talking or answering questions at any time.

### **What does it mean to “waive my rights?”**

The officer may ask you if you wish to *waive* your rights. That is, do you voluntarily choose to give up your rights? You should talk to a lawyer, or to your parents or guardian, before you write anything, sign anything, or waive any of your rights.

### **If I refuse to talk to the police, won’t I look guilty?**

The police **cannot** use your silence against you. This means that they cannot argue in court that you are guilty because you refused to talk to them or answer questions.

### **What does the right to have a lawyer mean?**

If the police ask you questions, you have the right to talk to a lawyer. You can tell the police you want to have a lawyer and a parent or guardian with you when you answer questions. You have the right to a court-appointed lawyer if you or your family cannot afford a lawyer. You will not have to pay a court-appointed lawyer, but you will have to show the court that you really do not have the money to pay a lawyer.

Asking for a lawyer has an important effect even though the lawyer will probably not meet with you immediately. If you ask for a lawyer, the police must stop talking to you entirely. If you just remain silent, but don’t ask for a lawyer, the police can keep talking to you and asking you questions.

### **If I ask for a lawyer, won’t I look guilty?**



The fact that you asked for a lawyer cannot be used against you in court. Whether you are guilty or innocent, a lawyer can do many things to help you. A lawyer can steer you through the criminal process and help protect your rights. A lawyer is an expert in the law and the processes that you will go through. The lawyer may think of things that you did not consider. Even if you think you didn't do anything wrong, the process can be confusing and frightening, and it is always a good idea to have someone who understands the processes on your side.

### **What if my parents want me to talk or refuse to get me a lawyer?**

It is your choice whether to follow your parents' advice, but you should think carefully before giving up any of your rights. Your parents may not understand the situation, or you may not agree on what is best for you. You should ask your lawyer whether it is a good idea to answer police questions. If your parents won't get a lawyer for you, you can ask the court to appoint one for free. Even if your parents hire or pay for your lawyer, they cannot tell your lawyer what to do. Your lawyer represents your interests only.

### **What if I didn't do it or the officer made a mistake in arresting me?**

No matter what has happened, don't act angry or rude. Do **not** resist arrest by yelling, cursing, refusing to follow orders, or becoming violent with the officer. Resisting arrest is a separate offense and you could get in trouble for it, even if you didn't do what the arresting officer thinks you

did. Officers are allowed to use whatever force is necessary to arrest you. If you resist, you could be injured or even killed. If you think your arrest was illegal, you should tell your lawyer. Your lawyer will advise you about objecting to the arrest later on in court. If you think there was a simple misunderstanding, you can calmly try to explain yourself to the officer. But remember that it may be a good idea to remain silent, since anything you say can be used against you in court.

## **Security guards**

### **Can a security guard stop, search and arrest me?**

Security guards are usually employed by a store or other private business. The security guard patrols or watches the place of business and protects against theft, vandalism, or destruction of goods or property. Security guards have to be licensed in Alaska, but they are not police officers. Still, a security guard can stop and reasonably search you for the same reasons as other law enforcement officials. Security guards can arrest you to recover stolen or shoplifted property.

## **If you are a victim of a crime**



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If you are the victim of a crime, you have some specific rights immediately after a crime has been committed. You are entitled to:

- Receive immediate medical assistance;
  - Receive transportation to a safe house or shelter;
  - Apply for a 72-hour domestic violence protective order;
  - Be notified of and allowed to go to the defendant's arraignment or initial appearance before a magistrate or judge when the defendant's bail conditions are set.
  - Be informed about the Alaska Office of Victims' Rights (OVR), an agency that helps victims of crime with their legal rights and their contacts with prosecutors and criminal justice agencies. The OVR serves as an advocate for victims both in court, and in situations where the victim believes criminal justice agencies have violated his or her rights.
- [View more information about this agency.](#)

In addition to the immediate help you should receive as a victim of a crime, you also have certain rights throughout the legal proceedings against a person accused of committing the crime against you. You are entitled to:

- Be treated with dignity, respect and fairness;
- Be protected from the defendant; for your protection, the court should set appropriate bail or conditions of release for the period of time after the arrest or summons until the end of the trial or the case, and for any period when a convicted defendant is released pending appeal;
- Be allowed to speak with the prosecution;
- Be informed promptly of what has happened in a case after an arrest;
- Be informed about, and allowed to attend, all criminal or juvenile proceedings where the defendant has a right to be present; and
- Receive restitution from a defendant who is found guilty.

Each District Attorney's Office and each municipal prosecutor's office has coordinators specially trained to work with victims during a prosecution. The coordinator can help you report a crime and ask police to help stop anyone who is abusing, harassing, or trying to intimidate you. The coordinator can answer your questions about the criminal justice system and your case, and help you in court. The coordinator can give you information about violent crimes compensation, restitution, return of property, problems with your employer, witness fees, and with travel and hotels if you come from out-of-town. The coordinator can tell you about agencies that can provide shelter and services for your legal, medical, social, and mental health needs. Your contact in the district attorney's office can tell you how to exercise your right to be interviewed for the presentence report, and how to be heard at the defendant's sentencing. If you need an interpreter, the district attorney's office will provide one at no cost to you.

### **Where can I get more information about help available for victims of crimes?**

The Alaska Judicial Council has produced a helpful brochure for victims: [\*A Handbook for Victims of Crime in Alaska\*](#). This handbook describes what happens after a crime occurs, and after conviction. It has an extensive directory of victim services available in Alaska communities at the time of publication.

Information to help crime victims is also available in a number of languages through the [Department of Law](#).

Information on victim services provided by the Department of Corrections, including how you can be notified of the pending release of the defendant in your case through their automated victim notification system, VINE. [View more information.](#)

Some additional links to resources for victims are listed below:

- [Alaska Council on Domestic Violence and Sexual Assault](#)
- [Alaska Network on Domestic Violence and Sexual Assault](#)
- [Mothers Against Drunk Driving](#)
- [Sex Offender Registry](#)

- [Victims for Justice](#)
- [Violent Crimes Compensation Board](#)
- [Victims' Rights](#)

## **If you witness a crime**

If you are a witness to a crime, the police may ask you questions about what happened. You do not have to give a statement to the police. You should be polite and identify yourself, but you can decline to make a statement.

You may also be ordered to come to court to testify by a written order called a *subpoena*. If you receive a subpoena, you must come to court at the time and place identified in the subpoena. In court, you will be asked to swear or affirm that what you say is true. This is also called *testifying under oath*. It is important to know that if you testify under oath, you must not lie. Making a false sworn statement that you do not believe to be true is a crime called *perjury*, a class B felony.

## **Behaviors that are crimes**



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A few of the crimes that young people are often involved with are described below in this section. Some other crimes, including sexual assault, sexual abuse of a minor, misconduct involving a controlled substance, and driving under the influence of drugs or alcohol (DUI) are covered in section 2 of this guide.



## **Shoplifting and theft**



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### **What is shoplifting?**

Shoplifting means taking any item from a store or business by concealing it so that you obtain it for yourself or for someone else without paying for it. In Alaska's criminal law, shoplifting is a *theft*, which may also be called *larceny*. Theft can also be committed by obtaining services without paying for them. A theft under this law can be in the first, second, third, or fourth degree, depending on the value of the stolen goods and certain other facts, such as whether the shoplifter has previous convictions for similar actions, and what kind of things are stolen.

### **What is the punishment for shoplifting?**

Shoplifting is often a misdemeanor, which is a less serious crime than a felony. But even when shoplifting is a misdemeanor, the maximum penalties allowed under the law are substantial. The penalties for felonies are greater. The chart below shows the crime that may be charged and the maximum penalty based on the value of the stolen property. Maximum penalties will probably not be imposed for a first offense, but repeat offenses will be punished

more severely. The punishment may also be greater for certain items such as a firearm, a vehicle, survival equipment, or a credit card, regardless of the value.

If the value of the stolen property is	The theft is	Punishment can be
Less than \$50	In the 4 <sup>th</sup> degree and a Class B misdemeanor	A fine of up to \$2,000 and a sentence of up to 90 days in jail
More than \$50, but less than \$500	In the 3 <sup>rd</sup> degree and a Class A misdemeanor	A fine of up to \$10,000 and a sentence of up to one year in jail
More than \$500, but less than \$25,000	In the 2 <sup>nd</sup> degree and a Class C felony	
More than \$25,000	In the 1 <sup>st</sup> degree and a Class B felony	

### **What will happen if I am arrested for shoplifting?**

If you are a minor (under 18), and you are arrested for shoplifting, you may be offered an opportunity to go through Youth Court, discussed in Section 7 of this Guide. You might be sentenced to perform a certain number of community service hours, or to take an anti-shoplifting class where you will learn about property crimes and their negative impact on society.

### **Leash Law violations**



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### **What is a leash law?**

Local laws, such as those in Anchorage and Juneau, may require you to keep your pet on a leash. Anchorage municipal law requires you to restrain your dog in public places unless you are in a designated off-lease dog park. Fines for violations can range in from \$75 to \$150 in Anchorage, and from \$20 to \$100 in Juneau.



## **Vandalism and Graffiti**



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### **What is vandalism?**

Vandalism, sometimes referred to as criminal mischief, includes reckless or intentional action that harms or destroys another person's property. One specific kind of vandalism is marking any public or private property with *graffiti*. Graffiti usually means spray-painting words or pictures on property without permission of the owner. Even if you think graffiti is "art," or you think it looks better than a plain wall, you can be subject to penalties and responsibility for removing the graffiti. If you are a minor, your parents may also be responsible. In Anchorage, the penalty for a first graffiti offense is \$500; the penalty for second and subsequent offenses is \$1,000. Penalties collected are deposited into an anti-graffiti fund that is used for rewards to persons who provide information that leads to the actual payment of a fine.

## **Curfew violations**



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### **What is a curfew?**

A curfew is a law that prohibits people from being in public places during certain hours, generally late at night. In Alaska, state law allows each municipality to establish its own curfew law for minors (those under the age of 18), and sets a maximum fine of \$250 for an offense.

Anchorage, for example, has adopted a curfew law that makes it an offense for a person under the age of 17 years to be in a public place during curfew hours, and for the owner of an establishment to allow a minor to remain there during curfew hours. The curfew hours are 1 a.m. to 5 a.m. on weekends and each night from June through August. For the rest of the year, the curfew hours each night other than Friday and Saturday are 11 p.m. to 5 a.m. Exceptions in the law include under 17 year olds who have parental consent, who are directly on their way to work, or who are married or emancipated.

Your town or village may have different curfew rules than Anchorage, so be sure to check the rules for your own community.

disorderly conduct

## **Disorderly conduct**



## **What is disorderly conduct?**

Disorderly Conduct can be committed by several different kinds of conduct that intentionally disturb or create a hazard to others. You could be charged with disorderly conduct for actions including

- disturbing others by making unreasonably loud noise if you intend to disturb others, or if you continue after being told that you are disturbing others;
- refusing to comply with a lawful order of a peace officer to disperse;
- challenging another person to fight or fighting when not in self-defense;
- recklessly creating a hazardous condition for others by an act which has no legal justification or excuse; or
- “mooning” another person, or similar offensive act.

## **Assault**

### **What is assault?**

Generally, assault is a crime that involves causing physical injury or threatening to cause injury to a person. Alaska law defines 3 different degrees of assault, ranging from a Class B felony to a Class A misdemeanor. The seriousness of the assault charge can depend on whether the assault is intentional, reckless, or criminally negligent; whether a dangerous instrument is used in the assault; whether a child is injured; and whether the assault involves repeated acts.

## **Driving Under the Influence (DUI)**



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## **What is driving under the influence?**

You probably know that you can be arrested for driving a vehicle while under the influence of alcohol. But there is more! You can also be charged with DUI if you are operating a boat or an aircraft while under the influence of an inhalant (“huffing”) or controlled substance (roughly, any illegal drug or a legal drug taken without a prescription). Furthermore, even if you do not feel impaired, you can be guilty of this crime if your blood alcohol measures more than .08 percent (80 milligrams or more of alcohol per 100 milliliters of blood, or .08 grams or more of alcohol per 210 liters of breath). You should also know that you are considered to be “operating a vehicle” if you are in control of the vehicle, even if you are not driving it. For example, you could be convicted of this crime if you are sitting in the driver’s seat with the keys between the seats. You can read more about DUI and other alcohol-related crimes in Section 2 of this Guide.

## **Breath Test Refusal**

### **Do I have to give a breath test if a police officer arrests me for DUI?**

Yes. If you are lawfully arrested for DUI and you refuse to give a breath test, you can be charged with breath test refusal. Breath test refusal carries the same penalties as a DUI. In fact, you can be convicted of both DUI and refusal from the same incident.

## **Electronic Bullying**

### **Is it illegal to send rude or threatening text messages, emails, or other electronic messages?**

Possibly. If you repeatedly send texts, emails, Facebook messages, or other electronic posts or messages to someone under 18 that insult, taunt, or intimidate (frighten) that person you may have committed the crime of harassment. These messages (known as cyberbullying) will be considered criminal harassment if the messages are written in a way that makes the person receiving them reasonably afraid he or she might be physically injured. If you send such messages you may be charged with a crime.