

Community Education Workshop
Newcomers & Immigrant Rights and the Police
Length of Session: 2 hours

Workshop Objectives:

At the end of the session, participants will be able to:

1. Understand basic civil rights in Canada
2. Understand legal rights & responsibilities when interacting with police and,
3. Understand role and powers of the police

Draft Agenda

1. Introduction and brief overview (**5 minutes**)
2. Group guidelines (**5 minutes**)
3. Exercise 1 Brainstorming “What are my rights?” (**20 minutes**)
4. Exercise 2 Brainstorming “ Duties of a Police Officer” (**20 minutes**)
5. Frequently Asked Questions and Answers (**20 minutes**)
6. Role Plays (if time permits) (**20 minutes**)
7. Wrap-up (**10 minutes**)
8. Evaluations (**10 minutes**)

Total Time: 2 hours

Facilitator Notes

The facilitator and the group should be comfortable in changing the agenda to suit their needs.

Materials Needed:

- Flip chart paper
- Colored markers
- Scrap paper and pens
- Tape
- Brochures, flyers and agency contact information
- Evaluation forms

1. Introduction/Overview (5 minutes)

This workshop is intended to foster awareness of legal rights and responsibilities of newcomers to Ontario when dealing with police. It is also intended to inform newcomers of the legal responsibilities of the police when stopping and questioning newcomers.

Facilitator Notes

At this time the facilitator should go over the outline of the workshop for the group. This can be done verbally or written on flip chart paper.

Suggestion: As a warm-up have the group go around and introduce themselves and where they are from and how long they have been in Canada

As the facilitator it is important to recognize the different levels of language skills within the group. If discussions will be translated on an on-going basis the facilitator should anticipate that each section will take approximately twice as long to cover each material.

2. Group Guidelines (5 minutes)

In the large group, invite participants to set the ground rules for the session. These can include;

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- respecting each other,
- listening to one another,
- one person speaks at a time,
- everyone has the right to participate, everyone has the right to pass;
- confidentiality (what is said in the room, stays in the room).

Facilitator Notes

If it is a short session, these rules can be prepared ahead of time, and participant's can be invited to add to it.

3. Brainstorming Session “What are my rights/Human Rights in Canada?” (20 minutes)

Once the group has settled explain that they will be conducting a brainstorming session. Explain that a brainstorming session is a group discussion in which there are no “right” or “wrong” answers, but this is just an opportunity for participants to share information and knowledge and develop a common understanding of the issue.

The following are some of the type of answers that should come out of a brainstorming session:

- The freedom of each and the equality of all
- The right to due process under the law:
- The right to dissent:
- The right of security of person; and
- The right to personal privacy
- Freedom of expression.
- The right to a democratic government
- The right to live and to seek employment anywhere in Canada
- Legal rights of persons accused of crimes
- Aboriginal peoples' rights
- The right to equality, including the equality of men and women
- The right to use either of Canada's official languages
- The right of French and English linguistic minorities to an education in their language
- The protection of Canada's multicultural heritage.

4. Duties of Police Officers (20 minutes)

The goal of this section is to familiarize participants with the basic role and duties of the officers of the Toronto Police Service. This can be done again through a brainstorming session with participants. The following are some of the specifics of that should come out of brainstorming session.

- Protecting life and preventing injury
- Protecting property
- Preserving the peace

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- Preventing crimes and other offences and providing assistance
- Assisting victims of crime
- Apprehending criminals and other offenders and others who may lawfully be taken into custody
- Laying charges and participating in prosecutions
- Executing warrants that are to be executed by police officers
- Performing the lawful duties that the chief of police assigns
- Enforcing municipal by-laws

Facilitator Notes

Participants may have a number of questions about what police offices can and can not do at this point. As the facilitator you should try and focus the questions to matters just discussed vs. individual cases. The next section Q&A is the section that can best answer most general questions.

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5. Frequently Asked Questions and Answers (20 minutes)

Questions can be posted on flip chart paper main area of focus should include:

1. What if police ask me who I am?
2. What id the police stop me while I am driving?
3. What if the police question me?
4. If the police suspect me of a crime, will they arrest me?
5. What are my rights if I am arrested or detained?
6. Can the police enter my home?
7. What are my rights if the police have a search warrant?
8. What is a search warrant?
9. What are my rights if the police ask to enter my home?
10. In what urgent situations can the police enter my home?
11. When can the police search my home?
12. When can the police search me?
13. What happens if the police are called for a domestic violence incident?
14. How do I get legal help?

Questions and Answers

1. What if the police ask me who I am?

If the police stop you they will want to know who you are. There are several reasons to tell the police.

- a. If the police are looking for someone else, you might avoid arrest by proving you are not that person.
- b. If the police believe you may have committed an offence and do not know who you are, they could arrest you and hold you at the police station until they find out who you are or until they bring you to court for a bail hearing.
- c. If the police believe you have committed a minor offence and you tell them who you are they could give you a paper telling you when to go to court instead of arresting you.

Important:

If you lie about your name or address, you can be charged with obstructing justice or obstructing the police. **A VERY SERIOUS CHARGE**

2. What if the police stop me while I am driving?

If the police pull you over they can ask to see your driver's license, your car registration and insurance. If you do not show the police these documents you can be charged with a provincial offence.

If the police suspect you have been drinking alcohol they can demand that you take a roadside breath test. The police can also demand you go with them to breath test for alcohol if they have "reasonable grounds" to believe that your ability to drive is impaired by alcohol, or you may have more than the legal limit for alcohol in your blood.

You **do not** have the right to speak with a lawyer before taking the roadside test. But you **do** have the right to speak with a lawyer before doing the breath test at the police station.

If you refuse the tests, the police will charge you. Later, a court can decide whether you had a "reasonable excuse" for refusing. If the court finds you did not have a reasonable excuse, you could receive the same penalty that you would have gotten if you were caught driving while impaired or with more than the legal limit for alcohol in your blood.

3. What if the police question me?

If the police believe you have committed a crime, you should tell them who you are, but you **do not** have to answer any questions.

Anything you say to the police might be used as evidence against you in court. Even something you said **before** you were arrested, or while you were in the police car, could be used against you. This is the case even if you do not sign a statement. But as soon as you ask for a lawyer, the police should stop questioning you. Just say, "I

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want to speak to a lawyer.” You do not have to say anything else. If the police continue to question you, **do not** say anything. Just ask again to speak with a lawyer. In most cases, a lawyer will advise you not to talk to the police. This is usually the best advice. If you do choose to talk to the police, keep in mind that giving false information can be a criminal offence. If you lie to the police, the fact that you lied can be used as evidence against you.

If you try to get other people not to co-operate with the police, you could be charged with obstructing justice or obstructing the police.

Once you have spoken to a lawyer, the police may continue to ask questions. Even if you say that you do not want to answer, they can continue to ask. However, you have the right to remain silent and do not have to answer.

4. If the police suspect me of a crime, will they arrest me?

If the crime is minor, you might be charged without being arrested. But you must tell the truth about who you are and the police must believe that you will:

- a. Not destroy evidence
- b. Not repeat the offence
- c. Go to court as required

If the crime is more serious, you will be arrested. To find out if you are being arrested, ask them politely “Am I under arrest?” If you are, ask them why.

The police might release you from the police station. The police can ask you to agree to certain conditions before letting you go. Or, you might be detained for a bail hearing.

A bail hearing should take place as soon as possible, **usually within 24 hours**. At this hearing the judge/ justice of the peace will decide if you should be released and on what terms and conditions. The judge/ justice of the peace may order that you be detained until your trial is over if they believe you will not show for trial or commit another offence.

Note:

The new anti-terrorism law gives police the power to arrest and/or detain you if they have reasonable grounds to suspect that this is necessary to prevent a terrorist act. In such cases, a judge can require you to agree to term and conditions to 12 months so you can be released, even though you have not been charged.

5. What are my rights if I am arrested or detained?

The Charter of Rights and Freedoms, which is part of the Canadian Constitution, sets out your rights.

If you are arrested/ detained you **must be**:

- a. Told why you have been arrested or detained
- b. Told immediately that you have the right to a lawyer
- c. Told about Legal Aid and your right to free legal advice
- d. Allowed to speak to a lawyer, in private, as soon as possible, if you ask to do so.

If you have been arrested the police should give you the 24-hour toll-free number for duty counsel.

6. Can the police enter my home?

The police can enter your home if they have:

- a. A warrant that allows them to enter your home to arrest someone
- b. A search warrant
- c. Permission from you or from someone else in authority in your home

7. What are my rights if the police have a search warrant?

A search warrant is a written order from a judge or justice of the peace. This order gives the police the right to search home. If the police have a valid warrant to search your home you must let them in.

The police should show you warrant. If they do not show it, ask to see it. Check the warrant for:

- a. The correct address
- b. Dates and hours when it can be used
- c. The signature or name of the judge who order it

The warrant **must** say who signed it, where, what day and what time they signed it.

The warrant usually is valid even if there are small problems. Inform the police that there are errors. You may ask the police to leave but do not try and stop them from entering your home.

The police can only search for evidence that is listed in their search warrant and can look only in places where they might find evidence. However if the police discover something related to another crime (not listed), they can take it and use it as evidence.

Usually if the police must return items taken from your home within three months unless a justice of the peace orders they can keep it longer. If your property is not returned contact the police and ask for it to be returned or apply to have a court to have it returned.

8. What is a search warrant?

See # 7

9. What are my rights if the police ask to enter my home?

The police may enter your home if they have permission from someone else in your home, usually an adult. If you do not want police to enter, tell them. If you do not tell them they may think that you are agreeing to let them in.

10. In what urgent situations can the police enter my home?

The police may enter your home without a warrant **or** permission if they have reasonable grounds to believe that:

- a. Someone whom they have the authority to arrest is in your home
- b. They need to enter in order to protect someone who is about to be injured or killed
- c. There is evidence in your home that relates to a serious offence, and they need to find the evidence right away or it might be destroyed or lost
- d. If the police were chasing someone and they entered your home
- e. To give emergency aid to someone inside

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- f. To protect the life or safety of someone inside
- g. To prevent someone from committing an offence that would seriously injure someone else
- h. To investigate a disconnected 911 telephone call

The police can enter and take a child to a safe place, such as a foster home or hospital, because:

- i. They have grounds to believe that the child is in “need of protection” under child welfare law
- j. The child is under 12 years old and has done something that would be an offence if someone aged 12 and older had done it.

11. When can the police search my home?

See # 10

12. When can police search me?

The police can search you, your clothes and anything you are carrying if they arrest you or give them “informed consent” to search you. The police can also search you if:

- They find you in a place where they are searching for drugs and believe that you have drugs
- They find you in a vehicle where people are transporting or consuming alcohol illegally and they believe that you have alcohol on you person illegally
 - a. They have reason to believe that you have an illegal weapon or one that was used to commit an offence, and it might be removed or destroyed if they took the time to get a search warrant

You never have to agree to be searched, unless the police have the above reasons. If you believe that you are being searched illegally or without a good reason, tell the police you object to the search and talk to a lawyer as soon as possible.

A strip search is not routine procedure. The police should not do a strip search unless they have reasonable grounds. You should not have to take off your clothes in front of someone of the opposite sex or in a public place. If the police ask for you to agree to a strip search, you should tell them you want to speak to your lawyer right away.

13. What happens if the police are called for a domestic violence incident?

Facilitators Note: Women may have many concerns related to their immigration status if they are being abused by their partners. See the *Immigrant Women and Domestic Violence* fact sheet produced by CLEO 2004 for more information.

Police can be called to respond to a domestic violence incident by persons involved, by children in the home, neighbours or any witnesses. If a 911 call is made from your home and the call is disconnected, police officer can enter your home without permission.

- A woman who has permanent resident status cannot lose that status or be removed from Canada only because she leaves an abusive relationship. This is true even if her abusive partner is her sponsor
- A permanent resident or a Canadian citizen can leave an abusive partner and her status in Canada will not be affected on that decision alone

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- If a woman's application for permanent residence is dependent on her spouse or partner, she risks being removed from Canada if she separates. If she leaves the relationship or is thinking about leaving, **she must get legal advice right away**
- If a woman's claim for refugee status is based on her spouse or partner's fear of persecution, and their claims are being processed together, she may have difficulty establishing her own claim if she separates. She should get legal advice from her **own** lawyer.
- In Toronto, if the police are contacted, they will assess the situation. If they believe a domestic violence incident has taken place, they are mandated to arrest the abuser.
- If the abuser is not a Canadian citizen, a criminal conviction can lead to the abuser being removed from Canada.

14. How do I get legal help?

If you cannot afford a lawyer, you might be able to get a Legal Aid certificate. Contact your nearest Legal Aid office to find out whether you qualify. The telephone number is listed under "Legal Aid" in the white pages of your phone book.

You can also contact the Legal Aid Ontario at

1-800-668-8258

In Toronto call:

416-979-1446

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6. Role Playing/ Stop Theater 15-20 minutes

Use the following scenarios to test the participant's knowledge and gain experience to deal with the police properly. As the facilitator you will role-play a police officer. Select a volunteer and read the below scenarios. After each role-play ask the group if the participants handled themselves properly and if there could be improvements.

Alternative: Stop Theater

The participants perform the scenario all the way through, once. The facilitator then opens up the group for discussion. What is the challenge? What would you do differently? The focus is on the "protagonist," the one who is facing the central challenge. The actors then perform their scene again, but this time, any audience member can call "Stop!" at any time and take over the role of the protagonist. The new protagonist picks the moment to resume from and the actors present an alternative to the original scene. If participants want, the scene can be performed numerous times, with a debriefing discussion after each run-through.

Facilitator Notes

At the end of the activity, allow time for participants to share overall comments and reflections, especially those who were performing.

Scenario One:

Location: Young and Dundas

Scenario: A police officer stops a civilian. The officer asks the following questions:

What is your name?

Where are you going?

What is in your backpack?

May I search your backpack?

Scenario Two:

Location: Your home

Scenario: A police officer knocks on your door. The officer asks the following questions:

What is your name?

Who's home with you?

May I come in and take a quick look around?

Scenario Three:

Location: A friend's car, you are a passenger.

Scenario: The officer asks the following questions, while your friend is being questioned by another police officer.

What is your name?

Where do you live?

How do you know the driver of this vehicle?

Where were you going?

Have you been drinking?

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Can I conduct a Breathalyzer on you?

7. Wrap-up

The wrap-up section provides the participants and facilitators the opportunity to share some final thoughts on the workshop and the topic.

8. Evaluations (10 minutes)

Give participants time at the end of the session to fill out the evaluation forms.

Facilitator Notes

It is important to receive feedback from participants so that as facilitators we can learn and grow with each session.

References:

“*Immigrant Women and Domestic Violence*”, CLEO 2004. www.cleo.on.ca

“*Police Powers: Stops and Searches*”, CLEO 2003. www.cleo.on.ca