

POLICE

Trans people in British Columbia have:

The right to **privacy in our home**. Generally, we do not need to answer the door if the police come to our home. There are exceptions. We must answer the door when police come to our home if:

They have a warrant (check that the address and date on the warrant are correct).

You have conditions in a bail or probation order.

They are chasing someone who has run into the building.

They are trying to help someone who is in immediate danger.

They believe evidence of a crime is being destroyed.

The same privacy laws apply in a shelter, SRO, or other apartment building, but the shelter operator or landlord may decide to cooperate with the police and let them in without a warrant.

The right to **go about our business without police interference**. The police may not stop us and talk to us in the street unless:

They see you breaking the law (including by-laws).

They suspect you have committed an offense or are breaking an immigration law.

They have a warrant.

You are driving. In this case, you must show a valid driver's license and you may be asked to show the registration of the vehicle and give a breath sample. If you refuse to give a breath sample, you will be arrested.

The right to **keep our identity private**. Officers do not have the right to know our identity unless they have reasonable suspicion that we have committed a crime.

In this case, they are entitled to your name, address, and birthdate. There is no general requirement to carry identification papers with you, so you don't have to show them ID unless you are driving a car.

Protection from search and seizure. This means unless we are detained or arrested, we do not have to let police search our body or possessions (including our car). An exception to this rule exists when crossing the border into Canada.

Officers do not have the right to know our identity unless they have reasonable suspicion that we have committed a crime.

The right to be referred to by the **name and pronouns that we use**.

The right to **have our concerns taken seriously** when we report a crime.

Staying Safe from Police Brutality

Trans people report high rates of harassment and violence from police. This is especially true for trans women who are also Aboriginal, people of colour, and sex workers. To help keep yourself safe:

Try to be calm during encounters with police and do everything you can to keep yourself and others safe without becoming a target.

Speak quietly if you speak at all, keep your hands visible, and move slowly. If you are going to put your hand in a pocket or purse to get something out, tell officers what you are doing before you do it.

If your life is in danger, it may be better to strategically submit to an attack by police in order to preserve your life.

If possible, pay attention to the badge numbers of police officers you deal with and keep notes about things that happen to you. You may need this information later to file a complaint or to tell your lawyer.

What to expect if you are detained:

If police suspect that you have committed a crime or that you know information about a crime, they may detain you. Being detained means that you are officially being held, usually for questioning.

You do not have to answer any questions other than your name, address, and birthdate.

Police can do a 'pat down' search on top of your clothes to look for weapons. This is called a search for officer safety.

They cannot look in your pockets or bags for things that are not weapons.

What to expect if you are arrested:

These are your rights when you are arrested:

The right to be told **what you are being arrested for**.

The right to be **'read your rights.'** They must say you have a right to remain silent and the right to talk to a lawyer. Pay special attention and tell your lawyer if they do not say these words.

The right to be given **the number for a legal aid lawyer**. You are entitled to multiple phone calls until you reach a lawyer. If you have just been arrested, call Brydges Line at 604-631-0566 or toll-free at 1-888-978-0050 to speak to a free lawyer.

Police must say you have a right to remain silent and the right to talk to a lawyer.

Police have more powers when you are arrested:

Police can search your body and belongings.

Police will take your belongings and put them in a bag. They should give you a property receipt so you can get your items back, unless they are evidence in the case against you. If they are, your lawyer will have to apply in court to get the items back.

If the police seize drugs from you, you will never get them back.

What to expect if you are interrogated:

If the police are investigating a crime, they may try to interrogate you. This can be a very difficult experience. You have these rights:

It is very, very difficult not to answer questions. Police are very good at getting people to talk – by being nice, by lying, or other tactics.

The right to **silence**. You never need to answer any questions after you identify yourself. You do not need to tell police that you are trans. Don't make a statement or try to explain what happened until you have spoken to a lawyer. It is very, very difficult not to answer questions. Police are very good at getting people to talk – by being nice, by lying, or other tactics. The reason it is important to say nothing – even if you did nothing wrong – is that what you say can be used against you in ways you cannot predict.

The right to access a **lawyer**. Do not agree to anything until you have spoken to a lawyer. You do not need to tell the lawyer about your gender identity, but you should tell them if you were mistreated by the police at any point.

The right to be **free from cruel and unusual punishment**. See www.transrightsbc.ca for examples of what the police are not allowed to do to you.

You do not have the right to have a lawyer present during your interrogation. During your interrogation police should use the name and gender that you use and treat you respectfully.

How can you stand up for your rights?

If police mistreat you, you have many options:

1. You can file a **human rights** complaint if there is evidence that the mistreatment was motivated by your trans status.
If the complaint is against the municipal police, file your complaint with the BC Human Rights Tribunal. See *Human Rights Complaints* on our website for more information. If your complaint is with the RCMP, file with the Canadian Human Rights Commission (<http://www.chrc-ccdp.ca/eng/content/how-do-i-file-discrimination-complaint>).
2. You can **sue the police** if there is no evidence that the mistreatment was motivated by your trans status. See www.transrightsbc.com for more information.
3. You can **file a complaint** with the Office of Police Complaints. For help filing a complaint against the police, call the BC Civil Liberties Association at 604-687-2919, or toll-free at 866-731-7507.
4. You can **report the crime to police**, who may press charges.

For information on organizations and resources that can help you stand up for your rights, please visit transrightsbc.ca

The Catherine White Holman Wellness Centre and the VCH Transgender Health Information Program produced this document as general legal information. It was reviewed by The Law Office of Barbara Findlay, QC and is current as of July 2015. It is not legal advice, as each situation is unique.