

K Y R Know Your Rights During a Traffic Stop



NLGAR.org

arkansas@nlg.org
(501) 732.7443

None of us like getting pulled over. In fact, it can be pretty traumatizing – your palms start sweating, your heart starts racing, and you’re praying that your registration and insurance card are actually somewhere in that mess of a glove box.

Being overwhelmed can often lead to erratic behavior and a traffic stop is the wrong time for that. To keep your exchange quick, clean, and simple, be sure to follow these traffic stop etiquette steps:



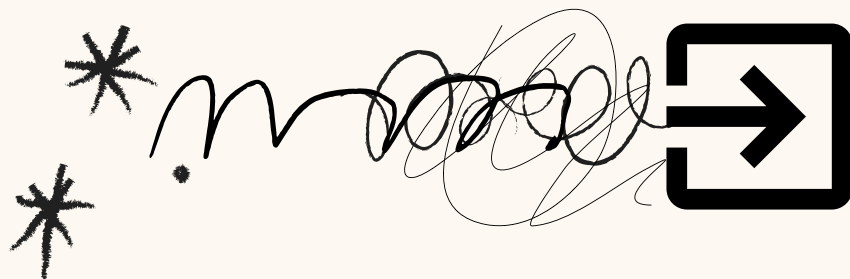
Pull Over Immediately

When you see the flashing lights behind you, it's important to pull over right away. If the cop is trying to get around you, this allows him to do so. If he's pulling you over, he can instruct you from there on where to go if either of you feel unsafe. I've heard too many stories of people driving around for several minutes to find a safe spot to pull over and park – that can definitely set you off on the wrong foot. It's irritating for a police officer when they're not sure if you're being disrespectful or careful. You don't want to make the police officer suspicious of you before you've even said hello.

You Can Pull Off To A Safe Location

You don't want to stop in an unsafe location, as this isn't ideal for you or the police officer. Driving too far will look like you're trying to escape, but there isn't a problem with you turning on your hazards, slowing down, moving to the far right lane, and getting off at the closest exit.

Especially if it's dark, you want to be sure that you will be safe. Just be sure that your actions show that you have acknowledged them trying to pull you over, and you are simply traveling to a safe place to stop.

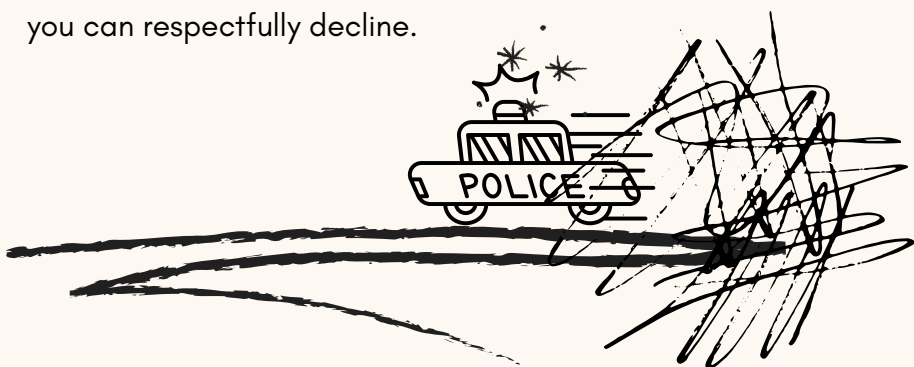


Turn Off The Car

If you get nervous, like many people do during traffic stops, turning your car off reduces the risk of an accident... like bumping the car into reverse as you frantically search for your license and registration. It may seem like an extreme precaution, but if you're someone who gets a little accident-prone under pressure... it's just something to consider. If it's dark out, turn the dome light on and show the officer you have nothing to hide.

Roll Your Window Down --- But You Don't Have to Roll It Down All The Way

This is a pretty common way for police to escalate a routine traffic stop, and you might not have even considered this tactic. Roll down the window to allow just enough room to pass documents back and forth, but not enough room to allow the officer to put their head inside of your car and claim to smell alcohol or marijuana. Yep - all an officer needs to do is claim to smell something illegal and your entire car and person will be subject to search. If they ask you to roll your window down further, you can respectfully decline.

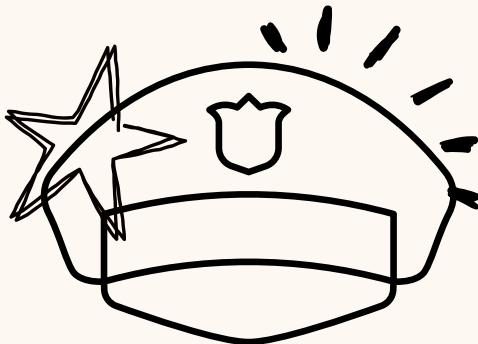
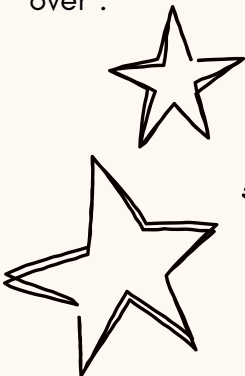


Keep Your Hands On The Wheel

This puts the officer at ease; they can see your hands, and they know you're not going to try anything stupid. Keep your hands where the officer can see them and provide any necessary documents upon request, but wait until they ask for these documents. Reaching into your pocket or glove compartment unannounced could cause an escalation.

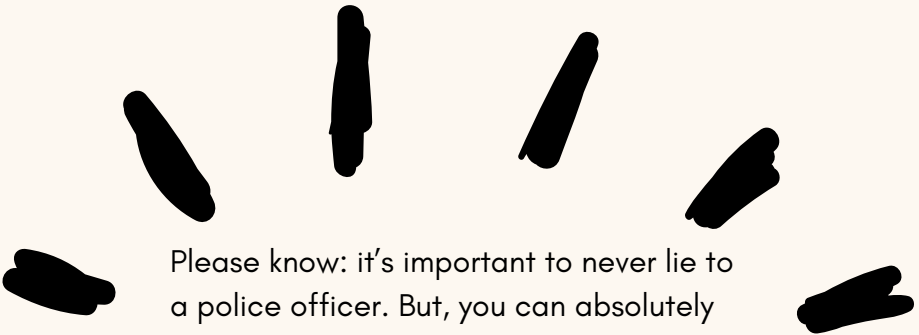
Be Polite & Confident, And DON'T Admit Guilt

An officer will always ask something along the lines of, "do you know why I pulled you over?" Sometimes, we might have an idea - but that's all we have... an idea. The truth is, the officer could have been pulling us over for something completely unrelated, so it's best to answer honestly and wait for their explanation, "No, sir/ma'am, I am not sure why you pulled me over".



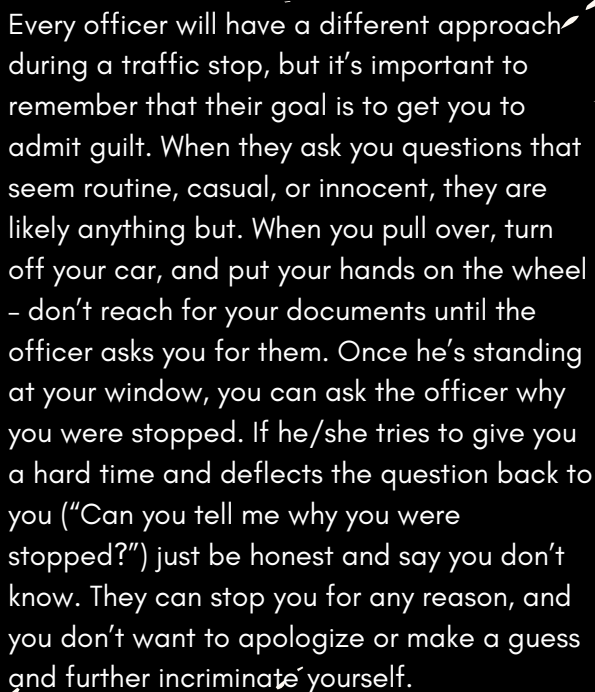


If you ever feel uncomfortable in answering questions, you simply don't have to. It's your right to decline to answer. Although it may feel like you're digging yourself into a hole by not answering simple, friendly questions ("where you headed? Where are you coming from?"), these are attempts by the officer to potentially build a case against you. Why do you think they all ask the exact same questions, at every single traffic stop? It's intentional.



Please know: it's important to never lie to a police officer. But, you can absolutely decline to answer, as uncomfortable as it may be, in order to not incriminate yourself.





Every officer will have a different approach during a traffic stop, but it's important to remember that their goal is to get you to admit guilt. When they ask you questions that seem routine, casual, or innocent, they are likely anything but. When you pull over, turn off your car, and put your hands on the wheel – don't reach for your documents until the officer asks you for them. Once he's standing at your window, you can ask the officer why you were stopped. If he/she tries to give you a hard time and deflects the question back to you ("Can you tell me why you were stopped?") just be honest and say you don't know. They can stop you for any reason, and you don't want to apologize or make a guess and further incriminate yourself.

Do The Police Have To Tell Me Why I Was Pulled Over?

Generally speaking, no. Police do not have to tell you why they are stopping you before asking for ID in a traffic stop, though it may be a standard practice in many areas. The officer must have a reason—i.e., probable cause—for the stop, but they are not legally required to tell you. That said, if taken to court, the police offer must provide their reason. **Be Aware:** Upon request, show police your driver's license, registration and proof of insurance. If given a ticket, you should sign it; otherwise you can be arrested. You can always fight the case in court later.



S
o
m
e
F
A
Q
S

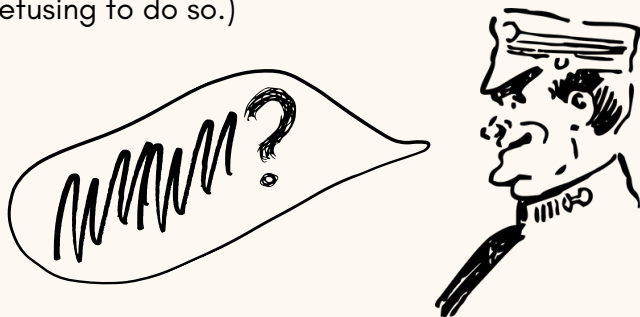
Do I Have To Get Out Of The Car If The Police Officer Tells Me To?

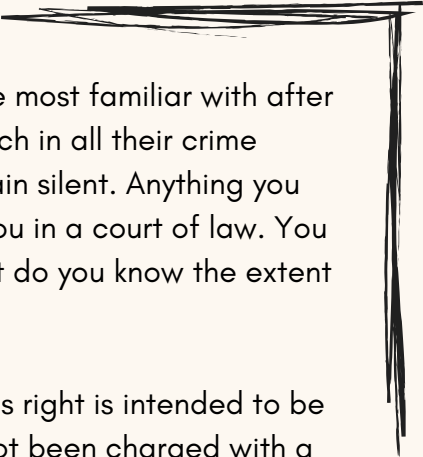
The police may ask you to get out of your vehicle (to ensure you don't have a concealed weapon), but you do have the right to remain in your vehicle. Practically speaking, it may be a good idea to comply if they make this request to avoid escalation; but it varies by situation. You also have the right to remain silent, although it can be good idea to answer simple questions (e.g., "Do you know why I pulled you over?") or make polite small talk (e.g., "Good morning officer.").

If you are a passenger, you have the right to ask if you can leave. If the officer agrees, then you may leave.

Do I Have To Answer The Officer's Questions?

You have the right to remain silent. For example, you do not have to answer any questions about where you are going, where you are traveling from, what you are doing, or where you live. If you wish to exercise your right to remain silent, say so out loud. (In some states, you may be required to provide your name if asked to identify yourself, and an officer may arrest you for refusing to do so.)





This is the right that people are the most familiar with after hearing the famous arresting speech in all their crime shows: "You have the right to remain silent. Anything you say can and will be held against you in a court of law. You have the right to an attorney..." But do you know the extent to which this covers you?

Known as the Fifth Amendment, this right is intended to be a protection for those who have not been charged with a crime. You have no obligation to tell police anything up until that point.

Your Miranda Rights are what explicitly give you this right. It's mostly about allowing you to not incriminate yourself in questioning. Both driver and passengers have the right to remain silent. If you are the passenger you can ask if you are free to leave. If the officer says yes, sit quietly or calmly leave. Even if he says no, you still have the right to remain silent.

Just refusing to say anything probably isn't going to get you the best results. When they ask you questions about your license, registration, and other key identification items, you're obligated to give it to them. You really don't need to communicate with them past this point if you don't want to. If you have a genuine excuse for your speeding, broken tail light, expired registration, or any other reason you got pulled over, you're probably going to see better results if you calmly explain your reasons.



However, if you're worried about giving something away that may get you in trouble or talking yourself into a hole, you can feel free to inform the police officer that you're invoking your right to remain silent. It's best to make that clear to the officer, especially because it lets them know that you're aware of your rights and what they can and cannot do to you. It will also allow the officer to know you aren't just ignoring them to be belligerent.

There are a few aspects you need to be aware of:

- You must explicitly state your intention of pleading the Fifth Amendment.
- This can make you look guilty. If you're refusing to answer questions, the officer may become suspicious.
- One way to avoid this is telling the officer that your attorney has advised you to remain quiet.

What If They ask About My Immigration Status?

You have the right to remain silent and do not have to discuss your immigration or citizenship status with police, immigration agents or any other officials. You do not have to answer questions about where you were born, whether you are a U.S. citizen, or how you entered the country. (Separate rules apply at international borders and airports, and for individuals on certain nonimmigrant visas, including tourists and business travelers.)



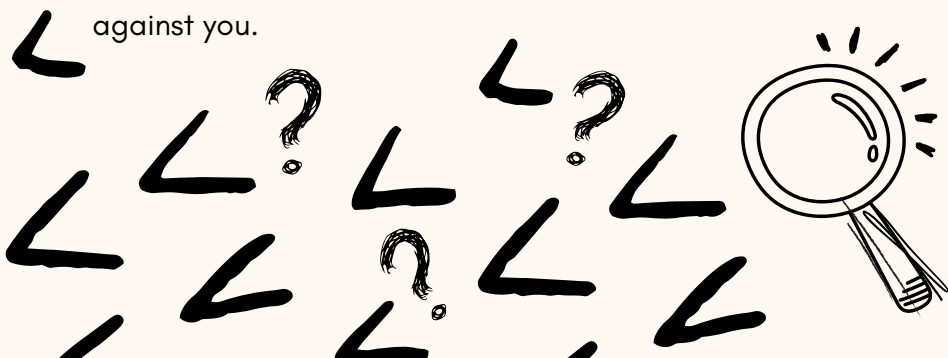
If you are not a U.S. citizen and an immigration agent requests your immigration papers, you should show them if you have them with you. If you are over 18, carry your immigration documents at all times. If you do not have immigration papers, say you want to remain silent.

Do not lie about your citizenship status or provide fake documents.

May The Police Search My Car?

Even if the reason for the stop is something minor, they may look around for signs of illegal activity or contraband as long as it's in "plain view." If the officers have reason to believe they are in imminent danger or they see evidence of a possible crime (such as blood splatter on the car seat), they may search the car.


If they ask you to open your trunk or glove compartment, however, you may decline unless they have a valid search warrant. That said, they may search your glove compartment if they have reason to believe you are concealing a weapon. If you consent to a search, then you have waived your rights. If you do not consent to a search and they search your vehicle anyway, any evidence they find may not be used against you.



You are absolutely within your rights during traffic stops to say no to a search request. Remember: the only reason an officer will ask for your permission is because they don't have enough evidence to search without your consent. If you say yes, you're giving up your important Fourth Amendment protection against unreasonable searches and seizures. A police officer does not have to inform you of your rights before asking for your consent to search your vehicle. Because of this, it's important that YOU know and are fully aware of your rights.

It's important to note that there is something called the Plain View Doctrine, which basically outlines law enforcement's right to take any illegal property if it's in plain view. For example, if you have a bag of marijuana on your dashboard, easily in the view of a police officer, it's likely you will be arrested for drug possession. However, if it's in a container, even if it's in the officer's sight, it's not likely that they'll be able to charge you. This also applies to patdowns, so if an officer feels a weapon while searching your person, this also does not require a warrant in order to make an arrest if necessary.

A police officer can use their eyes to scan inside your vehicle at the time of being pulled over. If you have any items you don't want to be confiscated, don't leave them in plain view for the officer. Probable cause, a search warrant, or consent will be needed for further investigation.



Can I Film The Encounter?

You are absolutely allowed to film when you are approached by police. Most of them wear body cameras now, but you are also allowed to use filming to hold them responsible if you feel the need. Be sure that you're still cooperating as far as providing documents or cooperating if an arrest is going to be made, but having a copy of what happened can be incredibly helpful, especially if the officer commits some wrongdoing that you now have proof of. Additionally, this may encourage all involved to behave a little better if they know their moves are on camera. As long as this doesn't become a problem as far as you cooperating once you absolutely have to, this is completely within your rights.

The Fifth Amendment is powerful. That's why your Miranda Rights are important to truly understand: "anything you say can and will be used against you in a court of law." If you have a phone or a recorder, always turn it on for your safety and let the officer know they are being recorded. This will give you the evidence you need if they aren't performing a routine traffic stop by the book. You can always attempt a discovery request, but these can always be ignored.



2023 KYR Zine

**Provided by:
National Lawyers
Guild, Arkansas
Chapter**



