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Getting Arrested—Applications

Checklist: Have My Rights Been Violated?

Persons accused of committing a crime have a series of rights, some of which are guaranteed by the U.S. Constitution and some of which are guaranteed for other reasons. If you have been accused of a crime, how can you know if your rights have been violated? While an experienced criminal law attorney can answer that question, the following checklist of rights may also provide you with guidance.

Yes/No

- _____ **I was allowed to remain silent:** One of the most important rights of a person accused of a crime is the right to remain silent. You cannot be forced to divulge information to the police. This right stems from the Fifth Amendment right against self-incrimination. In other words, you are not required to prove your case for the police. They are responsible for developing the evidence to prove you have in fact committed a crime. The right to remain silent was confirmed in the U.S. Supreme Court case of Miranda v. Arizona. If you attempted to remain silent in the face of police questioning, and were coerced or forced into speaking, your rights have been violated.

- _____ **I was told that anything I chose to say can be used against me:** The police must inform you that if you chose to speak, “anything you do say may be used against you in a court of law.” If you were told that you had the right to remain silent, but were not informed of the consequences of choosing to speak, your rights may have been violated.

- _____ **I was allowed to have an attorney present when I requested one:** Another absolute right of a person under arrest for a crime is the right to have an attorney present during questioning and the right to have counsel during any trial. If you requested an attorney during questioning, and the police denied you that request, your rights may have been violated.

- _____ **I was not asked questions while my attorney was absent:** Once you request the assistance of an attorney, the police are prohibited from questioning you later without your attorney. In other words, you have the right to have an attorney present during the first, and any subsequent, talks with the police.

_____ **I was not forced to pay for my attorney’s services:** Just as you are entitled to have an attorney, you are also entitled to a state-paid and appointed attorney if you can not afford your own attorney per a state's or county's guidelines. If you fall within this category, you will be assigned a public defender to represent you.

_____ **Although I initially didn’t ask for an attorney, when I asked for one later in my questioning, questioning stopped and didn't start again until my attorney arrived:** In many situations, criminal suspects may have false confidence that they can handle the matter on their own, without the assistance of an attorney. A criminal suspect who decides to answer police questions without an attorney present still has the right to ask for an attorney at any later point. Once a suspect asks for an attorney, all questioning must stop until the attorney arrives.

_____ **I was treated humanely:** Unfortunately, police brutality and unfair treatment continue to occur in the United States. A criminal suspect is entitled to humane treatment, no matter how heinous the alleged crime. If you were not treated humanely, for instance if you were deprived of food and water or if you were beaten either during police questioning or while in a holding cell, your rights may have been violated.

_____ **I was not held unfairly:** The government cannot hold you for an extended period of time without charging you with a crime. For instance, if you are placed in a holding cell under suspicion of murder, the government must officially charge you with that crime within a specified period of time. In some states, a charge must be brought within forty-eight hours; in other states the time limit is different. If you have been held without being charged for longer than the legal amount of time, your rights may have been violated.

_____ **I was not treated as guilty before convicted:** Criminal suspects being held in jail awaiting trial may not be treated as guilty individuals before they have actually been convicted, no matter how strong the evidence is against them. The cornerstone of the U.S. criminal justice system is the belief that all people are innocent until proven guilty. If you were punished or treated unfairly while awaiting trial, your rights may have been violated.

_____ **I was given a speedy trial:** You are also entitled to what is called a “speedy trial.” In other words, once you are charged the government cannot purposefully drag its feet and wait to commence a trial against you. If it does, your rights may have been violated.

_____ **I was not subjected to “cruel and unusual punishment” while imprisoned:** The Eighth Amendment to the U.S. Constitution guarantees that prisoners must be free from “cruel and unusual punishment.” Once you have been convicted of a crime and incarcerated, you must be treated in a manner that does not constitute “cruel and unusual” punishment. Therefore, any punishment that can be considered inhumane treatment or which violates the basic concept of a person’s

dignity may be found to be cruel and unusual. For example, your rights may have been violated if you were given only dirty water to drink while incarcerated, or if the condition of your cell was unsanitary.