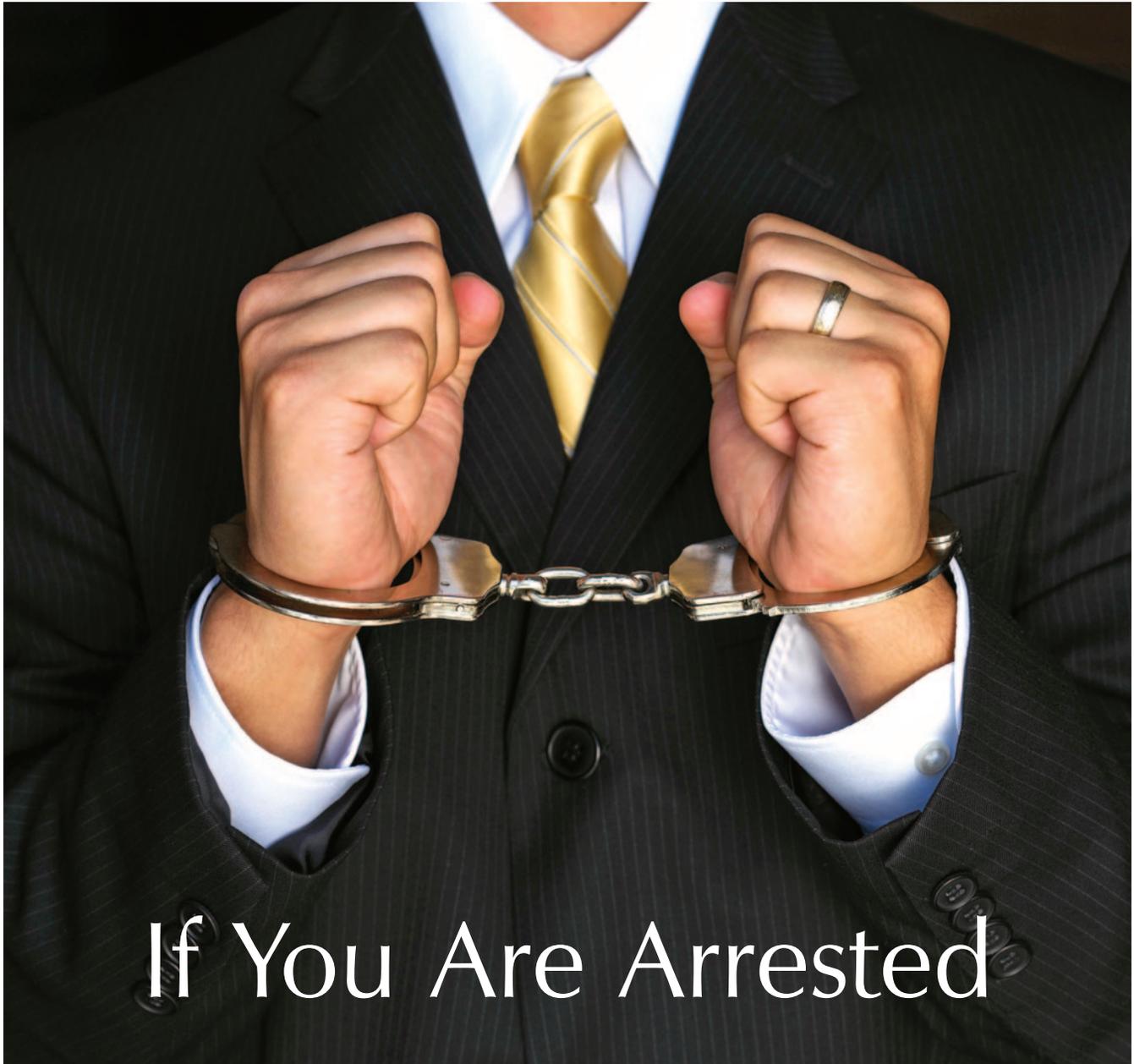




## INFORMATION FOR CLIENTS OF TEXAS ATTORNEYS

*The information included in this column is for educational and informational purposes only. Please consult an attorney regarding specific legal questions.*



# If You Are Arrested

### **WHEN ARE YOU UNDER ARREST?**

You are arrested when law enforcement officers take you into custody or otherwise deprive you of your freedom of movement in any significant way in order to hold you to answer for a criminal offense. You may, in fact, be under arrest even though no one has actually used the word “arrest.”

### **WHAT RIGHTS DO YOU HAVE WHEN YOU ARE QUESTIONED BY THE POLICE?**

1. You have the right to remain silent.
2. If you choose to speak, anything you say can be used against you in court.
3. If you decide to answer any questions, you may stop at any time

and the law requires all questioning to cease.

4. You have a right to consult with your attorney before answering any questions and to have your attorney present if you decide to answer any questions. If you cannot afford an attorney, one will be provided for you or appointed for you by the



court without cost to you before any further questions may be asked.

### **WHAT ARE YOUR RIGHTS AFTER YOU HAVE BEEN ARRESTED?**

You have a right to know what crime or crimes with which you have been charged and to communicate by telephone with your attorney, a family member, a friend, or a bondsman as soon after you are brought to the police station as practical. The police have a right to complete their booking procedures before you are allowed to use the telephone.

### **MAY A LAW ENFORCEMENT OFFICER DETAIN YOU WITHOUT ARRESTING YOU?**

If there is a reasonable suspicion that you may be involved in criminal activity, a police officer may require you to identify yourself and explain your presence at a particular time. If the officer has reasonable grounds to believe that you are armed and/or that you may be dangerous, he or she may conduct a limited pat down of your outer garments for the purpose of detecting weapons.

The officer may ask you questions pursuant to an investigation. You have a constitutional right to not answer them, but if you refuse to identify yourself, the officer may have grounds to make an arrest.

At the conclusion of this temporary detention, the officer must either arrest you or let you go.

### **WHEN MAY YOU BE ARRESTED WITH A WARRANT?**

A police officer may arrest you at any time if there is a warrant for your arrest or if the officer has knowledge that a warrant for your arrest has been issued. A police officer must show the warrant to you as soon as possible and inform you of the offense charged.

An officer may arrest a person without a warrant if informed by a credible person that a felony has been committed

and that the offender is about to escape and there is no time to get a warrant.

### **WHAT FORCE MAY THE OFFICER USE IN MAKING AN ARREST?**

The officer may employ all reasonable and necessary force to overcome resistance in making a lawful arrest.

**You may, in fact,  
be under arrest  
even though  
no one has  
actually used  
the word "arrest."**

### **WHEN MAY YOU BE SEARCHED?**

If you are arrested in your home, officers may conduct a limited search of the immediate area where you are arrested without a search warrant. They may also check the rest of the house for any accomplices. They may seize any contraband, stolen property, and/or evidence of a crime discovered in plain view in any portion of the house where the officers have a right to be.

When you are arrested while driving your automobile, the officers may make a limited search of your car at that time for the purpose of discovering weapons that might be used against them. They may not make a general search of your automobile unless there is independent probable cause that the vehicle is carrying evidence of crime or contraband. If a search is requested by an officer, you are not required to give consent.

You may object to a search or police procedures, but always do so respectfully and do not physically resist the officer's actions.

### **WHAT PROCEDURES ARE USUALLY FOLLOWED WHEN YOU ARE ARRESTED?**

1. The officer will take you to a police station, jail, or other detention facility.
2. Upon arrival at the jail or shortly thereafter, you will be afforded the opportunity to contact an attorney.
3. You will be advised generally as to the charges against you.
4. You may be required to participate in a lineup, speak phrases associated with the crime with which you are charged, or give a DNA sample, among other things.
5. You may also be required to be fingerprinted and photographed.
6. You must be taken before a magistrate within a short time of your arrest. The magistrate will inform you of the charge filed against you and your rights.

### **WHAT HAPPENS TO PERSONAL PROPERTY YOU MAY HAVE WITH YOU?**

If you are booked into a jail, the police may take money and property from you for safekeeping. They will carefully inventory your money and property and give you a copy of the inventory.

At the time of your release or at the conclusion of your case, your property that was not seized as evidence in the case will be returned to you. You will be given an opportunity to sign the property list. Make certain the list includes all the items taken from you. ✪

This article was excerpted from *If You Are Arrested*, a publication of the State Bar of Texas. For a complete copy of the pamphlet, write State Bar of Texas Public Information Department, P.O. Box 12487, Austin 78711, call (800) 204-2222, ext. 1800, or visit [texasbar.com](http://texasbar.com) and click on "For the Public," and then on "Our Legal System."