

know your legal rights

Published by the Association for Legal Justice

This is Internment

Arbitrary Arrest is Internment

Arrest on false charges is Internment

Repeated Remands in Custody is Internment

These things are happening in Northern Ireland TO-DAY !

You can HELP STOP INTERNMENT by joining

THE ASSOCIATION FOR LEGAL JUSTICE

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for Further Information as the

SPECIAL POWERS ACT IS IN FULL OPERATION

in the North of Ireland

THE ASSOCIATION IS NON-POLITICAL and NON-SECTARIAN IT AIMS TO SECURE

LEGAL JUSTICE FOR ALL

INTERNMENT IS UNJUST

INTRODUCTION

This booklet is to be your Guide to your Rights in many of the sort of situations in which you might find yourself in Northern Ireland today willingly or unwillingly. Read it carefully and remember that it may save you considerable hardship at some time in the future if you know your rights and are able to act accordingly.

However good relations between the Police, Army and the Citizen depend to some extent on mutual confidence and the knowledge of the rights and powers of each other. Members of the public should always stress their desire to co-operate with the Police and the Army when they are asked by either to help or when they discuss any matter with them. No matter how bad any case may sound a competent Lawyer can always make considerable capital out of the fact that a person when first approached expressed to the Police or Army his willingness to be cooperative. This is particularly true in Northern Ireland at the present moment.

ARREST WITHOUT WARRANT

There are a wide range of offences for which a Policeman or a Soldier can arrest you lawfully without any warrant from a Magistrate. It would be impossible to list these all and even if same were listed this would provide no real guide since they are of such varying importance and depend on a variety of Statutes.

However, when a Policeman or a Soldier tells you that he is arresting you, immediately ask him to explain to you what crime he is arresting you for. He is bound to tell you this. Note carefully what he says, preferably writing it down, and also take a note of his number (if he is in uniform, or his rank and regiment if he is a soldier) and "go quietly". It is often wise even to draw attention to this by saying "I am going quietly". If his action of arresting you is unlawful you have a remedy in Civil Law later.

If the Policeman or Soldier is in any doubt about the Offence for which he is arresting you ask him expressly if he is excersing the powers

conferred on him for arrest under the Civil Authorities (Special Powers) Act (Northern Ireland) 1922.

These powers are very wide but if you are arrested under them in certain circumstances they will give rise to very clear rights to compensation and this is dealt with on the question of Compensation for wrongful arrest later on.

ARREST PROCEDURE

Procedure on arrest should be that the person arresting you should actually place his hand physically upon you, inform you of the offence for which you are being arrested and use such force as is necessary in order to convey you to the Police Station or other place of custody. Do not be alarmed therefore if the Soldier or Police Constable catches you by the arm or shoulder as he declares his intention to arrest. This is a normal part of Police Procedure. He is however only entitled to use "such force as is necessary" and for this reason it is often wise to say "I am going quietly" in the hearing of anyone present to ensure that you will not be subjected to any physical violence.

ARREST WITH WARRANT

If a Policeman or a Soldier calls to arrest you with a warrant you should ask to see it. He may not necessarily have the warrant with him when you get to the Police station you should insist on seeing it and making sure that it really means you.

BAIL

There is no question of a person having any right to Bail as such and the first application for Bail should be made by you to the Policeman as soon as you are formally charged at the Police station. If you are not given Bail then you should repeat this application to the Magistrate as soon as you appear in Court.

As a matter of practice Bail is not allowed in cases where the offence alleged is a "serious one" or where your release would "defeat the ends of Justice". Bail does not mean bringing money to Court. It simply means satisfying the

Police that you have saleable property to the value of the amount required and that you have sureties who likewise have property who are prepared to guarantee your appearance in Court in answer to the charge.

If neither the Police nor the Magistrate will grant you Bail then you have a right to apply to the High Court Judge for Bail.

Fortunately since the recent attention has been focussed on this matter remands in custody without Bail are less frequent and anyone with any stake in the Community who can show that he has friends or relations who will go surety for him should have very little difficulty in getting Bail, except in an exceptional case at an early stage before his case comes for trial.

DETENTION WITHOUT ARREST

Sometimes a Policeman asks you to "accompany him to the Station". If you do not want to go, you do not have to. You simply ask him whether or not he is arresting you. If he says "no" you are free to do as you wish: if he declares that he is arresting you then what has been said above concerning Arrest Without Warrant will apply.

Sometimes however it is convenient to go with the Policeman if you have nothing to hide and co-operate with him in his enquiries.

QUESTIONING

When you are taken to the Police Station or when you are stopped by a Soldier or Policeman for questioning you are not bound to answer any questions whatsoever. Under the Road Traffic Acts you can be required to tell the Police under penalty of committing an offence where your car was at any particular time and who was driving it. This will be explained to you by the Police at the time they are asking the question.

Under paragraph 7 of the Regulations under the Civil Authorities (Special Powers) Act (Northern Ireland) 1922 you can be required under penalty of committing an offence against the regulations to stop and answer to the best of

your ability and knowledge any question which may reasonably be addressed to you by any Constable or Police Officer or a member of Her Majesty's Forces. However, before you can be guilty of an offence under this Regulation it will be necessary for the Police to explain to you that they were asking the question by virtue of and under the penalties of the Special Powers Act. Accordingly if a Policeman insists on you answering a question you should clarify with him whether or not it is one of these questions which you are bound to answer.

If you decide to answer no questions it is better to declare "I do not wish to say anything until I have seen my solicitor" then to remain absolutely silent. In court silence may sometimes be regarded as having signified agreement with or acceptance of something the Police or other witnesses were saying at the time. And it can (although it should not) make the case against you seem stronger by creating an atmosphere unfavourable to you in which it is much easier for the prosecution witnesses to appear franker and more convincing than you do. Another matter which you might say is that you would be most anxious to co-operate with the Police in all respects but that you wish to have your solicitor's advice before saying anything.

SEEING A LAWYER

If you decide to employ a solicitor or a lawyer do not sign anything or make any statement until he comes. Ask for him by name if you know of one and if not ask the Police to provide you with a list of lawyers who are available. If you have no means to pay a lawyer you are entitled to legal aid and therefore there should be no difficulty about you getting legal representation. Do not make the mistake of leaving it too late until you get the lawyer. Ask for him immediately you are arrested. If the Police do not allow you to get a lawyer keep on asking (respectfully) until your request is granted.

When your lawyer comes you are entitled to talk to him without anyone else hearing, although a Policeman will probably keep you in sight to see that you do not try to escape.

CONTACTING RELATIVES

Although the Police are often most unhelpful about contacting relatives until they have "completed their enquiries" you should make sure that you have asked as often as possible for permission to use the telephone or write a letter and have it delivered to your near relations such as your wife, or parents if you are living at home. To tell them simply where you are and to ask them to bring you anything you need. But the best procedure here is to ask directly and at once to see your solicitor. He, after all can be trusted subsequently to contact your relatives.

When your relatives come they will not be allowed to interview you in private as your lawyer and a Policeman will be present to make sure that no articles are allowed to change hands and that nothing is said which they would be interested in.

FINGERPRINTING

The Police may want to take your fingerprints and to take your photograph. Whatever the offence for which you are charged you are entitled to refuse and to take them without your consent is to trespass your person. If you do refuse, the Police can ask the Court for an order that your fingerprints be taken without your consent and if the Court so orders then it can be done either at the Court or at a Remand Prison in the presence of a Justice of the Peace. The fingerprints of an arrested person will sometimes help the Police in the investigation of a crime but more frequently, their purpose is to ascertain from Central Records whether the arrested person has been convicted and fingerprinted before.

Sometimes it is helpful to your defence to be able to say that you co-operated fully with the Police and if you feel that it will do your case no harm to give your fingerprints and allow yourself to be photographed without protest then this is one respect in which you can establish your co-operation more fully.

CHARGING

When you have been formally charged at the Police station the Police should hand you a form containing the written details of the charge against you and statement that you are not obliged to make any answer. When you are charged and asked if you have any answer to make you should state "I do not wish to say anything until I have an opportunity of being advised by my solicitor".

DETENTION

Once you are arrested by the Police you are considered as detained. You may lawfully be detained by the Police for a period of 24 hours. If you are not released within that time you must be charged and brought before a magistrate within the next 24 hours. Failure to comply with this procedure would turn the detention into unlawful detention and entitle you to damages. However, under these Civil Authorities (Special Powers) Act (Northern Ireland) 1922 an officer of the R.U.C. for the preservation of Peace and maintenance of Order may authorise the arrest without warrant and detention for a period of not more than 48 hours of any person for the purpose of interrogation. Once your detention has gone beyond 24 hours and you have not been charged then you should specifically inquire whether or not you are being detained for this purpose under the Special Powers Act and ask for written confirmation of this. Again this would facilitate your right to compensation in the event of your detention being under this provision.

INDUCEMENTS

You should remember after you are arrested that it is completely improper for the Police or Military to use any inducement in order to get you to "make a clean breast of it", or involve anyone else. Involving other people cannot possibly help you and the Police have absolutely no authority to strike bargains with you nor to fulfill any promise nor to offer any inducement or undertaking or to carry out any threat or inflict any physical violence on you.

Should the Police Constable or any Soldier be guilty of any of these things you should report the matter to the Senior Police Officer as soon as you can see one. Do this even if he is unsympathetic, and do it as often as you can. If you do not see one reasonably soon you should ask for one. You should also report the matter to your Solicitor as soon as he arrives and ask him to report it to the proper authorities.

SEARCHING THE PERSON

Once you are charged the Police have a Common Law Right to search your pockets, bags etc., for articles which may have some bearing on the offence charged against you or with which you may do some injury to yourself or some other person while in Police custody. You should be entitled however to retain this leaflet and you will be asked to sign a list of the things taken from you and to sign it again when it is returned to you.

You can also be searched by a Police officer and your car can be searched without a warrant where an offence is suspected under the Dangerous Drugs Acts or under the Special Powers Act.

When a Police officer comes to search your car or your person or a member of the Military does the same you should ask him in each case by what provision he does it. If he has a warrant you should ask to see it and read it carefully and make sure that it refers to you. If he has not got a warrant then you should ask him to inform you by virtue of what authority the search is being carried out and you should carefully note down his answer. While the citizen would wish to co-operate with the authorities in every respect searching a person and dwellinghouse can be an embarrassing invasion of privacy and should not be undertaken lightly by the authorities.

At the present time in Northern Ireland it is understandable that wide "nets" would be thrown about from time to time in searches for arms and explosives and when approached or stopped in these circumstances you should ask for the precise matter being searched for and by virtue of what authority the search is being carried out.

It is interesting to note that many of the searches being carried out by Military Police at the present time are completely outside their authority and could only be justified under the Special Powers Act. If the Special Powers Act is pleaded as the answer or justification of tne search then under certain circumstances you may be entitled to compensation.

SEARCHING PREMISES

Neither the Police or anyone else is entitled to search you house, shop or other premises without a search warrant from a magistrate unless he is acting under the Special Powers Act as stated above. The magistrate who gives it need not be sitting in court; he can issue it in his own home. You are however entitled to see the warrant and therefore the Policeman must have it with him and he cannot lawfully come into your house without showing it to you. Where the Police or Military intend to search your house without a warrant you should refuse them entry and if they post men outside your house till they come back with a warrant you may have a right to sue them for defaming your character in the estimation of your neighbours if in fact the search proves to be fruitless.

EVIDENCE IN COURT

You are not bound to give evidence at your trial. You will probably be told in court that you are entitled either to make a statement without going into the witness box in which event no one may ask you any questions about what you say or go into the witness box and give sworn evidence in which event you can be questioned although not in such a way as to damage your character.

POLICE WARRANT CARDS

Bogus plain clothes policemen sometimes purport to show police warrant cards to people they surprise in compromising circumstances and then extort money or valuables from them as a condition of refraining from arrest or prosecution. Similarly bogus Policemen have abducted people in cars or accosted people at night to search their belongings and then stolen the contents or assaulted the persons concerned.

Should anyone attempt to do this to you, insist on him going with you to the nearest Police Station or uniformed Policeman and report the matter immediately. The warrant card is intended to identify the Policeman and therefore you should ask every Policeman or person purporting to be a Policeman to produce his Warrant Card to you. All Warrant Cards should bear the Policeman's name and number, whether or not he is a plain clothes officer and whatever his rank is. Make a note of the number if you can.

SUMMARY

Remember that the Police must:—

1. Tell you at the earliest possible moment what offence you are being charged with.
2. If arresting you on a Magistrate's Warrant show you the warrant as soon after your arrest as possible.
3. Allow you to communicate with telephone or telegraph your family or solicitor after you have been arrested.
4. Allow you to talk with your solicitor out of their hearing.

They cannot:—

1. Compel you to accompany them to the Police station unless they have arrested you.
2. Compel you to answer any questions or sign any statement otherwise than under the Special Powers Act, or concerning the ownership or driver of your motor car under the Road Traffic Acts.
3. Hold out and inducement or make any promise or threat in order to extract a statement from you, or any statement obtained by such means will be ruled inadmissable by the court.
4. Compel you to have your fingerprints taken against your will without a magistrate's Order.

5. Compel you to answer any further questions after you have been arrested.

6. Search your house or other premises without a magistrate's warrant which you are entitled to see.

If you believe that the Police or Military have exceeded their powers in any way you should make a note of the number and rank of the officer concerned and their regiment if military. Remember that the Police should allow you to contact a lawyer as soon as reasonably possible after you have been arrested and they cannot force you to answer any questions or to sign anything.

It has been noted by the Association that on many occasions Police have refused relatives and friends access to arrested persons and they have also refused to allow arrested persons to contact their solicitors. These points should be noted and reported to the Association as well as to your own solicitor.

Remember it is just not your rights that are at stake but these abuses if perpetrated on you tend to grow and unless you and others take steps to stop them they will be perpetrated on others in the future.

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