Police Powers Of Arrest

Arrest is the formal procedure by which a person is taken into custody to answer a charge.

In some cases a person can only be arrested by a police officer with a warrant; in others she/he can be arrested without a warrant and not only by a police officer but by a private citizen.

Arrest With A Warrant

A warrant is a document signed by a magistrate or justice of the peace, which directs a police officer to arrest a person suspected of having committed an offence. A warrant cannot be issued to a private citizen.

In order to get a warrant a police officer must give the magistrate details of the case in a written and sworn statement. The magistrate will then decide whether to issue a warrant.

A warrant must include the name of the person to be arrested and a description of the offence in simple language. If the offence was created by a written law there should be a reference to the relevant provision in the law.

No claim for damages can be made against a police officer who arrests someone under a warrant that turns out not to have been properly issued.

If You Are Arrested With A Warrant

* Ask to see it. A police officer can arrest you without having the warrant with her/him, but must show it to you as soon as possible after the arrest.
* Check that your name is on the warrant.

   Even if you think that the warrant may not be valid do not resist arrest as this may lead to further charges.

**Arrest Without A Warrant**

You can be arrested without a warrant by a police officer if:
- the officer has seen you commit an offence;
- someone charges you with having committed an offence and gives an undertaking to prosecute the charge;
- the officer finds you disturbing the peace;
- she/he reasonably suspects you have committed or are about to commit an offence or breach of the peace; or
- she/he finds you lying or loitering about between 8 p.m. and 5 a.m. and you cannot give a good account of yourself.

Except for serious offences, a police officer should not arrest you if you give her/him your name and permanent address.

If you are arrested without a warrant you must be told in simple language and the reason for your arrest. If you are not told why you are being arrested you should ask. The police officer is duty bound to tell you unless you are caught re-handed so that an explanation is not needed or you make one impossible by resisting arrest. Even then, the officer must give the reason for the arrest as soon as possible.

Members of the public are under a duty to help a police officer in making an arrest if called upon to do so. Failure to help without reasonable excuse is an offence for which you can be fined $150 or imprisoned for 3 months.

**Citizen’s Arrest**

You can arrest anyone who commits a breach of the peace in your presence and anyone who you suspect has committed or is about to commit a serious offence. But you should think twice before doing so as you can be sued for damages if you arrest the wrong person or an offence has not in fact been committed.

**Going To The Station To Assist With Enquiries**

If a police officer asks you to go to the police station with her/him
to assist with enquiries, for questioning or any other purpose but does not say that she/he is arresting you, you do not have to go. If you refuse she/he may arrest you. If she/he tells you that she/he is arresting you it is better not to resist as this may involve further offences.

If you are arrested wrongly you may be able to sue the police for false imprisonment.

When Making An Arrest A Police Officer Should:
1. Identify her/himself by giving her/his name, number and the station at which she/he is based.
2. Take you directly to the nearest police station.
3. Only use such force as is reasonably necessary. Force will not be justified if you do not resist arrest. Handcuffing is only justified if it is reasonably necessary to stop you escaping or to prevent violence.

After You Have Been Arrested
1. If you have been arrested it is advisable to see a lawyer. You have the right to legal advice in private. If you do not know a lawyer, ask your relatives or friends to find one.
2. Generally speaking, you have the right to make at least one telephone call.
3. It is better not to answer any questions or sign any documents until you have spoken with your lawyer. See Section Number 27 on Police Powers of Questioning.
4. If you are beaten or otherwise injured demand to be taken to a doctor for treatment. Make sure that you get a medical certificate.
5. You can refuse to let the police take your fingerprints. If you do refuse, the police may then apply to a magistrate to make an order that your fingerprints be taken without your consent. If your fingerprints are taken with a court order and you are later acquitted, the fingerprints and all copies and records must be destroyed. The same basically applies to taking your photograph.
6. The police should either charge or release you (with or without station bail) within 72 hours of arrest (see Article 139(4) of the
Constitution of the Co-operative Republic of Guyana. You can ask for bail and the police should grant it if they are satisfied that (a) you will return to the station when requested and (b) your release will not hamper their enquiries. See Section Number 24 on Bail.

7. If you are held for an unreasonable long time without being charged and taken before a magistrate or (b) placed on bail, you can take legal action to be released.