

You are suspected of committing a criminal offence

You have been arrested as a suspect and taken to the station by an investigating agency such as the police. Or you have been invited to the station for questioning. What are your rights and what happens after you have been interrogated?

You are suspected of committing a criminal offence. This folder describes your rights and obligations and the procedures involved. You should read this folder carefully.

Questions?

Do you have any questions after reading this folder? You should put any questions you may have to your lawyer, the police, the Royal Netherlands Military Constabulary (Kmar) or whatever other investigating agency you are dealing with. In the context of this folder the term 'police' may also refer to some other investigating agency.

For more information go to www.juridischloket.nl or call 0900 – 8020 (€ 0.25 per minute).

If you do not speak or understand Dutch well enough

Is your ability to speak or understand Dutch inadequate? In that case you are entitled to an interpreter while you are being questioned by the police or speaking to your lawyer, for example. There is no charge for this. If the interpreter is present at the interrogation or the conversation with your lawyer, he is not permitted to talk to anyone else about what was said. You are also entitled to have certain documents translated, such as the arrest warrant and the summons.

A. You have been arrested by the police and taken to the police station

If you have been arrested by the police on suspicion of a criminal offence, you will be interrogated about it. This means the police have the right to ask you questions.

Your rights

- You have the right to know what offence you are suspected of committing.
- You are not obliged to answer the questions of the police (you have the right to remain silent).
- You have the right to talk to a lawyer in confidence before the (first) interrogation begins.
- You have the right to have a lawyer present to assist you during the interrogation. This is discussed in greater detail below.
- If you do not understand something you should tell the police. You should also tell them if you are feeling ill, would like to speak to a doctor, or are in urgent need of medical care or medicines.
- If the (acting) public prosecutor decides that you have to stay at the (police) station, you may ask the police to call a member of your family or household to tell them you are being detained. Sometimes the (acting) public prosecutor will refuse to allow this on a temporary basis. In that case he will inform you to that effect.

- Do you do not hold Dutch nationality? In that case you may ask the police to inform the consulate or embassy of the country you come from that you are being detained.
- In the first instance you can be detained for a maximum of 6 hours. Is the alleged offence one for which pre-trial detention is permitted? In that case you can be detained at the police station for a maximum of 87 hours (3 days and 15 hours). If it is necessary for the purposes of the investigation to detain you for longer, the judge will decide on the matter. Ask your lawyer what you should do if you do not agree with your arrest or the decision to detain you for longer.
- You have the right to read the documents if there are any. In some cases the public prosecutor may disallow this. In that case he will inform you to that effect.

Consulting a lawyer

Before the interrogation you will be asked if you want to speak to a lawyer and whether you would also like the lawyer to be present during the questioning. If you want a lawyer then the following situations are possible.

- If are you suspected of committing an extremely serious offence (involving grievous bodily harm, fatalities or serious sex crimes, for example) then a lawyer will always be provided before you are interrogated. This will not cost you anything.
- If you are suspected of committing a serious offence (for which you can also be detained before trial, such as burglary) you may choose to speak to a lawyer before the interrogation. The investigating agency will then see to it that a lawyer is engaged. This will not cost you anything.
- If you are you suspected of committing a less serious offence (such as urinating in public) you may decide for yourself whether you want to speak to a lawyer. In that case you must find your own lawyer and you will have to pay the cost thereof yourself.

If the police pass on your personal details to the Legal Aid Board in connection with engaging a lawyer on your behalf, those details will be processed in the administration of the Board.

If it is not clear which situation applies to you, you should ask:

- Whether a lawyer will be engaged automatically in your case, or whether you may decide for yourself if you want a lawyer.
- Whether you will have to pay the costs of speaking to a lawyer yourself.

Think carefully about your situation. It is not an admission of guilt if you decide that you want a lawyer. If you decide at first you do not want to speak to a lawyer, you can still change your mind later on. In that case you must be given a further opportunity to speak to a lawyer.

What can a lawyer do for you?

A lawyer is there exclusively to represent your interests. A lawyer may do the following things for you before your interrogation:

- Explain the offence you are suspected of committing.
- Give legal advice.
- Tell you what is involved in a police interrogation.
- Tell you what right and obligations you have during the interrogation.
- Contact your family or employer to inform them of your situation (if this is what you want).

The police do not listen in when you are talking to your lawyer. Everything you say to your lawyer is confidential. Without your permission the lawyer must not talk to anyone about what you have told him/her. This includes the police and the public prosecutor.

If a lawyer is called up for you, he will visit you at the station within 2 hours if possible. You may then talk to your lawyer for a maximum of 30 minutes. Do you know a lawyer you would like to speak to? If so tell the police. If you want to engage a lawyer at your own expense, you will be given an opportunity to call him or her by telephone. Your lawyer can then advise you by telephone, or make an appointment at the station to speak to you. In the latter case the interrogation may be postponed for a maximum of 2 hours in anticipation of the arrival of the lawyer.

After that the interrogation begins, during which your lawyer is also allowed to be present. If you initially said that you did not want to be assisted by a lawyer during the interrogation, you can still change your mind later on.

What can a lawyer do for you during the interrogation?

- The lawyer will sit beside you in the interview room whenever possible.
- The lawyer may ask questions and make comments to the interrogating officer before and after the interrogation.
- At least once in the course of the interview you or your lawyer may ask for a pause to consult one another.
- If you do not understand questions or remarks, if you are placed under improper pressure, or if you are unable to be questioned further because of your state of health, the lawyer has the right to draw this to the attention of your interrogator.
- When it is over the lawyer has the right to ask to examine the official report of the interrogation (the proces verbaal) and point out any inaccuracies it may contain.

B You have been invited by the police for questioning at the police station

You have been invited for questioning by the police because you are suspected of committing an offence. This means the police are entitled to ask you questions. You must be able to identify yourself so take legitimate identification with you, a passport or driving licence for example. The police will draw up a report (proces verbaal) of the interrogation.

Your rights:

- You have the right to know what offence you are suspected of committing.
- You do not have to answer (you have the right to remain silent).
- You are entitled to speak in confidence to a lawyer before the interrogation
- You are entitled to have a lawyer present to assist you during the interrogation.
- Tell the police, before, during or after the interrogation, if there is something you do not understand.
- You are entitled to examine the documents, if there are any.
- The public prosecutor may in some cases order that you are not permitted to examine the documents. In that case he will inform you to that effect.

Consulting a lawyer

You have been invited for questioning by the police. At this point you may already want to contact a lawyer. He can give you information and legal advice. The lawyer is also permitted to be present during the interrogation. If you decide to engage a lawyer the costs will be for your own account.

What can a lawyer do for you?

A lawyer is there exclusively to represent your interests. Before you are interrogated the lawyer can do the following things for you:

- Explain the offence you are suspected of committing.
- Give legal advice.
- Tell you what is involved in a police interrogation.
- Tell you your rights and obligations.
- Contact your family or employer to tell them about your situation (if this is what you want).

Everything you say to your lawyer is confidential. Without your permission your lawyer is not allowed to talk to anyone about what you have told him. This includes the police and the public prosecutor.

What can a lawyer do for you during the interrogation?

- The lawyer will sit beside you in the interview room whenever possible.
- The lawyer may ask questions and make comments to the interrogating officer before and after the interrogation.

- At least once in the course of the interview you or your lawyer may ask for a pause to consult one another.
- If you do not understand questions or remarks, if you are placed under improper pressure, or if you are unable to be questioned further because of your state of health, the lawyer has the right to draw this to the attention of your interrogator.
- When it is over the lawyer has the right to examine the official report of the interrogation (the proces verbaal) and point out any inaccuracies it may contain.

C What happens after you have been interrogated?

Once all the interrogations and investigative activities are complete the police bring the matter before the public prosecutor who then makes a decision about the case on the basis of the entire file. That file contains the report of your interrogation as well as other information, such as a statement from the victim, witness statements and recommendations from the probation service and/or Victim Support. The probation service advises on how to settle the case on the basis of the records thereof (official report) and/or the information from the probation file if there is one. The probation service may also have an interview with you if there is reason to do so.

Is the investigation over? And is the public prosecutor of the opinion that there is no proof that you committed the offence? If so the case will be dismissed. This means you will not be further prosecuted. You will be informed thereof by a letter to your home from the Public Prosecution Service. Is the public prosecutor of the opinion that there is sufficient evidence to show that you are guilty? If so he will proceed to settle your case as quickly and thoroughly as possible. In doing so he will taken into account your personal circumstances (whether you have a previous conviction), the seriousness of the case, the advice of the probations service regarding the risk of reoffending, and the interests of the victim.

Your case may be settled in a number of different ways:

Dismissal: Your case may be (provisionally) dismissed. In that case you will not be prosecuted. Conditions may be attached to the decision to dismiss your case however, which you must comply with. Such as a ban on contact with the victim, and/or probation supervision with special conditions. What happens if you fail to comply with these conditions? Or if you commit another criminal offence? In that case you could still be summoned in relation to the matter in question. Which means you would have to appear in court after all.

Penalty order issued by the public prosecutor:

If the public prosecutor is of the opinion that you are guilty he may impose a penalty order on you. A penalty order may involve a fine or a community punishment order for example. Or a disqualification from driving and/or a behavioural intervention (such as a ban on contact with certain persons, or compulsory contact with the probation service).

Do you want to settle your case immediately. In that case you can pay the fine directly at the police station. This is only possible if you were able to consult a lawyer in advance. Can you pay immediately? In that event the case is definitively settled. This will mean that you can no longer object to (resist) the penalty order. Has the public prosecutor decided to impose a driving ban or community punishment order? In that case you will be questioned about the matter first. You may consult a lawyer prior to this hearing. Your lawyer is also permitted to be present during this hearing.

Do you want your lawyer to be present at the hearing? In that case the hearing will be held at another time if necessary. Have you decided not to consult a lawyer? In that case the hearing can usually be held immediately. A video connection may also be used to conduct the hearing.

Out-of-court settlement: The public prosecutor may offer you an out-of-court settlement. This means certain conditions will be imposed on you. If you comply with these conditions you will avoid further prosecution. The most important of these conditions are: payment of a sum of money, a compensation payment for the victim or the relinquishment of seized property. If you do not comply or do not comply in time with these conditions you will have to appear in court. In certain circumstances you can also pay an out-of-court settlement immediately, if you have no fixed place of abode or residence in the Netherlands for example.

Court: Your case may also be brought before the court. In that case you will receive a summons. The summons will state the offence you are accused of committing and the date, time and place at which your criminal case will be tried.

Criminal record?

Have you decided to accept a penalty order issued by a public prosecutor? Or to accept an out-of-court settlement proposal from the public prosecutor? In that case an entry will be made in the judicial records (criminal record). This may mean that you can no longer obtain the certificate of good conduct (VOG) needed for a new job or work experience placement. A lawyer can tell you more about this. Ask the police for the separate folder in which the consequences are explained. For more information go to: www.justis.nl/producten/vog.



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Colophon

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