

Interacting with the Bureau of Indian Affairs (BIA) in Wyoming

**KNOW YOUR
RIGHTS**

NO ONE IS
ILLEGAL
ON
STOLEN LAND

**ACLU
WY**

NO ONE IS
ILLEGAL



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Being stopped by police is a stressful experience that can go bad quickly. Here we describe what the law requires and also offer strategies for handling police encounters. We want to be clear: The burden of de-escalation does not fall on private citizens — it falls on police officers. However, you cannot assume officers will behave in a way that protects your safety or that they will respect your rights even after you assert them. You may be able to reduce risk to yourself by staying calm and not exhibiting hostility toward the officers.

The truth is that there are situations where people have done everything they could to put an officer at ease, yet still ended up injured or killed.

ACLU Wyoming

Please note. This handout is a resource, not legal advice. It is provided for informational purposes only. Wyoming may revise its laws after this is printed or published online. If you believe your rights have been violated or for more information on your rights, contact us at aclu-wy.org or email acluwy@aclu.org.

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GENERAL INFORMATION

Tribal sovereignty and law enforcement

Various officers might question you or ask you to agree to an interview where they would ask about your background, immigration status, relatives, colleagues, and other topics.

Most Indigenous tribes have tribal sovereignty, which means that they govern themselves and can create/enforce their own laws. This includes the ability to establish their own law enforcement and court systems. The Tribe's laws, constitution, or court systems are approved by the BIA under authority by the Indian Reorganization Act. However, which police force — tribal, state, or federal — has jurisdiction over a crime committed on a reservation can be complex.

It can depend on

- Where the crime takes place
- Whether the victim or suspected offender is Indigenous
- What the crime is

Which law enforcement officers might question me?

Various officers might question you or ask you to agree to an interview where they would ask about your background, immigration status, relatives, colleagues, and other topics.

This could include

- Local Police
- Sheriff
- State Patrol
- Immigration and Customs Enforcement (ICE)
- Customs and Border Protection (CBP aka Border Patrol)
- Bureau of Indian Affairs (BIA)
- Tribal Police

The difference between BIA and Tribal police

- BIA officers are employed by the federal government to enforce certain federal laws on Tribal reservations.
- Tribal police are officers hired by the Tribes themselves to enforce Tribal laws.
- However, there can be — and often are — some overlap between these groups.
- Federal BIA officers can be granted authority to enforce Tribal or state laws within the reservation.
- Tribal officers can be cross-deputized to enforce state laws in addition to Tribal laws in some circumstances.

If you're stopped by police on the street

- You don't have to have to answer any questions. Just say, "I don't want to talk to you" and calmly walk away.
- If you don't feel comfortable doing that, ask if you are free to go. If the answer is yes, calmly leave.
- If the officer says you are not under arrest, but you are not free to go, then you are being detained. Being detained is not the same as being arrested, though an arrest could follow.
- In order to detain you in this way, the police must have a reasonable suspicion that you are engaging in criminal behavior. Once detained, the police can pat down the outside of your clothing only if they have a reasonable suspicion that you are armed and dangerous.
- If they search any more than this, say clearly, "I do not consent to a search."
- If they keep searching anyway, do not physically resist them. Remember, you do not need to answer any questions if you are detained or arrested.
- Law enforcement officers may ask for your name and/or ID once you have been detained. You can be arrested in some states for refusing to provide it, but not in Wyoming.

Do I have to answer questions about my status, where I was born, where I live, where I am from, or other questions?

- Law enforcement should not and does not need to question you about any of that and you do not have to answer any questions.
- BIA or Tribal Police often ask questions about whether a person is "Indian," which means an enrolled member of a federally recognized Tribe.
- They do this because the answer may affect whether they have jurisdiction over the interaction. However, the Supreme Court recently held that it is not practical for officers to require proof that "a suspect is non-Indian." [U.S. v. Cooley, 141 S.Ct. 1638, 1645 \(2021\).](#)

If stopped in a car

- Keep your hands visible.
- You must show your driver's license, registration, and proof of insurance if you are asked for these documents.
- Officers can ask you to step outside of the car and they may separate passengers and drivers from each other to question them and compare their answers. No one has to answer any questions.



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If you do not want your car searched, clearly state that you do not consent. The officer cannot use your refusal to give consent as a basis for doing a search.

Compared to your home, authorities have more flexibility to search your vehicle without a warrant.

While they cannot search a vehicle that has been pulled over solely for a routine traffic stop, if they before or during the stop they have probable cause to believe that evidence of a crime or other contraband is within a vehicle, they may search it for those items without a warrant.

BIA and Tribal Police at home

Generally, the same rules apply but depending on the circumstances, the warrants may have different laws that apply to them.

BIA officers are federal law enforcement officers and must comply with the Fourth Amendment when conducting searches.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Can law enforcement officers search my home?

Tribal officers conducting a search related to violations of Tribal law must also obtain a warrant before searching a home. A Tribal search warrant will be a written order signed by a Tribal judicial officer and directed to Tribal law enforcement. But the Indian Civil Rights Act, rather than the Fourth Amendment, applies to these searches. However, the Indian Civil Rights Act contains the same language as the Fourth Amendment so there is no practical difference.

BIA and Tribal Police at work

Law enforcement can only search your workplace if they have a warrant signed by a judge or the consent of the employer. If your employer consents to a search of your office, law enforcement officers can search your workspace whether you consent or not. However, your employer can only grant consent for officers to search areas where they retain some measure of access or control.

Whether a workplace is on or off the reservation matters. Generally warrants cannot go outside of their jurisdiction.

Warrants

A **search warrant** is an order signed by a judge that authorizes the government to search for specific objects or materials at a definite location. The police, BIA, or Tribal Police cannot search unless:

- You give them your consent, which you do not have to give.
- They have “probable cause” to believe that criminal activity is likely taking place.
- You have been involved in a crime.
- There is clear evidence of a crime.

Both the BIA and Tribal police will use warrants in the same way.

Remember, Tribal police will use a Tribal search warrant that will be a written order the name of the Tribal court, signature of a Tribal court judge, and is directed to Tribal law enforcement.

There may be some minor differences in appearance, but if it's a search warrant, it may have a case caption or a sworn affidavit of a Tribal police officer attached.

If it's an arrest warrant, it will have a case caption naming that person as a defendant and most likely a case number already assigned.

Filming and photographing law enforcement **When you are lawfully present in any public space, you have the right to photograph anything in plain view:**

- Federal buildings
- The police
- Police vehicles

Keep in mind:

- On private property, the owner may set rules about photography or video.
- Who is seen in the background.
- Police may not confiscate or demand to view your digital photographs or video without a warrant, nor may they not delete your photographs or video under any circumstances.
- The only exception to this rule is that police may be able to seize a camera if they believe it contains evidence of a crime.
- However, even in this situation, the police would not be able to view the camera's content without a warrant from a judge.
- If you are videotaping, be aware that there is an important legal distinction between a visual photographic record (fully protected) and the audio portion of a videotape, which some states have tried to regulate under state wiretapping laws.

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Suggestions to protect your audio/visual content

To best protect any content you record, it is recommended that you record on your phone and upload the content to a secure cloud as soon as possible.

It is also advisable to ensure that your phone is locked when it is not in use and to turn off facial recognition and touch ID; instead, lock your phone with at least a 6-digit pass code.

If you get arrested

- If you are arrested, you do not have to answer any questions or volunteer any information.
- Ask for a lawyer right away.
- Repeat this request to every officer who tries to talk to or question you.
- You should always talk to a lawyer before you decide to answer any questions.
- **DO NOT SIGN ANYTHING.**

Trans Wyomingites: Know Your Rights

Here are some of the things that trans individuals should expect when going into holding after being arrested:

- Regardless of what type of facility is at issue, trans individuals should not be searched or physically examined solely to determine their gender. Instead, officials should talk with detainees, review medical records, or have a broader medical examination conducted in private by a medical professional.
- Facilities are expected to train their staff in how to conduct cross-gender pat-down searches and searches of transgender and inter-sex detainees in a professional, respectful, and least intrusive manner possible that is consistent with security needs.
- There is a standard that prevents facilities from deciding where to house trans inmates based on their external genital anatomy.
- If people in holding are taken out of their street clothes and placed into a facility clothing, then transgender individuals should be given gender-appropriate clothing and grooming supplies, and be allowed to present them self consistently with their gender identity.
- If any of these guidelines are violated, threats are made, or if the individual encounters anything else that concerns them they should report it to the staff in writing.

Remain silent until talking to a lawyer

Anything you say to a law enforcement officer can be used against you and others.

Keep in mind that lying to a government official is a crime, but remaining silent until you consult with a lawyer is not.

Even if you have already answered some questions, you can refuse to answer other questions until you have a lawyer.

Your right to an attorney

- You have the constitutional right to talk to a lawyer before answering questions, whether or not the police tell you about that right.

The lawyer's job is to protect your rights:

- Once you say that you want to talk to a lawyer, officers should stop asking you questions.
- If they continue to ask questions, you still have the right to remain silent.
- If you do not have a lawyer, you may still tell the officer you want to speak to one before answering questions.
- If you do have a lawyer, keep their business card with you. Show it to the officer, and ask to call your lawyer.
- Remember to get the name, agency, and telephone number of any law enforcement officer who stops or visits you, and give that information to your lawyer.

Important terms and definitions to keep in mind

Facility

A place, institution, set of buildings, structure, or area that is used by an agency for the confinement of individuals.

Jail

A confinement facility of a federal, state, or local law enforcement agency whose primary use is to hold people pending adjudication of criminal charges, people committed to confinement after adjudication of criminal charges for sentences of one year or less, or people who are awaiting transfer to a correctional facility.

Lockup

A facility that contains holding cells, cell blocks, or other secure enclosures that are under the control of a law enforcement, court, or custodial officer; and primarily used for the temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.

Prison

An institution under federal or state jurisdiction whose primary use is for the confinement of individuals convicted of a serious crime, usually in excess of one year in length, or a felony.