

Know Your Rights

Note: The information contained in this brochure provides only general information to assist you; it is not a substitute for legal advice from an attorney.



ADD 1133 S Edwin C Moses Blvd
Suite 306
Dayton OH 45417-4094

WEB www.homefull.org
TEL 937.293.1945
FAX 937.293.8150

Know Your Rights!

Throughout the country there have been an increasing number of incidents in which the civil rights of homeless people have been violated. Some cities have passed laws that essentially target homeless people and have selectively enforced already existing laws against them. Such actions may be unconstitutional. Homeless people and advocates around the country have led successful campaigns to overturn such discriminatory practices.

Homefull participates in regional and statewide efforts and the National Homeless Civil Rights Organizing Project, created by the National Coalition for the Homeless to address the systematic violations of the civil rights of homeless people.

To report a violation of your rights, police harassment, a violent crime against a homeless person, or for other assistance, please contact Homefull.

Three Possible Police Stops

Casual Encounter: The officer is inviting you to talk. Ask if you are free to go. If not, you are being detained.

Detainment: The officer has “reasonable suspicion” that you were involved in some activity and stops for questions and investigation. Ask the reason why you are being detained.

Arrest: The officer has probable cause to believe you committed a crime and places you in custody, so that you are no longer free to go.

Regardless of the type of stop, you have the right to remain silent. You don’t have to answer questions and you may stop at any time. What you say to an officer may later be used against you.

Casual Encounter

If an officer stops and questions you, ask if you are free to go. If you are free to go, you have the right to leave. However, if you run, that may give police reason to take you into custody.

If you voluntarily speak to the police you have the right to stop and remain silent at any time. Also, during conversation, the police do not have to tell you why they want to talk to you or that they have reason to believe you are involved in a crime.

They may attempt to get you to speak, but you have the right to stop the conversation and remain silent at any time.

Detainment

If you are not free to go, you are being detained.

The police must have “reasonable suspicion” to detain you.

You have the right to ask why you are being detained. The officer does not have to tell you the reason but must justify why if the matter goes to court.

The police may detain you only for a reasonable amount of time while they question you.



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If you are detained and the police ask you questions you have two rights:

- The right to remain silent – remember that anything you say to the police can be used against you in court.

The right to consult with counsel.

If and only if the police have reasonable suspicion that you have a weapon, or have committed a crime, do the police have the right to frisk you. This is called a “pat-down.” Unless you are arrested, they are only allowed to feel for the weapon, not to search your pockets, bags, vehicle, or possessions.

Arrest

If you have been ticketed before and failed to pay the fine or go to court, a capias warrant will be issued for your arrest.

The police have the right to arrest you without a warrant only if they catch you committing a misdemeanor or felony crime.

If you are arrested the police must read you your two Miranda Rights:

- The right to remain silent, remember that anything you say to the police can be used against you in court.
- The right to consult with counsel.

You may use these rights at any time while you are in custody, even after you begin speaking in the event you say something.

Once you are arrested the police may search your pockets, your belongings and anything else within your immediate control.

Resisting Arrest

It is illegal to knowingly, recklessly, or by force, resist arrest or interfere in someone else’s arrest.

Penalties could be higher if you show or use a deadly weapon during arrest.

Search And Seizure

During detainment the police have the right to frisk you only if they have reasonable suspicion that you have a weapon or are dangerous. They cannot go through your pockets, bags, or belongings.

Once you are arrested the police may search your pockets, your belongings and anything else within your immediate control.

The police can also search you at any time if you consent to the search. If you do not consent, state respectfully and loudly, “I do not consent to this search.”



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Use of Force

Police officers can only use force when arresting a person who resists arrest, and even then the force must be reasonable. Once taken into custody this force should not continue.

The police may use deadly force only if you threaten the officer with a weapon or the officer reasonably believes a life is threatened.

Criminal Trespass

You may only enter or remain on someone else's land or premises if you have permission or if the owner or occupier has not restricted use of the land or premises.

You can be found guilty of criminal trespass if:

- A posted notice, such as a "No trespassing" sign comes to your attention

Someone tells you of restrictions

There is fencing or other enclosure designed to restrict access

The owner or occupier of premises tells you to leave

Loitering

You can only be on school property before 7 a.m. and after 4:30 p.m. unless you are a student enrolled in the school, an employee of the school, or are authorized to be on the property.

You may not block, either in a group or individually, the general public from use of public or private buildings or from entering or exiting such buildings.

You cannot loiter (hang around) in or near public places for the purpose of asking another to have sex for hire.

Loitering is considered:

- Beckoning to, stopping, or attempting to stop another person;
- Engaging or attempting to engage in conversation with another person;
- Stopping or attempting to stop the operator of a vehicle or approaching a parked vehicle;
- Stopping or attempting to stop another person so that the person will approach your vehicle; or

Interfering with the free passage of another person.

Obstructing Official Business

You may not prevent, obstruct, or delay the performance by a public official acting in his authorized capacity by doing any act which hampers or impedes a public official in the performance of his lawful duties. Public officials include police officers and detectives.



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Public Indecency

You cannot masturbate, engage in sexual activity, or expose the private parts of your body when persons who are not part of your household can see you.

When persons who are not part of your household can see you, you cannot do things that would look like sex or masturbation to an ordinary observer.

Urination or defecation in public could be considered violations of this statute.

You can swim or bathe in public waters only if you have written permission from the Director of Parks, Recreation, and Culture. Public waters include any lake, pond, river, stream, pool, or any other body of water owned or operated by the city.

Disorderly Conduct

You cannot cause inconvenience, annoy, or cause alarm to another person by doing any of the following:

- Fighting or threatening to harm a person or property;
- Making unreasonable noise or offensively vulgar remarks, gestures, or abusive language;
- Insulting, taunting, or challenging another in a way that is likely to provoke a violent response;
- Hindering or preventing the movement of a person on a public street, road, highway, or right-of-way;

Creating a condition that is physically offensive or creating a risk of physical harm to a person or property.

Conduct & Offenses Related To Intoxication

You cannot drink beer or any intoxicating liquor, or possess an open container in a public place unless the drink is bought and consumed on the premises, such as a bar, that have a permit for serving alcoholic beverages.

You cannot drink beer or any intoxicating liquor in a motor vehicle. This applies to both passengers and drivers and to both parked and moving vehicles.

You cannot walk or be on a highway if you are under the influence of alcohol or any drug of abuse to a degree that renders you a hazard.

While intoxicated, you cannot do any of the following:

- Engage in conduct that is likely to be offensive, to cause inconvenience, annoy, harm, or alarm a person;

Engage in conduct that creates a condition that presents a risk of physical harm to person or property.



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SPECIFIC LAWS THAT APPLY TO THE CITY OF DAYTON

Prohibition To Enter Vacant Buildings

If a Dayton Housing Inspector orders vacation of a building or structure that has previously been used as a home, you cannot use the building or structure again for human habitation unless you have written approval from the Housing Inspector.

Junk Vehicles

If you have a junk vehicle, you cannot store, park, or have it on private or public property within the city, for longer than 48 hours. A junk vehicle is a vehicle that is three years old or older, has missing wheels, missing or deflated tires, missing motor, or missing transmission, costs less than \$400, is inoperative, or is unlicensed or improperly licensed.

Peddlers

If you want to sell something on the streets, you must get a \$25 permit from the City.

Panhandling

You can ask for money as long as you have with you a permit from the City of Dayton Police. But, even if you have a permit:

- You cannot ask a child to ask for money.

You cannot ask for money after sunset or before sunrise.

You cannot ask for money at any of the following places:

- Bus stop
- Public transportation vehicle or facility
- In any vehicle within the public right-of-way
- Within 20 feet of any entrance or exit of a bank, savings and loan association, credit union, or check cashing business during business hours or within 20 feet of an ATM (cash machine) during the time that it is available for the customer's use
- Sports stadium
- Bar
- Dayton Aviation Heritage National Historical Park

Private property, unless the panhandler has permission from the owner or occupant.

You cannot ask for money in any of the following ways:

- By obstructing pedestrian and vehicle traffic and/or intimidating pedestrians and drivers
- By coming within 3 feet of the person from whom you are asking for a donation after the person indicates he/she does not want to make a donation
- By blocking the path of a person



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- By following a person
- By making unreasonable noise or offensively vulgar remarks, gestures, or displays or by using abusive language, during or following a refusal
- When you are in a group of 2 or more

By making any statement, gesture, or other communication that the person being asked for a donation would perceive as a threat.

By knowingly making false representations, including but not limited to:

- Stating a donation is needed to meet a specific need when you have the funds to meet that need
- Stating that the donation is needed to meet a need that does not exist
- Stating that you are from out of town and stranded, when that is not true
- Wearing a military uniform or other indication of military service, when you are not now nor ever have been a member of the military
- Wearing or displaying an indication of physical disability, when you do not have a physical disability
- Using makeup or devise to simulate deformity

Stating that you are homeless, when you are not

Know Your Rights!

This brochure was a collaborative effort between Homefull and the University of Dayton Law Clinic. Homefull is a comprehensive day shelter and leading provider of advocacy, education and service to homeless men, women and families in Montgomery County. Our vision is “a community where there is no homelessness.” Our mission is “to actively counter all causes and conditions of homelessness through advocacy, education and service. The University of Dayton Law Clinic is a state-of-the-art teaching law office at the University of Dayton Law School in Dayton, Ohio. Under the supervision of full-time law professors who are also licensed attorneys, third-year law students represent real clients from the greater Dayton metropolitan area while developing their professional skills.

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