

# **Know Your Rights For Encampment Residents**



# Disclaimer

You probably already know there can be a big difference between the law and what the cops do.

**Be smart. Stay as safe as you can.  
Watch each others' backs.**

**Also, this is legal information about  
your rights, not legal advice.**

**Have people's  
backs and they  
will have yours.**

Prepared by:  
**Ontario Coalition  
Against Poverty**

# Documenting Cops Cont'd

You have a right to monitor the police, including videotaping.

Give the cops their space but you can assert your right to keep filming if they tell you to stop.

You do not have a right to interfere with police.

If you interfere with a search or arrest (which could include talking to someone who is under arrest) you could be charged with obstruct police.

If you document cops illegally entering tents or other abuses in encampments, tell someone from:

Sanctuary  
25 Charles Street East  
416-922-0628

Ontario Coalition Against Poverty (OCAP)  
416-925-6939

# When Can Police Search You?

**There are very specific reasons police are allowed to search someone if:**

1. **Under arrest:** they can search you and your immediate surroundings (i.e. bag, pockets) for evidence and weapons for officer safety (cops consider needles, scissors and all kinds of stuff potential weapons).
2. **Detained:** they can pat you down to check for weapons for officer safety (and possibly check your bag - depending on the situation).
3. There's a **warrant** for a specific location: you have a right to see the warrant.
4. There are **reasonable grounds** to think you have evidence and there are exceptional circumstances so it isn't practical to get a warrant - like evidence will be destroyed or there is concern for officer safety.
5. **You let them.**

If you or your tent are searched, make notes about the details of the search. You can ask someone to document it in addition to this - see Documenting Cops.

# When Can Police Enter/Search Your Tent?

1. It is **incident to arrest**: if you are arrested in, beside or very close to your tent, a search of your tent may be found to be legal. This is basically the same rule that lets cops search your bag when you are arrested.
2. With a **warrant**: if the cops have a warrant - you have a right to see the warrant and make sure it has all the correct info.
3. **If you let them**. This could include if you open your tent wide enough for them to enter.
4. Other reasons: **chasing someone** who committed a crime (who entered your tent; to **prevent immediate** serious injury or death; to give **emergency aid**; help someone who has reported **domestic violence** get their stuff; if they think there is a **drug lab**; help an **animal in distress**. If they see drugs or weapons in one of these situations, they can legally enter the tent.
5. **If your tent is open, they can look inside without entering**. If they see drugs, weapons, etc. they can enter.

# Documenting Cops

## If you have a phone:

- Videotape what the cops are doing.
- If you can't make a video, make a call to a friend's voicemail (you can also leave a message on the Ontario Coalition Against Poverty's machine 416-925-6939) and narrate what is happening.

## No phone:

- Write down what is happening. If you can't do it at the time, remember what you can and write it down later.

## Information you want to get:

- Date, time, and exact location
- Cop's name, badge number, and description
- Witnesses' names and contact info
- Vehicle numbers for any police cars involved
- A full description of police actions
- A list of everything they took from a tent
- Anything else you think could be important

# Security Guards

## Two kinds of security guards:

### **Special Constables:**

These are kind of like police deputies and mostly include TTC cops, TCHC security, Ryerson & UofT security and Court Services. Basically, you should treat them like cops on their turf. So UofT security are like baby cops on UofT property but not at Ryerson. City of Toronto security guards are not special constables.

### **Regular Security Guards:**

These are the assholes who follow you around at the store or protect private property (over the lives of poor people). They may have uniforms, look and act like cops but they are far from it. Security guards only have the same power as a normal person does - the power of citizen's arrest, trespass law, and being an asshole.

In City parks (and other lands): only City officials (or people hired by the City to act on the City's behalf) can enforce City rules.

## If the Cops Try to Enter or Search Your Tent:

### You can tell them:

"This is my only dwelling."

"I have a reasonable expectation of privacy."

"According to s. 8 of the Canadian Charter of Rights and Freedoms police cannot enter this tent without a warrant."

"I do not consent to the search of this tent or the seizure of any property inside."

## If the Cops Try to Search You:

### You can ask them if you are arrested or detained.

If they say "no," you can say: "then I am free to go" and walk away or go in your tent, zip it up and ignore them.

If they say "yes," you are legally obligated to stay.

If they say they are going to search you or your tent can tell them: "I do not consent to this search." Resisting them could lead to criminal charges.

# What if you are arrested?

## You have to tell them:

- Your name
- Your date of birth
- Your address

## You have the right:

- to remain silent.
- to a lawyer.
- to know what the charges are.

You don't have to tell your immigration status or gender identity; but, you have the right to be held with the gender you ID as. (Only M & F are recognized).

## What is your address?

You have two options:

1. Say you are homeless
2. Give the best possible address (e.g. 2 person blue Coleman dome tent, SE corner, Allan Gardens, 160 Gerrard s. E.).

**Pro:** It might help you show that the tent is legally your dwelling home and better assert your rights not to be searched there.

**Con:** This makes it easier for the cops to find you in the future.

# What if You Are Detained?

**The cops can hold you without arresting you if they reasonably suspect you are connected to a crime.**

- You have the right to remain silent.
- You don't have to give your name, address or DOB. But, if it is for a ticket you might want to because they will probably let you go once they have it.
- You don't have to give your name, address or DOB. But, if it is for a ticket you might want to because they will probably let you go once they have it.
- You have the immediate right to talk to your lawyer - even in the park or on the street.

**It is a criminal offence to lie to the police.**