



Guidelines for motorists who are pulled over by the metro police



(NB: These guidelines do not apply to roadblocks!)

MOTORISTS' RIGHTS

It is almost impossible to compile a step-by-step guideline for motorists. The guidelines below focus especially on cases where motorists are pulled over when they are alone – no witnesses, therefore – and especially during night hours when they are confronted by metro police officers. It is important to remember that you should obey all legal orders from police

officers in the bona fide execution of their responsibilities. Report any irregularities in terms of the officers' actions on AfriForum's website at www.afriforum.co.za/en/actions-and-petitions/. Also report any misbehaviour by the Tshwane Metro Police to the department's misbehaviour hotline at 082 891 8025.

WHAT SHOULD YOU DO WHEN YOU ARE PULLED OVER?

If you are pulled over, the officers may only search you and/or confiscate any item if:

1. The traffic police have a reasonable suspicion that you have committed an offense or reasonably think that a warrant of arrest to this effect will be granted to them if they would apply for such a warrant; or
2. If the traffic police are in possession of a warrant for arrest issued in this regard.

You may give consent to be searched, however. If you are arrested in terms of a warrant, the original warrant must be showed to you. You also have the right to a copy of the warrant at a later stage. If your property is confiscated, you are entitled to proof of confiscation. Remember that the officers may use the necessary force to search you if you resist legal searching.

ALCOHOL

No driver of a vehicle may refuse blood or breath tests taken by metro officers. If you refuse, the officer may use the necessary force to obtain such a sample. The officer will request you to blow into a breathalyser. The mouthpiece of the breathalyser may not have been used before and must be taken from its sealed packaging in your presence. If the breathalyser indicates that you are under the influence of alcohol, the officer will arrest you and

take you to the nearest district surgeon. Here, a blood sample will be taken to determine if there are more than the allowable level of alcohol in your blood. The officer may use the necessary force to allow the surgeon to take the blood sample, for example by holding you down. It is very important to carefully note the time when you were tested and when the blood sample was taken.

TRAFFIC OFFENCES

When you commit a traffic offence, the officer may take steps to ensure that legislation is adhere to:

1. The officer may issue a warrant with a date on which you have to appear in court to answer to the charge against you. In most cases, you will be given the opportunity to pay a fine to avoid a court appearance. The fine amount as well as the date on which and place where payment should be made will be indicated on the fine.
2. The officer can inform you of any outstanding fines against you and may also execute any outstanding warrants against you and arrest you. The arrest is then affected in terms of a warrant for contempt of court authorised by a court. This warrant must have the court's stamp. You must respect all summons with a court appearance date.
3. If your vehicle is not roadworthy, the officer may prevent you from continuing to drive it further.

ARREST

A metro police officer may only arrest you without a warrant if:

1. You have committed or attempt to commit a crime in the officer's presence;
2. The officer reasonably suspects you of having committed a Schedule 1 crime¹ (as determined by the Criminal Procedures Act 51 van 1977);
3. You escaped legal custody or are attempting to escape it;
4. You are in possession of anything that the officer suspects to be stolen goods; or

5. You obstruct the officers in executing their duties.

After you are arrested, your rights will be explained to you. (Take note if this wasn't done.)

If you are allegedly arrested because a warrant for your arrest exists, you have the right to ask for a copy of the warrant. (Take note if this isn't done.)

You may not be detained while someone goes to obtain the warrant – you are still free to make calls and obtain legal advice.

HOW SHOULD A MOTORIST NOT ACT?

- **Do not pay bribe money!** It amounts to corruption.
- Do not shout at the officers.
- Avoid any arrogance and confrontation, and do not provoke an argument.
- Do not tell the officers how they should do their jobs.
- Do not physically obstruct the officers from executing their responsibilities, for example by pushing your camera into their faces.
- Do not pay any "fines" there and then, even if the officer

demands you to. AfriForum encourages the public to register on an official platform to remain updated on any outstanding fines.

- NEVER resist arrest. The officer may use force to arrest you legally.
- Cooperate if the officer decides to arrest you. If you resist, the officer may become aggressive towards you and your passengers. If the arrest is illegal, you can later institute a claim against the authorities.

HOW SHOULD A MOTORIST ACT?

In general:

- » Metro police officers in uniform and/or who identify themselves have the right to stop any vehicle at any time in the execution of their duties.
- » If this happens to you, you must, if requested, provide your name and address and any other information in terms of your identity. It constitutes an offense if you refuse to do this, and you may be detained until your identity is confirmed.
- » You have the right to request officers to identify themselves by showing you their certificate of appointment – if the officers refuse, all further actions against you may be illegal.
- » The officer has the right to request and examine your driver's licence.

Practical hints

- » Ask specific questions if your rights are infringed upon, for example: "Why are you searching me? What did I do wrong?"
- » The conversation between you and the officer should be monitored as far as possible. You have the right to record any conversation of which you are part. No officer has the right to confiscate your camera or phone simply because you

are recording the conversation. If other people are involved, everyone should record the conversation, if possible.

- » Obtain as much information as you can and write it down if you cannot record it on your phone.
- » Remain calm.
- » Try to pull over at a public place, such as a garage or the nearest police station, if in any way possible. Avoid creating the impression that you are fleeing, however:
 - Switch on your rooflight.
 - Activate your vehicle's emergency lights.
 - Obey all traffic rules.
 - Make it clear, if possible, that you are planning to pull over.
- » Be courteous and friendly towards the officers.
- » If the officer alleges that you have outstanding fines, you may friendly request written (printed) proof of the details of these fines and that the officer give it the necessary attention.
- » If you are worried about the situation, immediately phone someone that you can trust and who you can explain the situation to, even if it is ongoing commentary.

*This quick guide offers only guidelines and should not be confused with legal advice. AfriForum cannot be held liable for any negative consequences as a result of these guidelines.

¹ Schedule 1 crimes include:

- murder;
- deliberate injury to property; and
- arson.