

[Home](#) > ... > [Your Rights](#) > [Defendants \(criminal Proceedings\)](#) > 2 - My rights during the investigation of a crime and before the case goes to court

2 - My rights during the investigation of a crime and before the case goes to court

What are the stages of a criminal investigation?

Questioning

Individuals who may be assumed to have information which would be useful for the investigation are questioned first. These may include the victim of the crime, the person who is suspected of the crime, if any, or witnesses. A person who is suspected of a crime may be either under arrest or at liberty when questioned.

Various kinds of samples may also be taken and handed over to other authorities for analysis. All questioning is done by the police and only in exceptional cases in the presence of a prosecutor. If you do not speak the language, an interpreter must be available. If there is a reasonable level of suspicion that someone has committed a crime, he or she must be informed of that suspicion when being questioned.

Arrest

If the prosecutor considers the grounds for suspicion to be sufficiently strong, he or she may decide that you should be arrested. In this case there must also be a risk that, if you remain at liberty, you might impede the investigation, or continue to commit crimes, or disappear. The prosecutor must then, within a particular time limit, either release you or request the district court to order your detention.

Detention

If you are suspected of a more serious crime and there are also special reasons for you to be detained, the prosecutor may ask the district court to order your detention. The detention hearing must be held within four days of your arrest. At this hearing the district court will consider whether you should stay in detention or be released. If you are detained, the detention order must be reviewed at prescribed intervals.

Continuing police investigation

Regardless of whether or not you are detained, the investigation will continue to clarify whether there are sufficiently strong suspicions to prosecute you. The investigation must be carried out as quickly as possible, particularly if you are held in detention. If it is necessary for the investigation to continue for a longer period, more detention hearings may be held. When the investigation has been completed, the police will present the investigation to the prosecutor and also to the suspect and the suspect's defence counsel. You and your defence counsel have the right to ask for anything you regard as important to be added to the investigation before the prosecutor decides whether or not you will be prosecuted.

Preparation of the case by the defence

You and your lawyer have the right to produce your own evidence for use in the trial. You and your lawyer are also entitled to meet to prepare for the court hearing.

Prosecution

If the prosecutor believes that he has sufficient evidence against you to have you convicted, he or she must bring a prosecution against you. The charges must make clear what crime you are suspected of and what you have done that is a criminal offence. They must also make clear what evidence against you the prosecutor will be presenting.

For more information about your rights during the various stages of the procedure, click on the links below:

- [Questioning \(1\)](#)
- [Arrest \(2\)](#)
- [Detention \(3\)](#)
- [Continuing police investigation \(4\)](#)
- [Preparation of the case by the defence \(5\)](#)
- [Prosecution \(6\)](#)

Questioning (1)

Why might the police want to question me?

The purpose of questioning is to clarify whether any crime has been committed and, if so, whether you have any information to supply. This applies whether you are a witness, the victim of a crime or suspected of a crime.

Who will be present at the questioning?

You will be questioned by the police. One or more police officers may carry out the questioning. The prosecutor will not normally be present at the questioning. If you are suspected of a crime for which you are entitled to have a lawyer, you can request that a lawyer is appointed for you and is present at the questioning.

If you do not speak the language, you are also entitled to have an interpreter. The police will pay the interpreter's costs. You should normally wait until you have a lawyer present and have access to an interpreter before answering questions. The prosecutor or police will decide who else is entitled to be present at questioning.

What will happen at the questioning?

The police will tell you at the start of the questioning if you are being questioned as a suspect or for some other reason. Your rights will not be read out to you. You have the right both to remain silent and to speak during questioning. Anything you do say may be used against you. The questioning may be either recorded on tape or noted down in the form of a summary of what you have said.

What role does the lawyer play in questioning?

The lawyer's role in questioning is to be available to answer any questions from you and to guarantee that the questioning is done correctly. The lawyer does not have the right to intervene in the questioning if it is carried out correctly. He may, however, be entitled to ask you questions.

Is there anything that is prohibited in questioning?

During questioning, the police are not allowed to use information known to be incorrect, or make promises or offer the prospect of advantages, in order to obtain a confession. Nor may the suspect be threatened, put under pressure or deliberately exhausted. The person being questioned is also entitled to customary meals and necessary rest.

How long can I be held for questioning?

If you are not under arrest, you are not normally allowed to be held for questioning for more than six hours. In exceptional cases you may be obliged to stay for another six hours. After that you are entitled to leave unless you are placed under arrest. Special rules apply to children.

How does the questioning end?

The questioning ends with you being offered the possibility of listening to the recording or having the police notes read out to you. You will then be asked if what has been written down provides a correct picture of what you have said during questioning.

What happens after questioning?

After the questioning the police will report to the prosecutor or police officer leading the investigation on what has emerged. If it is a less serious offence, the report to the prosecutor will not take place until the investigation has been completed. If you are suspected of a crime that may lead to detention, the prosecutor is often sent a report after each round of questioning. The prosecutor will then decide if you are to be arrested or released.

Arrest (2)

When might I be arrested?

If there are grounds for you to be detained, you may be arrested while the court considers the matter of detention. What is required for you to be held in detention is explained in [Detention \(3\)](#). You can also be arrested even if the grounds for detention are not fully met if there are reasonable grounds for suspecting that you committed the crime and it is considered very important that you are detained pending continuation of the investigation.

Who issues the arrest warrant?

It is the prosecutor who decides if you are to be arrested or not. It must be clear from the warrant what crime you are suspected of and why you are being arrested. If the arrest warrant is not cancelled by the prosecutor, he or she must submit a request for your detention to the district court no later than twelve noon on the third day after issue of the warrant. He must otherwise order your release. The district court must hold a detention hearing without delay, but no later than four days after you have been arrested or the arrest warrant has been enforced.

Who can arrest me?

If there are grounds to arrest you, a police officer may arrest you even without an arrest warrant in urgent cases. If you are caught in the act of committing a crime which can lead to a prison sentence or fleeing from the scene of such a crime, you may be arrested by anyone. The same applies if you are wanted for a crime. The person who arrests you must, however, hand you over to a police officer as quickly as possible.

Can I see a lawyer?

If you are arrested, you have the right to ask for a public defence counsel to be appointed for you. This will be done by the district court at the request of the prosecutor.

What happens during the time I am under arrest?

During the time you are under arrest the police have the right to question you further. The same rules then apply as in the previous rounds of questioning.

What rights do I have during the time I am under arrest?

During the time you are under arrest the prosecutor may decide that you will not be allowed to contact whoever you want. If you require a doctor or need to contact your embassy or consulate, it is the duty of the police to act as go-between for this. You are also always entitled to contact your lawyer and meet him or her without anyone else being present. You will normally be held in a police cell during the period of arrest.

Detention (3)

When might my detention to be requested?

If there are probable grounds for suspecting you of a crime for which the sentence can be one year or more in prison, a request can be made for you to be held in detention. However, there must also be a risk that you will

- abscond or avoid trial or serving of a sentence, or
- while at liberty dispose of evidence or in some other way impede investigation of the case, or
- continue to commit crimes.

If the lightest sentence for the crime is two years in prison, you will normally be held in detention unless it is evident that there are no grounds for detention.

Regardless of how serious the crime is, the court may order your detention if you are unknown and refuse to give your name and address or there is reason to believe that the information you have given is false. You may also be held in detention if you do not have a place of residence in Sweden and there is a risk that you will elude trial or the serving of a sentence by leaving the country.

In some cases you may also be detained even if there are only 'reasonable grounds' for suspecting you of a crime. This is a lower degree of suspicion than 'probable grounds'.

If there is reason to believe that the sentence will be only a fine, you cannot be detained.

Is there anything in my personal circumstances that may mean that I will not be detained?

The court will have to weigh up the need for detention against what it means for you to be detained. If the consequences of detention would mean excessive intrusion or harm for you, you may not be detained. This issue may become relevant if the investigation takes a long time, for instance.

What if I am under 18 years of age?

There are special rules for young people between the ages of 15 and 18. These rules mean that more is required for them to be held in detention. Either the crime must be very serious, or there must be other very important grounds for detaining them.

Do I have the right to speak to a lawyer and have an interpreter in the detention hearing?

You will personally be present at the detention hearing held in the district court together with your public defence counsel, who will be a lawyer. You are always entitled to have a public defence counsel if your detention has been requested. If you need an interpreter, this person will also take part in the hearing and translate everything that is said.

What will happen in the detention hearing?

In the hearing the prosecutor will say what you are suspected of. You will also have an opportunity to speak for yourself. The prosecutor, your lawyer and the judge all have the right to ask you questions. You decide for yourself whether or not you wish to answer the questions. Normally neither the victim of a crime nor witnesses are questioned in the detention hearing. But what you have said when questioned by the police may be read out. The prosecutor can also describe the outcome of forensic or medical examinations.

The detention order

After the proceedings, the district court will retire to consider if you should be held in detention or not. The district court will then announce its decision in your presence. If you are not detained, you have the right to leave immediately. If you are held in detention, the court will decide at the same time the latest date by which the prosecutor must commence proceedings. The district court will usually decide that a prosecution must be brought within two weeks of the detention order. While waiting for the main hearing to be held in the district court, you will be held in custody.

What happens if the investigation is not finished by the date set by the district court?

If you are still a suspect when the time limit set by the district court for proceedings to be initiated has expired and the investigation has nevertheless not been completed, the prosecutor can request a longer time to bring a prosecution. A new hearing may be necessary to examine whether you should continue to be held in detention. These new hearings are often held by video-conferencing, meaning that you take part from your place of detention in the company of your lawyer, the prosecutor takes part from his or her office, and the judge sits in the courtroom at the district court.

What happens if I am detained at a lower level of suspicion?

If you are detained as a suspect of a crime on the basis of 'reasonable grounds', the prosecutor must present further evidence against you within one week so that the suspicions are reinforced to reach the level of 'probable grounds'. You must otherwise be released.

What happens in the case of a European Arrest Warrant?

If a [European Arrest Warrant](#) is issued in any other Member State, this request can be examined by a court in the country where you are located. The court will then decide whether you should be extradited to the country that has requested this. You are also entitled to speak to a lawyer and have an interpreter at these hearings. A prosecutor may decide before these hearings take place that you should be arrested, and the court may decide that you should be held in detention until it is possible to extradite you. The court will not consider the question of your guilt but only the question of whether the formal requirements for extradition have been met.

What restrictions might there be on my right to have contact with other people?

At the time when it decides on your detention, the district court will also decide whether the prosecutor should have the right to limit your contacts with the outside world, that is to say reading newspapers and watching television, as well contacting friends and family. The same applies to your opportunities to mix with other detainees. It is the prosecutor who decides the extent of these restrictions. However, you are entitled to contact your lawyer and your embassy at any time.

Do I have the right to send and receive post?

You are entitled to write letters to anyone you want, but all post from and to you will be read by the prosecutor. If the letters contain anything about the suspected crime, the letter will either not be forwarded to the recipient or those parts of the text will be made illegible. Your correspondence with your lawyer will never be read by anyone else, whatever the letters contain.

Can I appeal against the detention order?

If you are dissatisfied with having been detained, you can appeal against the detention order to the Court of Appeal. The Court of Appeal will then study the documents from the district court without holding a hearing and will consider whether you should be held in detention or not. It is possible for the decision of the Court of Appeal to be referred to the Supreme Court, but special grounds are required for your appeal to be heard there.

Can anything happen that results in my being released?

If there are no longer grounds for you to be held in detention, the prosecutor must order that detention should cease. This may be because the evidence against you has weakened, or there may no longer be special grounds for keeping you in detention because, for example, it is no longer thought that you might impede the investigation. If the court decides in a new detention hearing that there are no longer grounds for you to be detained, the court must order your immediate release.

Can I be released on bail?

It is not possible to be released on bail in Sweden.

Continuing police investigation (4)

Will the police only produce evidence that is to my disadvantage?

In conducting their investigation, the police are obliged to produce evidence to your advantage as well as to your disadvantage. If you want any particular individuals to be interviewed by the police, you should discuss this with your lawyer before the request is passed on to the police.

Do the police have the right to carry out searches, take DNA samples, fingerprints etc.?

Provided they have a warrant from the prosecutor, the police have the right to search your home, place of work, car or any other place of relevance to the investigation. This only applies if you are suspected of a crime that can carry a prison sentence. There may also be orders to conduct body searches and physical examinations and take DNA samples. In some cases there may be a need for a doctor to examine if you have any injuries on your body and if these can be linked to the crime you are suspected of committing. If you are arrested or held in detention, you are also obliged to have fingerprints taken and to be photographed.

Do I have the right to study the police investigation?

During their continuing investigation, the police will put together material to provide the basis for the prosecutor's decision as to whether or not you should be prosecuted. Before the prosecutor takes this decision, you have the right to study the whole investigation with the assistance of an interpreter or translator. There will not usually be enough time to translate the investigation into your own language, but you are entitled to learn of the contents by an interpreter reading out to you the contents of the investigation. Your lawyer is also entitled to study the investigation.

What happens if the suspicions change during the investigation?

The suspicions held against you may change during the investigation. This means that further suspicions of crime may be added, while other suspicions may prove to be unfounded or difficult to prove. In addition, changes may occur with regard to what crime you are suspected of committing. The police are obliged to inform you of any such changes in suspicions.

Preparation of the case by the defence (5)

Do I have the right to request additions to the police investigation?

You and your lawyer have the right to request that the police include in the investigation additional matters you think important. This applies both to the questioning of various people and written information or investigations by experts.

It is very important that you carefully review the whole investigation so that the material presented to the prosecutor as the basis for a decision is as complete as possible. Although additions can also be made to the investigation after a prosecution has been started, it may be better from your own point of view to try to get the prosecutor to close the investigation so that you avoid being prosecuted.

Can my lawyer conduct an investigation of his or her own?

You and your lawyer also have the right to carry out your own investigations. The problem is, however, that there is usually limited time in which to carry out these investigations, especially if you are held in detention. In addition, it will generally be difficult for your lawyer to obtain payment from the court for his or her own investigations. But there are no legal obstacles to carrying out your own investigations.

Prosecution (6)

In what circumstances is the prosecutor allowed to bring a prosecution?

If the prosecutor believes that he or she can have you convicted, he or she is entitled to bring a prosecution against you. He will then submit a summons application to the district court stating the crime you are suspected of committing, why you are suspected of the crime and what evidence the prosecutor is presenting.

When must a prosecution be brought?

If you are held in detention, the prosecutor must commence a prosecution within the time limits set by the court. The court will otherwise cancel the detention order.

If you are not held in detention, the prosecutor must initiate a prosecution before the crime has been time-barred. The time-bar for a crime is two years or more. The more serious the crime, the longer the time-bar will be. There is now no time-bar for the prosecution of certain very serious crimes such as murder.

When will the case be heard in the district court?

When a prosecution has been started, the district court will summon you and others who are to be questioned for a hearing. If you are held in detention, the hearing will be held as soon as possible, but no later than two weeks from the date on which the prosecution was commenced.

There are special time limits for young people below the age of 18 years. The main hearing will normally be held within two weeks of commencement of a prosecution.

Is there any alternative to prosecution?

If the crime is not too serious and you plead guilty, you may be ordered to pay a summary penalty instead of being prosecuted. The prosecutor will issue this order and set the level of fine which you are to pay. If you submit an admission of guilt and pay the fine, no trial will take place. You cannot then appeal against the summary penalty order. It will be noted in the record of criminal convictions that you have accepted the summary penalty order.

Related links

[Swedish Courts](#)

[Swedish Prosecution Authority](#)

■ Last update: 22/04/2025

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