

27 September 2022

What to do during a visit from the Police

If the Police come and knock on your door or stop your vehicle -

• **The Golden Rules for all contact -**

- i. Be polite but firm.
- ii. Ask to see identification.
- iii. Record the name of the officer and their station.
- iv. Ask why they are there.
- v. Ask them to refer to the exact statutory authority they are using to visit your home or to ask you any questions.
- vi. Record all conversations and interactions, either via your phone or CCTV cameras (for your own notes and records).
- vii. If they ask you any questions ask “under what statutory authority are you asking me these questions and/or requiring me to answer?” **TIP: there are none.**
- viii. You do not have to answer any questions from the police at any time or for any reason (unless you are detained or are the driver of a car, then your drivers licence must be given and name, address and date of birth only).
- ix. Do not answer any questions about firearms or firearm parts you no longer have in your possession or control, ie. firearms, ammunition or parts you have previously owned and sold or disposed of – refer to (vii) above. If you wish, you can state “*I have always sold and disposed of any arms items lawfully to current, valid firearms licence holders, I do not wish to comment further*”. You do not have to answer questions such as who, when, why or how concerning the sale or disposal, and just repeat the statement above.
- x. Do not consent to a police search of your home or your vehicle at any time.

• **What is the situation -**

- i. If you are a standard firearms licence holder - see Section 1.
- ii. If you are a firearms licence holder with an endorsed licence (for pistol, restricted weapon, prohibited firearm or prohibited magazine) - see Section 2.
- iii. If the police search your home - see Section 3.
- iv. If the police wish to question you - see Section 4.
- v. If your firearms licence has been suspended – see Section 5.
- vi. If you are stopped in your car - see section 6.

Section 1 – If you are a standard firearms licence holder

- You must permit the police to enter your home to inspect all of your firearms you are in possession of, along with your gun safe and security, and your ammunition and where it is stored.

However:

- i) You must be given at least 7 days notice of this inspection occurring.
 - ii) The inspection must be at a “reasonable time”. This is a time that most people in the community would consider to be reasonable, for example 9 am – 5 pm, and also if there was a good reason why it was not reasonable for the householder, for example *“I have a sick child asleep in that room, please come back tomorrow at ...”*.
 - iii) It only applies to firearms and ammunition you are actually in possession of (ie. control of). It does not include firearms that are in another person’s possession, such as a licenced friend, gunsmith or gun dealer etc. There is no requirement to disclose any information about a firearm not currently in your control or possession.
- At no time can the police photograph your firearms.
 - At no time can they record the serial numbers of your standard firearms.
 - Under the Arms Regulations (29), the police may record the quantity and type of each firearm in your possession (note “type” refers to “rifle”, “shotgun” only).
 - It is an offence to refuse to let the police inspect your firearms, ammunition and security without a good reason. This once again only applies to firearms and ammunition you are actually in possession of.
 - You need to produce your firearms licence on demand, but you have 7 days to do this if it cannot be located immediately (s 26 2 of the Arms Act 1983).
 - If you are carrying a firearm in your possession, if stopped, you must allow a member of police to inspect said firearm that you are carrying (not in a vehicle, as this is not carrying but transporting; carrying is “on your body”, in your hands or slung over your shoulder in a gun bag.

Section 2 - If you are an endorsed firearms licence holder

- As a firearms licence holder, as in section 1 above, the police can, at a reasonable time, ask to see individual restricted or prohibited firearms that you hold as an endorsed person.
- For this purpose they may enter the premises to view and inspect the restricted weapon, prohibited firearm or pistol, and the security for it.
- You must be given at least 7 days notice of this inspection occurring, s 24 B (3) (a), as the endorsement for pistols, prohibited firearms and restricted weapons is attached to your standard firearms licence.
- The inspection must be at a reasonable time to inspect your safe and security.
- 5 am in the morning is not a reasonable time. For example, if you have a sick child or guests asleep in the room where the firearms are stored it is therefore not a reasonable time for you as the homeowner. Politely ask them to come back later or set a time with them for another day.
- However, if it is a reasonable time, you must allow them to inspect your endorsed firearm (singular), (pistols, restricted weapons, prohibited firearms or prohibited magazines), and your safe(s) and security.
- It is an offence to refuse to produce a pistol, prohibited firearm or restricted weapon to the police on demand, or to refuse their request to inspect it and the security for it, but this demand to inspect or produce is tempered by the fact that it must be a reasonable time to the home owner, and only if you are actually in possession of the items they are requesting at the time of their demand.
- Remember, there is no such thing as a register of firearms in NZ (until part 104 of the Arms Legislation Act comes into force on 24 June 2023). The police record of endorsed firearms is their own creation. It has no legal basis and is of little concern to you. The permission for you to possess a firearm comes from your endorsement and permit to possess or import that individual firearm.
- You must produce your firearms licence on demand by the police. You have 7 days to comply with this demand if it cannot be immediately located.
- The legal requirement states that the police must identify and ask to inspect a specific identified firearm (by make, model, caliber and serial number). Upon that request the endorsed licence holder must produce it for inspection. It is not a requirement that all

need to be produced for inspection at once. Each separate item must be identified and then produced in turn in order to comply with the conditions on the endorsement.

Section 3 – The Police enter your home via a search warrant, or under the Search and Surveillance Act warrantless search or Arms Act provisions for search.

- Ask – *“Under which enactment are you searching my home?”*
- Ask for a copy of any search warrant.
- Do not answer any questions and say *“no comment thank you”, “ I do not wish to make any statement or answer any of your questions”*. You have a right to silence. If you are detained lawfully by the police you must give your name, address and date of birth, but nothing else. There is no such thing as *“off the record”*. Ask to call your lawyer without delay (Nicholas Taylor – Barrister; 021 362 123).
- You must assist the police in accessing your safes and security for firearms.
- If they demand that you give them security codes, passwords or codes for computers or electronic devices, you can refuse this pursuant to s 130 (2) of the Search and Surveillance Act 2012, by saying *“I do not have to at law as they may contain material that is self-incriminatory”*.
- Record the name of the OC (officer in charge) and record QID numbers (collar tags) of all police staff attending the search.

Section 4 - The Police ask you to attend the police station and/or come to your home and wish you to answer questions, eg. your name is on a “list” of people to be spoken to etc.

- Get the name and QID number (collar tag) of the officer. Ask for identification.
- Ask - *“Under which statutory authority are you requiring me to answer these questions?”*
- Politely and calmly refuse to answer any questions.
- Ask them to leave your property immediately.
- Call a lawyer who can advise or assist you with Official Information Act requests concerning the reasons for their visit and IPCA complaints if appropriate.
- Record the conversations (for your own notes and records).

Section 5 – The police issue you with a suspension of firearms licence notice (s60A Arms Act 1983)

- The Police can, without warning, and at any time of the night or day, appear at your address in force and issue you with a Notice of Suspension of Firearms Licence.
- The Police “might/or may” demand you surrender all of your firearms and arms items to them immediately.
- No offence is committed by you if you refuse this demand.
- Do not invite them into your home.
- The Police may seize your arms items if you refuse, but they **cannot enter** your premises to do so. A notice of suspension of a firearms licence is NOT a search warrant.
- The police will need to seek a search warrant or conduct a warrantless search for this seizure to actually occur. Certain legal requirements need to be met before this can occur and can be challenged.

Section 6 – The police stop your vehicle when you are the driver

- Recent law changes mean that the police have full access and connection between Land Transport NZ and the Firearms Licencing records.
- If you are stopped by the police, for example driving away from a shooting area, gun range or hunting ground -
- You must give them your driver’s licence and give them your name, address and date of birth. Your passengers do not have to give any details or answer any questions at all.
- You do not have to answer any questions about if you have firearms in your car, or any other surrounding questions at all. In a vehicle you are transporting firearms, you are NOT carrying them (24 B(1)(b)) (see Section 1 above).
- The police have no right to search your vehicle without evidence that a potential crime has been committed. Simply adhering to your rights by stating (vii) above, and stating “no comment” or “there is no legal requirement for me to answer that question”, cannot be a reason to invoke a warrantless search on your vehicle; this would be an unlawful police search.
- The police can ask to inspect your firearms and ammunition and where they are kept and view your security arrangements in your vehicle (24B(1) (d)), **but** they must give you 7 days notice of their desire to do this (24B (3) (a)).

- The police cannot stop your vehicle and demand to inspect your firearms on the roadside. Say “*you must give me 7 days notice of this inspection occurring*” and make a time after that with them if they wish.

REMEMBER: A fit and proper person should be one who co-operates with the police within the requirements of the law, but not beyond it.