

if  
you are  
arrested in  
Mississippi

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The following questions and answers are designed to be descriptive of the legal rights of persons arrested in Mississippi. Naturally, they do not purport to serve as a prediction of the treatment which will, in fact, be accorded civil rights workers this summer.

Nonetheless, a knowledge of legal rights is sometimes helpful.

# if you are arrested in Mississippi

## *What is an arrest?*

An arrest is a taking into custody so that the person arrested may be held to answer for a crime.

## *What can you be arrested for?*

Law violations have classifications that are useful for you to know if arrested. "Felony" is the name for the most serious violation. Examples of felonies include murder, rape, and armed robbery. Less serious violations are called "misdemeanors." If and when charges are made this summer most will

probably fall in this category, e.g., breach of the peace, parading without a permit, distributing literature without a permit, traffic violations, disorderly conduct, etc.

### ***What constitutes a lawful arrest?***

An arrest made by a policeman with a duly executed warrant is lawful. Arrests in Mississippi, whether by a policeman or by a private person, may also be made without a warrant in the following circumstances:

- 1) When an indictable offense has been committed, or a breach of the peace has been threatened or attempted, in his presence; or
- 2) When a person has committed a felony, though not in his presence; or
- 3) When a felony has been committed, and he has reasonable ground to suspect the person arrested of having committed it.

In all cases of arrest without warrant, the person making the arrest must inform the person arrested of the object and cause of the arrest, unless the latter is apprehended in the actual commission of the offense or is arrested on pursuit.

It is a crime to resist an officer engaged in a lawful arrest. Thus, a person may be innocent of the charge for which arrested, but may nonetheless commit a crime by resisting lawful arrest. From several points of view, legal and otherwise, it makes good sense to go quietly.

### ***Can the policeman use force to arrest you?***

If you resist a lawful arrest, the policeman can use all necessary force to arrest you. After you have been restrained, he cannot continue to use force, except to keep you under arrest or to perform a lawful search.

### ***Can you be searched?***

When you are lawfully arrested, your person may be searched. In addition, the place of your arrest may be searched within limits considered reasonably incidental to the arrest. Otherwise a search warrant is required. A search warrant is authorized by the Mississippi Constitution only when there is presented to a court a sworn statement that probable cause exists for searching a specific place for a specific article. The person in charge of the premises to be searched must be given a copy of the warrant prior to the search.

### ***Can you be fingerprinted and photographed?***

Mississippi law authorizes an arrested person to be fingerprinted or photographed only in connection with a felony charge.

### ***Do you have to answer questions?***

A policeman or anyone else may not force you to answer questions or sign statements. Any state-

ments or answers extracted from you by force or threats cannot be used against you by the prosecution.

### ***Can you notify your family or lawyer?***

The established practice in Mississippi is to allow one telephone call. Visitations generally are allowed on the following basis: attorneys and chaplains without restriction, family twice a week, friends not allowed.

### ***What about bail?***

An arrested person must be brought without unnecessary delay before the proper judicial officer for examination of his case.

On a misdemeanor charge, the court may require up to \$500.00 bail.

Bail may be met in one of three ways:

- (1) By cash;
- (2) By the filing of a bond containing two signatures of residents of the state with sufficient assets, as approved by the sheriff or the court;
- (3) By the filing of a bond executed by a surety company authorized to do business in Mississippi.

***The NAACP Legal Defense Fund exists to represent persons who are asserting their civil or constitutional rights. We now represent thousands of peaceful civil rights workers and others whose conduct has been entirely within the law, but who have been prosecuted for crime. The Fund will enter cases either upon direct request of the defendant or upon request of one of its cooperating lawyers.***