



What's the difference between an assault and an assault on a peace officer?

The offence of "assault peace officer" is just an assault, but against a peace officer (i.e. a police officer). The legal definition is the same as for [assault](#), but the victim of the assault must have been a peace officer engaged in the execution of their duty.

A person is also deemed to have assaulted a peace officer if they assaulted someone:

- (1) Acting to help a peace officer in the execution of their duty; or
- (2) Lawfully executing a process against, or seizing, property (e.g. a bailiff).

The most common scenario where someone might end up accused of assaulting a peace officer is if they were resisting arrest. In such cases, the prosecutor might also charge the person with *obstruction of a peace officer*.

Generally speaking, anyone accused of committing a crime must have *intended* to commit the crime to be guilty of it. Therefore, someone accused of assaulting a peace officer won't be guilty if they didn't know the alleged victim was a peace officer. Instead, they can only be guilty of assault.

Is assaulting a peace officer a more serious crime than a simple assault?

Every case is different. A minor assault against a peace officer is less serious than a worse assault against a regular member of the public. However, all else being equal, the justice system treats assaulting a peace officer more seriously than assaulting most other people.

The courts view assaulting a peace officer as more serious because peace officers' jobs are inherently risky. The justice system wants to minimize putting peace officers in harm's way. Therefore, a judge is more likely to impose a harsher sentence for assaulting a peace officer to deter the public from doing so.

What about the force a peace officer uses to respond to an assault against them?

If someone assaults a peace officer, the officer is likely to respond with their own use of force. Sometimes, officers react with *excessive force*. An officer's excessive response won't undo an accused's guilt for initially assaulting the officer. However, a judge might consider the officer's excessive response to be a significant *collateral consequence* that persuades the judge to impose a lower sentence on the accused.

What are some defences to assaulting a peace officer?

Defences to ordinary [assaults](#) also apply to assaulting a peace officer. As we've seen, if the

accused didn't know the alleged victim was a peace officer in execution of their duty, then they can only be guilty of a simple assault.

If the accused didn't know that someone using force against them was a peace officer, they might be justified in defending themselves with a reasonable response. Obviously, the police aren't always in uniform, and people don't always hear them announce themselves.

If an accused assaulted a peace officer while resisting arrest, they might have a defence to the assault if the arrest was actually illegal. A peace officer is not allowed to arrest someone without *reasonable and probable grounds* to arrest them. Also, those grounds must exist *at the time* the officer makes the arrest.

You can find some of the firm's case results for assault peace officer [HERE](#).