



POLICE POWERS

This facts sheet provides information concerning police powers and your rights.

Being searched

Police can only search you or your car if:

- they have 'reasonable grounds' to suspect they will find illegal drugs, weapons or stolen goods
- OR
- to preserve evidence.

For any other purpose they will need a search warrant.

Police can search a house without a warrant if they believe they will find someone who has committed a 'serious indictable crime' or who has escaped custody.

If police come to your house to search, ask to see the warrant.

Being arrested

You can be arrested and taken to a police station to be questioned if the police think that you have committed a crime. They must tell you why you're under arrest.

You must give the police your full name and address if they have a reasonable belief that:

- you have committed an offence or are about to commit an offence; or
- you can help them in their investigation of an indictable offence.

In these instances, it is an offence to refuse to give your name or address or to give a false name or address. You can be charged and fined \$500 for giving the police a false name and/or address.

When arrested, you may be taken back to the police station and required to provide your details for police records. There is no longer a maximum time the police can hold you at a police station.

Before any formal questioning begins, the police must let you phone a lawyer from a private space (that is, somewhere the police cannot hear you).

The police must also let you phone a friend or relative from a private space. However, they do not have to do this if they believe that during this time:

- someone else involved in the crime might get away;
- some evidence may be lost or tampered with;
- other people may be in danger; or
- if it is a drink driving matter.

Being questioned

You must give your name and address if the police ask you. The police must tell you their reason for asking, and give their name, rank and place of work if you ask for it.

You do **not** have to answer police questions.

However, if there is a clear explanation of your innocence it may be best to give it. If you are unsure about answering questions or feel that the police may trick you into saying things you do not mean, it is best to do a 'no comment' record of interview. You must say 'no comment' to every single question otherwise this can be used against you.

You have the right to speak to a lawyer in private. A lawyer may do the following:

- give you advice on your rights;
- whether or not it is best to do a 'no comment' record of interview; and
- can speak to the police officer and find out more details of what they are planning to charge you with.

Under 18

A parent, guardian or independent adult must be with you before the police question you. The independent adult is there to help you and the police understand each other. They help you understand your rights. They do not give legal advice.

Any information you give police, without an independent adult present, cannot be used in court.

Fingerprints

The police can take your fingerprints if you are 15 years old or over and they suspect you have committed an offence. If you refuse they may use reasonable force to take them.

If you are between 10 and 14 years of age, you can refuse to give your fingerprints unless both you and a parent or guardian agree, or the police obtain a court order.

Photographs/line-up

You have the right to refuse your photograph being taken or being put in an identification 'line-up'.

Forensic procedures

If you are 18 or over, police may ask that you undergo a forensic procedure (e.g. blood sample, taking saliva). If you refuse the police must get a court order.

If you are between the ages of 10 to 17 police cannot request a forensic procedure without a Children's Court order.

Being charged

You should get legal advice as soon as possible if you are charged.

You may be:

- **charged on summons.** This means that the police can release you to appear in court on a particular date.
- **charged and bailed.** This means that the police can release you on bail to appear in court on a later date. Bail is a promise by you that you will attend court on a particular date and it may have special conditions.
- **held on remand.** This means that the police can refuse to release you on bail. If you are not released on bail, you will have the opportunity to do a bail application in a Magistrate's court. You should get help from a lawyer for a bail application.

Complaining about police behaviour

Complaints can be made to the Victorian Ombudsman, Office of Police Integrity or the Ethical Standards Department of Victoria Police. Ask your lawyer to help you if you want to make a complaint against the police.

What do I do if I am mistreated?

- Write down everything that happened as soon as possible. Include names of police, the time and date.
- If you have been hurt see a doctor as soon as possible
- Take photographs of your injuries
- Write down names of people who saw you before you were hurt and the first person you saw afterwards. Ask them to write down their own notes as soon as possible
- Contact a lawyer who will help you make a complaint

Who do I contact?

Youth Law (03) 9611 2412

- 19 King Street, Melbourne
- www.youthlaw.asn.au

Victorian Aboriginal Legal Service (03) 9419 38888

- 6 Alexandra Parade, Fitzroy
- www.vals.org.au

You can make a complaint to a police sergeant at any police station.

The Office of Police Integrity (OPI) Toll Free: 1800 818 387

- 3rd floor (South Tower) 459 Collins Street, Melbourne
- www.opi.vic.gov.au

The Ethical Standards Department 1300 363 101

- Level 2 Flinders Towers, World Trade Centre, Melbourne

Any Community Legal Centre (CLC)

- Call The Federation of Community Legal Centres for your closest *CLC* (03) 9654 5204
- www.communitylaw.org.au