



Police duty

Police Duty

The Police have the right and duty to protect the community.

Police are given powers by government to help keep order. They have a duty to uphold the peace and serve the community.

The law gives police powers to investigate, or find out about, crime.

Police do not have power to say you are guilty if you deny an offence. That is up to courts.

It is courts, not police, who say what sentence or punishment a person might get.

Questioned

You must give your correct name, address and age - It can be an offence not to.

You do not have to have ID on you, BUT if police believe you have given a false name, address or age, they can insist you prove who you are.

Police must tell you they are police and their name, rank and station.

Police in plain clothes must show you their ID.

You have a 'right to silence'. You do not have to answer any questions, even if you are arrested.

Anything you say may be tape-recorded without you knowing.

If arrested, Police can hold you for questioning for up to 8 hours. They can only question you for up to 4 hours.

Police can ask a Justice of the Peace or Magistrate to let them hold you longer.

There is no "off-the-record chat". Anything you say can be used against you.

You have the right to phone a solicitor.

If you can't understand English well, you should say this and ask for an interpreter.

Searched

Police can search you, your car and the place where you are living:

- if they have a warrant
- to make an arrest
- if they believe you have drugs or weapons
- if they believe that there may be evidence of an offence there .

Police can also come into your home to:

- prevent violence;
- stop excessive noise (loud music, parties);
- breath test you for drink driving.

Police must tell you the reason for the search.

Police can make all people who are in the car at the time of the search stay at the car while the search is being done.

If police believe you have a firearm, knife or bomb on you they can do an immediate strip search in public.

Most times police can only ask you to take off a jacket or turn out your pockets or empty a bag. If they want you to remove any other clothing they should take you somewhere private and only search you in the presence of police officers of the same sex as you.

If the police believe you have hidden drugs inside your body, they can do a body cavity search only with your agreement or by an order of the court. Police may use 'reasonable' force so that a doctor can do searches or take samples.

Police can take a DNA sample. For a child they need a court order.

Police can take away anything illegal found during a search.

If there are noise complaints and Police have been around and warned you, but then get more complaints, they can take away the thing which is making the noise or make it so it can't be used. You can collect it from police 12 hours after the first complaint.

Arrested

Police can arrest to question you if they believe you have broken the law. Arrest means you are taken by police and have your photo and fingerprints taken.

A police officer can only use “reasonable force” to stop you getting away.

If you are arrested:

- You are not free to go,
- Police will usually fingerprint and photograph you. These must be destroyed if:
 - the police decide later not to take you to court; or
 - the court decides you didn't break the law.
- Police may give bail (let you go until court). If you are not granted bail, you can ask a court to grant bail.
- You do not have to go with a police officer to be in a line up.

Charged

If police think they have enough evidence they will charge you. This means the police are saying they think you did the crime and will send you to court.

After questioning a suspect ('the accused'), police can:

- give you an “on the spot” Notice to Appear in court -You do not need to attend at a police station. A Notice to Appear is usually given where there is no risk the accused will avoid going to court. The Notice to Appear must be signed by police officer and require the accused to appear before the Court at a time and place stated in the notice.
- apply to a court for a warrant - This will usually happen if the accused is charged with a serious offence or there is a real concern that the accused may try to avoid going to court. If the court is satisfied the accused may have done an offence, the court can issue a warrant. Once police have a warrant, they have the power to arrest and charge the accused and must bring the accused before the court as soon as possible.
- give you a summons to go to court. - This usually happens for traffic or local council offences. The summons sets out the nature of the offence, the date on which the matter will be heard and details of the court which will hear the charge.

Young people and police

The criminal law treats young people differently to adults as they are young and lack experience

People under 18 (or under 17 in Queensland) are dealt with in a Children's Court.

A person under 18 (or under 17 in Queensland) must have a support person when questioned by police unless it's a minor offence. Usually any evidence obtained without a support present will not be able to be heard in a court.

If a person under 18 (or under 17 in Queensland) does a crime which is not very serious then police will warn or caution rather than charge the person.

Police will not usually arrest children unless it is a serious crime.

In the 'Boys Don't Talk' story on the DVD :

Joseph has crashed his father's car after drinking alcohol and nearly having a fight with Raj. He is breathalysed and asked by police to prove his identity and show his driver's licence. He is also questioned by police about the wallet found in his car.

practical steps If questioned by Police

- Always be polite.
- Always be truthful. Remember you have the right to silence.
- Give your name, address and age if police ask for it. It can be an offence if you don't. You do not have to say anything else.
- You do not have to have ID on you, BUT if police believe you have given a false name, address or age, they can insist you prove who you are.
- If police start to question you, ask for their name, rank and station. Police in plain clothes must show you their ID.
- If you don't want to answer questions, say: "I will cooperate officer but I have legal advice that I should talk to a lawyer before I answer any more questions". You can keep saying this in answer to all questions. If you agree to be interviewed you should be given a copy of it
- Ask to contact a solicitor. As soon as you can, contact Legal Aid, a Community Legal Centre or private lawyer.
- Do not resist arrest even if you think you're being treated unfairly or wrongly because you could be charged with breaking the law.
- If Police search you or your property ask them why and on what authority they are searching. Ask to see the warrant if they say they have one.
- Let the police search even if you think it wrong as if you don't you could be charged with an offence. But tell the police you are unhappy about the search. Follow the police around when they are searching to watch what they do.
- You don't have to sign a written statement or written record of interview.
- Don't sign anything you haven't read, don't understand, or don't agree with.
- Keep trying to stay cool and calm. Breathe slowly and deeply.
- As soon as possible write down exactly what happened (time and date; names of witnesses; details about the police and what happened)
- If hurt, get to a doctor as soon as possible and get colour photos of the injuries.
- If refused bail, ask to contact someone who may be able to help you.

This information has been sourced from the Queensland Youth Advocacy Centre and the Law Handbook 9th edition, Caxton Legal Centre. This is general legal information only, not legal advice. If you have a specific legal problem you should contact a solicitor.