

BEAT THE RAP

What happens next

Drink driving

Police have the legal right to breathalyse you. If the breathalyser shows blood alcohol content above the legal limit, the driver will be taken to the police station and given another test. The result of this test will be handed to the driver as a certificate. If this test also shows above the limit, the driver will be charged with drink driving and be disqualified from driving for a short period of time, for example, 24 hours. The driver would also be given a notice to appear in court. (This is the process in Queensland).

Dangerous driving and stealing

If police question someone about a possible offence they should warn the person that anything they say can be used against them. They should be asked whether they need a lawyer, support person or interpreter. The police will record the interview.

If the accused is too drunk or intoxicated to be interviewed, police will give them a Notice to Appear in Court and interview the accused at a later date.

If it is a serious crime, the accused may be arrested and taken to the watch house (a small jail at the police station). The police officer in charge of the watch house will decide whether bail can be given; or whether the person must be held at the watch house before appearing in court. If the accused is held at the watch house, the accused can apply for bail when they appear in court.

BEING QUESTIONED

Police rights

- To find out a person's name, address and age

Police responsibilities

- When interviewing, to offer the person a lawyer or support person, and an interpreter if the person can't understand English well.
- To warn before interviewing that what you say can be used in evidence.
- To treat people fairly and politely.

Your rights

Your responsibilities

- To stay silent
- To speak to a lawyer
- To an interpreter if you need
- If interviewed, to get a copy of the interview (for example, on tape)
- To find out name, rank and station of police officer interviewing you
- To be truthful
- To be polite
- To give your name, address and age if asked
- Not to resist arrest

BEING CHARGED

Your rights

- To know exactly what offence you have been charged with

Your responsibilities

- If you have been told to go to court, to go to court to answer the charge.

BAIL

Bail is when police or the Court let a person who has been charged with a criminal offence go free before appearing in Court. The person promises to turn up at court. They may also have to make other promises, for example, to report to the police station, to avoid contact with the victim of the crime or to pay a sum of money (a surety) that is held by the court and will be lost if the person does not keep the promises made.

Your rights

- There is no right to bail, if you are in jail or the watch house and it is not practical for you to go to a Magistrate's court within 24 hours of arrest; it is presumed that you will be granted bail.

Your responsibilities

- To obey the conditions of bail.

COURT

Your rights

- To have a lawyer to act on your behalf
- To have an interpreter, if you can't understand English well
- To know the charges against you
- To know the evidence against you
- To be presumed innocent until found guilty

Your responsibilities

- To arrive early
- To dress neatly
- To sit quietly
- To address the magistrate or judge respectfully (Sir, Ma'am, or 'Your Honour')
- If giving evidence, to tell the truth

GETTING A LAWYER

Your rights

Your responsibilities

- To speak to a lawyer. It is possible to speak to a duty lawyer at Court, however there is no guarantee that a lawyer will be able to represent you in court
- To tell the lawyer the truth
- To give instructions to the lawyer when required

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

Joseph is breathalysed and questioned by police about his identity and another person's wallet found on the back seat of his car. He is then taken away by police.