

Police Powers

What Powers do the Police have?

Police have the following powers:

1. Require you to give your name, address and date of birth.

The Police cannot just ask anyone for their name, address and date of birth. They must first have a "reasonable suspicion" that you have committed, are committing or are about to commit an offence or may be able to assist in the investigation of an offence or a suspected offence (s.16 (2) Criminal Investigation (Identifying People) Act 2002).

If you are asked for your personal details from the Police, then it is probably best to give them your details as it is very difficult to prove that they did not have a "reasonable suspicion" which can only be tested in court after you have been charged with "refusing their request".

You only need to give your name, address and date of birth. If you refuse to give the Police your details or give them false details, you commit an offence (s.16 (6) CI (IP) Act). You do not have to say anything else, answer any of the Police questions, sign anything or take part in a videotaped interview.

When the Police request your personal details, you may request the police officer to identify himself or herself and the Police must do so providing it is reasonably practicable for them to do so.

If the Police are in uniform then they must give you their official details (s.6(1)(a)(i) CI(IP) Act) if they are not in uniform they must show you evidence that they are a police officer (s.6(1)(a)(ii)CI(IP)Act).

2. The Power of Search

Police can search you and your bags if they reasonably suspect that you have in them something relevant to an offence (weapon, drugs, stolen goods, implements of crime). Police can do a basic search or a strip search of you and seize anything found (s.68 (1) Criminal Investigation Act).

If this happens to you, the Police Officer must identify him/herself to you and inform you of the reason for the search. The Police should ask you to agree to the search but if you do not agree then they must inform you that it is an offence to obstruct the searcher doing the search (s.70 (2) CIA).

Simply being a "Leaver" or "Leavers" would not of itself be a "reasonable suspicion" to search you, nor is being a "young person" enough for the police to have a reasonable suspicion to search your bags and your car, more would be required.

A warrant is needed to search your house except if you give permission or they believe an offence is being committed or if you have been arrested, they can then go and search your house.

Certain Public Places may from time to time, be declared to be a "prescribed place" where it is necessary to safeguard the place or people by giving the Police the power to do a basic search on anyone (or their vehicle) who enters. If you refuse the search, you may be asked to leave or you may be searched by force. Any item found may be seized by Police and returned after the event.

For example, an outdoor music festival, may be declared to be a "prescribed place" to allow the Police to search everyone and their cars attending (s.69 CIA).



Police Powers (cont.)

3. Your Car

If the Police reasonably suspect that your car contains anything relevant to an offence (stolen goods, weapons, drugs), they may stop, enter and search your car. Anything found may be seized (s.39 CIA).

The Police can also use roadblocks to stop vehicles in some situations (s.19 CIA).

The Police can stop a driver of a vehicle and ask for the name and address and owner of the car. You must give correct details or you commit an offence (s.53(1) Road Traffic Act).

The Police can also require you to produce your driver's license or take it to a police station within a reasonable time (s.58 RTA). They can also ask you to undergo a preliminary breath test (for alcohol) or saliva test (for drugs), and where the driver is unknown, can require any occupant of the car to take a preliminary breath or saliva test. If you refuse, then you commit an offence.

4. Power of Arrest

The Police can arrest you if they reasonably suspect you have committed, are committing or are about to commit an offence (s.128 CIA).

If you are under arrest, do not struggle or make the Police's job difficult or you may find yourself on charges of Obstruction (s.172 CC) or even worse, Assaulting a Police Officer (s.317 CC).

Assault does not necessarily mean punching or kicking, it can include pushing, touching, spitting or threatening to hit. This is a very serious offence and carries a maximum penalty of 10 years imprisonment.

Once arrested, do not try to escape or you commit an offence (s.146 CC). If you see someone else being arrested and do not like the way the Police are acting, do not get involved as you may find that you are also arrested for obstruction. In this situation, you can make a formal complaint about Police behaviour rather than becoming involved at the scene.

If you are interviewed by the Police, you do not have to say anything to the Police other than to give them your name, address and date of birth. This is known as your "right to remain silent".

If you are arrested and are under the age of 18, the Police must ensure that your parents and/or responsible person is notified and should not question you unless a responsible person or independent witness is present (s.20 Young Offenders Act).

If you are not under arrest, you do not have to go with Police to the station unless you are picked up while driving and give a positive breathalyser or saliva test.

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Important: This general information is not the same as legal advice. You should speak with a lawyer about your situation.



YOUTH LEGAL SERVICE inc
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For assistance contact:

Kids Helpline

1800 551 800

Crisis Care

9223 1111 or 1800 199 008

For help with this and other issues contact:

Youth Legal Service Inc (WA)

(08) 9202 1688 (Perth Metro)

1800 199 006 (Country WA)

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