



## Police Powers: Arrest

The Police are given special powers to prevent crime and protect the community. It is important to understand what these powers are and how to behave when the Police use these powers to avoid being charged with serious offences.

### What Is Arrest?

Arrest is a process used by the police to bring someone into police custody, so that the process of questioning and charging them with an offence can take place.

### Where Can I Be Arrested?

An arrest can take place anywhere (e.g. work, school, home, street) and at any time of the night or day. The Police may enter any place they suspect you are and search for you. They may also stop and enter any vehicle they suspect you are in to make an arrest. Anything found relevant to an offence in this situation can be seized by Police.

### The Power Of Arrest

**The Police may arrest in the following circumstances:**

1. With a Warrant for your arrest (a Warrant is a legal authority given by a Justice, Magistrate or Judge to Police to arrest someone for a criminal offence).
2. Without a Warrant, if is a serious offence and Police have reasonable grounds for suspecting that you have committed, are committing or just about to commit an offence.

**The Police may also arrest you if it is not a serious offence but they reasonably suspect you have committed, are committing or just about to commit an offence and reasonably suspects that if you are not arrested:**

1. They will not be able to verify your name, address and date of birth.
2. You will continue or repeat the offence.
3. You will commit another offence.
4. You will endanger another person's safety or property.
5. You will interfere with witnesses.
6. You will conceal or disturb a thing relevant to the offence; or
7. Your safety will be endangered.



## How Do The Police Make An Arrest?

The Police do not need to use words to make an arrest, nor are they required to caution you upon arrest.

**The Police can, if it is practical, make an arrest by:**

1. Using words such as "I arrest you" or similar.
2. Placing their hand or hands on you and saying "You are under arrest" or similar; or
3. Physically seizing you.

It should be made clear by Police that you are under arrest and why.

Sometimes, you will not be informed you are under arrest, however in these situations, it should be reasonably apparent that you are under arrest. For example, you are grabbed and handcuffed by a Police Officer straight after throwing an empty bottle of Jim Beam through a shop window.

## How Do I Behave When Arrested?

If you are arrested, go quietly and co-operatively. Always be calm and polite to Police if you are placed under arrest. If you resist, struggle, abuse or assault the police then you may be charged with further offences such as obstructing a police officer, disorderly conduct, assault public officer, or threats. If you try to avoid arrest the Police can use reasonable force.

If you do not like the way you are being treated, you can make an official complaint later. It is not in your own best interest to clock-up numerous unnecessary charges all because you cannot control your temper.

Once arrested, do not try to escape as you can be charged. The Police can use reasonable force to prevent you from escaping.

Police cannot use force that is intended to cause death or grievous bodily harm unless the person sought to be arrested is reasonably suspected of having committed an offence punishable with life imprisonment (e.g. murder, armed robbery). The Police must first call on the person to surrender before causing death or grievous bodily harm to that person.

The Police may carry items such as pepper spray, tasers, batons, handguns and handcuffs to use to assist the arrest process when necessary or to prevent injury to themselves or others.

## How Do I Behave If I See Someone Else Arrested And Do Not Like How They Are Being Treated?

Do not get involved as you may not have a full understanding of what is going on. To become involved may mean that you are also arrested and charged with obstructing a police officer. In this situation, you should observe what is going on and keep out of the way. You can make a formal complaint about police behaviour rather than becoming involved at the scene.



## What Are The Rights Of A Person Under Arrest?

### As a Person under Arrest, you are entitled to:

- Any necessary medical treatment.
- A reasonable degree of privacy from the mass media.
- A reasonable opportunity to contact a relative or friend (this can be denied in certain circumstances).
- An interpreter or other qualified person.

### In addition to the above, an arrested SUSPECT (someone not yet charged) is entitled to:

- Be informed of the offence for which he/she has been arrested or any other offence he/she is suspected of having committed.
- Be cautioned before being interviewed as a suspect.
- A reasonable opportunity to contact a lawyer.
- Not be interviewed until receiving the services of an interpreter (if non-English speaking) or other qualified person.

### Additional Rights when aged under the age of 18.

1. Police must notify your responsible adult that you have been taken into custody and keep them informed as to your whereabouts.
2. The Police must try to contact your responsible adult at the earliest opportunity of their intention to question you.
3. While it is the policy of the WA Police to have a responsible adult present when and if you are to be interviewed, there is no law that requires Police to interview a young person with a responsible adult present (see our fact sheet: "Parent's role when their child is arrested and interviewed by Police").

## Aboriginal Australians In Police Custody

If you are an Aboriginal Australian, the Police must contact the Aboriginal Legal Service, Custody Notification Service to let them know you are in custody and allow you to speak with a Lawyer. The Custody Notification Service operates 24 hours a day 7 days a week.

For information about what happens at the Police Station after you are arrested, see our fact sheet "At the Police Station".

## Other Police Powers

### The power to request your personal details

See our fact sheet "[Police powers: Request your personal details](#)" for information.

### The power to search you and your bags

See our fact sheet "[Police powers: Search](#)" for information.

### The power to move you on

See our fact sheet "[Police powers: Move on Orders](#)" for information.

### The power to detain people who are intoxicated in public

See our fact sheet "[Police powers: Detain intoxicated people](#)" for information.

### The power to move a child to a safe place

See our fact sheet "[Police powers: Move children to a safe place](#)" for information.



## More Information

For legal advice about your own situation, contact Youth Legal Service 1800 199 006 or 9202 1688

See our fact sheet "[At the police station](#)".

See our fact sheet "[Rights & responsibilities when encountering Police](#)".

Legal Aid WA: Visit <https://www.legalaid.wa.gov.au/find-legal-answers/crime/under-arrest-and-police-powers>

**Please note:** Laws are subject to change. Last updated July 2020.

**Important:** The information provided in this infosheet is for information only.

It should not be relied on as legal advice.

Please seek legal advice about your particular circumstances.