



Police Powers: Detain Intoxicated People

Many young people will encounter Police when they are out together. 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.

In Western Australia *The Protective Custody Act 2000* allows police to apprehend intoxicated people and keep them in protective custody.

The Power To Seize Alcohol, Drugs Or Inhalants From Children

The Police or a Community Officer appointed by the Police can take any alcohol, drugs or inhalants from a person under the age of 18 if they are in a public place whether or not the young person is intoxicated and destroy the substance.

What Does It Mean To Be “Intoxicated”?

This means the person is affected by or apparently affected by alcohol or drugs or other substance (inhalant) to such an extent that there is a significant impairment of judgment or behaviour.

The Power To Apprehend People Who Are Intoxicated In Public

If the Police or Community Officer reasonably suspects that a person in a public place or trespassing on private property is intoxicated (whether by drugs, alcohol or inhalants) and needs to be apprehended to protect them from themselves or others or prevent them causing serious damage to property, the Officers can apprehend that person.

Reasonable force can be used by the Officers to do this.

The person apprehended can be detained in a police station or lock-up. The person apprehended cannot be detained once they are no longer intoxicated and must not be detained for longer than is necessary.

However, the person may not be released between the hours of midnight and 7.30am if release during those hours is not in the best interests of the person.

A person under the age of 18 cannot be detained in a police station or lock-up unless there are exceptional circumstances that justify detaining the child in such a place.



While Apprehended

The person may be searched, have intoxicants and dangerous articles taken off them and be taken for medical examination if needed.

Release Of Apprehended People

A person under the age of 18 must be released as soon as practicable into the care of a person who is the child's parent or legal guardian or another responsible person. The safety and welfare of the child must be the paramount consideration when releasing the child.

An adult may be released at any time into the care of another person who applies for the adult's release providing the person does not object to being released into their care and the Officer believes that person is capable of taking care of the person.

Judicial Review

An apprehended person may at any time request that they be taken before a Justice of the Peace to apply for release.

If 8 hours has elapsed since being apprehended and the Officer believes it is still not possible to release the person, the Officer must arrange for the person to be taken before a Justice of the Peace to review their detention.

Action Taken By The Apprehended Person

An apprehended person may apply to the Magistrates Court within 30 days after being released for a declaration that at the time they were apprehended they were not intoxicated. The Declaration does not establish that the apprehension was unlawful.

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 of arrest

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

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.