



## Police Powers: Searching You And Your Bags

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.

Police have extensive powers of search with and without a search warrant, but this fact sheet is confined to searches in a public place of you and your bags if Police suspect you have something illegal on you.

### The Power To Search You And Your Bags

If you are in a public place and a Police Officer reasonably suspects that you have in your possession or under your control anything relevant to an offence (such as a knife, drugs, can of spray paint, stolen goods, etc.), the Police Officer may search your bags and do a basic search or a strip search of you.

A "thing relevant to an offence" is anything that is intended to be used, is obtained, has been used for the purposes of committing an offence or may afford evidence of an offence.

The Police may seize anything relevant to an offence that he/she finds, whether or not it is the thing the Police Officer suspected was in your possession or under your control. Items that have been seized may be returned later in certain circumstances.

### Search Of You

**There are two types of searches that can be done:**

1. Basic Search; and
2. Strip Search.

A Basic Search involves such things as an electronic scan of the person, frisk search, removal of the person's headwear, gloves, footwear, or outer clothing (but not the inner clothing or underwear) in order to frisk search.

A Strip Search involves such things as removal of any article that the person is wearing including any covering of his/her private parts, search of the person's external parts including his/her private parts, search of the person's mouth (but not any other orifice).



## How Searches Must Be Done

The searcher must first:

1. Identify him/herself to you.
2. Inform you of the reason for the search.
3. Request that you consent to the search; and
4. If you do not consent to the search, inform you that it is an offence to obstruct the searcher from doing the search.

The searcher must do the search as quickly as possible and with as little intrusion as possible. If the searcher wants to remove any article the person is wearing, the searcher must tell you why this is necessary.

You must be allowed to dress as soon as the search is finished.

You must be provided with an adequate replacement for an article of clothing or footwear seized and you must not be questioned while the search is being done.

If you are under the age of 18 and have a Basic Search, the Police do not have to do this in the presence of your parents or responsible adult whereas with a Strip Search, this must be done (if practicable) in the presence of a parent or responsible adult or some other person who can provide you with support and represent your interests (e.g. a youth worker).

A Basic Search should be carried out by a person of the same gender unless this is not practicable, or the searcher is a doctor or a nurse.

Strip Searches have additional rules in that it must not be done unless the searcher reasonably suspects that a strip search is necessary in the circumstances. If it involves removing any article you are wearing or searching your private parts, the searcher must be of the same gender unless he/she is a doctor or nurse. Any other person present must also be of the same gender as the person being searched. It must be done where it affords reasonable privacy to the person.

## Other Police Powers

Always be careful not obstruct the Police conducting the search as you could be charged. Police can use reasonable force to conduct the search. If you do not understand why you are being searched, politely ask. You could say something like:

*"I'm not refusing to co-operate, but could you please tell me why I am being searched and what you think I have on me?"*

A Search Warrant is usually required to search a house or premises but there are exceptions to this if, for example, you give permission, an offence is being committed at the time, or you have been arrested.

If you are concerned about the way that a search is being conducted, it is sensible to co-operate with the search at the time and then speak to the Officer in Charge of the Police Station after the event or online by going to <https://www.police.wa.gov.au/Police-Direct/Commendations-and-complaints/Complaints-About-WA-Police-Personnel>. For more information on making a complaint about Police, visit the Legal Aid WA website at <https://www.legalaid.wa.gov.au/index.php/find-legal-answers/crime/under-arrest-and-police-powers/complaints-about-police>



## 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 move you on**

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

### **The power of arrest**

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

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

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

## More Information

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

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

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.