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Police powers and your rights on arrest

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This page contains some useful information about your rights when under arrest by Police.

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Disclaimer: The material in this fact sheet is intended as a general guide only. You should not act of the basis of this information in this fact sheet without first getting legal advice about your own particular situation.

Remember that you have rights when dealing with police. However, always try to stay calm and be polite. If you are **not** under arrest, you do not have to go with the police to the station, even if they ask you to.

When am I under arrest?

The police may arrest you if:

- They reasonably believe that you have broken the law
- They have a warrant (court document) for your arrest
- They believe you are mentally ill, and might hurt yourself or someone else

A police officer must tell you that you are under arrest and **why**. If the police say you are under arrest, it is best to be polite and do what the police ask you to do.

Remember: you can be charged if you are under arrest and you don't obey the police or you try to resist them. The police can use reasonable force to arrest you if you refuse to go with them.

Police can't use more than the amount of force actually needed to arrest you.

Your rights

- You can say 'no comment' in response to police questions.
- Before any questioning begins you have the right to:
  - Call a friend or relative in private
  - Speak to a lawyer in private
- If you are under the age of 18, a parent, guardian or 'independent person' must be with you before you can be questioned.
- You have the right to a free interpreter if you cannot understand English.
- You can refuse to be photographed or participate in an ID line-up.
- You can refuse a forensic medical test (eg. saliva swab or blood test) and let a court decide if it's necessary.

Do I have to talk to police?

When under arrest, you have to tell police your name and address. It is an offence to give a false name or address. It is also a good idea to tell police your age if you are under 18 because you may be entitled to certain protections such as having an adult present if you are questioned. Other than this, **you do not have to answer any questions the police ask you**. Any information you give may be used against you when the police try to charge you, or used in court.

Can I be fingerprinted?

Over 15 years old

The police can take your fingerprints if they suspect you have committed an offence. If you refuse, the police may use reasonable force to take them.

10 to 14 years old

The police are only allowed to take your fingerprints if both you and your parent/guardian agree, or the police get a court order allowing them to do this.

Can I be photographed?

The police do not have a right to photograph you if they suspect you of committing an offence. This includes taking photographs of injuries and any other part of your body (such as tattoos), for evidence. You can refuse to have your photograph taken or, if you are under 18, a parent, guardian or independent person can refuse on your behalf.

Remember: if the police take your photograph or your fingerprints they will have this information on file permanently.

What should I do if I think police have mistreated me?

Even under arrest, you have the right to be treated fairly, with dignity and respect. It is a violation of your rights if police use more force than is necessary.

If you believe you have been mistreated by police, you should always:

- Write down everything that happened as soon as possible. This includes getting the names of police, the time and the date.
- If you have been hurt, see a doctor as soon as possible.
- Take photographs of your injuries.
- Write down the names of people who were there when it happened, or who you told soon after it happened.
- Contact a lawyer for more help.

You can make a complaint about police conduct to

Police Conduct Unit

Phone: 1300 363 101

Website: http://www.police.vic.gov.au/content.asp?Document_ID=11933

Getting legal help

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If you are under 25, you can get free and confidential legal advice.

Phone(03) 9113 9500 (9am-5pm, Mon-Fri)

Website: www.youthlaw.asn.au

Victoria Legal Aid – Legal Help

For legal information, referrals or appointments.

Phone: 1300 792 387

Website: www.legalaid.vic.gov.au

Victorian Aboriginal Legal Service

Legal advice and assistance for Aboriginal Victorians

Ph: 1800 064 865

www.vals.org.au

Federation of Community Legal Centres (CLC's)

CLCs provide free legal information and assistance. Find out the Centre closest to you.

Phone: 03 9652 1500

www.communitylaw.org.au

For more information

For more information about police powers, head to the Victoria Legal Aid website and check out the Police Powers: Your rights in Victoria booklet.

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