

POLICE POWERS AND YOUR RIGHTS ON THE STREET

This information sheet details laws and penalties in Victoria as at **August 2012**.

NAME AND ADDRESS

Police can ask you for your name and address if:

- they have a reasonable belief you have committed a crime or you are about to commit a crime
- they believe you have witnessed a crime
- you are driving

Penalty: up to \$705 in court for refusing to give your name and address or for giving a false name or address.

If police ask you to give them your name and address you can ask police for their details, such as their name, rank and police station. You can ask them to write down their details for you.

Police can be fined if they refuse to give you their details when you ask for them. For complaints about police, see the section on 'Complaints' below.

SEARCH POWERS

Police have the power to stop and search you without a warrant in a public place if they have reasonable grounds to suspect you are carrying either:

- a weapon or explosives
- drugs
- spray cans or other graffiti implements

Just being in an area where there is a lot of violent crime or graffiti can be reasonable grounds to search you.

Police may declare some areas, such as train stations, to be a 'designated area' for up to 12 hours. If police stop you in a designated area, they can search you even if they have no

reasonable grounds to suspect you are carrying weapons, drugs or graffiti implements.

Police can only do pat-down searches if you are in a public place. Police can feel over or outside your clothes, ask you to empty your pockets or remove outer clothing, use a metal detector or ask you to show them something they believe is a weapon.

If police perform a pat-down search on you, the officer performing the search must be the same sex as you (if possible). The officer must make a written record of the search and give you a receipt if they take any items away from you.

CARRYING WEAPONS

It is illegal to possess or carry prohibited weapons, such as flick-knives, daggers and knuckle dusters, without an exemption.

It is illegal to carry a knife, including a pocket knife or a kitchen knife, in a public place without a lawful excuse, such as for your employment. Carrying a knife for self-defence is NOT a lawful excuse.

Penalty: on-the-spot fine of \$1,000 if you are age 16 or above or up to around \$16,900 or 1 year prison in court.

NOTE: Penalties double if you are caught within 20m of a pub, club or bar.

If you are under 18 it is illegal for you to buy a prohibited weapon or a knife, including a kitchen knife.

Penalty: on-the-spot fine of around \$276 or up to around \$1,690 in court.

DISORDERLY CONDUCT IN A PUBLIC PLACE

Police can fine you for behaving in a disorderly manner in a public place. There is no clear definition of disorderly conduct. It is up to police to make an assessment of this.

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

Penalty: on-the-spot fine of around \$563 or up to around \$1,408 in court.

DIRECTIONS TO MOVE ON AND STAY AWAY

Police can ask you to move on and stay away from a public place if they think you are either:

- disturbing or likely to disturb the peace
- behaving in a way that may be dangerous to public safety
- behaving in a way that is likely to cause injury or damage to property

Police cannot direct you to move on or stay away if you are picketing or protesting.

If police have directed you to move away from a public place, you will usually have to stay away from that area for a particular period of time, which can be up to 24 hours.

If you need more information to understand the direction, you may ask police why you are being moved on, where you must stay away from and for how long.

Penalty: on-the-spot fine of around \$282 or around \$705 in court for refusing to obey a police direction to move on or stay away.

PUBLIC DRUNKENNESS

Police can take you into custody if you are found drunk in a public place. Police can fine you even if you were locked up overnight in a police cell.

Penalty: on-the-spot fine of around \$705 or around \$1,409 in court.

ARREST

Police can arrest you if either:

- they have a reasonable belief you committed a crime
- they have a warrant
- you are violent towards a family member

If you are under arrest, you must go with police to the police station.

Police may ask you to come with them to the station even though you are not under arrest. If you are unsure, you can ask police if you are under arrest.

Penalty: maximum fine of around \$3,521 or up to 6 months imprisonment

If you were driving, police may ask you to go with them to the station to do a breathalyser or a drug test. Even if you are not under arrest, you may be charged with refusing to go with police to the station for the test and your licence may be cancelled and disqualified for 2 years or more.

COMPLAINTS

If you have a complaint about how police have treated you or someone else you can go to:

- the sergeant-on-duty at a police station
- Victoria Police Ethical Standards Department
- Office of Police Integrity

You should speak to a lawyer before you make a complaint (see below).

When making a complaint it is important to have the following information:

- name, station and/or rank of any officers involved
- date, time and place of the incident
- description of what happened
- name and contact details of any witnesses
- photographs of any injuries

If you are injured by police, make sure you see a doctor. A doctor's record of your injury may help you with your complaint.

GETTING LEGAL HELP

Youthlaw

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

☎: (03) 9611 2412 (9am-5pm, Mon-Fri)

🌐: www.youthlaw.asn.au

Victoria Legal Aid - Legal Help

For legal information, referrals or appointments.

☎: (03) 9269 0120 or 1800 677 402 (country)

🌐: www.legalaid.vic.gov.au

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