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.

This information sheet is based on laws in Victoria as at November 2017.

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; or
- you are driving.

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.

You may be charged in court if you refuse to give your name and address or if you give a false name or address. 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; or
- 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

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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.

You may be charged in court if you resist a lawful search.

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.

If you are under 18 it is illegal for you to buy a prohibited weapon or a knife, including a kitchen knife. You may be fined or charged in court for carrying an illegal weapon.

Disorderly Conduct in a Public Place

Police can fine you or charge you in court 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.

Directions to Move On and Stay Away

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

- you are a danger to other people’s safety;
- you may damage property; or
- you are “breaching the peace” or you are likely to breach the peace.

Exception: police cannot order you to move on from an area if you are there to protest or publicise your views about a particular issue or you are taking part in strike action.

Police can order you to move on from the area for up to 24 hours. An order to move on may be verbal and police do not have to give you a notice in writing. You may be fined or charged if you disobey an order to move on or stay away without a reasonable excuse.

Public Drunkenness

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

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Arrest

Police can arrest you if either:

- they have a reasonable belief you committed a crime;
- they have a warrant; or
- you are violent or you may be 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. You may be charged in court if you resist a lawful arrest.

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;
- the Police Conduct Unit of Victoria Police; or
- the Independent Broad-Based AntiCorruption Commission (IBAC).

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; and
- 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.

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

Website: www.youthlaw.asn.au

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Victoria Legal Aid – Legal Help

For legal information, referrals or appointments.

Phone: 1300 792 387

Website: www.legalaid.vic.gov.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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