



Villamanta Disability
Rights Legal Service Inc.

Villamanta Disability Rights Legal Service Inc.

Information Sheet Updated February 2015

Police Questioning, Arrest and Searches

The Police are an important group in Australia that enforce the law and protect people from the effects of crime whenever they can. This information sheet is about times when the police want to talk to you because they think you have done something wrong.

Why would police want to talk to me?

The police will sometimes want to talk to you because they think that you have done something wrong, are going to do something wrong or because you know or saw somebody who might have done something wrong. Even if you have not done something wrong, the police still might want to talk to you.

Do I have to talk to the police?

If police ask you your name and address, you must tell them. This is the only thing that you **must** tell the police.

If the police ask you any other questions, you can say 'no comment'. This means that you do not want to answer the question. You cannot get in trouble for replying with 'no comment' unless it is in response to the police asking you about your name and address. If you tell police you have an Intellectual Disability they **must** organise an Independent Third Person (ITP) for you.

The Office of the Public Advocate (call 1300 309 337) can help organise a person trained to deal with the police and Intellectual Disabilities to assist as your ITP.

If you want to, you can ask the police why they need your name and address, and they should usually give you a reason.

The police can ask you for your name and address without giving a reason when you are:

- Driving a car, motorbike or boat;
- On a train, tram or bus or if you are at the train station, tram stop or bus stop, or;
- Anywhere where you can buy alcohol.

If you do not tell the police your correct name and address when they ask, then you are breaking the law and you can get in trouble.

Important Note - This Information Sheet has been produced only for use in Victoria, Australia. Some of the laws mentioned in this Information Sheet will be different in other places.

You can ask the police officer to write down their name, identification number, police station and rank and give this to you. It is a good idea to ask for this, because the officer's information could be very useful to you if you need to know later on which police officer you were talking to.

Arrest

What is being arrested?

Sometimes the police might need to arrest you. This means that the police think you have done, or are about to do, something wrong and they want to take you to the police station. If the police arrest you, you have to go with them, even if you don't want to. The police must tell you why you are under arrest.

If the police arrest you it does not necessarily mean that you have done something wrong, sometimes the police make a mistake and arrest people who have not done anything wrong. However, even if you think you have done nothing wrong, you must still go with the police when they arrest you. If the police or the court later find out you have done nothing wrong, you will be free to go.

If you are arrested it is important that you do not try to run away or fight with the police. It is against the law to do these things, and you will only make things worse for yourself later on. Even if you think you have done nothing wrong do not try to fight or run away – you will have a chance to tell your story to the police later on if you need to, after you have spoken to your lawyer.

You have an opportunity to call your lawyer once you have been taken to the police station and before you are questioned. You have the opportunity to make one phone call, it is recommended you take this opportunity to call your lawyer.

Search

What is being searched?

In some circumstances, the police may need to look through your home or your person/clothes possessions if they believe you possess something related to a crime. The police must give you a reason for the search.

In certain circumstances the police can search you even without your permission. If you have been arrested, the police can search you up to the point that they are under a reasonable belief that the search will reveal and that cannot be revealed by any other method.

Where the police are entitled to search you or your home, it is a crime to refuse or prevent the search from going ahead.

Sometimes the police can search any person for potential weapons or drugs, just for being in a certain area during a certain time.

If you have been searched or arrested by police we recommend you obtain advice from a lawyer.

Some useful numbers:

Villamanta Disability Rights Legal Service Inc. Phone: 1800 014 111 www.villamanta.org.au/	Victoria Legal Aid Phone: (03) 9269 012 www.legalaid.vic.gov.au/
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