



POLICE - FACTS YOU NEED TO KNOW

This sheet is intended to provide **general legal information** about the law in Queensland. **This information is not legal advice.** If you have a particular legal problem you should contact a solicitor for legal advice. At the end is a list of agencies that might be able to assist you, including legal agencies.

What do I have to tell the police?

You have the right to silence. You do not have to make a statement or answer any questions, BUT failing to give your correct name, address and age is an offence. Even if you are arrested for questioning you still have the right to silence. If you choose to answer police questions you can choose to answer only some of the questions and not all. It is a good idea to get legal advice before answering police questions.

You can get free legal advice from the lawyers listed below. Remember, there is no such thing as an 'off-the-record chat.' Anything you say can be used (and often is) in a police case against you. Security guards working at shopping centres do not have the power to ask for your name, age and address.

Do I have to carry ID on me?

No... There is no law that says you have to carry ID, BUT if a police officer believes you have given a false name, address or age, they can detain you to figure out who you are. If you are driving a car (including on a 'L' or 'P' plate) then it is an offence to fail to produce your driver's licence if the police request it.

Do Police have to show their ID?

Sometimes... If a police officer is in plain clothes and they want to do something like arrest, search or make you 'move-on', the officer must tell you that they are a police officer and state their name, rank and station and show you their ID. If they are in uniform, they just have to tell you their name, rank and station. If the officer does not tell you, ASK. Security guards at special events are required to show their ID or have it clearly shown on them before you need to follow their directions.

Do I have to go with a police officer?

You do not have to go with a police officer unless you are arrested, but there is a law which states you must go with them if you have witnessed a breach of the peace.

The police can arrest you to question you if they believe that you have broken or are breaking the law. If you are arrested for questioning you still do not have to answer any questions except to give your correct name, address and age. Unless the police know a lawyer has been organised for you, the police must contact a representative from a legal aid organisation and inform them before you are questioned.

When can the police take my photograph?

The police can only photograph you if you are arrested and charged. You do not have to agree to be photographed when being 'street checked'. All police have body-worn cameras and there are rules police have to follow about how they use these cameras. All police must wear a body-worn camera while they are on-duty, and they can record you.

What rules do the police have to follow when using a body-worn camera?

- The police cannot record unclothed searches, but can record clothed searches
- The police **do not** have to stop recording you if you ask
- The police generally have to be in uniform, or easily identifiable as a police officer, when using a body-worn camera
- Whatever the police record can be used as evidence.

The police must record if they -

- Are investigating a crime (e.g. seizing property or searching you) or arresting someone
- Are using physical force against a person
- Believe something should be recorded (the police can also start recording after an incident occurs).

Do I have to be in a line up or give a DNA sample?

No... You do not have to go with a police officer to be in a line up or to give them your DNA even if the police say they think you have broken the law. You should talk to a lawyer before agreeing to either of these things.

Can police 'move me on'?

Yes, if...

- You are in a public place or regulated place; and
- Police think you caused (either through your behaviour or by just being there) a certain effect on people like causing anxiety.

See our 'Move On' Fact Sheet for more information.

What if I am arrested?

You can ask why you are under arrest, but resisting arrest is an offence. You have the right to ask why the police officer is demanding you go with them. If you are not under arrest then you do not have to go with the police. If you are under

arrest, a police officer must tell you why you are under arrest. Even if you have been arrested and charged you do not have to answer police questions. The police usually will not tell you about your right to remain silent unless they have decided to charge you with a criminal offence.

A police officer is only allowed to use 'reasonable force' to carry out their job. Stay cool and calm, and talk to a lawyer later about what you can do if you think the arrest was unfair or wrong or the police injured you.

How long can the police hold me?

The police can arrest and hold you for questioning for up to 8 hours to investigate an offence and question you about any offences they think you may have committed. They can only question you for 4 hours of that time. The time limit starts at the time you were arrested or were taken by police. The police can ask a JP or Magistrate to allow them to hold you and question you for a longer period of time.

Remember, you can be held for questioning but you do not have to answer any questions, except to give your name, age and address.

Who can I have with me during police questioning?

If you are under 18 you can have a 'support person'. Generally, if you are under 18 and questioned by police, you must have a 'support person' with you but if you are being questioned about a minor offence such as obscene language or possession of property suspected of being stolen, a 'support person' is not required. The support person should be:

- a parent or guardian
- a lawyer
- a person who is acting for you who works in an agency that deals with the law
- a relative or friend you would like to have there.
- If none of these are available, then a justice of the peace (JP).

You should tell the police which person you would like to have with you. The police should also give you the opportunity to talk to this person in private (where they cannot overhear you) before the questioning starts. If you are arrested the police have to make a reasonable effort to contact your

parents. The police must take note if they cannot contact your parents.

How much do I have to tell police at the station?

You still have the right to silence at the police station. Whether you agree to go with the police or you are under arrest, you do not have to make a statement or answer any questions (in writing, on video or audio). You have the right to say NO to any form of interview BUT you should give your correct name, address and age each time you are asked. The police have to try and contact Legal Aid or the Aboriginal and Torres Strait Islander Legal Service before they interview you about a serious criminal offence (ie an offence that can be tried by a Judge and jury in the District or Supreme Court).

If you do participate in a police interview about a serious criminal offence, then the police should record it electronically on video or audio. The police will give you a copy of the DVD after the interview. It is important to keep this DVD. If the police are unable to record your interview, then they can write it down and read it back to you. If you don't agree with anything in the statement you should tell them at the time and ask them to change it. The police must give you a copy of the written record at the time. Even if you answered the questions you do not have to sign what the police wrote down. Do not sign anything you have not read, do not understand, or do not agree with. You do not have to write any statement. Lying to the police can get you into more trouble.

Am I entitled to make a phone call?

Yes, as long as it is to speak with a support person and/or solicitor.

What if I am charged with an offence?

If you are under 18 then you may be cautioned, sent to a Youth Restorative Justice Conference, sent to a Drug Diversion Assessment Program or sent to court. See our 'If I am Charged' Fact Sheet for more information.

Treated unfairly?

If the police do not treat you fairly and politely you have the right to complain about it without the threat of being harassed. You can speak to the Crime and Corruption Commission on the phone number below. See our 'Treated Unfairly' Fact Sheet for more information.

Who can help?

Youth Advocacy Centre (YAC) www.yac.net.au	3356 1002
Youth Legal Advice Hotline.....	1800 527 527
Hub Community Legal www.communitylegal.org.au	3372 7677
YFS Legal www.yfs.org.au	3826 1500
Legal Aid Queensland www.legalaid.qld.gov.au	1300 651 188
Aboriginal & Torres Strait Islander Legal Service www.atsils.org.au	3025 3888 or (free call) 1800 012 255 (24hrs 7 days a week)
Crime and Corruption Commission www.ccc.qld.gov.au	33606060 (free call outside Brisbane) 1800 061 611
Community Legal Centres (CLCs) see www.naclc.org.au for your nearest CLC	

This information was last reviewed and updated in January 2020. The Youth Advocacy Centre does not accept responsibility for any action or outcome as a result of anyone relying on the information provided.