



FACTSHEET 10: UNDER ARREST – KNOW YOUR RIGHTS

WHEN CAN THE POLICE ARREST ME?

The police can arrest you if they reasonably suspect you have committed, are committing or about to commit a crime. They may arrest you with or without an arrest warrant and most of the time it will be without an arrest warrant.

WHAT DO THE POLICE HAVE TO DO TO ARREST ME?

- ✓ Identify themselves as a police officer
- ✓ Tell you that you are under arrest
- ✓ Tell you why you are being arrested
- ✓ Ask you to accompany them or to stay in a certain place

An arrest may be lawful even if you have not committed an offence.

HOW MUCH FORCE CAN THE POLICE USE TO ARREST ME?

The police can use as much force as reasonably necessary to restrain you, make an arrest or execute a warrant. If you resist or struggle, you can be charged with a criminal offence.

WHAT IF I THINK THE POLICE HAVE USED UNREASONABLE FORCE OR IF I SUFFERED AN INJURY

- ✓ Write down as much as you can remember about the police officer who hurt you including the name, rank and police station
- ✓ Report the matter to the officer in charge of the police station. It is best if this is a written report with the date and your signature, but a verbal complaint can be made as well. **Before making a complaint you should speak to a lawyer at PCLS for some advice.**
- ✓ Have a doctor examine any injuries and take photos if you can. You should write down the doctor's name and address and sign and date any photographs.

WHAT SHOULD I DO IF I AM ARRESTED AS A SUSPECT?

Keep calm and be polite! If you resist or are abusive you may get other charges laid against you. You have the right to:

- ✓ Be told what offence you have been arrested for and any other offences police suspect you have committed
- ✓ Be given an opportunity to speak with a lawyer
- ✓ Be given a chance to communicate with or try to communicate with a relative or friend unless the police may suspect that this may interfere with the investigation
- ✓ Any necessary medical treatment
- ✓ Privacy from mass media
- ✓ Assistance from an interpreter if you are unable to understand English



CAN THE POLICE SEARCH ME?

The police can search you before and after arresting you if they believe you have committed an offence, or that you are carrying something relating to an offence. If possible, these searches should be carried out by a police officer of the same sex unless the searcher is a doctor or nurse.

Disclaimer: This factsheet provides general information and is not to be taken as legal advice. Published 2019.



WHEN DO I HAVE TO PROVIDE INFORMATION TO POLICE?

Police can ask you questions at any time, whether or not you have been arrested. Generally, you do not need to answer these questions unless you want to.

YOU MUST PROVIDE INFORMATION TO THE POLICE IN CERTAIN SITUATIONS SUCH AS:

- ✓ When asked for your name, date of birth and current address
- ✓ If the police reasonably suspect you have given false details, they can require you to produce evidence such as a drivers licence to check details are correct
- ✓ When driving a vehicle and when asked you must:
 - Stop the vehicle
 - Give your name and address
 - Show your driver's licence or, if you don't have it on you, take it to the police station within a reasonable time
 - Take a breath test, provide a sample of saliva or participate in a driver assessment
 - Where there has been an accident and someone has suffered bodily harm or there is property damage, give the details of the person responsible if you know who they are
 - If you are involved in a traffic accident and someone has been injured and/or property has been damaged, you must report the accident to police
- ✓ When on premises where alcohol is served, you must provide proof of age when asked by police officers or hotel staff
- ✓ Under the *Misuse of Drugs Act 1981* (WA), when asked by police you must provide information about the manufacture, sale or supply of prohibited drugs and plants
- ✓ When asked by a customs officer, you must provide information about the import or export of goods
- ✓ You must answer any question and provide any information requested by police investigating a prostitution offence involving a child or an offence including someone to act as a prostitute

It is an offence for you to fail to comply with these requests

DO I HAVE TO PARTICIPATE IN A POLICE INTERVIEW?

Some information will be required by police, but you do not have to answer any other police questions. You should **seek legal advice** if you will be providing more than just the required information.

Before an interview, the police must:

- Wait for an interpreter if one is needed
- Caution you (tell you that you are not obliged to say anything unless you want to but whatever you do say will be recorded and may later be used as evidence); and
- If you are under 18 they must wait until a responsible person is present.

IMPORTANT THINGS TO REMEMBER

- Anything you say to the police may be used as evidence in court.
- You should speak to a lawyer as soon as possible after you are charged. The longer you wait, the harder it may be for a lawyer to help you.

If you participate in an interview, a record of the interview will be made (either video or written down). You can request a copy of the recording. The record of interview can be used against you in court.

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