

## Youth Law: Dealing with Police

This factsheet explains some basic information on your rights and obligations when dealing with Police in the ACT. If you are a young person with a matter concerning the police, please call the **Youth Law Centre ACT** on **6173 5410** or **1300 654 314**.

**Note: The Youth Law Centre (YLC) is Legal Aid ACT's dedicated service for young people under the age of 25. It is a free and confidential legal service.**

The Youth Law Centre can help you if you have had any dealings with the police. We can help you by:

- Giving you information about Police Powers and your rights when interacting with police.
- Giving you advice if you have been asked to do a police interview or have been charged with an offence by the police.
- Helping you make a complaint about police behaviour.

**You have rights when dealing with the police, and there are laws that say how police can use their powers. If you think you have been treated unfairly by the police, and you are under 25, you can contact us at 1300 654 314.**

### Contact with the Police

The police can approach and talk to you in public at any time. You don't have to respond, except to give your name, date of birth, and address.

If you encounter the police, stay calm and respectful. Being aggressive, whether it be verbal or physical, can lead to criminal charges.

If you think you are being treated unfairly, it is usually best to tell them so, but physically comply. You can seek legal help later, but it is important to stay safe at the time.

It is a good idea to take notes of what has happened on your phone as soon as you can, and if you feel

unsafe, ask the police if you can contact an adult that you trust. You can call our **Legal Aid Helpline** at 1300 654 314.

### Answering Police Questions

You have the right to remain silent.

The only information you must tell police if asked is your name, date of birth, address, and identification. Police are only allowed to ask for this information if:

- They think you have broken, or are breaking, the law;
- They think you can help with the investigation of a crime; or
- They think you have committed a driving offence.

If the police ask for your personal details, they must tell you why they are asking for it. You must provide them with this information accurately. If you give them a false name or address, you can be fined.

You can also ask for their name, rank, and place of duty. The police, by law, have to tell you this information. It's a good idea to write this down so you don't forget.

Aside from your name and address, you do not need to answer any other questions, but you may if you wish. Keep in mind that anything you say to the police can be used against you in court, even if you are not under arrest.

**If you think police want to question you about a crime, do not answer until you have spoken with a lawyer, even if you are innocent.**

### Can the Police ask you to leave a place?

Police can ask you to leave an area, but only if they think you have done something violent, or are likely

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to be violent. This does not apply if you are picketing at a place of employment or protesting.

For example, you can be told to move on from a public place by the police if they have a reason to think:

- You are being violent or intimidating;
- You are causing damage to property; or
- Your actions may cause other people to fear for their safety.

Even if you disagree with the move on direction, it is usually best to comply. It is an offence not to follow a direction to move on given by police. Even if the move on direction was not valid, fighting the resulting charge in court can take a lot of time and be stressful.

### Powers to Stop and Search

Police cannot just search you whenever they like. In most cases, police need a warrant (a written order from the judge) before they can enter an area and search you, your car or your house.

However, the police can do an ordinary search (i.e., not a strip search) without a warrant in some situations, for example where they think that:

- You have a knife in public or a school, **or**,
- You have something relevant to a serious crime or have some stolen property; **and**
- It is necessary for the police to search you to stop that thing from being hidden, lost or destroyed; **and**
- The situation is serious and urgent.

The same rules apply to searching your car.

Police will often ask if you consent to the search or not. **You don't have to consent.** If you don't consent, they might decide to do it anyway. If that happens, it's safest to comply, but make a note and then immediately speak to a lawyer.

If you're under arrest, police can search you.

Not cooperating with a lawful search is an offence. This is why it is best to comply with the search, but make sure to tell police that you don't consent.

A police officer can only conduct a search if they are the same sex as you. If you are transgender or intersex, you are allowed to require either a male or female officer to conduct your search.

### Entering Your Home

The police may enter your home or any premises only if they are invited in to assist someone in danger, have a warrant or if there is a serious and urgent situation.

It is important that you remain calm and respectful, you may inquire as to why the police are entering the premises, observe the search and inspect the warrant. However, it is important you do not obstruct the officers in the process of the search.

### Taking Your Things

The police can take any alcohol they think you've been drinking in public and also any cigarettes they find on you, if they think you're under 18. They might also taken any items they happen to find when arresting you that they consider to be potentially relevant evidence.

### Being Arrested

Usually, the police need a warrant to arrest you. However, the police don't need a warrant if they think:

- You have breached your bail;
- You have committed or are committing a crime;
- You have committed or are committing a family violence offence; or
- You have escaped from lawful custody.

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If you're under 12 years old until 1 June 2025 or 14 after 1 June 2025, the police can only arrest you without a warrant if they think that this is necessary to stop you from committing a crime or to protect people or property.

The police have to always tell you why you have been arrested. If they don't, you should ask.

It's important not to fight, run away or argue if you are arrested. You should politely ask why you are under arrest, and ask for the officer's name, rank, badge number and police station. As soon as you can, write down these details and what happened so you can get legal advice or make a complaint if you think you have been treated unfairly.

If you are arrested and detained for an offence, you may be kept at the police station for up to 4 hours, or up to 2 hours if you are under 18 or an Aboriginal or Torres Strait Islander. If you are Aboriginal and Torres Strait Islander, you should let the police know. The police officer can also make an application to extend that investigation period up to a further 8 hours.

If you are arrested, you must be brought before a Magistrate as soon as practical after the investigation period.

If you need legal advice while under arrest, call our **Legal Aid Helpline** at 1300 654 314.

### Police Interviews

Police may offer for you to do an interview with them.

**Do not do a police interview unless you have spoken with a lawyer.**

Police might say that an interview is the opportunity to tell "your side of the story." They may say that they can't process you unless they've done an

interview. They might say that if you do an interview, they might not charge you.

**DON'T BELIEVE IT. DO NOT DO AN INTERVIEW UNLESS YOU'VE SPOKEN WITH A LAWYER!**

You do not have to do a police interview if you don't want to. If they make you do an interview, you are entitled to say "No comment" to every question (other than your name, address, and date of birth).

In a police interview, you will be asked about your actions and the offence the police believe you have committed. You should be very careful about what you tell them, if you decide to speak to them at all. **Sometimes people are found guilty of crimes only because of what they said in their police interview.**

If you're under 18, the police cannot interview you by yourself. There needs to be an independent adult of your choice present. If that person isn't available within 2 hours, the police must find someone who is independent, like a youth worker, to be present.

You cannot be interviewed if drunk or ill.

### Use of Force

If you are arrested, police can use reasonable force to restrain you. This means they can use whatever force is necessary to make you comply with them. This is why, if police arrest you, it is safest for you to comply with what they say.

If the arrest was unlawful, you have options such as suing the police for wrongful arrest, false imprisonment, and battery.

### Being Charged and Bail

If you are charged, one of four things can happen:

- You may be released without bail and given a summons to appear in court on a later date;
- You may be released on bail by the police or Court;

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- If the police do not give you bail, you will be taken to the Magistrates Court where you can apply for bail. A free Legal Aid lawyer can help you do this;
- If you are refused bail by the Magistrates Court, you will be taken to jail. In the ACT, that is the Alexander Maconochie Centre.

Please see our Bail fact sheet for more information.

### Fingerprints, Swabs and Blood Tests

If you are under 18, the police need a Magistrate's permission before they can take your fingerprints, photographs, blood or any other sample from your body. Only a medical professional can take body samples. An adult must also be present during the collection of physical evidence.

If you're over 18, police may take fingerprints or photographs of you. They still need a court order to take bodily samples, including hair or saliva.

### Complaints about Police

You are entitled to make complaints about the police if you believe they have treated you poorly. You can also complain on behalf of someone else who has been treated poorly. For help making a complaint, call our **Helpline** on 1300 654 314. As soon as possible after the incident occurs, you should write down exactly what happened.

If you want to make a complaint yourself, you can do this:

- At your local police station; or
- To the AFP Professional Standards (PRS); or
- Online to the Ombudsman; or
- The Human Rights Commission.

If police have broken the law, you can also sue them! You should speak with a lawyer before you do this.

### Useful Contacts

#### Legal Aid ACT

Monday to Thursday: 8:30am to 7:00pm

Friday: 8:30am to 5:00pm

[www.legalaidact.org.au](http://www.legalaidact.org.au)

Phone: **1300 654 314**

#### Youth Law Centre

Monday to Friday: 8:30am to 5:00pm

[ylc@legalaidact.org.au](mailto:ylc@legalaidact.org.au)

Phone: **(02) 6173 5410**

#### Kids Helpline

[www.kidshelpline.com.au](http://www.kidshelpline.com.au)

Phone: **1800 55 1800**