

Youth Law: Police Searches

This factsheet will help you learn your rights and obligations surrounding police searches in the ACT.

Note: This factsheet applies to ACT law only. **The law is different in NSW.** Make sure you are familiar with NSW law if you are travelling interstate.

If you are a young person with a matter concerning a police search, 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.

General Information

What is a police search?

An ordinary police search is when a police officer searches a person or their bags for hidden weapons or stolen items. An ordinary search can involve requiring you to remove your outermost layers of clothing, such as coats, jackets, shoes and socks. The search may involve the officer quickly running their hands over your clothing.

Where possible, the officer should be of the same sex as the person being searched.

An ordinary police search **does not** involve removing your shirt or pants or viewing your body.

When can police stop and search me?

Police will search you if you are under arrest. Otherwise, they can stop and search you if they reasonably suspect that you are carrying or possess an object that is relevant to a serious offence, or that has been stolen or unlawfully obtained.

Police need to also believe that the circumstances are serious and urgent to make sure the item is not lost or destroyed.

What should I do if I'm being searched

Dealing with police can be a scary experience, even if you have not committed any offence. It's important to remain polite and to **comply but don't consent**. This means that you can tell them you don't agree to them searching you, but don't fight if they do it anyway. If you believe you have been illegally searched, get legal advice. Resisting a legal police search is a criminal offence.

What is a strip search

A strip search is a search that requires you to remove some or all your clothing (other than outer clothes like shoes or jackets).

Police in the ACT can only do a strip search if you are arrested and they have taken you to a police station. Remember, the law is different in NSW. Make sure you check the local laws when you are travelling interstate.

Even if you are arrested and taken to a station, police can only strip search you if they reasonably suspect you have evidence of an offence on you.

Even then, the strip search must occur in private and must be performed by an officer of the same sex. The search cannot include searching a person's mouth, vagina, or anus, and cannot involve removing more clothes than is reasonably necessary to find the evidence.

Minors and Vulnerable Persons

A person who is under the minimum age of criminal responsibility cannot be subject to a strip search. This age is 12 years old until 1 June 2025 and then increased to 14 years old past this date.

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If the person is either incapable of managing their affairs or under 18 years old but older than the minimum age of criminal responsibility, the search must be conducted in the presence of a parent, guardian or another suitable person to represent the individual's interest (not a police officer).

Gender and police searches

The law uses outdated language when talking about police searches. The legislation uses language like "opposite sex", which does not capture the experiences of transgender or intersex people.

If you are transgender or intersex and police want to search you, you can request that the search be done by an officer of the gender of your choosing. Police should respect your choices, but they may not.

If you have been searched in circumstances that made you uncomfortable, come to us for free legal advice.

Useful Contacts

Legal Aid ACT

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

Friday: 8:30am to 5:00pm

www.legalaidact.org.au

Phone: **1300 654 314**

Youth Law Centre

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

ylc@legalaidact.org.au

Phone: **(02) 6173 5410**

Kids Helpline

www.kidshelpline.com.au

Phone: **1800 55 1800**