



What are my legal rights when arrested or questioned by the Police?

This might seem a basic question but so many people simply do not know what their legal rights are. If you have teenage or adult children it is prudent to check their understanding. For some in the community, particularly if they are young or unworldly this can unexpectedly land them in trouble with the law. Unfortunately this can have consequences later in life.

The following information is for general information and is not legal advice. You should always contact and consult a lawyer for advice specific to your circumstances and before deciding on a course of action. It's best to have a lawyer in mind rather than to be handed the Yellow Pages by a Policeman.

What then *are* my legal rights?

If a policeman asks, you **do** have to tell him your name and address.

You **do not** need to go further though, by telling them anything else or answering any other questions.

What if you are being arrested?

If you are being arrested the arresting officer should tell you that you are being arrested and why you are under arrest.

If this happens remember that it is an offence to resist arrest, pulling your arm away or resisting in the **slightest** way, can result in another offence.

It is fundamentally important to know that you have the right to silence. You do not need to say anything (after giving your name and address) and often admissions are freely made by people when otherwise the offence could not be proven if they had remained silent.

In order to achieve this admission, it is not uncommon for police officers to exert pressure upon you to speak. Similarly, it is not uncommon for the police to attempt to persuade you to make admissions to them with comments such as 'you will not go to jail, the Court will probably give you a fine without conviction', or by attempting to get you to speak 'off the record'. You are not obliged to do so.

If you choose to exercise your right to be silent, it is important that you do not give answers to selective questions and choose to remain silent in relation to other questions

You **are** entitled to contact your lawyer.

If you have been arrested and need medical help, you have the right to that.

You also have the right to contact a friend or relative and notify them of your whereabouts.

If you cannot understand English you have the right to be provided with an interpreter, or other qualified person.

Do I have to submit to a search?

Yes, if you have been arrested the police are allowed to search you and take your photograph, fingerprints and a DNA sample.

What do I do if the police want to search my home or car?

In some circumstance the police can search your home or car without a warrant. Some (but not all) of those occasions are:

- If the owner, occupier or operator consents; or
- If the police enter the property to make an arrest; or
- If you, or an occupant, are under arrest, or
- If the police have *reasonable suspicion* a crime is being committed or has been committed or will be committed; or
- If they suspect terror related activities.

What do I do if the police want to interview me?

The Police may request you attend, or accompany them to, a police station to answer questions however you are **not** required to go with them **unless** you have been arrested in relation to an offence.

You do not have to answer any questions (other than to provide police with your personal details) and you are **not** required by law to participate in a video record of interview.

We recommend at this point, if you have not already done so, that you contact a lawyer.

If you proceed and take part in a police interview anything you say on or off camera can be used against you in court.

It is also worth remembering, even if the police are proceeding, with proper legal representation you may have the ability to minimize the penalty by having competent representation in court, applying for bail or possibly even negotiating with the Police to have them proceed with a less serious charge or to submit a set of facts to the court that you find more accurate.

We recommend you keep a note of our contact details should this ever happen to you or someone close. Call us on 03 9387 2424 or email info@rrrlawyers.com.au today and see how we can help.