



POLICE STOP AND SEARCH FACTSHEET

WHEN CAN THE POLICE STOP AND SEARCH ME?

A Police Officer can stop and search you if they hold a reasonable suspicion that you have in your possession (or under your control) any of the following:

1. Anything stolen or unlawfully obtained
2. Anything used (or intended to be used) in connection with a serious crime
3. A dangerous article used or being used in connection with a serious crime
4. Prohibited drugs (or plants).

IF you consent to a search, police do not need to demonstrate reasonable suspicion.

WHAT IF A POLICE DRUG DOG SITS NEXT TO ME?

A drug detection dog will sit next to you if it thinks it can smell drugs. This indication from a drug dog on its own does not amount to 'reasonable suspicion' but can be used by police to form part of a 'reasonable suspicion' to search you.

WHAT IS 'REASONABLE SUSPICION'?

There is no clear cut definition of 'reasonable suspicion'. The Courts have said that it is less than a reasonable belief but more than a possibility - which can leave the gates wide open! There needs to be a factual basis on which the police form their suspicion - and can include a number of factors including hearsay or evidence that may be otherwise inadmissible in court. What *is* important is the information the police officer is aware of (which forms their 'reasonable suspicion') at the time of the search. NOT what information the police officer may become aware of later.

WHAT'S NOT REASONABLE SUSPICION?

Appearing 'nervous' or 'fidgety' in the opinion of a police officer is not enough to form a reasonable suspicion. Other factors alone such as; being known to the police, having a criminal record, being present in a drug 'hotspot' or even talking to a 'known drug user' will similarly not be enough for an officer to form a reasonable suspicion.

IF police want to search you, stay calm and know your rights!

PAT-DOWN SEARCH

In a pat-down, a police officer pats you down over the outside of your clothes to feel for weapons, drugs or other items. The police may also check your outer clothes including any pockets - this can be whilst you are wearing it or after it's removed (if the police have asked you to take an item of clothing off).

Police can ask you to open your mouth or shake your hair in a pat-down.

STRIP SEARCH

Police can only carry out a strip search if they have reasonable grounds that it's necessary to do so and the circumstances are serious and urgent.

If the police conduct a strip search on you they **must** provide you with as much privacy as possible. They may ask you to remove all or only some of your clothes, but **a strip search does not involve a search of your body's cavities or an examination of your body by touch.**

Strip searches can't be done in front of people who aren't the same sex as you or aren't involved in the search. If you are under 18 you're allowed to have a parent or carer with you while it's going on.

WHAT TO EXPECT DURING A SEARCH

In any search (pat-down or strip), you have the right to:

- be told the officer's name and their place of duty
- be shown evidence the person is a police officer (if they're not in uniform, eg. wearing plain clothes)
- be told the reason why they are searching you and the basis
- be told whether you will have to remove any clothing, and why
- be told why it's necessary for them to conduct the search
- have the search conducted in a private area
- have an officer of the "same sex" conduct the search (*police policy states they should ask a person for their preference if they're "transitioning" - the policy is silent on what to do when the person is non-binary!*)

In NSW, **police are prohibited from conducting body cavity searches** under the Law Enforcement (Powers and Responsibilities) Act 2002 (LEPRA).

YOUR RIGHTS DURING A SEARCH

During a **strip-search**, you have the right:

- to not be physically touched
- to not have any cavity of your body visually inspected other than your mouth (i.e. “squat & cough”)
- to not remove any more clothing than is reasonably necessary for the search to be conducted
- to not have your body be visually inspected more than what is reasonably necessary

IF the police want to search you, tell them you **do not consent to being searched**.

IF the police still want to search you, calmly ***tell them again you do not consent to being searched but that you won't hinder their search.***

Failing to comply with police orders is an offence. Even though it might seem that a police search is unlawful, that they haven't formed a reasonable suspicion or that what the police are doing is wrong, if you hinder their search it can constitute an offence and you could be charged. If it's later found the search was unlawful you may have legal options in relation to an unlawful search by Police.

LEGAL SUPPORT

If you believe that you have been subjected to an unlawful search, seek legal advice.

Community Legal Centres give free and confidential legal help to people in need, visit **clcnsw.org.au/help** for information.

The Inner City Legal Centre provides free legal advice to sex workers and the LGBTQI+ community in NSW, as well as those in our local area.

Contact: (02)9332 1966 or through iclc.org.au

COMPLAINTS

If you want to make a complaint about the police or a police officer's conduct, you can directly contact:

The **Law Enforcement Conduct Commission** visit lccc.nsw.gov.au

Or

The contact the Police Customer Assistance Unit on 1800 622 571.

CRISIS

Lifeline provides 24-hour crisis support.

Call: 13 11 14