

# Legal Benefits Scheme

## Criminal Law Fact Sheet

**If the police show up at my house, do I need to answer their questions or provide a statement?**

In Australia we have the right to silence, this means:

- You do not have to make a statement to police;
- You do not have to answer questions other than providing your name and address;
- You do not have to go to a police station unless you are taken into custody (ie: you are under arrest) and told what offence you are suspected of committing;
- If you are under the age of 18, police must ensure that there is an adult you trust present when they interview you;
- You do not have to agree to take part in an ID parade unless police have an Order from a Court; and
- You do not have to agree to undergo a forensic procedure. However, police can take your fingerprints if they believe you have committed an offence and you are aged 15 or over.

**Under what circumstances can the police enter my premises?**

Police may enter your premises under these circumstances:

- When the home owner gives consent;
- If the police officer has a properly issued and detailed search warrant;
- Without a warrant in situations where there is an emergency such as a person is injured or about to be harmed;
- If the police officer reasonably suspects there is a criminal offence being committed at the property; and
- If police have reasonable suspicion that a person with an outstanding warrant is at the premises, they may enter to detain and arrest that person.

**Under what circumstances can the police search my vehicle without a warrant?**

Generally police need a search warrant in order to search your vehicle, but in certain circumstances the police may search your vehicle without a warrant when they reasonably suspect the following:

- Your vehicle contains items relevant to an offence (i.e. drugs or weapons);
- A person in the vehicle has something in their possession that is relevant to an offence;
- Your vehicle (itself) is related or relevant to an offence;
- An offence has been, is being or is about to be committed in your vehicle; and
- Someone in your vehicle is about to commit or currently committing an offence.

**Can I contact my Slater & Gordon lawyer and how?**

If questioned and/or arrested as a suspect, you have the right to be given a reasonable chance to contact or try communicating with your Slater and Gordon lawyer. To contact your Slater and Gordon Lawyer call:

**Andrew Tehan** on 0411 276 966  
**Elaine Arcaro** on 0418 170 049

**In the event that I am arrested, how can I contact my family and Union?**

If arrested by the police you have the right, regardless of the circumstances, to be given a reasonable chance to communicate with a family member or friend to inform them of your location. Police can only refuse you the right to contact a family member or friend if they reasonably suspect the contact will inform an accomplice to get away from police, to destroy or hide evidence, or put someone in danger.

How long can police detain me before I have to be released?

If in custody due to police suspecting you of committing an offence, they may only detain you for a reasonable time (but no longer than 6 hours). In order for the police to keep you detained for longer than 6 hours, a senior officer must approve. If approved, police can keep you for a further 6 hours (maximum 12 hours). If the police wish to keep you detained for a duration that exceeds the 12 hour limit, they must get approval from a Magistrate or charge you and refuse to place you on bail. If you are refused bail by the police your Slater and Gordon Lawyer can make application for bail for you before a Magistrate.

What is Bail?

Bail is authority to be at liberty while an Accused's matter is being determined by the Court. In order to be granted bail, an accused or their legal representative must make a Bail application.

Typical Bail conditions are:

- Attending Court at a specific time, date and place;
- Reporting to a police station;
- Doing or refraining from doing certain things, such as contacting certain people and/or consuming alcohol;
- Providing a personal undertaking that if the Accused does not attend court he/she will be liable to pay a certain amount into the court fund;
- Providing a surety, who is a person that must present at court for the Accused and promise to pay a certain amount into the court fund, if the Accused does not attend Court. The surety must provide financial documents evidencing that they can pay the surety in circumstances the Accused does not attend;
- Residential conditions;
- Curfew conditions;
- That an acceptable person provides a character acknowledgment about the Accused;
- That the Accused surrender passport; and
- That the Accused not approach a point of departure.

In what location will the police keep me until I can speak or see my Slater and Gordon Lawyer?

Depending on the seriousness of the alleged offence and your physical and mental state at the time, police will keep you either in an interview room at the police station, or the police station's cells.

Further Information

For further information regarding your rights as a citizen visit the WA Legal Aid website at: [www.legalaid.wa.gov.au](http://www.legalaid.wa.gov.au)

For further information regarding your rights as an employee or the Legal Benefits Scheme visit [cpsucsa.org/legalbenefits](http://cpsucsa.org/legalbenefits) or call 1300 733 800