

Search & Seizure

What Search Powers do the Police have?

Under the Criminal Investigation Act (CIA), there are 2 types of searches that can be done on a person.

- a) Basic Search
- b) Strip Search

A basic search involves such things as an electronic scan of the person, frisk search, removal of a person's headwear, gloves, footwear or outer clothing, but not inner clothing or underwear in order to frisk search (s.63 CIA).

A strip search involves such things as removal of any article that the person is wearing including any covering of his/her private parts, search of the person's external parts including his/her private parts, search of the person's mouth (but not any other orifice) (s.64 CIA).

If the Police **REASONABLY SUSPECT** that a person has in his/her possession anything relevant to an offence, the Police may do a basic search or strip search of the person. The Police may seize anything relevant to an offence that they find (whether or not it is the thing the officer suspected was in the possession or under the control of the person) (s.68 CIA).

What is a "thing relevant to an offence"?

This is anything that is intended to be used, obtained, has been used in an offence or may afford evidence of the commission of an offence (s.5 CIA).

Strip Searches have additional rules in that it must not be done unless the searcher **REASONABLY SUSPECTS** that a strip search is necessary in the circumstances.

If the person is under the age of 18, it must (if practicable) be done in the presence of a responsible person or some other person who can provide the young person with support and represent his or her interests.

Always be careful not to hinder a search. If you do not understand why you are being searched, politely ask. You could say something like:

"I'm not refusing to co-operate but could you please tell me why I am being searched and what do you think I have on me?"

A search warrant is usually required to search a house or premises but there are exceptions to this, such as if you give permission, if an offence is being committed at the present time or if you have been arrested.

If you are ever concerned about the way that a search is being conducted, it is sensible to co-operate with the search at the time, speak to the Officer in Charge of the Police Station after the event. Make a complaint to the State Ombudsman if you are unsatisfied with the police investigation of your complaint.



Search & Seizure (cont.)

NOTE: Police have the power to remove persons from or refuse entry of persons to public places unless they consent to being searched (they do not need a “reasonable suspicion” before they can do this). This applies to public places which are declared by a Police Inspector or rank above to be a place where this can apply. This allows the Police to enforce restrictions on the types of things that can be taken into Public Venues. The Police have the power to seize articles, however, unless these articles are relevant to an offence or are unlawful to possess, the articles must be made available to the person for collection on leaving the place (s.69 CIA).

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Important: This general information is not the same as legal advice. You should speak with a lawyer about your situation.



For assistance contact:

Kids Helpline

1800 551 800

Crisis Care

9223 1111 or 1800 199 008

For help with this and other issues contact:

Youth Legal Service Inc (WA)

(08) 9202 1688 (Perth Metro)

1800 199 006 (Country WA)

www.youthlegalserviceinc.com.au