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DEALING WITH VIC POLICE

USEFUL THINGS
TO KNOW ABOUT:
POLICE IDENTIFICATION
POWERS OF ENTRY
ARREST AND SEARCH
COMPLAINTS
ABOUT CONDUCT

If you are a sex worker there may be times where you will encounter the police. Contact between sex workers and police has not always been positive. Therefore, it is important for workers to know their rights when interacting with police.

When dealing with the police exercise your rights, but stay calm. Respond calmly and politely – anything you say may be used in evidence against you. There's no such thing as 'talking off the record'. As a general rule you should not say or write anything about any alleged offence without having first spoken to a lawyer.

POLICE ENTRY TO PREMISES

A Victoria Police officer is generally required to obtain a warrant to enter and search private property¹. The police officer may enter your property without a warrant if you agree to them entering or the officer holds a reasonable belief that someone will commit or has committed a serious offence, and the officer needs entry to make an arrest².

POLICE ID

A Victoria Police officer in plain clothes who wants to arrest, search or make you move on must:

- > **let you know they are a police officer;**
- > **show youn their ID³** (see example of badge); and
- > **state their name, rank and police station** (you can also request this information in writing⁴).

If a Victoria Police officer is **in uniform they are only required to let you know their name, rank and station.** They are not required to show you their ID.

Failure by a Victoria Police officer to provide the above information can result in a fine for the officer⁵.



TALKING TO POLICE

A Victoria **Police officer can ask you to give your name and address if they have a reasonable belief that you have committed an offence or are about to commit an offence**⁶.

You are not required to answer questions asked of you, other than your name and address. If you don't want to say anything to the police make that clear and don't change your mind. Don't selectively answer any of the questions asked. Once you have stated your name and address, you can then use words such as "I do not want to say anything further at this stage" or "no comment".

There are times the police can ask for your name and address even if they don't suspect you have committed a crime. For example:

- > if you are driving a car and a police officer signals for you to stop, you must stop and show them your licence or permit; or
- > if you are on a tram, train, bus or on public transport property (i.e. a railway station), police can ask for your name and address. Protective Service Officers (PSOs) can also ask for your name and address if they suspect you have committed or are about to commit an offence (e.g. if you appear underage and are drinking alcohol at or near a train station).

You do not have to answer any further questions⁷.

POLICE SEARCHES OF YOU

The police do not have an automatic right to search you, but can if:

- > you agree (This is called “search by consent”. If you agree, the police officer should get your agreement in writing. If this does not happen, you can lodge a complaint);
- > they have a warrant;
- > they have arrested you;
- > you are in a public space that has been declared a ‘designated area’¹⁸ (see below for what this means); or
- > they are otherwise allowed by the law, for example, if you are in a public place and they reasonably suspect you have drugs⁹, a weapon¹⁰, or something that could be used for graffiti¹¹.

Before a search begins the police are required to give you a reason for the search¹². For example, under the *Control of Weapons Act 1990* (Vic), before a police officer conducts a search without a warrant, they must:

- > give you their name, rank and place of duty (and if you ask, they must give this information to you in writing);
- > show you their ID (unless they are in uniform); and
- > let you know that they are going to search you (or your vehicle) for a weapon (as the case may be)¹³.

If they are going to search you for another reason (i.e. for drugs under the *Drugs, Poisons and Controlled Substances Act 1981* (Vic)), they must let you know the reason they are searching you and under what power¹⁴.

If you are legally required to submit to a search you should try and keep calm as you can be charged with ‘hindering’ police if you try and stop it¹⁵.

The three types of searches – pat down, strip and full searches

PAT-DOWN SEARCH

Generally allowed in the above circumstances. When performing such a search, a Victoria Police officer can:

- > Use their hands to feel over the outside of your clothes¹⁶.
- > Perform such a search in a public place or private property.
- > Require you to empty your pockets or remove your jacket/coat.
- > Require you to show them an item that they believe to be a weapon.
- > Use a metal detector to look for something they suspect is a weapon¹⁷.

The police officer conducting the search must:

- > be the same sex as you where it is reasonably possible;
- > make a written record of the search; and
- > give you a receipt if they seize anything – including drugs¹⁸.

STRIP SEARCH

A strip search is only allowed if Victoria Police have “reasonable grounds” to search for items that would not be found with a pat down search¹⁹.

A strip search allows for the police officer to remove all your clothing and must be conducted in a private place, such as a police station²⁰.

When conducting a strip search, police should not:

- > Make you stand or be in any unnecessary positions (such as spreading the cheeks of your buttocks)²¹.
- > Touch your body “improperly”. This means they cannot examine “body cavities” and they cannot take body samples without your consent or a warrant²².

FULL AND INTERNAL SEARCHES

A full/internal body search means you are having a “forensic procedure” done which requires samples of cells to be taken from your body. This will could be used as evidence in a court hearing. Police can request body samples if they need to “confirm or disprove your involvement in a serious offence”²³.

This type of search involves a search of inside your body and can only be conducted if you agree (and are 18 years or over). They must be conducted by a same sex doctor. If you refuse, Victoria Police can apply for a Court Order²⁴.

COMPLAINTS

You may wish to consult a lawyer before making a complaint against police. In particular, it is important to be aware that there may be risks associated with making a police complaint. While there may be a public interest value in making a complaint about poor police conduct, the complaints process may take a long time, and our experience is that often, the process is not impartial in that the same police station that you are complaining against is the one that investigates the complaint. There may also be further risk if you have been charged, or may be charged, with criminal offences at the time of making the complaint.

If you have any difficulty in making a complaint about Victoria Police, or need advice, you may wish to contact your local community legal centre or the Police Accountability Project (PAP). More information on PAP and the police complaints process is available here policeaccountability.org.au/police-complaints/.

You can make a complaint about Victoria Police through the Police Conduct Unit within Victoria Police³⁴. This unit has an online complaint form you can fill out on the Victoria Police website under: police.vic.gov.au and follow the 'compliments and complaints' link.

You can also complain to the Independent Broad-Based Anti-Corruption Commission (IBAC) which is not part of Victoria Police³⁵. This complaint can be anonymous complaint. There is an online complaint form on the IBAC website at ibac.vic.gov.au

CONTACTS

If you have further questions about your rights, please contact the following organisations:

VIXEN COLLECTIVE

Vixen Collective promote the cultural, legal, human, occupational and civil rights of all sex workers. You can phone them on Vixen Collective's peer support line 0414 275 959 or email vixencollectivemelbourne@gmail.com.

RHED

Resourcing health & Education in the sex industry (RhED) provides site based and outreach services in collaboration with relevant programs and agencies. You can contact RhED by email sexworker@sexworker.org.au, via their website sexworker.org.au or call them on 1800 458 752.

ST KILDA LEGAL SERVICE (SKLS)

SKLS receives referrals for legal assistance from sex worker organisations. It provides free legal assistance to residents in the cities of Port Phillip, Stonnington and Bayside, and runs specialist programs including a Community Outreach Program, Family violence Program, and LGBTIQ Legal Service. You can contact them via email info@skls.org.au or phone on (03) 8598 6635.

REFERENCES

1. Victoria Legal Aid, *Police Powers: Your rights in Victoria* (2017), accessed online on 18 April 2019 at <https://www.legalaid.vic.gov.au/sites/www.legalaid.vic.gov.au/files/vla-resource-police-powers-your-rights-in-victoria.pdf>.
2. Ibid.
3. Youth Advocacy Centre, *Police – 14 Facts You Need to Know* (September 2018) accessed online on 30 April 2019 at yac.net.au/wp-content/uploads/2018/09/Police-14-Facts-You-Need-to-Know.pdf.
4. Victoria Legal Aid, *Police Powers: Your rights in Victoria* (2017), accessed online on 18 April 2019 at [legalaid.vic.gov.au/sites/www.legalaid.vic.gov.au/files/vla-resource-police-powers-your-rights-in-victoria.pdf](https://www.legalaid.vic.gov.au/sites/www.legalaid.vic.gov.au/files/vla-resource-police-powers-your-rights-in-victoria.pdf). Note that these details can also be asked for in writing from the police.
5. Ibid.
6. *Crimes Act 1958* (Vic) s456AA.
7. Ibid.
8. “Designated Areas” could include regular trouble spots (i.e. King Street in the Melbourne CBD) or areas that have had two or more violent events in the last 12 months. If an area is considered a “Designated Area”, this should be made public information. It is important to note that police offices (and even Protective Service Officers) do not need a warrant to search you if they suspect you are carrying a weapon. For more information, see Legal Aid Victoria (30 November 2016), accessed online on 30 April 2019 at [legalaid.vic.gov.au/find-legal-answers/police-powers-and-your-rights/getting-searched](https://www.legalaid.vic.gov.au/find-legal-answers/police-powers-and-your-rights/getting-searched).
9. *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s82.
10. *Control of Weapons Act 1990* (Vic) s10.
11. Legal Aid Victoria (30 November 2016) accessed online on 30 April 2019 at [legalaid.vic.gov.au/find-legal-answers/police-powers-and-your-rights/getting-searched](https://www.legalaid.vic.gov.au/find-legal-answers/police-powers-and-your-rights/getting-searched).
12. Victoria Legal Aid, *Police Powers: Your rights in Victoria* (2017), accessed online on 18 April 2019 at [legalaid.vic.gov.au/sites/www.legalaid.vic.gov.au/files/vla-resource-police-powers-your-rights-in-victoria.pdf](https://www.legalaid.vic.gov.au/sites/www.legalaid.vic.gov.au/files/vla-resource-police-powers-your-rights-in-victoria.pdf).
13. *Control of Weapons Act 1990* (Vic) s10(3).
14. See for example *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s60H.
15. Ibid.
16. Victoria Legal Aid, *Police Powers: Your rights in Victoria* (2017), accessed online on 18 April 2019 at [legalaid.vic.gov.au/sites/www.legalaid.vic.gov.au/files/vla-resource-police-powers-your-rights-in-victoria.pdf](https://www.legalaid.vic.gov.au/sites/www.legalaid.vic.gov.au/files/vla-resource-police-powers-your-rights-in-victoria.pdf).

REFERENCES CONTINUED...

17. Ibid.
18. Ibid.
19. Ibid.
20. Ibid.
21. Ibid.
22. Ibid.
23. Victoria Legal Aid, *Police Powers: Your rights in Victoria* (2017), accessed online on 18 April 2019 at legaid.vic.gov.au/sites/www.legaid.vic.gov.au/files/vla-resource-police-powers-your-rights-in-victoria.pdf.
24. Ibid.
25. *Sex Work Act 1994* (Vic) s13.
26. Ibid s15.
27. Victoria Legal Aid, *Police Powers: Your rights in Victoria* (2017), accessed online on 18 April 2019 at legaid.vic.gov.au/sites/www.legaid.vic.gov.au/files/vla-resource-police-powers-your-rights-in-victoria.pdf, page 13.
28. Ibid 12, “The law does not state what a reasonable time is, it will depend on the seriousness of the crime and how long it takes for the police to interview you”.
29. Ibid 12.
30. Ibid 17.
31. *Control of Weapons Act 1990* (Vic) s10D.
32. Ibid s10D(2)(b).
33. Ibid s5A.
34. Victoria Legal Aid, *Police Powers: Your rights in Victoria* (2017), accessed online on 18 April 2019 at legaid.vic.gov.au/sites/www.legaid.vic.gov.au/files/vla-resource-police-powers-your-rights-in-victoria.pdf, p34.
35. Ibid 35.



The information in this booklet is of a general nature. **For detailed and up-to-date advice contact a lawyer.**

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