



IF I AM CHARGED

This sheet is intended to provide **general legal information** about the law in Queensland. It is not legal advice.

If you have a particular legal problem you should contact a solicitor for legal advice. At the end is a list of agencies that might be able to assist you, including legal agencies.

What happens if the police believe I have broken the law?

If you are **under 18** and the police believe you have broken the law then they can take you to court for your matter to be dealt with.

What if the police decide to take me to court?

The police will consider the following in deciding whether to summons you to appear in court, give you a notice to appear in court or arrest and charge you:

- whether you admitted you broke the law
- how much trouble you have been in, in the past
- how serious the matter is.

If the police:

- **summons you:** you are allowed to leave the police station but at a later time the police will bring some papers (the summons) around to you. These papers will tell you where and when you have to go to court;
- **give you a notice to appear:** they give you a form (notice to appear) 'on the spot' and will tell you when and where you have to go to court. If you are given a Notice to Appear the police have to make a reasonable effort to contact your parents and the police must take note if they cannot contact your parents;
- **arrest and charge you:** this is the most serious option because you are not free to leave, and if you are not already at the police station, you will be taken there. The police will usually fingerprint and photograph you and decide whether to let you go until your court date (give you bail). You should ask the police to give you a notice to appear if you think they are going to arrest and charge you. If you are arrested the police have to make a reasonable effort to contact your parents and the police must take note if they cannot contact your parents.

What about bail?

If you are arrested and charged and the police do not want to give you bail (they do not want to let you go until you go to court) you can ask to make

a phone call to someone who may be able to help you. If you are unsure who to call, you can phone one of the agencies under '**Who can help?**' Only the Aboriginal and Torres Strait Islander Legal Service is available 24 hours, 7 days a week.

If bail is refused and you are under 18 you should be placed in a youth detention centre. When you get to court, you can ask the court to give you bail until your case is resolved. If you are in a detention centre, you can ask to see the duty lawyer when they next visit.

What if I am put in a watch house?

If you are under 18, the police should make sure you are:

- separated from adults (unless the police think it is better for you that you be with an adult)
- safe at all times
- not kept in a watch house longer than is necessary (if you cannot be taken to court, you must be taken to a youth detention centre).

If it is impossible to get you to a youth detention centre the next day, you should not be in a watch house longer than is necessary and you should have someone visit you every day. You should tell the police who you would like to visit you.

Fingerprints, palm prints and photographs?

The police can take your fingerprints, palm prints, footprints and voiceprints ('identifying particulars'), and photograph you and any tattoos, old and new injuries and other things on your body that may be used to identify you if you are arrested and charged. They can also take your photograph at the place where you are arrested.

If you are given a summons or notice to appear and the police want to take your prints, they will have to get a Court Order. You can argue that you should not have to give the prints and you should get a solicitor to help you. If the court orders you to give your prints and you do not do so, you can be fined and the police can arrest you.

If you give your prints under a Court Order you must have one of the people listed under 'Who can I have with me during a police questioning?' with you.

Can the police keep my prints & photographs?

If you were arrested and charged your prints and photographs must be destroyed if:

- the police decide later not to take your case to court
- the court decides you did not break the law.

If the court ordered you to give your prints, they must be destroyed if:

- the court decides you did not break the law
- the court decides you did break the law but orders a Youth Justice Conference, or Drug Diversion Assessment Program and does not sentence you.

Should I get legal advice?

If the police want to arrange for you and your parent to come down to the police station to be questioned then you should get legal advice before you attend an interview. It is useful to have a solicitor with you during the police questioning.

If you have to go to court you should get legal advice in order to understand whether you have broken the law and what your choices are in answering questions or going to court and advice on what might be best to do in your situation. If you are in a youth detention centre, you can ask to see the duty lawyer the next time they visit.

If you have not been able to see a solicitor before going to court, it is important that you see the court duty lawyer to get some advice about your case. If you are not sure, you can ask the security people who the duty lawyer is.

Legal Aid has a Youth Legal Advice Hotline which you can call from anywhere in Queensland between 8am and 9 pm Monday - Thursday and from 8am Friday until 5pm Sunday (1800 527 527) to speak to a lawyer about charges, including about whether to do a police interview.

For more details about the type of Orders the court can make if you are guilty of a crime, see our fact sheet 'Court Orders.'

What about security officers?

Security officers **are not** police officers and do not have the same powers. For example, they can arrest you for breaking the law (as can anyone), but they will need to be very sure you have committed an offence or you can take them to court for false arrest and assault. If they do arrest you, they must hand you over to the police as soon as possible. They cannot search you, take your prints or do other things the police have the power to do.

Security can order you to leave private property (which includes shopping centres) and use reasonable force to make you leave if you do not go when you are asked. At Southbank in Brisbane, security officers have special powers to ban people from the park.

By law, a person cannot work as a security officer or bouncer if they 'show dishonesty or a lack of integrity, use harassing tactics or have been convicted of a criminal offence'.

You do not have to give your personal details to a security guard. Some exceptions apply to this general rule. Security guards can ask for ID for proof of age if they believe that you are below 18 and on a licenced premises. You are also required to provide your name and address if you are trespassing.

Treated unfairly?

By police: The police should treat you fairly and politely. If they do not, you have the right to complain about it without the threat of being harassed.

It is a good idea to write down exactly what happened including time and date and the names of any witnesses and the police involved. If you were hurt, try to get to a hospital or to a doctor as soon as possible and take colour photographs of the injuries.

You can complain to the Commissioner of Police (07 3364 6464) who must investigate, or the Crime and Misconduct Commission (07 3360 6060) which is not part of the police service.

By security officers: if you have been treated unfairly by a security officer or a bouncer you should make a complaint as soon as you can to the manager of the place you are in (such as a nightclub or the centre manager of the shopping centre). If you are at Southbank go to the corporation's management office (near

'Southbank Streets Beach' on site) and complain to the manager.

Remember to stay cool and calm and do as you are directed and then phone the manager. As soon as you can you should write down everything you remember about:

- what happened
- the time and date
- the name of any witnesses
- any details about the security guards involved (names and a description).

If you were hurt, try to get to a hospital or doctor as soon as possible and take colour photographs of your injuries.

You should also make your complaint to the police and the Office of Fair Trading (OFT). OFT must investigate the complaint and the security officer/bouncer could lose their job if OFT is satisfied they acted in an inappropriate manner under the law. This could include being found guilty of a criminal offence (such as assaulting you).

If you want help or advice to make a complaint against police or security officers/bouncers, contact one of the agencies below.

Who can help?

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| Youth Advocacy Centre (YAC) www.yac.net.au | 3356 1002 |
| Youth Legal Advice Hotline | 1800 527 527 |
| Hub Community Legal www.communitylegal.org.au | 3372 7677 |
| YFS Legal www.yfs.org.au | 3826 1500 |
| Legal Aid Queensland www.legalaid.qld.gov.au | 1300 651 188 |
| Aboriginal & Torres Strait Islander Legal Service www.atsils.org.au | 3025 3888 or <i>(24hrs 7 days a week) 1800 012 255 (Free call)</i> |
| Translating & Interpreting Services (24hrs) | 131 450 |
| Community Legal Centres (CLCs) see www.naccl.org.au for your nearest CLC | |

This information was last reviewed and updated in January 2020. The Youth Advocacy Centre does not accept responsibility for any action or outcome as a result of anyone relying on the information provided.