

Engaging with police at protests (Victoria)

If questioned by police at a protest

First and foremost, **direct police to the organisers of the protest**. When you arrive at the protest, familiarise yourself with who the organisers are so that you can do this. Be sure to speak politely and respectfully to police. Be aware that police are wearing body cameras and recording everything you say to them.

Do not:

- Approach police unprompted
- Speak to police alone
- Speak to police in a hostile, aggressive or abusive manner
- Behave violently towards police
- Discuss the reasons for the protest, or your political or ethical beliefs, with police

Do I have to give my name and address?

A police officer can only ask you to give your name and address if they have a reasonable belief you:

- committed an offence
- are about to commit an offence.

The police officer must tell you what crime they think you committed.

Can a police officer ask for my phone number?

They can ask. You do not have to give it to them.

Do I have to answer any other questions?

No. You do not have to answer any other questions. If the police officer tells you that you are breaking the law by not answering questions, ask to speak to a lawyer.

The police officer may use anything you say to them to arrest or charge you. There is no such thing as speaking 'off the record'. The police could use what you say as evidence in court to show that you broke the law.

Can a police officer ask me to move on because I am protesting?

Generally, no. The police cannot ask you to move on if you are:

- picketing a job site
- protesting about a particular issue
- standing in a group with a sign or behaving in a way to advertise your view about an issue

But a police officer can tell you to move on if you are protesting and you:

- put the safety of another person in danger (or are likely to do so)
- are doing something that is likely to injure someone or damage property.

Can a police officer search me?

In general, a police officer can search you if they have:

- a warrant
- arrested you.

Police officers must write down that they searched you. You can ask for a copy of this written record. You can ask for it at the time or later. You can get the written record for free if you ask for it within one year of the search.

There are a few circumstances in which police can search you without a warrant:

- They can ask for your **consent** – you do not have to give it.
- In a public place if the officer has a **'reasonable belief'** that you have:
 - Illegal drugs
 - Things that can explode or catch fire
 - A gun, knives, imitation guns, knuckle-dusters or nunchakus
 - Something that could be used to make graffiti, e.g. spray paint or a texta.
- Police can say they have reasonable grounds to search you if you are in an area where there is **lots of violence crime or graffiti**.
- Police can search you for weapons in public areas which are **'designated areas'**. A senior police officer can make a public area into a designated area if it:
 - is a regular trouble spot such as King Street in the city
 - has had two or more events of violence or disorder in the last 12 months
 - has had events or demonstrations that have been violent.

If a police officer asks to search you because you are in a designated area, you must let them. It is an offence to say no, or refuse in another way.

If a police officer tries to search you at a public protest, **immediately get the attention of the protest organisers**. The interaction should be witnessed and filmed in case the search is illegal.

Can I film/record the police?

Yes. Everywhere in Australia, the law says you can record in public, even if the police tell you to stop but you need to be aware of your legal obligations.

If you are in public, you do not have to tell the police you are recording. Keep in mind though, one of the reasons for recording police is to improve their behaviour and stop harassment. If the police know they are being recorded this may be enough to stop any unwanted or unlawful behaviour but sometimes it can anger them. Even if you have a legal right to do something never put yourself or your property in danger and always de-escalate a situation by following orders and moving back if requested. Standing away from the immediate action and observing is safer and more effective than using a camera in someone's face like a weapon.

The police cannot take your phone just because they do not like you recording. There must be a lawful reason for them to take your phone.

Read more: www.copwatch.org.au/your-rights-long-version

Undercover officers

Police often send undercover officers to protests. They may have several reasons for doing so:

- Cause disruption
- Encourage escalation including violence, to enable uniformed officers to respond more aggressively or to dissuade protestors from attending
- Learn information about activists or organisations through questioning or secret recording – undercover officers are known to place backpacks containing recording devices near protestors

If you suspect someone is an undercover officer, avoid giving anything but vague and non-incriminatory answers to their questions, and alert the protest organisers. Do not openly accuse them.

Stingray devices

‘Stringrays’ are surveillance devices employed by law enforcement agencies particularly in Canada, the United States and the United Kingdom. Their use in Australia is unconfirmed, and an [FOI request to the Australian Federal Police](#) on the subject was refused. It is best to act as though they are in active use.

Stingrays mimic a cell tower in order to intercept data on nearby phones. This could be metadata, or even the contents of unencrypted messages or calls. They are often placed in vehicles near to the location of protests, or can even be handheld.

When at protests, limit use of your phone, and try to use encrypted communications only (e.g. messages and calls over Signal or Whatsapp).

Avoid discussing any sensitive or incriminatory matters in the vicinity of your phone, as smartphones can be secretly and remotely used by law enforcement as recording devices. This applies at all times, not just at protests.

Sources and further information

This document has largely been adapted or copied from two main sources. We highly recommend reading them as they go into much more detail.

- ‘Police powers: Your rights in Victoria’, produced by Victoria Legal Aid: <https://www.legalaid.vic.gov.au/find-legal-answers/free-publications-and-resources/police-powers-your-rights-in-victoria>
- ‘Legal Rights (for Professionals)’, produced by Copwatch: <https://www.copwatch.org.au/your-rights-long-version>

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