



PARENTS AND POLICE

This sheet is intended to provide **general legal information** about the law in Queensland.

This information 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. At the end is a list of agencies that might be able to assist you, but please note that the Youth Advocacy Centre does not take direct enquiries from parents.

Parents will commonly first learn that their child may have broken the law when the police phone or arrive at the door. It is important to:

- keep calm
- find out as much as possible about what the police say the young person has done - remember a complaint to police does not automatically mean your child has broken the law (even if they have done something wrong)
- ask why the police want to speak with your child.

It is recommended your child tells police that they will decide whether to give a statement or answer questions after they have spoken with a lawyer. Your child may call the Youth Hotline on 1800 527 527 or if your child identifies as Aboriginal or Torres Strait Islander, they may call ATSILS on 1800 012 255.

For information on what your child does or does not have to do in relation to police, and what happens if they have to go to court, see the YAC Info sheets: Police - Facts You Need to Know; If I am Charged; Court; Childrens Court Queensland; Court Orders.

The rest of this sheet is info for you as a parent.

Are police allowed to come into my home or search my car?

There are a number of ways the police can legally conduct a search. The three main ways are:

- **Search warrant** - if police seek to enter your home or examine your car with a search warrant you have the right to get a copy of this warrant and the name, rank and station of the police officer.
- **Reasonable suspicion** - police can enter a private place, such as your home or car, **without a warrant**, if they have 'reasonable suspicion' that they will find evidence of an offence and this evidence may be hidden or destroyed unless the place is immediately searched.
- **Consent** - if you give police permission to search, then the police can stay in your home or keep searching your car until such time as you withdraw that consent and then they have to leave unless they have a specific power they are relying on to stay and search.

If police take away any property belonging to you or your child the police must provide a field property receipt.

As a parent, do I have to call the police if I think my child may have broken the law?

If you are concerned your child may have broken the law you do not have to contact the police: however, there are potential consequences for parents if their child brings some things into the home. For example, if you think your child is using drugs then you are not under a legal obligation to let police know. However, if police find drugs belonging to your child at your home, it is assumed you had knowledge of the drugs since you are deemed to have control of the house. You may have to prove you did not know the drugs were there and that you had no reason to suspect the drugs were there. If you try to hide evidence of an offence or do something like putting items you think have been stolen in the bin, you could also be charged with breaking the law. This means you do not have to tell police about anything your child may have done, but you also cannot do anything to cover up what they may have done. If your child is over 18 and you have a reasonable suspicion that they have committed a sexual offence against a child, you are required to report this to police.

As a parent do I have to go with police or give a statement to police?

During an investigation police may seek to gather information from many sources including parents, even if the parents are not directly involved. There is, however, no legal obligation for a person to talk to police about any matter. You do not have to go anywhere with police, such as to the police station, unless you are under arrest. The police might want to question you about where your child was at a certain time. If the police approach you to give a statement it is important to know that you do not have to say anything, but you should never lie to police, or try to mislead police as this may lead to you being charged (e.g. you should not say your child was at home at a certain time when you know they were not).

If the police approach you or your child it is best to give your correct name, address, and age as it can be an offence not to do this. Be aware that anything you say (even on the street) may be tape-recorded without you knowing. There is no such thing as an 'informal' or 'off the record' chat or interview

What is a support person's role in a police recorded interview?

A person under 18 years of age must have a support person at a police interview. This support person has to make sure the child understands the process and their rights, that they can exercise those rights, and to ensure that the police conduct the interview fairly. If your child decides to agree to an interview, one of the best ways to support them is to organise for the interview to take place after your child has spoken with a lawyer. Unless the police know a lawyer has been organised for your child, the police must contact a representative from a legal aid organisation and inform them before they question your child. See the list below for phone numbers for free legal help. If you are angry with your child, then your ability to be a support person can be a problem. Before the interview you should confirm that your child wants you to be their support person or if they might want another trusted objective adult to support them.

What is a parent's role if the young person formally admits that they broke the law and the police:

- **Caution the young person (give them a formal warning)** because they have not been in much trouble before or have not committed a serious offence. The police must ensure either an adult chosen by the child or a parent is present for the Caution. There is no obligation on a parent to be present but if you do not attend and there is no other adult the child wants there then the police will not be able to issue the Caution which may mean they charge the young person instead and your child will have to go to court.
- let the young person attend a **Restorative Justice Conference** where they will have the opportunity to discuss the consequences of committing the offence with the people they affected, such as the victim. The aim of the conference is that both parties agree on how the young person will make amends such as: an apology; agreeing to pay the victim some money or agreeing to attend a program. The young person must have a support person at the conference. Parents are entitled to be there even if the young person is supported by another adult.
- offer a **Drug Diversion Assessment Program** if drugs were involved and the police believe a Caution is not suitable. The Drug Diversion Assessment Program is one session with a drug counsellor that lasts around two hours. Parents do not need to attend the program.

If the young person is charged and has to go to court - do I have to be there as a parent?

If a young person has to go to court, the court usually requires the parent to be there. If no parent attends, the court will want to know where the parents are and why they are not present. The court can issue a notice ordering the parents to come to court, and if they still do not attend the parents can be fined by the court.

When the Magistrate/Judge chooses the most appropriate court order (sentence) for the young person, they will consider how the young person's parent has responded to the alleged offence. Helping your child to learn from the event and to change their behaviour will be viewed positively by the courts.

What if my child is the victim of a crime?

It is the role of police to investigate crime. People do not have to report the crime to the police. If you have a reasonable suspicion that a sexual offence has occurred against a child by an adult, then you are required to report this to police.

It is important to understand what may happen if a matter is reported to police. It may be useful to talk to a lawyer first. If young people decide to report crime to police, the police decide if they are going to charge someone. Your child may be eligible for victim's compensation and should speak to a lawyer about this. YAC can provide support to young people appearing as complainants or witnesses in court matters and help them to manage the process. See contact details below.

How can I withdraw a complaint to police about my child?

Sometimes parents complain to or call the police about their child and the police then charge the young person with an offence - such as with wilful damage or assault. Parents should be aware of the legal and non-legal consequences of this and should get some advice before speaking with the police. If a parent later decides that they don't want the matter to go to court, they can seek to withdraw their complaint at any time, including after the young person has been charged and court proceedings have started. Any officer at a police station counter can assist the parent in filling out a 'Withdrawal of Complaint' form. The form will then be brought to the attention of the arresting officer, who will assess what steps are to be taken, such as having the charge formally dismissed by the

court. However, if there is other evidence about the offence, the police can still decide to proceed and the parent may still have to give evidence in court against their child if the child decides to plead “not guilty”.

Who can help?

Youth Advocacy Centre (YAC) www.yac.net.au 3356 1002

Hub Community Legal www.hubcommunity.org.au 3372 7677

Legal Aid Queensland www.legalaid.qld.gov.au 1300 651 188

Youth Legal Advice Hotline..... 1800 527 527
(Monday - Thursday 8am - 9pm; Friday 8am - Sunday 5pm)

Aboriginal & Torres Strait Islander Legal Service www.atsils.org.au 3025 3888 or
(24hrs 7 days a week) 1800 012 255 (Free call)

Community Legal Centres (CLCs) see www.naccl.org.au for your nearest CLC

This sheet was last reviewed and updated in January 2024. The Youth Advocacy Centre does not accept responsibility for any action or outcome as a result of anyone relying on the information provided.

UNDER REVIEW