QUICK GUIDE TO

STRIP SEARCHES

IN NSW

THE POLICE, YOU, AND THE LAW

WHEN CAN POLICE SEARCH ME?

Police can stop, search & detain you without a warrant if they suspect on reasonable grounds that:

- you have something stolen or unlawfully obtained in your possession;
- you have something used or intended to be used in connection with an offence;
- you have a dangerous article used in connection with an offence in a public place; or
- you have prohibited plant or drugs in your possession.

Drug detection dogs can be used in public places such as music festivals, sports events, public transport, pubs, clubs and entertainment venues

WHAT IS A GENERAL SEARCH?

In general searches, police can:

- Quickly run their hands over your outer clothing;
- Require you to remove a coat or jacket;
- Require you to remove gloves, shoes, socks, hat;
- Examine anything in your possession; and
- Pass an electronic metal detector in close proximity to your outer clothing.

Consent to a general search is not consent to a strip search.

WHAT IS REASONABLE SUSPICION?

- Reasonable suspicion must be more than a possibility but less than a belief
- There must be a factual basis for the suspicion.

If these are not met, the search may be unlawful.

WHEN CAN THEY STRIP SEARCH ME?

Outside a police station or place of detention, police can only strip search if they suspect on reasonable grounds that:

- the strip search is necessary for the purpose of the search; and
- that the seriousness and urgency of the circumstances make the strip search necessary.

Police use drug detection dogs as a basis for reasonable suspicion. However positive identifications are often unreliable.

The Illustrated Law Project

Text by Zahra Stardust Illustrations by Megan Oliver

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WHAT MUST POLICE DO DURING STRIP SEARCHES?

Police must, as far as reasonably practicable in the circumstances:

- Conduct the least invasive kind of search practicable
- Only conduct a visual inspection
- Conduct the search in a private area
- Ask for your co-operation
- Inform you whether you will be required to remove clothing and why
- Suspend questioning whilst searching you
- Be the same gender as you
- Search you as quickly as reasonably practicable
- Allow your parent, guardian or personal representative to be present
- Allow you to dress as soon as it is finished
- Ensure you are left with or given reasonably appropriate clothing if your clothes are seized.

WHAT CAN'T POLICE DO DURING STRIP SEARCHES?

Police must not, as far as reasonably practicable in the circumstances:

- Search your body cavities or touch you (asking you to 'squat and cough' may constitute search of a body cavity)
- Search your genital area or breasts unless they suspect it is reasonably necessary
- Strip search any person under 10
- Search a child between 10-18 or a person with impaired intellectual functioning without the presence of a parent or guardian, unless the search is urgent and evidence may be destroyed
- Conduct the search in presence or view of unnecessary people
- Conduct the search in presence of view of a person of a different gender, unless they are your parent, guardian, personal representative or medical practitioner (with your consent)
- Remove more clothes than they believe on reasonable grounds is reasonably necessary for the search.

WHAT CAN I DO?

- Ask the name, rank and station of the officer
- Ask what law empowers the search
- Take a friend or witness with you for the search
- Tell the police if you do not consent
- Seek legal advice from your community legal centre if you think the search was unlawful
- Lodge a complaint to the Police Commissioner or the Law Enforcement Conduct Commission, NSW Ombudsman or NSW Council for Civil Liberties

Strip searches for personal drug possession outside a police station or place of detention may be unlawful if the circumstances are not serious or urgent enough to make the search necessary.

Your safety is important. The lawfulness of a search is complex and can be difficult to determine in the moment. Look after yourselves and each other.

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