



STUDENT LEGAL

EXERCISING YOUR RIGHT TO PROTEST

Everyone has a right to protest and here, solicitor NINA LAU spells out what your rights are and what powers the police have when you next meet them at a demo.

Everyone has a right to protest, however this is subject to legal limits, which you should be aware of. Police have powers in order to carry out their duties. It is important to be aware of these powers in order to exercise your individual rights, without getting into trouble.

PUBLIC DISORDER

Where there is large-scale public disorder or threat, Police have emergency powers to control such situations. This means that the Police can stop and search you, your belongings and your vehicles if you are in the area of the public disorder, even if you have not done anything wrong. These powers include

- Roping off certain areas
- Setting up road blocks
- Requesting identification
- Issuing directions
- Searching people and vehicles
- Seizing and detaining things like vehicles and mobile phones
- Declaring alcohol-free zones
- Asking people to move along

SEARCHING PEOPLE AND THEIR PROPERTY

Police can search you and your property, if they have reasonable grounds to suspect that you are carrying:

- Stolen goods or goods unlawfully obtained
- Prohibited drugs
- Items used in a serious crime
- Knives or weapons.

A search can involve the Police giving you a pat down, asking you to remove your outer clothing, looking into your clothes and belongings, and finally asking you to shake your hair and open your mouth. It may be an offence if you do not comply with the search. Your rights...

- You have a right to ask the police officer their name, their station and the reason for the search,

- The search must be carried out by an officer of the same gender as you,
- Police can only perform a strip search if they have reasonable grounds to believe it is necessary. In such cases, they must provide you with privacy.

“MOVE ALONG” DIRECTIONS

If you are in a public place, Police can give you directions if they believe on reasonable grounds that you are:

- Obstructing another person or obstructing traffic
- Harassing or intimidating another person
- Causing, or likely to cause, fear to another person
- Unlawfully supplying, or intending to unlawfully supply any prohibited drug
- Attempting to obtain prohibited drugs

If you are INTOXICATED in a public place, Police can tell you to leave an area for up to 6 hours if they believe that your behaviour may cause injury to someone or be a risk to public safety.

ARREST

Police have the power to arrest you in certain situations. In situations such as protests, a police officer may arrest you if;

- You are committing an offence
- They have reasonable grounds to suspect you committed an offence
- You are breaching the peace

Police will have to ask you to accompany them to a Police Station if they wish to question you. You do not have to go to the Police Station if you are not under arrest. How should they arrest you? The Police Officer arresting you should:

- Tell you that you are under arrest; and
- Why you are under arrest; and

- Provide you their name and station

REMEMBER...

If the Police Officer does not provide you with those details, do not argue with them. You can always lodge a complaint later on. Resisting arrest can sometimes make things worse and may even result in being charged for resisting arrest or if things get physical, assaulting a Police Officer.

MISUSE OF POWER

If you believe that the Police have misused their power, you can make a complaint by:

- Going to the Local Police Station and asking to see the duty officer of the Local Area Command;
- Contacting the Commissioner of Police; or
- Ombudsman.

HOLDING A PROTEST

For those wanting to hold a protest in NSW, the NSW Police have a form called “Form 1- Notice of Intention to Hold a Public Assembly”. This form needs to be completed and provided to the Police with notice. Providing this notice can also protect some protesters from being charged or arrested for offences related to the protest.

NOTE: Some of the above information has been extracted from Legal Aid NSW “Police Powers” brochure.

NINA LAU - Solicitor, Student Legal Services

Disclaimer: The information is general and should not be relied on as legal advice.

SHOULD YOU REQUIRE ADVICE, CONTACT STUDENT LEGAL SERVICES ON 8688 7875 OR EMAIL STUDENTLEGALSERVICES@UWS.EDU.AU

UWS Student Legal Service is a joint venture between Macquarie Legal Centre and UWS. Located at UWS Parramatta Community Justice Clinic, Parramatta Local Court, it provides advice to currently enrolled UWS students through SSAF funds.