

Youth Justice: your guide to cops and court in New South Wales

Supplement – February 2007 by Jane Sanders

The following is a new section and should be read after the Chapter “At the police station”.

What the police must tell you when exercising their powers

LEPRA (section 201) requires the police to give a person certain information when exercising most types of powers. The amendments that came into force in December 2006 made some changes to the powers that this section applies to and the type of information the police have to give.

What powers does it apply to?

- search;
- arrest;
- search of vehicle, vessel or aircraft;
- entry of premises (not being a public place);
- search of premises (not being a public place);
- seizure of property;
- stop or detention of a person (other than under Part 16) or a vehicle, vessel or aircraft;
- requesting disclosure of identity;
- establishing a crime scene;
- giving a direction;
- requesting a person to open their mouth or to shake or move their hair;
- requesting a person to submit to a frisk search or to produce a dangerous implement or metallic object.

What must the police tell you?

Police must provide the person with:

- evidence that the police officer is a police officer (unless he or she is in uniform);
- the police officer’s name and place of duty;
- the reason for the exercise of the power;
- a warning that failure to comply is an offence (as of 12 December 2006, this warning need only be given if the power involves making a request or giving a direction, and failure to comply is an offence, and the person does not comply).

If a police officer is exercising two or more powers at the same time, they only provide their name and place of duty once.

If two or more officers are exercising the power, only one officer is required to comply with this section. However, if a person asks another officer for their name or place of duty, the officer must give the information requested.

Police have come up with the acronym “WIPE” to help officers remember these four requirements:

W = warn person that failure to comply may be an offence

I = inform person of reason for exercise of power

P = provide name and place of duty

E = evidence that officer is a police officer

When must the police give this information?

When exercising powers to request identity, to give a direction, or to request a person to open their mouth or move/shake their hair, police must give this information before exercising the power.

In relation to all other powers, police must provide the above information before or at the time of exercising the power, if it is practicable to do so. Otherwise they must provide it as soon as reasonably practicable afterwards.