



andrew warren associates

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Under arrest?

Everybody knows that the police can arrest people. However, if it happens to you it can be a frightening and powerless feeling. Here's some basic facts...

If a police officer arrests you, they must tell you that you are being placed under arrest, and why they are doing so. If you fail to submit, they can use reasonable force to arrest you. You can be handcuffed if you attempt to escape or the police think you may try to escape.

You can normally only be arrested if a police officer has a reasonable suspicion that you have committed a crime, or are in the process of or about to commit a crime. The police have the right to search you upon arrest.

If you are arrested, you should be taken to the police station. You are entitled to contact a lawyer and have a lawyer be with you while you are questioned.

Importantly, you have the right not to answer any questions (unless you have been arrested over a motor vehicle incident in which case you have to provide some limited particulars). You should not answer questions – in all my years of legal practice I have not yet met a client charged with an offence who made their situation better by giving a record of interview to police.

If you are arrested and charged you are required to submit to being photographed and fingerprinted. You can apply to have these destroyed later if you are acquitted of the charges.

If you are arrested, the police can generally hold you for four hours until you are charged. Once you are charged, then you will either be granted bail or alternatively will be taken before a Court to decide whether you can be granted bail.

The recently introduced anti-terrorism legislation makes significant changes to the law of arrest and bail as it relates to people charged with that kind of offence. Without going into details today, suffice to say the restrictions which these amendments place upon people's rights are significant and unprecedented in Australian history. We live in frightening times.