



Police Powers – Identifying Particulars *Adults*



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When do the police have the authority to require an adult to provide 'identifying particulars'?

This fact sheet explains:

- The details which confirm and establish someone's identity
- What an identifying particulars offence means?
- When can such particulars should be taken?
- What if you do not provide these particulars?
- Court orders
- Destruction of identifying particulars
- How to obtain legal advice?

ATSILS is a non-profit, Aboriginal and Torres Strait Islander community based organisation with 28 locations across Queensland. We provide innovative and culturally competent legal services covering criminal, civil and family law areas.



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1. Police Powers – Identifying Particulars - Adults

The police have the authority in certain situations to take or require a person to provide “identifying particulars” – that is, details which confirm or establish their identity (e.g. fingerprints or a photograph). The question then becomes: when are the police entitled to require you to provide these details? The police are entitled to require a person to provide identifying particulars if that person is charged with an “*identifying particulars offence*”

2. An identifying particulars offence means?

- Any offence for which the maximum penalty is at least 1 year’s imprisonment; or
- An offence against a number of specified pieces of legislation (Acts), including:
 - *The Police Powers and Responsibilities Act;*
 - *The Summary Offences Act;*
 - *The Regulatory Offences Act; and*
 - *The Weapons Act.*

3. What kind of identifying particulars can the police take?

Identifying particulars of a person means any of the following:

- Palm prints
- Finger prints
- Handwriting
- Footprints
- Taking a photograph
- Taking measurements

When can such particulars be taken?

Either straight away (e.g. for someone who is detained in custody) or the police can provide a person with a Notice to attend and provide the particulars at a stated police station within 7 days (e.g. for someone who was given a Notice to Appear or a Summons).

What if I do not provide these particulars

If the police were entitled to require identifying particulars to be provided – it is an **offence** not to do so (Failing to Comply with a Direction).

4. Court Orders

The police may subsequently bring an application before the court for the taking of identifying particulars (if the proceedings relates to a person charged with an identifying particulars offence) in certain stated circumstances (e.g. to confirm the person’s identity or criminal history). The Court (if satisfied that such is necessary) may either order that a person be held in custody in order to allow the police to take the particulars – or order that the person attend a police station within 7 days to provide same. It is an offence not to comply with such a court order (without a reasonable excuse).

Note: it is not a reasonable excuse that the provision of such particulars may tend to incriminate the person.

The police are only entitled to detain someone (not otherwise in custody) for the taking of such particulars for up to **one hour** (or longer if reasonably necessary in the circumstances).





5. Destruction of Identifying Particulars

If a person is found not guilty of an identifying particulars offence or is not further proceeded against – any identifying particulars taken in relation thereto must be destroyed within a reasonable time in the presence of a justice. However, there are a number of significant exceptions to this – which means that destruction may not be required (e.g. if the person has previously been found guilty of another identifying particulars offence).

6. Juveniles

Please note that different rules relate to the taking of identifying particulars from a juvenile (someone aged 16 or under). Please see our separate Facts Sheet on this subject.

7. Obtaining Legal Advice?

ATSILS provides innovative, professional and culturally competent legal service for Aboriginal and Torres Strait Islander people across Queensland.



FREE CALL 1800 012 255

We can be contacted toll free on **1800 012 255**, 24 hours a day, 7 days a week. We have 28 offices located across Queensland so you will be put in touch with the closest regional office that is able assist you with your legal needs. In some instances, ATSILS might have a conflict of interest and will not be able to provide you with legal advice. If this is the case, you may wish to try Legal Aid Queensland on their Indigenous Information line on **1300 65 01 43**.

This Factsheet is not intended to provide legal advice and has been provided for the purpose of providing information only. Whilst all reasonable care has been taken in the preparation of this information, no liability is assumed for any errors or omissions.

