

ROAD TRAFFIC (ADMINISTRATION) ACT 2008 - SECT 73

73. Consent

(1) A police officer must, before obtaining the consent of a person for the purposes of a provision of this Part, inform the person that he or she may refuse to give consent.

(2) An entry by or the exercise of any other power under this Part by a police officer on the basis that the officer has a person's consent is not lawful unless the person voluntarily consented to the entry or exercise of the power.

(3) Consent to the exercise of a power may be withdrawn after it has been given, and if it is withdrawn, the power cannot be exercised on the basis that there is consent to do so.

What to say and do when the police stop you for any reason:

1. Hand this document to the policeman and say, "Have I committed a crime?"
2. If it's a traffic stop or an RBT, he must say no, you have not committed a crime.
3. Then say, "I do not consent to talk to you."
4. If they continue to try to talk to you, or demand you hand over your identity or license, say, "I do not consent. I do not answer questions. Am I being detained?" They will try to tell you it is the law. But their law is subject to a higher law from the Supreme Court and Federal law, both of which say you have the right to refuse their demands.
5. Repeat the question, "Am I being detained?" If he says No, then do not say anything else. You do not have to talk to the police.
6. Leave the scene and continue your private business.

1. Regina v Banner (1970) VR 240 at p 249 – the Full Bench of the Northern Territory Supreme Court

[Unable to find the ruling, so you will have to ring the Supreme Court and request a copy of the judgement]

In this judgement, the NT Supreme Court handed down a ruling that, "(Police officers) have no power whatever to arrest or detain a citizen for the purpose of questioning him or of facilitating their investigations. It matters not at all whether the questioning or the investigation is for the purpose of enabling them to ascertain whether he is the person guilty of a crime known to have been committed or is for the purpose of enabling them to discover whether a crime has or has not been committed. If the police do so act in purported exercise of such a power, their conduct is not only destructive of civil liberties but it is unlawful."

2. Andrew Hamilton Vs Director of Public Prosecutions – Justice Stephen Kaye – Melbourne Supreme Court ruling – 25 November 2011

[DPP v Hamilton \[2011\] VSC 598 \(25 November 2011\) \(austlii.edu.au\)](https://www.austlii.edu.au/au/other/dfat/special/hamilton.html)

"It is an ancient principle of the Common Law that a person not under arrest has no obligation to stop for police or answer their questions. And there is no statute that removes that right. The conferring of such a power on a police officer would be a substantial detraction from the fundamental freedoms which have been guaranteed to the citizen by the Common Law for centuries."

3. Magistrate Duncan Reynolds – Melbourne – July 2013

Search [https://www.austlii.edu.au/](https://www.austlii.edu.au/au/other/dfat/special/hamilton.html)

"There is no common law power vested in police giving them the unfettered right to stop or detain a person and seek identification details. Nor, is s.59 of the (Road Safety) Act a statutory source of such power."