

Citizen's Power of Arrest

IS THERE A CITIZEN'S POWER OF ARREST?

In the ACT under section 218 (1) of the *Crimes Act 1900* for a person who is not a police officer to arrest a person **they must believe on reasonable grounds** that the other person **is** committing or has **just** committed an offence.

DO I HAVE A REASONABLE '**BELIEF**' THAT AN OFFENCE **IS BEING** COMMITTED OR **HAS BEEN** COMMITTED BY THE PERSON?
SUSPICION IS NOT ENOUGH

Belief on reasonable grounds

A state of mind where a reasonable person would also believe or accept as true that an individual is committing or has committed an offence.

For example: If you saw a customer take an item from the shelf, put it in their pocket and run out you have a belief on reasonable grounds.

Suspicion

Is where there is little evidence or proof that an individual is committing or has committed an offence, including where there is some uncertainty and doubt.

For example: theft buzzer sounds as someone exits the store; or a person has spent an inordinate amount of time browsing and is consciously avoiding assistance.

What can I do if I have a reasonable belief that an offence is being committed or has been committed?

Then you have grounds to arrest the person. If you fear for your safety it is recommended to let the person go particularly if the offender is known to you.

YOU MUST:

- Inform the person why they have been arrested, unless the suspect's actions make it impractical to do so.
- Contact Police immediately after arrest to transfer custody of person and property. It may be necessary to hold the person in a detention room for this to occur.
- Use only such force that is reasonable and necessary to affect an arrest. Excess force is not authorised and may constitute an assault.
- Ensure suspect is under constant supervision.
- Not remain in a secluded area with a suspect of the opposite sex.

YOU SHOULD:

- Identify yourself and your position and show identification.
- Ask the person to provide their name and address. However, they are under no obligation to answer any of your questions.
- Record statements made by the person and provided them to the Police.
- Take notes of events which can be later turned into statements for Police.
- Be mindful at all times of compromising evidence for the Police investigation.
- Ensure a citizen's arrest is conducted by a senior member of staff in the presence of a witness.

YOU MUST NOT:

- Conduct a search.
- Obtain a confession statement from the offender.

What can I do if I have a suspicion that an offence is being committed or has been committed?

You may approach the person and request to view contents of bag or ask them questions. If they refuse or offer no further evidence you have no power of arrest.

In this case you have no right to arrest a person, but if you suspect a crime has been committed you should contact the Police.

PLEASE NOTE:

Citizen's power of arrest is found in section 218 *Crimes Act 1900* (ACT).

Notwithstanding a lawful basis to arrest in some cases, attempting to intervene in such circumstances can be highly risky and in most cases it might be more appropriate to call police to attend.