

Probable Cause

CRIMES ACT 1958 - SECT 456AA

Requirement to give name and address

S. 456AA(1) amended by Nos 37/2014 s. 10(Sch. item 36.12(a)), 45/2017 s. 15(1).

(1) A police officer or a protective services officer on duty at a designated place may request a person to state his or her name and address if the police officer or the protective services officer believes on reasonable grounds that the person—

(a) has committed or is about to commit an offence, whether indictable or summary; or

(b) may be able to assist in the investigation of an indictable offence which has been committed or is suspected of having been committed.

S. 456AA(2) amended by Nos 37/2014 s. 10(Sch. item 36.12(b)), 45/2017 s. 15(2).

(2) A police officer or a protective services officer who makes a request under subsection (1) must inform the person of the grounds for his or her belief in sufficient detail to allow the person to understand the nature of the offence or suspected offence.

Case Law Precedent

Baff v NSW Police Commissioner 2013 - Common Law right to remain silent reconfirmed. In making her orders, Justice Adamson said Constable Baff was "entitled, in the exercise of his privilege against self-incrimination, to refuse to answer questions asked of him by the defendant" and declared that "any order directing the plaintiff to answer questions concerning the incident on 30/31 May 2011 is not a lawful order in circumstances where the plaintiff has claimed the privilege against self incrimination."

DPP (Vict) V Hamilton - Nov 2011 – No duty or obligation to speak with a police officer unless you are already under arrest

Ibitt V NSW Police – 2006 - Random Breath Test ruled illegal

Kaba V Victorian Police – 2012 - Common Law right to travel without being molested