

# What is a Criminal Infringement Notice?

Committing a criminal offence doesn't always mean that you will be arrested, charged and taken to court.

It doesn't even mean that you will necessarily get a criminal record.

In recent years, police have been given the power to be 'judge, jury and executioner' in an increasing number of situations by with the ability to issue Criminal Infringement Notice (CINs), also known as 'on-the-spot fines'.

CINs mean that police spend less time on paperwork, and many would prefer to get a CIN than be dragged through the courts.

And if you pay a CIN you won't get a criminal conviction on your record.

Of course, not all offences can be dealt with by CINs.

In NSW, the following offences can be dealt with in this way:

1. Stealing (if the value of property or amount is under \$300) – \$300 fine
2. Offensive language – \$150 fine
3. Offensive behaviour – \$200 fine
4. Unlawful entry of a vehicle/board – \$250 fine
5. Obstructing traffic – \$200 fine
6. Goods in custody reasonably suspected of being stolen or unlawfully obtains – \$350 fine
7. Continuation of intoxicated and disorderly behaviour

following a move on direction – \$200

The CIN must be paid within 21 days or further penalties may apply.

All CINs are recorded on a computer system – which means that repeat offenders can be identified and will likely be taken to court for subsequent offences.

If you received a CIN after having your fingerprints taken, your payment of the fine will mean that your prints will be destroyed.

It is important to keep in mind that you are not obliged to pay a CIN – you can choose to take the matter to court, just like a speeding infringement.

But if you do so and are found guilty, you risk a conviction being entered on your criminal record.

### **How do police decide whether or not to give a CIN?**

If police have a ‘reasonable suspicion’ that you have committed a relevant offence, they can choose to either issue you with a CIN or take you to court by giving you a Court Attendance Notice (CAN).

It is a matter of [discretion](#), and police are supposed to take a number of factors into account when making that decision.

Relevant factors include the public interest – for example, if it’s not worth the public expense of taking the case to court because it is so trivial the police may issue a CIN instead, especially if the court is likely to deal with it by way of a ‘[section 10 dismissal](#) or [conditional release order](#)’ anyway, which means without a conviction.

The attitude of the suspect, their age, their criminal history (or lack thereof) and even the fact that police have other duties to attend to at the time may also be taken into

account.

On-the-spot fines mean that the offence is dealt with quickly and cheaply, both for police and the suspect.

But they have been criticised for giving police too much power because, in most cases, it allows them to have the final say about whether you are guilty or not.

This is because the vast majority of people won't be willing to incur the additional expense, time and risk of fighting the case in court – especially because they risk ending up with a criminal record.

The availability of CINs also means that police are far more likely to act upon extremely trivial offences, because they don't have to go back and complete paperwork, obtain statements or spend time at a court hearing.

CINs may also lead to the greater targeting of vulnerable groups such as the homeless, Middle Eastern youth and Indigenous people.

Whereas police may normally have to attend a court and prove the case before a Magistrate, CINs mean that it is extremely unlikely that the case will come before a court where police may be questioned, criticised and even ordered to pay the defendant's legal costs.

### **What if I contest my CIN?**

If you are not guilty, you can choose to contest your CIN by electing to take it to court.

After filling out the back and sending the CIN to court, you will be sent a Court Attendance Notice telling you when and where you are required to attend court.

However, don't automatically assume that going to court is your best bet even if you think that the CIN was unfair.

Before choosing to do so, always speak to a criminal defence lawyer – they will be able to explain what is likely to occur, including the potential costs, the timeframe and the likelihood of success.

Going to court may mean taking days off work, hiring a lawyer and still possibly being found guilty in court.

And again, you may risk a criminal record.

Of course, police will know this when they are issue you with the CIN.

If you wish to [speak to an experienced criminal lawyer](#), there are several specialist criminal law firms that will be able to give you good advice about your options, the cost and the likelihood of success.

But be careful – be sure that your lawyer is willing to give you a fixed fee before you go ahead, otherwise your legal fees may spiral out of proportion and you may regret your decision to go to court over a CIN even if you ultimately win.