



**WHAT IS THE
POLICE ALLOWED
TO DO? ₃**

**WHAT ARE MY
RIGHTS? ₇**

**HOW DO I BEHAVE IN
THE EVENT OF POLICE
VIOLENCE? ₉**

*An Info Leaflet
from Copwatch Leipzig*

Preface

We repeatedly have to learn that police act unlawfully. Unlawful racial profiling, police violence, and unreasonable searches are part of their daily routine. Police officers often take advantage of citizen's lack of knowledge.

To prevent this from happening, this brochure provides information about the rights of those affected, how to support them, and educates about the power of the police.

We can and must critically accompany the work of the police - especially when we receive new reports of „police problems“ almost every day and there are barely any complaint possibilities.

First of all: This information applies primarily on paper. In practice, police officers are usually in the majority, more heavily armed, and backed by the judicial system - and mostly act based on that. Nevertheless, we think it is important to know the rights and duties of both the current police and those of our own. It makes it easier to be less intimidated and more strategic. Often enough, it is of some use to consistently insist on our own rules. In this way, we may be able to better protect ourselves and others.

WHAT IS THE POLICE ALLOWED TO DO?

The police acts on the legal basis of the Criminal Code (StGB) and the Code of Criminal Procedure (StPO) for criminal prosecution and the individual state police laws for the prevention of danger (in Saxony: SächsPVDG or SächsPBG). These laws govern what the police can do. The police officers have to explain them to you. They may not contradict each other, and they may not switch between different legal bases. It is essential to have the underlying information for the suspicion of danger or the suspicion of a crime explained to you.

If You Have Not Committed a Crime (Police Law).

- > Identification: If you pose a danger or disturbance, they can ask for your personal information. For this purpose, there has to be concrete and identifiable facts. In certain places (including so called „dangerous places“, *weapons prohibition zone*), they may do so „without cause“. However, there must still be some connection between your behavior and the dangerousness of the place. Arbitrary or racially motivated checks (*racial profiling*) are not allowed, as this violates the principle of equal treatment in Article 3 of the Basic Law. If your identity cannot be established due to lack of identification or unreliable information, further measures are possible: search for identification documents and detention for fingerprinting and photographing.

- > Expulsion: You can be ejected from a location (e.g., accident scene) for a few hours if you pose a danger or disturbance. This is not possible if you are an *assistance* (see below) or a participant in a lawful assembly.
- > Searches of persons and things: You (including your clothes) and your belongings may be searched if you are taken into custody, your identity is to be determined, you are in a „dangerous place“ or a *weapons prohibition zone*), or facts indicate that you (1) intend to commit a crime against endangered property or (2) are carrying items that may be seized/confiscated. The search of the person may only be carried out by a person of the same sex or by a medical doctor. You or a trusted friend have the right to observe the search of your belongings.
If you do not identify as „male“ or „female,“ insist that you be allowed to choose who will conduct the search. You should be allowed to do this for reasons of human dignity.
- > Custody: They are allowed to take you to a police station if a disturbance, danger or threat to others or yourself cannot otherwise be eliminated, if your identity cannot otherwise be determined, or if it is necessary to enforce an order to leave the premises/a restraining order/a no-contact order/a detention order. The police must give you a reason and a remedy, and allow you to call a lawyer and someone you trust. Ask to see a doctor if you are unwell. Being handcuffed or locked in a police car is also considered as custody.
- > Confiscation: One of your belongings may be confiscated if it is necessary to remove a disturbance or if you are authorized to be

detained. This includes confiscation of items that are prohibited in the *weapons prohibition zone*. You must be given a receipt and notified of the legal order. Do not sign the receipt.

If You Are Suspected of a Crime (Code of Criminal Procedure)

- > Search of property and person (§ 102 CCP): You are a suspect only if there are actual indications or facts that you have committed a crime. The StGB and other special laws can apply in this case.
- > Physical examination (§ 81a StPO): Blood, urine, and sweat tests. These constitute a serious intrusion into your physical integrity. They may only be performed on accused persons in accordance with the principle of proportionality. In theory, they require the consent of a judge. However, this is not necessary to detect alcohol in the blood, especially in road traffic. You are not obliged to actively participate (e.g., blowing), but you must tolerate the measures (e.g. taking a blood sample).
- > As a non-suspicious person (§ 103 StPO), the police may only search you if there are facts that this will probably contribute to the apprehension of suspects or to securing evidence. E.g., if the object of a crime (committed by another person) would be given to you in front of the police.
- > Arrest of troublemakers (§ 164 StPO): Anyone who disturbs the prosecution of criminal offenses or misdemeanors can be taken into custody until the end of the official act (max. until the end of the next day). This does not apply to *assistances*!

As an *assistance*, you do not interfere if you assist in the exercise of citizens' rights. The *right of assistance* does not actually exist in criminal proceedings (e.g., recording data after someone has been caught stealing). As long as there is no lawyer on site, the *right to assistance* applies analogously.

- > Only summons from the public prosecutor's office (also by the police) or the court are obligatory. You do not have to comply with subpoenas from the police, either as a witness or as a defendant, unless they send them explicitly on behalf of the public prosecutor's office.

WHAT ARE MY RIGHTS?

During a Police Check

- > Ask about the legal basis and the underlying facts for the action carried out by the police. It is important to distinguish between police law and criminal procedure law (see below). The link must be your behavior, not your appearance.
- > Contradict every single measure and have this recorded.
- > Ask for the names and badges of the police officers who take action against you. At least the officer in charge must identify himself to you. If people in civilian clothes claim to be police, insist on seeing their badges.
- > Right to assistance: Assistance can be any person designated by the person affected by a police measure. He/she/they can only be sent away by the police if he/she/they proves to be absolutely unsuitable. You can act together with your counsel (no representation). This is a good instrument if there are language problems or you want to critically accompany or have accompanied the police control. The right arises from **§ 14 paragraph 4 sentence 1 Administrative Procedure Act.**

In Case of Arrest

- > You are obliged to provide information about your name, date of birth, place and country of birth, nationality, marital status and registration address. Do not make any further statements!

- > As a defendant, you have the right to refuse to make any statement, both to the police and to the public prosecutor's office or the court.
- > You have the right to call a lawyer.
**Emergency service of the defense lawyers
Leipzig: +49 172 3641041.**
- > Do not let yourself be intimidated! Sometimes officials threaten you with deportation or promise to release you if you make statements. Do not believe them: Do not make or sign a statement under any circumstances!
- > If things are confiscated from you, insist on receiving a protocol. Do not sign this protocol.
- > If you are not released, you must be brought before the magistrate by midnight of the next day at the latest. The judge will then decide on your further detention (either release or pre-trial detention).
- > You have the right to have a translator there.
- > You are allowed to make 2 calls when you are arrested or in police custody. Contact a trusted person whose phone number you know by heart if your cell phone is not accessible or you do not want to unlock it.

HOW DO I BEHAVE IN THE EVENT OF POLICE VIOLENCE?

If You Have Been Affected by Police Violence

- > First try to stop the violence by de-escalating your behavior. If that doesn't help, shout out your pain or ask for help to get attention from people walking by.
- > Talk to possible witnesses so that they observe the situation and film/photograph it if necessary.
- > Give the observers your name and a way to contact you and ask them to get in touch with you later. You can also ask them to contact Copwatch Leipzig; we will then contact you.
- > If you later want to legally defend yourself against the police violence (§ 340 StGB), the police will most likely charge you with resistance (§§ 113, 114 StGB). Seek the advice of a lawyer.
- > If you are released and have been beaten or abused, take photos of yourself and go to a doctor immediately. Have your injuries certified.
- > We can offer you emotional support, process support and joint public relations work or refer you to other contact points and lawyers.

If You Witness Police Violence

- > Offer yourself as a counselor and support the assertion of citizens' rights.
- > Make yourself available to those affected as a witness. Ask bystanders to do the same.

- > In the event of an arrest, ask for the name and address of the person being taken away.
- > Write a memory protocol and report the incident to us.
- > Take photographs and video recordings, if the affected person wants you to do so.

Write a Memory Protocol

Write down the event as accurately as possible if you are the victim or witness to an arrest or (discriminatory) police action:

1. Place and time of the incident, observed actions
2. Reasons given for the police action
3. Descriptions of persons, contacts with other witnesses
4. Service and helmet numbers of the officers as well as car numbers of the police cars.

You can read a detailed guide to the memory protocol and what you should pay attention to here:

<https://copwatchleipzig.home.blog/2021/04/18/wie-schreibe-ich-ein-gedachtnisprotokoll/>

Complaint Options


- > You can file a *disciplinary complaint* at the police headquarter of the federal state (in Saxony: *Landespolizeipräsidium, Wilhelm-Buck-Straße 2, 01097 Dresden*). In Saxony, it is also possible to have your

case examined by a „Confidential and Complaints Office for the Police“, which is subordinate to the Ministry of the Interior.

- > With an action for a declaration of continuation you can have it legally examined whether your police measure was illegal according to the police law. In the case of measures according to the StPO, an appeal against the orders by judges or by the police and the public prosecutor's office is possible. The problem is that these court proceedings take a long time and usually require legal representation, which costs money.
- > Police officers may commit criminal acts during the performance of their duties. In such cases, you can file a criminal complaint. However, this can have a negative effect on you, e.g., in the form of a counter complaint.

The complaint options are not enough. Often, public scandalization and pressure from society are the only promising way to really address the so-called police problems. We help you with that!

Copwatch Leipzig seeks alternatives to establish security and justice apart from the existing system of police and justice, and works on authoritarian development. The police is criticized intersectionally and at its roots, especially by linking to discriminatory measures, its history and structure, as well as the militarization and expansion of its powers. Our education, documentation and campaigning work is situated in the context of a critique of social conditions that lead to social inequality and discrimination.



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