

# Real Rights: young people engaging with law enforcement



São Paulo, Brazil



The Real Rights project has been developed by Baker McKenzie and the Global Initiative on Justice with Children to provide young people – especially young people of colour, minority and vulnerable populations – with specific guidance for interactions with law enforcement. Thanks to the Real Rights project and the pro bono work of over 1,500 volunteer professionals, we have created a clear and accessible data base of answers to child questions when they are in contact with the police – from initial contact, questioning, to stop and report.

If you are interested to support us in this project, click on the "Feedback" button provided in each city page or email [realrights@bakermckenzie.com](mailto:realrights@bakermckenzie.com).

## Rights:

What rights do I have when I encounter law enforcement?

### Question Asked

- Stopped By The Police On The Street, Now What?
- When Can Police Search You and Your Surroundings?
- Reasons Police May Detain or Arrest You
- The Difference Between Police TELLING Me What To Do And Asking Me To Do Something
- Do Police Need A Warrant To Arrest You?
- How Do You Know If You Are Under Arrest?
- What To Do After Being Warned of Your Rights
- Police Questioning You
- How do I Contact A Lawyer and When?
- Do Police Always Have To Tell The Truth?
- How do I make a complaint if I have questions or feel my rights have been violated?
- What if I feel I was a victim of discrimination or racism?
- How can I respond to circumstances involving discrimination?
- What can you do if the police perform an improper search? Or I was improperly detained?

## Stopped By The Police On The Street, Now What?

### Can the police arrest you for refusing to answer questions?

It depends. In Brazil, children and adolescents may only be deprived of liberty in the event of "flagrante delicto" or by a competent court order, as provided for in article 106 of the Statute of Children and Adolescents (ECA).

If the questions are about your personal data (e.g., full name, date of birth, parents' names and the like), you have the obligation to answer them, as refusal can be understood as a flagrant act of disobedience (see item "b"), which may lead to seizure.

However, if the questions are about other topics (e.g., where you were going), there is no obligation to reply. In this scenario, choose to remain silent is your constitutional right ("right of silence"), being illegal the arrest resulting from the exercise of this right.

Remembering that, through the right to silence, you can remain silent in any criminal proceedings. The purpose is that you do not, in any case, produce evidence against yourself. In addition, the right to silence is guaranteed by article 5, item LXIII, of the Federal Constitution, as well as by articles 8, item 2, letter "g" of the American Convention on Human Rights, known as the Pact of San José, Costa Rica, and 14, item 2, of the International Covenant on Civil and Political Rights.

Legal Basis:

- Lei 8.069/90 - Art. 106/ ([Link](#))
- Constituição Federal - Art. 5º, inciso LXIII; ([Link](#))
- Pacto de San José da Costa Rica, Art. 8º/ ([Link](#))
- Pacto Internacional sobre Direitos Civis e Políticos - Art.14 ([Link](#))

### **But, after all, what is an apprehension and an infraction?**

Brazilian law prohibits the ordering of imprisonment of persons under the age of 18 (eighteen), allowing only their arrest in a proper establishment for children and teenagers offenders (in this case, Fundação Casa). Apprehension, however, consists of deprivation of liberty, as occurs with imprisonment.

The infraction, in turn, is the practice of any conduct defined by law as a crime or criminal misdemeanor by persons under 18 years of age. (e.g., drug trafficking, homicide, theft, robbery, etc.). In other words, the crime and misdemeanor, if committed by persons under the age of 18, are considered an infraction.

Legal Basis: ECA - Art. 103 ([Link](#))

### **What if the officers do not identify themselves?**

It is your right that those responsible for the approach identify themselves and report their names. It is also your right to be informed at that time about your rights, as provided for in article 106, sole paragraph, of the ECA.

If the police do not identify themselves or inform you of your rights, you are guaranteed to: 1) ask for the presence of your parents or guardians; 2) be heard personally by the competent authority (delegate or judge); 3) contact a lawyer or, if you do not have a lawyer, the Public Defender's Office, with free and full legal assistance, as provided for in Article 111 of the ECA.

Legal Basis: ECA - Art. 106 e 111. ([Link](#))

### **What if an officer just begins speaking to me but does not order me to do anything?**

This does not mean you will be apprehended. In any case, you have the right to remain silent if you feel more comfortable.

Legal Basis: Constituição Federal - Art. 5º, inciso LXIII. ([Link](#))

### **What if the officer is not in uniform or identified as an officer but I think it is one?**

You can ask, because, by law, you have the right to identify those responsible for your apprehension or approach, and you must also be informed about your rights, as provided for in article 106, sole paragraph, of the ECA.

Legal Basis: ECA - Art. 106, parágrafo único. Lei 13.869/2019 - Art. 16. ([Link](#))

## **Can I tell police I do not want to speak without a lawyer?**

You have the right to remain silent, with or without a lawyer, as no one can be forced to produce evidence against themselves.

This right is guaranteed in the Federal Constitution, article 5, LXIII, in the American Convention on Human Rights (also called the San Jose Pact of Costa Rica), art. 8, item 2.g, and in the International Covenant on Civil and Political Rights (art. 14, item 3.g).

You also have the right to a lawyer and also to communicate freely with them (American Convention on Human Rights - also called the San Jose Covenant of Costa Rica, art. 8, item 2.d).

Legal Basis:

- Constituição Federal - Art. 5º, inciso LXIII/([Link](#))
- Pacto de San José da Costa Rica, 8.2, d), g)/ ([Link](#))
- Pacto Internacional sobre Direitos Civis e Políticos - 14.3, g). ([Link](#))

## **If I sit down, am I resisting?**

You can sit or lie down during an approach. These positions are not considered acts of resistance, as they do not demonstrate violence or threat to police authority.

Based on article 329 of the Penal Code, there is only resistance when someone opposes the execution of a legal act through the use of violence or serious threat, which would not be the case.

Depending on the circumstances, peaceful resistance can only be understood as an infraction of disobedience.

Legal Basis: Código Penal - Art. 329 e 330. ([Link](#))

## **If I am stopped in a group, and some kids run, can I run?**

Depending on the circumstances, running away or running can be understood as an infraction of disobedience, and it is possible that the situation will escalate later.

Legal Basis: Código Penal - Art. 330. ([Link](#))

## **Can I tell others (siblings, for example) to run?**

In the context of a police approach, any escape counseling may be construed as participation in the crime of disobedience, depending on the circumstances. Therefore, any such attitude is not advisable.

Legal Basis: Código de Penal - Art. 248, 330 e 351. ([Link](#))

## **If the officer's language is not my first language, can I tell them without waiving my rights?**

Not knowing the same language is not an offence. Furthermore, the Code of Criminal Procedure and the International Covenant on Civil and Political Rights guarantee that anyone who does not speak the national language has access to a translator or interpreter during any interrogation. So you can say that without prejudicing or waiving your rights (articles 192 and 14, item 3, sub-item "a" of the Brazilian Penal Code and the International Covenant on Civil and Political Rights, respectively).

The fact that someone informs you that he or she does not speak the language of the police officer does not prejudice any rights of the person.

Legal Basis: Código de Processo Penal - Art. 193. ([Link](#)) / International Covenant on Civil and Political Rights - Decreto nº 592/1992 - 3, a). ([Link](#))

## **When Can Police Search Your and Your Surroundings?**

### **What if a police officer wants to search my phone?**

The confidentiality of telephone communications and electronic data is your right and that of any other citizen. Therefore, as a rule, they should only search your phone if a guardian authorizes it or if there is a court order to do so.

In practice, however, it is possible for police officers to request access to your cell phone under the argument that there is solid suspicion of an infraction, since, in this case, the law allows a search without a judicial order, as provided in Article 244 of the Code of Criminal Procedure.

It is also worth remembering that children and teenagers cannot be searched without the presence of a guardian (e.g., father, mother, guardian, etc.). If there is no guardian, the agent must call a Guardianship Counselor to accompany the search.

Legal Basis: Constituição Federal, art. 5º, inciso XII. ([Link](#)) /Código de Processo Penal - Art. 244. ([Link](#))

### **What if a police officer asks me for my password to my phone?**

The policeman may ask for the password, but you are not obliged to give it.

Legal Basis: Lei n. 13.869/19, art. 13, inciso III. ([Link](#))

### **What if they tell me to give them my password or other access to my phone?**

No, this is illegal. Unless you authorize it, the police officer can only demand your phone password if there is a written order signed by a judge. Remember that the police officer is required to call your guardian (parent, guardian) or a representative of the Guardianship Council to accompany the search. Ask this person to check that you have a judge's authorization.

Legal Basis: Lei n. 13.869/19, art. 13, inciso III. ([Link](#))

### **Can they search my backpack or other items that I am carrying?**

The police can only search your backpack (the so-called "general" search) if they have a concrete suspicion that you are hiding firearms, drugs or objects for committing crimes. In addition, the search must be made by a police officer of the same sex as you, and in the presence of a guardian (your father, mother, guardian, representative of the Guardianship Council).

Legal Basis: Código de Processo Penal, art. 240, parágrafo 2º. ([Link](#))

### **Can they take my picture or record me?**

The act of filming and photographing can serve as a deterrent to the occurrence of abuse of authority, since it makes it difficult for the police officer to act excessively. This would be beneficial to you, since the footage would be useful for future matters, since it would be a record of what happened. It is important to point out, however, that children and adolescents have the right to image preservation, which is why the filming or photos could not be disclosed without the consent of the minor's guardian.

Legal Basis: ECA - Art 17 ([Link](#))

## Can they ask me where I am going and why?

As explained in Question 1, you are not required to tell them where you are from, where you are going, whether you have a criminal record, or whether you know a certain person.

Legal Basis: Constituição Federal, art. 5º, incisos X e XV. ([Link](#))

## Reasons Police May Detain or Arrest You

### What if I did not do anything illegal, must I speak with the police and answer questions?

Yes. Stay calm and don't try to run away, as this may end up making the scenario worse. Answer the questions calmly and directly. If you don't understand the questions, ask the police officer to repeat or ask the question in a different way. When talking to the police officer, you have the following options:

- You can deny it; or
- Remain silent, but this may create discomfort with the police officer.
- In any case, you can always ask for the help of a responsible adult.

Legal Basis: Art. 5º, inciso LXIII da Constituição Federal ([Link](#)); Art. 8º, 2, g, da Convenção Americana de Direitos Humanos (Pacto de San José da Costa Rica). ([Link](#))

### What if they tell me something they are investigating that is wrong? Must I correct them?

Yes. You can calmly explain your version of what happened. However, if you are not being heard or the conversation takes another turn, remain silent and call a responsible adult. You must not disrespect or threaten the police officer, or this may harm you. Remember that, by law, you are not obligated to tell the truth if you are the one being investigated. If the investigation is about someone else, you are also not obliged to tell the truth unless you have to testify before a judge (except, among others, children under 14).

Legal Basis: Art. 5º, inciso LXIII, da Constituição Federal ([Link](#)); Art. 8º, 2, g, da Convenção Americana de Direitos Humanos (Pacto de San José da Costa Rica) ([Link](#)); Art. 203, do Código de Processo Penal ([Link](#)); Art. 206, do Código de Processo Penal ([Link](#)); Art. 208, do Código de Processo Penal e Art. 342, do Código Penal. ([Link](#))

### What if an officer just begins speaking to me but does not order me to do anything?

You should answer politely, simply and clearly.

### What is the legal difference between talking to them if they do not tell me I am under arrest, versus after they inform me that I am under arrest?

In both situations, remember that you have the right to remain silent. Before they inform you that you are "under arrest", the conversation will be more informal and not formalized. Remember that you have the right to remain silent.

After you are arrested (apprehended), the police officer will record your statement. In any case, you have the right to an attorney and to request the presence of your parents, a responsible adult, and, in their absence, a guardian.

Legal Basis: ECA - Art. 111, incisos III, IV, V, VI. ([Link](#))

### What tools can the police use to search me? What technology? (Facial recognition, hidden cameras, fingerprinting, etc.)

An underage in possession of an identification document cannot be required to undergo other forms of identification, such as facial recognition, fingerprinting, etc.

However, the use of technology when approaching police can be done in the best interest of the person being approached and his or her rights. Also, it is possible for third parties, other than those involved in the approach, to record the police approach in order to register it.

## **The Difference Between Police TELLING Me What To Do And Asking Me To Do Something**

**What is the difference between the police deciding to search me or my belongings (phone, person, backpack) and me agreeing to the search?**

From the moment you are apprehended, the statement will be recorded. In any case, you have the right to an attorney and to request the presence of your parents or a responsible adult.

However, there are the following limitations:

- I. The police officer can legally search only in case of founded suspicion that you are hiding firearms, drugs or objects that will be used to commit crimes or if you are effectively committing the crime (in "flagrante");
- II. As a rule, it must be carried out by a police officer of the same sex as the underage being searched;
- III. As a rule, a cell phone search depends on a specific judicial warrant. However, the authority may have access to the device if the underage authorizes it. Even with the refusal of the search by the underage in the above hypotheses, we advise that the underage does not create resistance to avoid a worsening of the situation.

References: Art. 240, §2, CPP.

Legal Basis: Art. 240, §2º, CPP. ([Link](#))

**What if they tell me to give them information versus them asking and me providing answers voluntarily?**

It is recommendable that the underage answers only to the questions effectively made and objectively so as not to harm his/hers or others situation.

It is worth remembering that, by law, you are not required to speak out if you are the one being investigated.

As already explained, in case the investigation is about another person, try to cooperate with the authority at the time of the approach, because if you choose to lie, it is possible that the police officers understand that you participate/participated in the infraction. If you are called to testify at the police station or court, remember that you have an obligation to tell the truth if you are over 14 years old.

## **Do Police Need A Warrant To Arrest You?**

**If I did not do anything, can they stop me?**

No. Persons under the age of 18 cannot be stopped without cause. A police officer may only stop you in the following situations:

- (i) when the police officer suspects that you are doing something prohibited, such as being caught with a firearm, knife, drugs, etc. You may not be stopped solely on the basis of your appearance, clothing, color, etc.
- (ii) when a police officer catches you doing something provided by law as a crime, which is called flagrante in Brazilian legislation; and



- (iii) when the police officer has a document signed by a judge ordering your apprehension (article 106 ECA).

Legal Basis: (i) NOT APPLICABLE./ (ii) NOT APPLICABLE./ (iii) ECA - Art. 106. ([Link](#))

### **Can I ask for the reason they stopped me?**

Yes, you have the right to know why you were stopped. This is very important because with this information you can know whether the police officer acted correctly or not.

The policeman can only stop you in one of the three situations of the previous question.

### **Can I be arrested or detained in any way by the police?**

Yes, in three situations:

- If the police officer catches you committing an infractional act;
- If the police officer has a judge's order for your apprehension.

Attention: you cannot be arrested because of

- The color of your skin;
- religion
- sex/sexual orientation
- social status
- the way you walk or dress

Remember that the legislation prohibits the so-called "apprehension for questioning/retention for a few hours", which consists of taking the underage to the police district to check his background and documents. If the police officer does this, keep in mind that he is committing the offense of article 230 of the ECA, so that you can contact some government agency to report what happened (see letter "e").

Legal Basis: ECA - Art. 230 ([Link](#))

### **Can I advocate for another young person stopped by police if we are stopped together?**

Yes. You can help another young person during the approach. This can be important to help if the young person is nervous and/or unable to understand the situation. To do this, it is important that you do what you tell the young person to do:

- Be calm and be respectful to the police officer;
- Identify yourself to the police officer;
- Do not use aggressive words, do not make sudden movements;
- Do not touch the police officer;
- Do not argue, insult, or threaten the police officer;
- Answer clearly and slowly if questioned;
- If the youth is being led away, question where he is being taken;
- Memorize the officer's name and the vehicle's details.
- if you witness any type of verbal/physical violence and have a cell phone with you, you can film these actions.



## **If I think the stop is unjustified, what can I do?**

You can seek the Public Defender's Office, through:

- Defensoria - dial 129 from a landline only
- Dial 100 - Human Rights
- Contact the Police Inspector General's Office or the Public Defender's Office
- IMPORTANT:
- always write down the day, place and time when the police action occurred.
- Have the names of the police officers, the vehicle's license plate number, the time, and the names of people who witnessed the action.

## **Can I get the police officer's identifying information for a future complaint?**

Yes, you have the right to obtain the police officer's identification information for a future complaint. The identification must be on the officer's uniform. If it is not, you can ask for the officer's ID.(\*)

Legal Basis: ECA - art.106 - parágrafo único. ([Link](#))/ Constituição Federal - art. 5º, inciso LXIV. ([Link](#))

## **How Do You Know If You Are Under Arrest?**

### **What if I do not know if I am under arrest?**

It is your right to know if you are under arrest. The first thing that the police officer should do is to give the apprehension notice, and at this point he/she will explain why this is happening.

### **If I am handcuffed, am I arrested?**

Not necessarily. It can happen that you are handcuffed for police abuse. In this case, it is important to know that you can only be handcuffed if you resist the seizure or if the police authority feels that there is an unacceptable threat of escape or a threat to their physical integrity, to the physical integrity of police officers, or to the physical integrity of another person, such as when there is a risk that one of these people will suffer some kind of physical violence.

Legal Basis: STF - Súmula vinculante 11. ([Link](#))/ ECA - art. 178. ([Link](#))

### **If my liberty is restricted, am I under arrest?**

It is possible that you have been arrested. You should remain calm and not argue with the police authority, trying to find out the reasons for your apprehension. In any case, abuses committed by police officers can be reported, and you can seek help from the Public Defender's Office.

## **What To Do After Being Warned of Your Rights**

### **How do things change if I am read my rights by police?**

It is important that your rights are read to you as soon as you are approached by the police, that is, as soon as possible. How information is given is also very important. Ask the officer to explain it clearly so that you understand what is going on and can get in touch with your parents and/or a lawyer. If you are accompanied by another person, ask them to listen and be with you at this time as a witness.

**Does it matter where I am when they read me my rights? (street, police station, police car, etc.)**

No, the right to be aware of your rights is independent of where you are.

## **Police Questioning You**

### **Must police notify my guardian?**

Yes. If the adolescent is deprived of his liberty, the police authority must immediately report (i) the responsible judge/judge; and (ii) the teenager's family. If the minor, for any reason, does not indicate his parents or legal guardians, another person (preferably another responsible adult) must be appointed by him.

The judge will only be involved if the adolescent is apprehended, upon communication to be made by the police authority to the judge. The involvement of a judge serves to ensure that the adolescent's rights will be respected (e.g., the judge will assess the evidence collected by the police, determine the necessary communications to the lawyer, Guardianship Council, etc.)

Legal Basis: ECA - Art. 107 ([Link](#))

### **Must I confess?**

If you have committed an infraction, there is no obligation to confess or declare anything, as you have the right to remain silent, which will not matter in a confession. As a witness, however, you must not let to testify. If you are compelled and do not appear to testify the authorities can understand that you committed the crime of disobedience.

As explained above, if the investigation is about another person, try to cooperate with authority at the time of the approach, because if you lie, it is possible that the police will understand that you participated/participated in the offense. If you are called to testify at the Police Station or Court, remember that you are obligated to speak the truth if you are over 14 (fourteen) years old.

In addition, Article 186, sole paragraph, of the Code of Criminal Procedure says that: "Silence, which will not imply a confession, cannot be interpreted to the detriment of the defense."

Legal Basis: Código de Processo Penal - Art. 186, parágrafo único. ([Link](#))

### **What adults can I ask to be with me?**

You have the right to request the immediate presence of your parents, legal guardians or relatives. Also ask the responsible police officer to tell you where you will be taken.

Legal Basis: ECA - art. 107 e 111. ([Link](#))

### **What happens if the police takes photographs of you?**

Any image registered during the act and eventually disclosed may not identify the teenager, in view of the right to image preservation.

Legal Basis: ECA - art. 143. ([Link](#))

### **Do you have a duty to identify yourself?**

Yes. It's not a crime to walk around without your documents, but you can't refuse to identify yourself. State your full name, or ID number ("RG number"), or any other information that will help you identify yourself.

You cannot lie about your identity, as this is considered an offense of false identity, even if you lie this information to defend yourself, as provided for in Article 307 of the Penal Code.

In short, these laws say that, even to defend yourself, you cannot lie about your identity or pretend to be a third party. If this is done, you will be engaging in a conduct that is considered a crime and, therefore, an infraction

In short, these laws say that, even to defend yourself, you cannot lie about your identity or pretend to be a third party. If this is done, you will be engaging in conduct that is intended to be a criminal offence.

Legal Basis: Código Penal, art. 307 ([Link](#))/ STJ - Súmula 522 ([Link](#))

## How do I Contact A Lawyer and When?

### What if I am just a witness?

As mentioned earlier, you cannot fail to testify when you are a witness. If you are subpoenaed and do not appear, the responsible authorities may understand that you committed an infraction of disobedience. In any case, before testifying, it is recommended that you seek a lawyer to assess whether your testimony could negatively affect you.

## Do Police Always Have To Tell The Truth?

### Can the police lie to me?

It depends. If the information is related to the investigation, the officer is under no obligation to provide you with it. However, if the information is about his identity, the officer cannot lie to you. You have the right to ask for the identification of the police officer who approaches you. If possible, try to get a record of the police action by cameras (friends or bystanders), which is not prohibited. Registration can prevent abuse in approach and then be used for reporting. For complaint, contact the Guardianship Council.

The police officer's right to identify is in the sole paragraph of Art. 106 of the ECA and the Guardian Council's obligation to investigate the complaint in Art. 131 ECA.

Legal Basis: ECA - Artigos 15, 98, 106, § único e 131. ([Link](#))/ Lei de Abuso de Autoridade - art. 13. ([Link](#))

### Do I have to tell the police the truth?

The minor has the right not to answer the police's questions, especially if the information is going to affect him, making him investigated.

While you have a right not to incriminate yourself, lying to the police about certain points can be a crime. Therefore, if there is this risk, the ideal would be to consult a lawyer.

## How do I make a complaint if I have questions or feel my rights have been violated?

### Proposed Information

It is important to follow this advice:

Try to gather as much information as you can remember about the approach. For example: Where and when did it happen? Can you remember any identification of the officers? What were they like? How did they speak to you? Were you with anyone at the time? Report the incident through its own channels, such as 181. Reporting through 181 can be done anonymously, ensuring greater protection and confidentiality. There is also Dial 100, a

reporting channel that can be found on the website of the Ministry of Women, Family and Human Rights (you can also choose not to identify yourself when making the report). The websites of some agencies, such as the military police, have online reporting channels. Inform doubts or complaints with the public defender bodies, prosecutors, police stations (especially if there is a center specializing in the rights of children and adolescents) and guardianship councils.

If possible, inform the parents and guardians so that the necessary measures can be taken. Look for non-governmental organizations, guardianship councils or social projects specialized in protecting human rights and helping families to report the situation of abuse.

<https://www.childhood.org.br/canais-de-denuncia>;

<http://www.humanizaredes.gov.br/ouvidoria-online/>;

<https://g1.globo.com/fantastico/noticia/2021/02/07/saiba-como-denunciar-abusos-e-maus-tratos-contras-criancas-e-adolescentes.ghtml>.

Legal Basis: ECA - art. 86 e 89. ([Link](#))

## What if I feel I was a victim of discrimination or racism?

### Proposed Information

It is important to follow this advice:

In addition to all the measures suggested in the previous answer, it is worth noting that there are specialized centers in some public bodies to specifically combat discrimination and racism, such as the Racial Crimes and Crimes of Intolerance (Decradi), which operate in São Paulo and in Rio de Janeiro.

Specifically in the city of Sao Paulo, you can also report the incident through the website of the Department of Justice and Citizenship, by telephone, contacting SOS Racism on 0800-77-33-886 or even in person at the Coordination of Policies for the Black and Indigenous Population, at Rua Antonio de Godoy, 122 - 9th floor.

(<https://www.ouvidoria.sp.gov.br/Portal/>; <https://www.al.sp.gov.br/transparencia/participe/sos-racismo/>)

In addition, such discriminatory conduct is considered a crime under Brazilian law, so in addition to the reports made to public bodies, they must also be taken to the police to initiate a criminal investigation against the offender, as they may result in arrest and other measures (Legal basis: art. 1 and 20 of Law 7,716/89).

It is important to keep in mind that confronting the abuser violently will never be the best option. Anyway, if you feel attacked / offended by some conduct of authorities, for example, police, try to position yourself in the situation, giving the aggressor the message that he is feeling attacked and/or offended.

Legal Basis: Art. 1º e art. 20 da Lei 7.716/89. ([Link](#))

## How can I respond to circumstances involving discrimination?

### Proposed Information

It is important to follow this advice:

If you are not accompanied by parents or guardians at the time when the practice of abuse or discrimination occurred, you can still contact the defense bodies rights, such as the Defenders and Guardianship Councils. If you do not know the location of these agencies, the information can be obtained elsewhere, such as police stations, police stations, social projects or non-governmental organizations. It will be important to have your identification

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documents, such as CPF or ID card, but if you do not have them at the moment, you will not be prevented from looking for the defense agencies mentioned above. The important thing is that you seek help and guarantee the defense of your rights.

## **What can you do if the police perform an improper search? Or I was improperly detained?**

### **Proposed Information**

It is important to follow this advice:

Police searches are legal when founded on legitimate suspicion. At first, you must be searched by police officers of the same sex, however, when this is not possible due to not having a police officer of the same sex at the time of suspicion, in order not to miss the act, agents are authorized to proceed with the search in cases of urgency. Remembering, any abuse during the search can be considered a crime.

It is a right to always ask the police officer why the search is being carried out.

(Dignity of the human person, art. 1, III; principle of the presumption of innocence, art. 5, LVII; prohibition of violation of intimacy, respect for private life, honor, the image of people, art. , X; right to come and go, art. 5, XV).

That said, if you believe you have been exposed to an improper search or have been improperly detained, it is important that you try to gather as much evidence as possible about what happened, for example, recordings, witnesses, photos, name of the policeman, etc. The police officer should not apprehend the tools used for this, such as cell phones or cameras, but it is important never to confront the authority. If the authority does not allow the use of cell phones or cameras, for example, don't worry, as there are other means of producing evidence, such as witnesses, expertise, etc. The aforementioned channels can also be used to report these situations.

The same applies in cases of illegal detention/arrest. In such cases, the Defender's Office or a Public Counsel must be immediately sought for the purpose of filing a habeas corpus.

Legal Basis: Constituição Federal - art. 1º, inciso III, art. 5º, incisos LVII, X e XV. ([Link](#))

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Law is generally described as of July 2023.

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