

Real Rights: young people engaging with law enforcement

 Zagreb, Croatia



SITE IN DEVELOPMENT - FEEDBACK NEEDED

The launch of the Real Rights platform as a DRAFT site in order to obtain feedback from people across the globe. The information included herein represents initial research and responses that need review and commentary on a broader scale. We actively encourage any World Congress attendees or reviewers of this site to provide any comments you may have on the website and the content either by clicking on the “Feedback” button in each city page or by emailing 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
- 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
- Reporting Crimes To The Police
- Responding To Bad Treatment By The Police
- 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 can I do if the police perform an improper search?
Or, I was improperly detained?

Stopped By The Police On The Street, Now What?

Proposed Information

It is important to follow this advice:

- If you are stopped, it is important to stay calm, and do not try to run. Make sure you speak clearly and keep your hands where the police can see them. It is a good idea to be careful what you say, because anything you say can be used against you in court.
- It is not a good idea to resist arrest or touch a police officer, even if you're innocent or if you think the police are acting unfairly or in a way that would be against the law.
- The police should identify themselves either by showing a police badge or shouting “Police”. *[Legal Source: Article 20 of the [Police Actions and Authorities Act 2008](#)]*. If it is not obvious that they are police officers (for example, if they are not in uniform), you should ask them for their police identification. *[Legal Source: Article 20 of the [Police Actions and Authorities Act 2008](#)]*
- If you are asked, you should give the police your name, as they can arrest you if you don't identify yourself. *[Legal Source: Article 25 of the [Police Actions and Authorities Act 2008](#)]*

When Can Police Search You and Your Surroundings?

Proposed Information

It is important to follow this advice:

- If the police believe they have any reason to suspect that you have committed a crime, they can search you. They can also search you if they have a reasonable suspicion that you can give information about a crime, or information about a person who committed a crime. [Legal Source: Articles 21, 36 and 49 A of the [Police Actions and Authorities Act 2008](#)]
- The police can take items from you if they are intended to be used to commit a crime. [Legal Source: Article 36 of the [Police Actions and Authorities Act 2008](#) and Article 34 of the [Constitution of the Republic of Croatia](#)]
- Police can also search you, your bag, your shoes or your car when it's necessary to find things that might be evidence of a crime or might be used to threaten or hurt someone (including yourself), and can detain you for a maximum of 6 hours until they get a search warrant if one is needed. Officers are allowed to use technical devices and service dogs during their search. Police can also search a place (such as a building) if they know a crime has been committed there, and they can detain you for a maximum of 6 hours until the search is completed. [Legal Source: Articles 49 and 50 of the [Police Actions and Authorities Act 2008](#)]
- The officer searching you must be of the same sex, except where it is an urgent search to remove a weapon or other dangerous objects. [Legal Source: Article 49 [Police Actions and Authorities Act 2008](#)]

Reasons Police May Detain or Arrest You

Proposed Information

It is important to follow this advice:

- The police can arrest you if there is a written order from a court, if they haven't been able to identify you or if they want to search you. [Legal Source: Articles 32 and 33 of the [Police Actions and Authorities Act 2008](#)]. The police may also arrest you because they suspect you of committing (or having committed) a violation of the law, or if they think you currently have evidence of a crime. [Legal Source: Article 24 of the [Constitution of the Republic of Croatia](#)].
- If there is a warrant (court order) for your arrest (and this is usually the case), it has to be read and given to you at the moment of your arrest, and you should always be clear on what kind of warrant is being presented to you [Legal Source: Article 24 of the [Constitution of the Republic of Croatia](#)]. It is a good idea to review any papers or warrants from the police carefully, to make sure you understand the kind of warrant and what it covers (including what it is for). The police can bring people in between 6am and 10pm [Legal Source: Article 32 of the [Police Actions and Authorities Act 2008](#)].
- If you are arrested you should immediately be told in general terms why you have been arrested, and of your rights to inform your family (or some other persons) as well as your right to a defense lawyer [Legal Source: Article 35 of the [Police Actions and Authorities Act 2008](#) and Articles 6(1), 96(1) and 96(2) of the [Criminal Procedure Act](#)]. If you are arrested, you must immediately be given a written statement of your rights. If that is not possible, the police should inform you of your rights verbally at the moment of your arrest. You should also be given a document that includes the description of the accusations against you. If the police arrest you, they also have the right to search you. Anything found during this search may be used as evidence against you.
- While it is not likely that a parent or guardian will be present at the time of arrest, one should be present after an arrest during detention at a police station (unless this is not possible in the circumstances). [Legal Source: Article 24 of the [Police Actions and Authorities Act 2008](#)]
- Criminal law does not apply to children who are 13 and under. Children under the age of 14 cannot be arrested. [Legal Source: Article 20 of the [Police Actions and Authorities Act 2008](#) and Article 7 of the [Criminal Code 2011](#)]

- Arrest in connection with criminal proceedings
 - The prosecutor can order your detention if there are reasons to suspect that you have committed a criminal offence for which criminal proceedings are instituted ex officio (i.e. initiated by the prosecutor, the police etc.).
 - You can appeal this decision within 6 hours.
 - The judge should decide on the appeal within 8 hours.
 - You can be detained for 48 hours from the moment of the arrest.
 - If the prosecution apply, the judge can extend your detention for a further 36 hours if you are charged for committing a criminal offence that would lead to 5 or more years in prison, if convicted. You can appeal this extension within 6 hours, and a panel of judges will make a decision on your appeal within 12 hours.
 - When you are in custody, you must be provided with a minimum of 8 hours of rest within every 24 hours. You also have the right to receive medical assistance and the right to undisturbed, free and unsupervised communication with your lawyer.

Do Police Need A Warrant To Arrest You?

Proposed Information

It is important to follow this advice:

- No. Police officers can legally arrest you without a warrant if the police officer:
 - sees you committing an offence (a crime), or
 - has a reason to suspect that you have committed an offence, and the police officer thinks there is a danger that you will flee, destroy or hide evidence, repeat the offence, or if the crime in question is serious (e.g. murder, robbery, rape).

[Legal Source: Article 24 of the [Constitution of the Republic of Croatia](#) and Article 95 of the [Criminal Procedure Act 2003](#)]

Do the same rules apply to children and minors?

Minors (between 14 and 18 years old) and children (under 14 years old) should normally be arrested by officers who are specially trained in dealing with crimes committed by minors and children. However, if such officers are not around or available, another police officer can make the arrest. *[Legal Source: Articles 2, 44 and 67 of the [Juvenile Court Act 1997](#)]*

Am I allowed to ask for the reason they stopped me?

Minors (between 14 and 18 years old) and children (under 14 years old) should normally be arrested. The police officer should give you the reason for your arrest at the time of the arrest. *[Legal Source: Article 24 of the [Constitution of the Republic of Croatia](#)]*

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

The law says that police officers need to identify themselves by showing their police badge and official identity card. However, if identifying themselves may risk the arrest, the police may simply announce themselves by saying "Police!" *[Legal Source: Article 20 of the [Police Actions and Authorities Act 2008](#)]*. If it is not obvious that they are police officers (for example, if they are not in uniform), you should ask them for their police identification. *[Legal Source: Article 20 of the [Police Actions and Authorities Act 2008](#)]*

If possible, you should write down the police officer's identification details and badge details in case you need to submit a future complaint.

How Do You Know If You Are Under Arrest?

Proposed Information

It is important to follow this advice:

If you are not allowed to leave the police officer, you are under police custody (you are under the control of the police). [Legal Source: Article 6(1) of the [Criminal Procedure Act 2003](#)]

If the police officer handcuffs you, holds you down, puts you in the back of a police car or gives you a written statement of your rights, then you are likely under arrest under the law. [Legal Source: Article 32 of the [Criminal Code](#)]

An officer should inform you of the claim against you at the time of your arrest or soon after, and you should also get a list of the claims against you in writing. [Legal Source: Articles 6(1), 96(1) and 96(2) of the [Criminal Procedure Act](#)]

Must a minor's parents be present when they are arrested?

A minor's parents or guardians should be present. However, that is not necessary where it is not possible or arrest cannot be postponed. [Legal Source: Article 24 of the [Police Actions and Authorities Act 2008](#)]

What To Do After Being Warned of Your Rights

Proposed Information

It is important to follow this advice:

After you have been told your rights, you can remain silent or use any of your other rights (such as the right to a lawyer) by telling the police officer that you want to use that right. [Legal Source: Article 18 of the [Police Actions and Authorities Act 2008](#)]. You do not have to use your rights if you do not want to, for example, by saying "I understand my rights but I am ready to talk to you". [Legal Source: Articles 6(1), 96(1) and 96(2) of the [Criminal Procedure Act](#)]

It is not a good idea to talk to the police without a lawyer present.

If you waive (decide not to use) your right to speak with or hire a lawyer but later change your mind, the police should immediately stop questioning you for at least 2 hours until the lawyer arrives. If a lawyer does not show up within the 2 hours, they can continue questioning you.

Your family will be told about your arrest within 24 hours, unless you ask that they are not informed. [Legal Source: Article 96(2) of the [Criminal Procedure Act](#)].

If you are under the age of 18, the police must either bring your case to a juvenile judge without delay or release you. [Legal Source: Article 67 of the [Juvenile Courts Act](#)].

Police Questioning You

Proposed Information

It is important to follow this advice:

- You do not need to make a statement, answer police questions or participate in a police investigation, and you never have to go anywhere with the police unless they have arrested you. If you choose to go to the police premises, you have the right to leave at any time unless you are arrested.

- If you are under the age of 18 and the police arrest you:
 - the police must bring you without delay to a juvenile judge, or release you. The juvenile judge must, without delay, inform your parents or guardian about the arrest. [Legal Source: Article 67 of the [Juvenile Courts Act](#)]
 - you have the right to talk to a lawyer.
 - you have the right to help with interpretation and translation if you need it.
 - you have the right to know what you are being charged with and what the basic suspicions against you are.

[Legal Source: Article 208(a)(2) of the [Criminal Procedure Act](#) and Article 3.2 of [Directive 2013/48/EU](#)]

Reporting Crimes To The Police

Proposed Information

It is important to follow this advice:

- Citizens are not always required by law to report crimes.
- In some cases that are provided for in the Criminal Act, it is a legal obligation. This means that failing to report a crime may be considered a criminal offence itself provided that specific conditions are met.

There are some exceptions that mean that you will not be punished for failing to report an offence. For example, if the person committing the offence is your husband / wife or is a family member then you do not have to report it, unless it involves a crime against a child. [Legal Source: Articles 301 and 302 of the [Criminal Code](#)]

- Failure to report a criminal offence shall not be punishable if committed by religious confessor or a person who is obliged by law to keep a secret.

Responding To Bad Treatment By The Police

Proposed Information

It is important to follow this advice:

Police officers are legally required to behave in a humane way and to respect your dignity and human rights. [Legal Source: Article 19 of the [Police Actions and Authorities Act 2008](#)]

- If you are treated badly during an encounter with the police, try to stay calm and avoid responding with bad treatment of the police. Tell a parent, guardian or legal representative what happened as soon as possible. Make a careful note of as many details of the interaction as you can, such as:
 - date, time, location.
 - officer details (names, badge numbers, physical appearance).
 - witnesses.
 - conversation and actions of all participants, etc.

[Legal Source: Article 291 of the [Criminal Code](#) - Abuse of Position and Authority]

These notes will be helpful if you decide to file a formal complaint. Police are required to keep records of citizen complaints. [Legal Source: Article 72 of the [Police Actions and Authorities Act 2008](#)]

- You can file a formal complaint about bad treatment by the police by writing to:
 - The address of the local police administration (which you can find online)
 - the Office of the Chief of Police in Zagreb at: policija@mup.hr
 - the Internal Control Service in Zagreb at: unutarnja@mup.hr

[Legal Source: Article 62 of [The Constitutional Act On The Constitutional Court of The Republic of Croatia](#)]

- If you are not a Croatian citizen, contact the embassy of your country of citizenship or the consulate, as they may be able to help you file a complaint.
- If the bad treatment continues after filing a formal complaint, consider talking to a qualified lawyer for advice. The lawyer may advise you about criminal or civil legal procedures, depending on what happened to you. If the police treatment of you is criminal, it will be handled by the Public Attorney's Office.

How do I Contact A Lawyer and When?

Proposed Information

It is important to follow this advice:

- You should always contact a lawyer before making any statements to anyone in a criminal case or investigation. This applies even if you are told that (i) police officers only want to question you and/or (ii) you are only a witness.

While you do have to wait until you attend court to get a lawyer appointed, if you cannot afford your own lawyer, you should still ask for a lawyer as soon as you are questioned or arrested by the police. If you are arrested, you have the right to remain silent and to not speak until your lawyer is present. *[Legal Source: Article 6 of the [Criminal Procedure Act](#)]*

You have the right of access to a lawyer of your choice from the moment you are detained at the police station. *[Legal Source: Article 35 of the [Police Actions and Authorities Act 2008](#)]*. If you can afford a private lawyer, you can choose one. If you cannot afford a private lawyer, you may be appointed a lawyer at no cost to you during the interrogation.

- If the lawyer of your choice does not arrive within three hours from the moment you stated that you would like to appoint that particular lawyer, the police should allow you to get a public defender from the list of lawyers on duty. If you waive your right to a lawyer at the beginning of your interrogation, you can change your mind and state that you would like to appoint one later on. The interrogation should at that point be suspended immediately. However, if your lawyer does not arrive within two hours from the moment when you stated you would like to retain a lawyer, the interrogation could continue without him/her.

Do Police Always Have To Tell The Truth?

Proposed Information

It is important to follow this advice:

- No. The police may lie to you during the course of an investigation, including lying about the strength of the case they have against you and particular evidence they have in their possession. Sometimes police will lie to try and get you to talk more.

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:

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

- Written complaints can be submitted:
 - in writing to the address of the [competent police administration \(local police station\)](#), by fax or by e-mail.
 - to the Police Directorate:
 - in writing to this address: Police Directorate, Office of the Chief of Police, based in Zagreb, Ilica no. 335.
 - by fax at number: 01 / 3788-318.
 - by e-mail to policija@mup.hr.
 - Internal Control Service, based in Zagreb, Ulica grada Vukovara no. 33
 - by fax to the number: 01 / 6122-603
 - by e-mail to unutarnja@mup.hr.
- A complaint may be filed in person with a police officer at either the competent police administration or the Ministry of the Interior at its headquarters in Zagreb (Ilica no. 335 and Ulica grada Vukovara no. 33).

- The complaint must be comprehensible and must contain:
 - the name, surname and address of the person filing the complaint.
 - the place, time and description of the act that violated the rights or freedoms of the person filing the complaint (or another person).
 - the signature of the person filing the complaint.

[Legal Source: Official Gazette Nos. [34/11](#) , [130/12](#) , [89/14](#) , [151/14](#) , [33/15](#) , [66/2019](#)]

- If a complaint is submitted to the Internal Control Service, it will pass on the complaint to the competent police administration or other organizational unit of the Ministry at the headquarters. Once this is filed, the police administration or the Ministry will review the complaint and will contact the person who filed the complaint with information on the facts and what they have done to fix the problem within 30 days of receiving the complaint. [Legal Source: Article 6 of the [Police Actions and Authorities Act 2008](#)]
- If the person who filed the complaint is not happy with the response, they can file a complaint with the Internal Control Service (contact details listed above), which will review the problem and, if they think it's necessary, do further investigation of the complaint and submit the complaint to the Complaints Commission. The deadline for submitting a complaint to the Internal Control Service is 15 days from the date you receive the response you are complaining about.
- If you feel like an action or lack of action by a police officer has violated the law or your rights, you can call 192 (Operational-Communication Center of the Police Administration in whose area the event took place or toll-free phone for complaints of the Ministry of the Interior 0800-0192), which is available 24/7, which will give you specific instructions about further steps you may want to take.

What if I feel I was a victim of discrimination or racism, and what do I do about it?

You can make a complaint in writing or in person as described above, or you could file a complaint of discrimination or human rights violation with the Croatian Ombudsman. At any time you could also hire a lawyer to consider making a complaint to court.

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

Proposed Information

It is important to follow this advice:

- You can file a complaint or you can contact a lawyer. It is important to keep any evidence you have of the actions of the police, and if you can, make a note of the police's identity badge, their name, and the contact details of any witnesses who were around.
- The Croatian Bar Association maintains a list of lawyers who advise young people. If you are not a Croatian citizen, then your consulate may be able to provide some help.
- You may have a legal claim that your rights have been violated (meaning not respected) if you are injured as a result of a police officer, or police officers, if they do any of the things listed below:
 - A police officer searches you or takes you into police custody.
 - A police officer searches or seizes your house (including the porch, garden, and outdoor areas), hotel rooms that you are staying in, your papers (including your ID) or any of your personal belongings.
 - A police officer physically enters your house, touches you, takes your papers or your personal belongings, or the officer did not respect your privacy.
 - A police officer did not have a warrant if one was needed (or the warrant was not proper).
- For you to have a legal claim against the police, it does not count if someone else's rights were violated - it only counts if your rights were violated.

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Law is generally described as of November 2021.