

## Notice of your rights as a suspect

Under s 136(1) of the Criminal Procedure Rules (*StPO*), ss 70a, 70b, 109(1) of the Juvenile Justice Act (*JGG*)

### **These are your rights:**

1. The law allows you to decide for yourself whether to make a statement about the case and the accusation. You are, however obliged to truthfully answer questions about your name, address and date of birth. Failure to give, when requested, your personal details may result in a fine under section 111 of the Administrative Offences Act (*OWiG*).
2. If your German is not good enough or if you have a hearing or speech impairment, you may request the assistance of someone who interprets or translates for you throughout the proceedings. You may also opt for either spoken or written form of communication. If you do not have a defence lawyer (including if, for example, defence counsel is deemed unnecessary at a later stage), you will typically be provided with written translations of detention orders, charge sheets, summary judgments or verdicts. This will come at no cost to you.
3. You have the right to present witnesses or other evidence and to apply for evidence to be taken in your defence or to clear up the case.
4. You may consult a defence lawyer of your choice at any time, even before you are questioned. If you wish, you will be given information that makes it easier to get in touch with a lawyer or the duty solicitor (*Verteidigernotdienst*). This is irrespective of whether you wish to hire your own lawyer or an assigned counsel (*Pflichtverteidiger*) is appointed.
5. In some cases a defence lawyer is mandatory, for example if you are suspected of a serious offence, if you are brought before a magistrate who decides on remand or if you are more than likely to be convicted and given a juvenile sentence.

If, in such a case, you (or your parents/legal guardians if you are under 18) do not consult a defence lawyer at own cost, the Court – or, if there is urgency, the Public Prosecution Service – must provide an assigned counsel, typically ahead of the start of questioning or a police line-up ('identity parade'), without you having to make a request. Irrespective of that, you may at any time ask police or prosecutors to provide an assigned counsel. If you make such an application, it has to be decided upon before the official interview or the line-up. If deemed necessary, an assigned counsel must be provided without delay. The cost will initially be picked up by the taxpayer. If convicted and sentenced, you might be asked to repay the money.

In 'mandatory-defence' cases, an interview or line-up must be deferred or halted if no defence counsel is present. At the same time, your defence counsel is free to decide not to attend the interview altogether

6. Your interview may be audio and video recorded. Any interview conducted by police or prosecutors must be audio and video recorded where the presence of defence counsel is mandatory but no lawyer is attending, possibly because they have waived the right to be present. If your interview is audio and video taped, you are free to withhold your consent to give access to the recording to those entitled to see your case file. Your interview may be audio and video recorded. Any interview conducted by police

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In this document the masculine form should be taken to refer to all genders.

The use of the term parent/guardian should be taken to include anyone who has custody of the minor.

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or prosecutors must be audio and video recorded where the presence of defence counsel is mandatory but no lawyer is attending, possibly because they have waived the right to be present. If your interview is audio and video taped, you are free to withhold your consent to give access to the recording to those entitled to see your case file. Without your consent, the recording - or copies thereof – may not be given to anyone other than those entitled to see your case file.

7. If you are younger than 18 years, your parents/legal guardians must be informed without delay that you have been charged with a criminal offence.

Your parents/guardians will not be notified if this would seriously jeopardise your wellbeing, if it would harm the investigation or if your parents/guardians cannot be contacted within a reasonable time span. In such cases, you may designate someone else to be notified. That person must be 18 or over. Failing that, the police or the prosecution service will notify an appropriate person, typically from the ranks of the local council's youth services department. Any information given to you will then have to be supplied, as soon as possible, to your parents/legal guardians.

8. Your parents/guardians may attend your interview to the extent that this is conducive to your wellbeing and does not harm the criminal case. In the event that your parents/guardians have been barred from the interview or could not be contacted, another person charged with looking after your interests can be allowed to sit in, provided they are 18 or older, their presence is conducive to your wellbeing and does not harm the criminal case.
9. This interview notwithstanding, there is always the option to take part in a criminal injuries compensation scheme (*Täter-Opfer-Ausgleich*). If eligible, you will receive more details in due course.