

Survival Kit: In the face of the police, in the face of justice

translated from the French version: <http://linsoumiselille.net/doc/kitdesurvie.pdf>

The 'Garde a Vue' (Police Custody):

Police custody is a measure that the cops can decide to take. The prosecutor is informed and a written record (PV: 'proces verbal') of putting you in police custody is created, don't sign this. The cops can put you in police custody if there is "one or several plausible reasons to suspect that you have committed or attempted to commit a crime or a felony or a misdemeanor punishable by a penalty of imprisonment". These reasons are sufficiently vague to allow the cops to put anyone they want in police custody.

How long will it take?

Starting from the moment of arrest or identity control, your stay in police custody can last up to 24 hours, with a possibility of renewing it for another 24 hours, and subsequently up to 96 hours for "organized gangs" or 144 hours for "terrorism". The start of police custody is always the moment of arrest.

Attention, minors less than 18 year of age!

If you are a minor, the public prosecutor must be informed since the beginning of your detention as well as your legal representative (parents, tutor, etc.).

Your parents must know what happens to you and they have the right to choose your lawyer.

If you are over 16 you have the right to request a visit from a doctor. For those less than 16 years, the visit will take place immediately.

Body Search

In theory this is reserved to affairs linked to the traffic of narcotics but it has become a more general thing. If you must be searched naked by an agent, it must be someone of the same 'sex' as you. If there are more precise bodily investigations, only a doctor has a right to do this.

Fingerprints and photos

The cops can make your fingerprints and palm prints, as well as photographs if you are a suspect. It is a misdemeanor to refuse to submit to this (up to 3 months in prison and a 3750 euro fine). If you are just a witness, it is possible to refuse, because you are not expected to be sentenced.

Advice

It is always preferable to say nothing to the cops (specifically, say 'I have nothing to declare' / 'rien a declarer') and not to sign any paper.

If they decide to take you to court you can organize your defense at that moment and talk to your lawyer and the court.

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At the start of police custody

The only things you are obliged to say by law are your full legal name, and the date and place of your birth. You have the right to remain silent or to just say "I have nothing to declare" (but don't say: "I don't know"!!).

The cops have to inform you of your rights:

You must know what you are accused of and the duration of the police custody : verify and memorize the hour of arrest and the notification of your rights on the written record the police create. Furthermore, you cannot be interrogated before being informed of your rights.

If you are in the situation that no one speaks to you about the rights below, definitely don't say anything to the cops, but do tell your lawyer that this happened.

- you have the right to contact a member of your family or a loved one AND your employer (it's the cops who will call them).
- you have the right to remain silent
- you have the right to have a 30 minute discussion with a lawyer (ask for one)
- you have the right to see a doctor
- you have the right to an interpreter if you don't speak french

Above all ask for YOUR lawyer during all of the examinations (attention: if you are suspected of terrorism, trafficking narcotics, of being part of an organized gang, the prosecutor can delay the intervention of a lawyer). Make sure to have their contact details with you!

If they cannot come or if you don't have their details you can ask for a state appointed lawyer. The services of state appointed lawyers are free!

During Police Custody:

You are going to see a doctor: if you were wounded, get a doctor to observe this; if you were not wounded, have them also observe you anyway, this allows to prove that you suffered police violence during police custody if it happens.

However, you should know that the doctors are regulars at the police station, so they have tight relationships with the cops, which can lead them to minimize what you have suffered.

You have the right to a 30 minute meeting with your lawyer: During that time, indicate to them whatever seemed abnormal to you (you couldn't have anything to drink, urinate, if there was force, insults...)

The first hearing (which will take place in the office of the cops) cannot start if your lawyer isn't there. However, they must be on the way to come there within 2 hours following the call of the cops.

They can be present during all of the hearings and confrontations. However, the lawyer doesn't have access to your file and they don't have any other information on the inquiry other than what you tell them.

The lawyer can monitor the conditions of your police custody but their role is very limited and the cops have numerous means of getting rid of them if they are too insistent.

Police Custody is Psychologically Straining

Bad hygiene conditions, stress, fatigue, sometimes bullying or even hits are equally tools used by the cops, because it is more easy to interrogate someone who is weakened. Don't let it destabilize you.

Saying nothing at all in police custody is not always possible but by keeping in your head your objective (don't speak!), police custody is nothing but a bad moment to get through. Distract yourself, do push ups or sit ups, that allows you to get rid of a bit of stress and feel more strong. It may be allowed to take a book with you during police custody, that will allow you to pass the time.

All of this can leave you with consequences when you get out (nightmares, depression...). Above all, speak with your loved ones, it will help you!

##

DNA

Genetic imprints

Whether during police custody or upon being summoned by the police, you can be asked to submit to a sampling of your DNA if you are suspected of having committed a felony or a misdemeanor.

How?

The sampling consists of spitting on a blotter or introducing a cotton rod in your mouth. They do not warn you that they are going to do this sampling, and don't give you explanations.

The cops don't have the right to sample your DNA directly if you don't agree, because your body is considered to be a private property that they cannot violate.

If you refuse this sampling, you are at risk of a trial and thereby a penalty of imprisonment or a fine.

- If you are only accused (so presumed innocent) of a felony or misdemeanor or if you are sentenced for a misdemeanor: 1 year of imprisonment and 15,000 euros of fine.
- If you are sentenced for a felony: 2 years and 30,000 euros of fines

However, the cops can sample your DNA from your cigarette butts, your hair, a glass... so pay attention, after using them, rub your objects on the floor of your cell.

Good to know

DNA can be kept for 40 years and shared among all European countries. An invitation for DNA sampling can occur up to one year after you have been sentenced.

The cops can invite you to the police station without specifying why and in the case that you refuse to give DNA they can place you in police custody to put pressure on you.

Raid

Some advice

If you are caught in the act of a crime, a raid can take place at your house within 8 days.

In any case, never sign the paper presented by the cops at the entry of the door.

Always refuse to sign papers outside of the police station.

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ID Check

The cops can proceed to do an ID check (they look at your papers and check their files if possible) under numerous protects and without any obligation to be more precise to you. They have 4 hours to verify your identity starting from the beginning of the control.

Basic principles

During the control, the cops can only do a basic pat down ("are you carrying any weapons, dangerous objects or drugs?").

It is an external search, on top of the clothing, and a verification of the contents of your bag, so, apart from patting you down on top of your clothing from head to toe, they don't have the right to make you empty your pockets or to rummage around in your bag. They can ask you to empty it yourself in front of them. If you refuse in either case they can take you to the police station.

In theory, **you are not required to have your papers on you** (except if you are in a train station or less than 20 km from a border), even evidence from someone else there who confirms your identity can be enough, but if you don't present your papers the police can bring you to the police station to do an identity check.

Otherwise you are supposed to produce official papers with photos: ID card, driving license, passport, health card...

ID Checking at the Police Station

It's the procedure which allows the police to clearly establish your identity (if you refuse to give it or if you are in a situation where it's impossible to prove your identity).

Who? Only an officer of the Judicial Police (OPJ) can do this, which is to say basically any cop. Attention: officers of the municipal police cannot!

Where? At the police station usually (or in the police car)

For how long? The police officers have 4 hours to establish our identity: outside of this period, they must release you or put you in police custody.

The Process

During this ID check, you must be informed of your rights to:

- notify the prosecutor
- inform your family or any person of your choice

at a minimum ask to inform a person of your choice.

You are not obliged to talk or to respond to questions, except to those related to your civil status (full legal name, date and place of birth, the name of your parents).

After these "obligatory" questions, they can continue with other innocent questions ("which year of studies? did you come in a car?" etc.) To each question, you must each time respond "I have nothing to declare"

They will write up a report : don't say immediately that you agree to sign it.

Verify that they mention the reasons and that they specify that you have been informed of your rights. Don't sign it unless you totally agree with its contents.

You can decide not to sign the report

If you sign it, take the time to reread it well, ask for it to be corrected if needed. You can also add a remark in writing if your rights have not been respected. Put a stroke at the end if there is blank space there. Definitely don't forget to ask for a copy.

Police Violence

What to do in the case of police violence or the abuse of power?

If you were hit, go quickly to the hospital and try to obtain a detailed medical certificate from the 'Unité Médico-Judiciaire' (UMJ).

You must get a certificate from the UMJ because their opinion is the only one recognized by the court. All other certificates (for example from a general practitioner) will not be valid! Ask them for leave from work ('total incapacity to work' - ITT) even if you don't work!

These documents could be very useful if you want to make a complaint against the police and / or for your trial.

How to make a complaint?

If you managed to get the identity of the cop (his number, name): you can make the complaint directly against them

If you don't know their identity, you can make the complaint against X and mention the details, the informations what would allow them to be identified (date, time, place, uniform, circumstances of the control...)

Who should I present my complaint to if I experienced police violence?

The most effective is 'le parquet du tribunal de grande instance' (TGI) by addressing a registered letter with acknowledgement of receipt to the prosecutor in which you give details of your complete civil status, the story of what happened, the element of proof (copy of the medical certificate, testimonies..).

But you can also submit a complaint to the commission of the police, to the gendarmerie or to the mayor of your town. They must accept complaints.

The cops don't have the right to refuse to register your complaint. If they pretend to be incompetent, it's completely wrong. Submitting a complaint is a right.

In any case, you should leave with a copy of your complaint. Complaints rarely succeed, the system of repression is designed for this, the public prosecutor usually closes them with no further action.

But you can, as a victim, institute civil proceedings. In this case, the public prosecutor has no other choice than to pursue the case.

To find out what happened to your complaint once it was registered, address yourself to the Judicial Office of the TGI.

In the face of justice

The possible follow-ups to police custody:

- **Leaving without being prosecuted:** you are free and won't be bothered.
- Leaving without being prosecuted but with a "rappel a la loi" (reminder of the law) : that is not a charge and will not be recorded in your criminal record, it just consists of reminding you specifically of how what you are accused of was against the law.
- Leaving with an invitation which is a summons ("citation a comparaitre") containing the date, the hour and place of your trial, as well as the facts you are accused of and the articles of law corresponding to those misdemeanors.
- Leaving without a **summons** but you where you will be **given one later by a bailiff**.
- **Being handed over to the prosecution:** that is to say you will appear before the prosecutor

Being handed over to the prosecution:

Being handed over to the prosecution means you will be transferred from the police station to the courthouse to see the prosecutor. In principle it must take place as soon as your police custody ends.

In the course of the interview, the prosecutor must determine the identity of the person. He will let them know the acts that they are accused of and possibly collect their declaration (if the person asks for this).

This interview can be purely formal or on the contrary can be very critical depending on the case.

The prosecutor always has the possibility to drop the charges, to decide to a mediation or a settlement or to refer the matter to the court.

Being sent to the court

If they decide to refer you to the court, the prosecutor informs the accused that they have the right to the help of a lawyer of their choice or of an officially appointed lawyer.

Unlike in police custody, the lawyer can consult your file and communicate freely with you. The accused therefore know, starting from this moment, what is in their file.

For a referral to court, the prosecutor can decide for a deferred appearance or an immediate one.

A rapid social investigation (social situation, familiarly, professionally...) can also take place during the deferment, notably in the case of the request to place someone in provisional detention.

Immediate Appearance

An immediate appearance (CI: 'comparution immédiate') is a rapid procedure of judgement that takes place as you exit police custody.

You can be sentenced during immediate appearance for the maximum of the penalty proscribed for a misdemeanor, which is to say ten years, double in the case of recidivism, so twenty years.

It is strongly recommended to refuse this and demand a 'report de proces' (in talking with a lawyer), which will allow you to better prepare your defence.

Provisory Detention

Provisory detention means being imprisoned until the end of your trial. In most cases, in order to avoid this you have to show guarantees of representation, that means things that will reassure the judge that the person will appear at their trial (proofs of residence, certificate of work/study, etc.)

Don't hesitate to rapidly gather as many documents as possible to help persons at risk of provisory detention!

If despite everything you are sentenced to provisory detention, there are two possible forms of recourse:

- Make an appeal of the judgment before the court of appeals
- Make a request to be released to the director of the prison. You can do this at any moment and as many times as possible. You must get a hearing within 10 days after your request. It is recommended to provide more guarantees of representation than you had at your last hearing in order to increase your chances of getting released.

If provisory detention is refused by the judge of freedoms and detention, you may be placed under judiciary control.

Judicial Control

Judicial control consists of a series of constraints imposed to prevent you running off while you wait for trial.

These constraints are fixed by the judge, who chooses them from a large list of which among others are:

- forbidding you to go out without authorization from certain territorial limits (country, city, even from your home...)
- obligation to periodically present yourself to the authorities
- paying a bail the amount of which is set by the judge

Not submitting to these constraints can cause you to be put in provisory detention.

The invitation to the trial will take place during 10 days to 2 months following this

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*** * * Immediate Appearance : A Fool's Bargain**

If, after police detention, the prosecutor sends you to immediate appearance, the judge must ask you if you accept to be judged immediately or if you demand to benefit from a delay to prepare your defense.

If you refuse to be judged immediately, you risk going to prison in provisory detention during a maximum of 2 months (4 months if the penalty is more than 7 years) but you can also be just put under judiciary control.

And if you are in provisory detention, you can still make a recourse against this detention (and you can present documents that you didn't have time to gather for your immediate detention).

To avoid provisory detention (and also to be free from uncertainty, to be done with it) you can be tempted to chose an immediate judgment. However, on the one hand, your lawyer will have very little time to prepare your defense and on the other, the justice system will take very little time also to do research on your personality.

All of this leads to the fact that it is probably you will get a more serious penalty and you will spend more time in prison.

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The Lawyer

During police custody

In order to ensure your defense during police custody you can ask for a lawyer of your choice, if you have one, but you will have to pay for them. Otherwise you can ask for a state appointed lawyer, they are free during police custody.

For the trial

In order to ensure your defense during a trial, you can keep the lawyer you chose during police custody or you can ask for a state appointed lawyer (it will not be the same one that you had in police custody). If you don't have the financial means to pay a lawyer you can ask for "legal aid". Attention: some lawyers don't accept this aid as payment.

State Appointed Lawyer

If you ask for a state appointed lawyer and you have an income, you have to sign a fee agreement and you must pay! Make sure you know about the possibilities of financial support from solidarity groups.

What are they good for?

The lawyer is above all a technical aid in the face of the justice system. Even a state appointed lawyer cannot impose their own strategy of defense, they have to listen to your demands. You can request to see your file so that you can think about your case at other times or with other persons.

Legal Aid

Legal aid is a partial or total means of financings the fees associated with the trial (lawyers, bailiffs, appraisals...)

This aid is open to any person whose nationality is from the European Union or any foreign person in a regular situation. It is defined as a function of your financial resources and those of the persons living together with you.

In order to complete the request for legal aid during police custody, the file is filled with simple declarations made by you.

For your defense in front of court, you must provide proof for these declarations. You can find the formula at the office of legal aid at the court, at the town hall or even on the internet.
vosdroits.service-public.fr/R1444.xhtml

You must hand in (or send) your request to the office of legal aid of the high court and then they will decide.

And also...

How to react if you are accused of outrage and rebellion?

The evidence for the accusation usually consists of declarations made by the cops. The court is going to favor their version of events, so it is indispensable to contest them strongly.

But warning, if you deny the insults but admit for example to have "cried out" or have been "annoyed", that is already too much. The judge will support that as a pretext to charge you ("if he was annoyed, he must have certainly insulted them").

So you must present a plausible version, that doesn't vary and which can't be interpreted in different ways. When you make complaints against police violence, according to experience the penalties are generally less severe.

The Anti-Balaclava Law

It was decreed in 2009 that covering one's face during a demonstration is forbidden. This type of infraction can lead to a fine up to 1500€ but cannot put you in police custody. Questions concerning the degree of concealment (the whole face? just a part?) and the manner of concealment (scarf? mask? sweater?) have not yet been settled. It's up to the prosecutor to prove that you have covered your face in order to commit disturbances against public order.

The anti-gang law

This law criminalizes even the intention to gather, without committing any violent acts: the simple fact of participating in a "gang" is constitutive of an infraction ... even if you, personally, didn't do anything (warning, if you say you didn't do anything during police custody, that could imply that your other comrades did!). The infraction is punishable by a year of imprisonment and 15000€ in fines.

The notion of "participating in a group" is very vast, even the fact of belonging to a group is punishable. It's the "intention" which is criminalized! A group on their way to "beat up some fash" is also punishable! It's better to avoid talking about your exploits, a bit of discretion is always welcome.

This law permits at the same time the creation of private armed militias who can substitute for cops in combatting these "gangs".

These militias are composed of guardians of property, security agents, etc., possessing weapons who, if they suspect the creation of one of these "gangs" can intervene to create order in the surroundings of the property they are guarding.

Self Defense / Cop Watch

What is cop watch?

Cop watch consists of filming or photographing the cops while they carry out actions, ID controls, maintain order, make arrests but also on the internet (social networks..)

The aim of this is to establish a basis of data that permits victims of police violence to identify it. But it also serves to disrupt the power balance, preventing for example the homeless from being chased away violently from marketplaces, ethnic profiling, the impunity of the BAC and of the GSP (group of security and proximity) in our demonstrations and our neighborhoods.

It allows for the distribution of information and to discuss with those people who experience that violence and to create solidarity and better trust. But it also can serve to provide evidence and testimonies to complete a dossier against the police.

It can also serve to counteract lies spread by the media.

These things are important before you start:

- Remember that it is not forbidden to film or photograph the cops while they do their dirty work (saisine 2005-29 de la CNDS - Commission nationale de déontologie de la sécurité).
- Be well equipped (several batteries, two empty SD cards).
- Bring information to distribute on why you are doing this
- Don't go alone, bring someone with you and ideally someone else to film you in case you get arrested.

To do

- Set the time and the date on your camera correctly
- Stay calm, don't provoke and don't let yourself be provoked, limit your actions, keep your distance
- Be attentive to what happens and try to foresee whether things are going downhill
- Don't hesitate to give the SD card you used to someone else you know at the most suitable moment
- Important : Identify yourself to the people around you, explain you are not from the media and why you are doing this, always turn the camera in the direction of the cops.
- Film the plates of transport vehicles or public vehicles (bus, fireman...) that will be useful in the case of trial to prove that your images are good.
- Make copies of your photos and your films.

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Different types of Cops

CRS :

robocop, a yellow double line on their helmet.

CDI :

Departmental company of intervention, a blue double line on their helmet.

Mobile guards of the Gendarmerie

(military) in uniforms, charged with flanking and dispersing a demonstration, they have the number of their unit on their shoulders of the sort 1A, 3B ...

Agents of the National Police

In uniform (police) and civil police persons (some of them have an armband).

BAC (Anti-Criminality Brigade)

in civil and in uniform, 'cowboys', charged with evaluating risks, of speaking with demonstrators, to attempt to get the demonstration in their hands and to negotiate. They frequently have the same qualifications as the RG but they don't have the same role and don't hide themselves.

Agents of the DCRI (formerly RG) exclusively civil cops who hide themselves among the population, political police charged with surveilling activist networks and political events among other things.

*translator note: they are not really all cow 'boys'. cow people?

Information Security

What's an IP adress?

An IP address is a unique address attributed to each computer on the internet (that is to say, there are no two computers on the internet with the same IP address at the same time).

What allows the state and therefore cops to providers who owns an IP address that they would like to investigate.

The IP address usually takes the form of 4 numbers (between 0 and 255) separated by periods. For example: 204.35.129.3

How can I make it invisible?

While looking at a site or at your email, even though certain protocols allow you to encrypt the contents of your exchanges, they don't necessarily mask your IP address. The Tor network or using VPN (Virtual Private Network) will allow you to mask your IP address.

Tor: one of the most simple solutions is the Tor Browser Bundle for Windows, Linux or Mac. It's a 'kit' which contains Tor, the proxy which it uses, Vidalia (graphic control interface) and a navigator configured specifically for Tor. It is enough to download it, install it or extract it, and it is done.

Furthermore, you can install it on a USB stick and use it no matter which computer you use (as long as the operating system is correct...)

To download Tor Browser Bundle :

www.torproject.org

And the traces on the computer?

Even though Tor allows quasi-anonymity on the internet, it doesn't prevent you from leaving traces that can be bothersome (in the case of seizure by the police) on your computer. That can concern what you have done on the internet or your documents, images, videos.. that you used with your computer.

To respond to this problem, there are operating systems which by default save no trace on the hard drive. The Linux distribution called Tails, or Amnesia, is one of these systems. It's enough to install it on a USB stick or a DVD and to boot your computer from the stick or the DVD. You can download and find explanations for the installation of Tails here:

<https://tails.boum.org>

Moreover, to know more about the traces left on a computer and tackle the different means of protecting yourself, there is a legal self defense guide available on <https://guide.boum.org>

Mobile telephones and Emails

Telephones are real informants, whether they're on or off, they provide good microphones for the cops and can serve also to track people on cellphone geolocators.

Emails are saved and easily accessible by cops especially if they use servers in Europe.