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ENGLISH VERSION

2024

Informations About Police Encounter

Conselho Municipal de Imigrantes (CMI)

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Conselheira: Constance Salawe (francês)

Conselheiro: Emram Niazi (persa)

Conselheira: Judy Abejuela



Comissão
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Humanos



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What is public safety?

The Federal Constitution, in its Article 144, states that "Public safety, a duty of the State, a right and responsibility of all, is exercised to preserve public order and the safety of people and property." This means that everyone has the right to live in peace and without violence, protected by the State.

Who does what?

In Brazil, the government agencies responsible for ensuring public safety are:

- **Federal Police:** responsible for repressing crimes against the Union, preventing and repressing drug trafficking and related drugs, smuggling and evasion, border control, national security, and judicial police of the Union.
- **Federal Highway Police:** responsible for the inspection and patrolling of federal highways.
- **Federal Railway Police:** responsible for the inspection and patrolling of federal railways.
- **Civil Police:** responsible for investigating crimes.
- **Military Police:** responsible for maintaining public order and visible policing.
- **Military Fire Department:** responsible for civil defense activities, firefighting, rescue, and search operations.
- **Penal Police (federal, state, or district):** responsible for the security of prison facilities.

The Federal Police are part of the Ministry of Justice and Public Security and are federal agencies. The Civil Police, Military Police, and Military Fire Department are state agencies under the responsibility of the state government. The Civil Guards are responsible for protecting municipal goods, services, and facilities and are under municipal responsibility.

What are your rights during a police encounter?

The stop and personal searches can be conducted by the police: 1) military (when on visible patrol) or 2) civil (when there is a judicial warrant). The civil guard was recently recognized by the Supreme Federal Court as a public safety agency and can conduct searches in accordance with regulations for other public security forces.

It is important to emphasize that women have the right to be searched by female officers, men by male officers, and transgender individuals should be consulted about the most appropriate way to conduct the encounter and search, in a respectful manner that preserves human dignity. Searches of intimate parts are not allowed.

Any person may be stopped by a police officer who must be properly identified with his/her name in a visible place. Everyone has the right to know the reason for the stop, the name of the police officer who carried out the stop and the police force responsible for the stop or conduct.

It is important to know that an officer who fails to identify himself/herself or falsely identifies themselves to a detainee during their capture or when required to do so during detention or arrest commits a crime under the Abuse of Authority Law (Federal Law No. 13,869/19).

Items such as bags, backpacks, and packages can be inspected with a judicial order or in case of reasonable suspicion. Personal searches should be conducted in a private location without exposure.

You may record the police encounter, and the use of cameras is permitted.

To access the contents of a cell phone, such as messages and apps, the owner's consent is necessary and they cannot be coerced or threatened, as they are not obliged to provide access.

You have the right not to answer questions and to remain silent during a police encounter.

Arbitrary searches and excessive use of force are not permitted, nor is violation of domicile, except in cases of flagrant offense.

The confiscation of objects is only permitted if they are evidence of crimes committed and duly handed over to the police authority. Personal belongings must be returned undamaged.

Everyone has the right to legal assistance (public defender or lawyer) and to contact family members, and they must be informed of this right.

In the case of a checkpoint, personal and vehicle documents must be presented. If there is reasonable suspicion, the vehicle may be searched in the presence of the owner or driver accompanying the vehicle.

The use of handcuffs is only permitted when there is: resistance to the lawful order, reasonable fear of escape or danger to the safety of the detainee or third parties. The use of handcuffs must be justified and in the case of improper use, this may render the arrest null and void and result in the State being held liable.

In the case of arrest in flagrant crime, the rights must be informed and the person must be immediately brought before the police authorities. Within 24 hours of the arrest, the arrest report must be forwarded to the court to decide whether to maintain or relax the arrest.

Children up to 11 years old cannot be detained, and in cases of infractions, the Guardianship Council must be notified. In the case of apprehension of adolescents (ages 12 to 17), they must be immediately presented to the police authority, and their guardians must be notified.

Any person arrested in flagrant crime must undergo a forensic examination to look for evidence of a crime and to demonstrate that there was no abuse or excessive use of force by the police officers who carried out the stop and search.

A home search (residence, collective housing, hotel, or institutional care unit) is permitted when there is a judicial order during the day, except in cases of flagrant offenses or situations requiring intervention due to accidents, risks, or calamities.

Transgender individuals in detention have the right to remain in appropriate spaces corresponding to their gender identity.

If you are a victim of police abuse, to report it is important to know:

- **Date, time, and place:** Where and when the abuse occurred;
- **Names of the police officers involved:** If possible, write down the names of the officers or the patrol car number.
- **Witnesses:** Identify possible witnesses to the event.
- **Evidence:** If possible, save evidence such as photos, videos, or medical reports.

Useful Contacts

Human Rights Hotline - Dial 100

A free service provided by the federal government to receive reports of human rights violations. It operates 24 hours a day, every day. Service is available in several languages.

Police Ombudsman's Office of São Paulo

Receives and monitors complaints about police actions.

Email: ouvidoriadapolicia@sp.gov.br

Phone: 0800 017 70 70, from 9 am to 5 pm

In person: R. Japurá, 42 – Bela Vista - Zip Code 01319-030 – São Paulo, SP - Monday to Friday, from 9 am to 3 pm

Website: <https://www.ssp.sp.gov.br/ouvidoria/servicos/denuncias>

Internal Affairs Office of the Military Police of the State of São Paulo

Receives and follows up on complaints.

Address: Rua Alfredo Maia, 58 - Bairro da Luz - São Paulo - SP - Zip Code: 01106-010

Tel: (11) 3322-0190 or Dial the Internal Affairs Office - Telephone: 0800-7706190

Email: correg@polmil.sp.gov.br

Internal Affairs Office of the Civil Police of the State of São Paulo

Receives and follows up on complaints.

Address: Rua da Consolação, 2,333 - Centro São Paulo /SP - Zip Code: 01301-100

Tel: (11) 3154-7730 Fax: (11) 3154-7730

Email: cartoriocentral.corregedoria@policiacivil.sp.gov.br

General Inspectorate of the Metropolitan Civil Guard

Wilson Aparecido Prattes

Email: wprattes@prefeitura.sp.gov.br

Address: Rua da Consolação, 1379 - 2nd, 3rd and 4th floor - Consolação | Zip Code - 01301-100

Phone: (11) 3214-3624/3251-3276/3266-8271

São Paulo State Prosecutor's Office

Receives and follows up on complaints.

Website:

<https://sis.mpsp.mp.br/atendimentocidadao/Promotorias/Manifestacao/EscolherTipoDeIdentificacao>

Public Defender's Office of the State of São Paulo

Receives and follows up on complaints.

Address: Rua Boa Vista, n. 150 (Initial public service) – Centro Histórico de São Paulo, São Paulo/SP ZIP Code: 01014-000

Phone: (11) 0800-773-4340

Website: www.defensoria.sp.def.br

Authors:

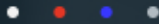
Migrants and Refugees Unit of the Human Rights Commission of OAB/SP

Coordinator: Carla Herminia Mustafa Barbosa Ferreira

Institutional Violence Unit of the Human Rights Commission of OAB/SP

Coordinator: Viviane Pereira de Ornellas Cantarelli

Substitute: Fernanda Peron Geraldini



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