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2 - Reporting a crime and my rights during the investigation or trial

How do I report a crime?

If you have been the victim of a crime, you can report it at or to:

- any police station or police officer;
- any public prosecutor;
- any district court.

Your report can be submitted in writing or orally. In the case of an oral report, a written record is produced by the authority which receives your report. You will receive a written confirmation of your report upon request. The report can also be submitted by someone else on your behalf. That person does not need special power of attorney.

In most federal states (*Länder*) the police also offer the possibility to report a crime online via an online police station (*Internetwache* or *Onlinewache*).

When you make your report, you should provide your personal and contact details so that you can answer further questions and be called to give evidence later in court. If you have concerns about providing your personal details, for example because you feel threatened, please inform the authority receiving the report as soon as possible. It can then examine whether, if necessary, you can simply be contacted via a different address, such as through a lawyer or a victim support organisation.

It is important for the content of your complaint that you include all the information you have about the suspect(s) and the crime you are reporting so that the police and the public prosecutor can verify your statement and start an initial investigation.

In principle, there is no specific time limit in which to report a crime. However, certain offences, such as defamation and trespass, can only be prosecuted if you have filed a criminal complaint, and the complaint must be made in writing to a local court, the public prosecutor or the police within three months of when you became aware of the offence and the offender. For recognition purposes, the offender(s) simply need to be individually identifiable. It is not necessary to know their names. When you report the crime, you will be told whether a criminal complaint is necessary. Please also note that offences can be time-barred and may then no longer be prosecuted – but only after several years – and that the time limit for doing so varies depending on the offence.

How do I find out what's happening with the case?

When contacting public authorities to make an inquiry, it is useful to provide a reference number – this makes it easier and quicker to identify the case and means you can receive an answer more quickly.

You will receive a reference number from the body that received your report, usually a police reference number. This reference number allows you to check what is being done by the police and also to provide further information. If the case is referred to the public prosecutor, you can ask the police or public prosecutor for the prosecution reference number, which is different from the police reference number.

If you do not know the reference number, please provide your personal details and, if known, the name of the accused person when you submit your request.

Am I entitled to legal aid (during the investigation or trial)? Under what conditions?

You have a right to free legal assistance or legal aid in the following cases:

If the circumstances show that you may not be able to exercise your rights during the hearing, you may be assisted by a lawyer as a witness counsellor during the hearing at the State's expense.

If you are entitled to join as a civil party, in certain cases, particularly in the case of serious violent and sexual offences, you may be assisted by a lawyer at the State's expense even prior to the public prosecution being brought. If these conditions for the appointment of a lawyer are not met, you are, as a civil party, entitled to legal aid and can apply for it if your financial situation prevents you from covering the costs of the proceedings and you are unable or cannot reasonably be expected to defend your interests yourself.

In the case of private prosecutions, which the public prosecutor only officially monitors when it is in the public interest to do so, you may bring a private prosecution against the accused in order to secure their conviction if the public prosecutor does not bring a prosecution in the public interest and the accused was at least 18 years old when the offence was committed. You will then be acting in place of the public prosecutor. As a claimant, you can apply for legal aid from the court which will also be ruling on your case. Legal aid will be granted if your financial situation means that you are unable to pay for the costs of the proceedings and if these are likely to succeed.

Can I claim expenses (for taking part in the investigation/trial)? Under what conditions?

If you make a witness statement to the public prosecutor or court, you will be reimbursed for travel costs, outlay, lost time, financial inconvenience or loss of earnings if you submit a request within three months of the hearing. Anyone summoned by the police may also be entitled to compensation. This is determined by the relevant federal-state law in the relevant federal state.

Can I appeal if my case is closed before going to court?

The public prosecutor may take no further action for various reasons.

You may lodge a written appeal against a decision to take no further action. If you are aware of further facts or evidence, it is important that you specify these in the notice of appeal. If the public prosecutor upholds its decision, the case is reviewed by the prosecutor general. Your appeal will always be dealt with in writing.

In some cases, if the public prosecutor and the prosecutor general refuse to bring a prosecution, you may refer the matter to the competent higher regional court (or chamber court) and initiate proceedings to enforce an action. You will be expressly advised by the public prosecutor in its decision if such proceedings are admissible in your case. However, such a procedure is subject to time limits and strict formal requirements. The application must be signed by a lawyer and you will be liable for costs if you fail.

Can I be involved in the trial?

If you are a witness, your involvement in the trial is limited to your testimony. When you have finished testifying, you are free to follow the hearing as an onlooker, but you will take no further part in the trial.

If you joined the proceedings as a civil party, you are entitled to attend the trial and to make applications, in particular requests for evidence, questions and statements, just like the public prosecutor. As a civil party, you also have the opportunity to make a closing submission (pleading).

As a claimant in criminal proceedings, you can claim compensation or damages for pain and suffering from the offender in criminal proceedings. You are also entitled to take part in the trial as a claimant. However, you do not have the other procedural rights of a civil party.

What is my official role in the justice system? For example, am I or can I choose to be defined as: a victim, witness, civil party or private prosecutor?

Before the investigation is concluded, as the victim of a crime in criminal proceedings your status is primarily that of a witness. You can contact the public authorities at any time to provide them with further evidence and information. Victims of crimes, referred to as 'injured parties' in the Code of Criminal Procedure, have powers extending beyond general witness rights, such as the right to request information on whether the suspect is in custody and, under certain conditions, the right to access the case file or information from it (see also below), and the right to seek assistance from a lawyer or to be represented by one.

If you are entitled to join as a civil party, you will decide for yourself whether you want to join the proceedings. It is also for you to decide whether or not you wish to press a claim for compensation or damages in the course of the criminal proceedings as a civil party.

What are my rights and obligations in this role?

As a witness, you have the following rights during your examination:

- You can refuse to testify if you are married to the accused or engaged to them (this also applies to registered same-sex partnerships) or are a close relation of them.
- You may refuse to answer certain questions if this could lead to criminal proceedings against you or your close relatives.
- Questions that might affect your honour or concern your private life are only admissible where they are essential.
- You may be accompanied by a trusted person, unless their presence would jeopardise the purpose of the investigation.
- You may be accompanied by a lawyer.
- If you are unable to exercise your rights yourself, you may, under certain conditions, be assisted at the State's expense by a lawyer's witness counsellor for the examination.
- If you do not have a sufficient command of German, an interpreter will be enlisted for your examination.
- You have a right to reimbursement (see 'Can I claim expenses?' above).

Your main obligations as a witness:

- You must tell the truth. This also implies that you do not omit anything that might be relevant to the case. Deliberately giving false testimony in court is a criminal offence and generally results in a custodial sentence. False accusations or obstruction of justice are also criminal offences that may be committed by a witness who gives a false testimony.

You must report for examination if you are summoned by the public prosecutor, by the police on behalf of the public prosecutor, or by a court.

Can I make a statement during the trial or give evidence? Under what conditions?

If you are invited to attend the trial as a witness, you are obliged to testify unless the case is one where you may refuse to do so (see earlier regarding a witness's rights and obligations).

As a civil party, you can make a statement in the proceedings (see also 'Can I be involved in the trial?' earlier)

What information will I receive during the trial?

As an injured party in a criminal case, at your request you will be informed of the outcome of the judicial proceedings.

Will I be able to access court files?

If your rights have been violated in a criminal case, a lawyer can consult the case file and inspect evidence for you if they demonstrate a legitimate interest in doing so. In this event, you may also be provided with information and copies of the case file in order to brief yourself on the state of the proceedings. If you are entitled to join the proceedings as a civil party, there is no need for you or your lawyer to demonstrate a legitimate interest in accessing or providing information.

If you are not represented by a lawyer as an injured party in a criminal case, you have a personal right of access to the case file and may inspect the case files under supervision.

The right of access to the case file or to information from it may be refused under certain conditions, for example if it jeopardises the purpose of the investigation. It should be refused if the overriding interests of the accused or other persons warrant protection. Until the charges are brought and after the final conclusion of the proceedings, the public prosecutor, or failing that the court dealing with the case, decides whether to grant access to the case file.

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