



KNOW YOUR RIGHTS INITIATIVE E.V.

Criminal liability for police recordings

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A distinction must be made between the filming itself (I.) and the publication (II.) of the recordings.

I. Filming of the police forces

- Criminal liability is governed by Section 201 I No. 1 of the German Criminal Code (StGB)
- This matter is **difficult legally**. The assessment can change at any time. We therefore recommend that you determine the latest information.

When am I allowed to film the police?

- Filming the police is only punishable and not permitted if you can actually hear the officers in the video. **Photos are always permitted.**
- **You may not interfere with police operations** (searches, identity checks, etc.) if you want to film.
- If you cannot switch off the sound while filming, **you may only film the police if the conversation is not "private"** (in legal terms: not public speech).
- You should ask yourself the question: **Do the police officers have to expect that their conversation can be heard?** If so, then filming is generally permitted.

The police tell me I am not allowed to film them. What should I do?

- You should make it clear that you are only filming for evidence purposes and not for publication
- If the police take the cell phone/device away (confiscation), **you should expressly object.**
- The police must issue a certificate of confiscation.
- You can take legal action against this. Legal representation is very useful in this case.

II. Publishing the recordings

When am I allowed to share/publish police recordings?

May be punishable according to § 201 I No. 2 StGB

- It is a criminal offense **to use a non-public ("private") recording or to make it accessible to a third party.**
- You use it if you reproduce it acoustically, i.e. **play it back.**
- Making accessible means giving someone else the opportunity to listen to the recording. For example, sharing a video online via a link.

May be punishable under §§ 22, 23, 33 KUG.

- It is punishable to distribute or publicly display images without the consent of the person depicted (Section 22 KUG) (Section 33 KUG).
- It is decisive whether an acquaintance of the person could recognize the person in the picture.
- Dissemination includes any kind of further transmission or reproduction, while public display means any way of making the image visible to others.

→ As an exception, this is not punishable if it is a **portrait of contemporary history** (Section 23 No. 1 KUG) - i.e. showing general topics and interests of society - or the image of an assembly (Section 23 No. 3 KUG).

III. Use in court



- In principle if they were taken lawfully.
- But even unlawfully taken images are not automatically prohibited. In such cases, the court must decide whether the personal rights of the person depicted are more important than the public interest.
- This can be important: The seriousness of the offense or whether the recording is the only evidence.

IV. Bodycams

- **The police may film at public events or gatherings** if there are indications that someone is committing a serious misdemeanor or criminal offense.
- Public means places accessible to everyone, and recordings are open if they are recognizable to everyone.
- **The police must therefore generally point out the recording beforehand**, unless the recording is obvious, or the notification would take too long.
- The police may only film **in private homes** if they are averting a danger to life and limb. They are not allowed to monitor the home.



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