

Recommendations of the Public Defender of Rights Concerning the Organisation of the Regimen and Running of Police Cells

The recommendations below were formulated by the Defender on the basis of the systematic visits made to more than 230 cells and in most cases arise from the requirements of Law No. 273/2008 Coll., Act on the Police of the Czech Republic (hereafter simply the Police Act) and the binding instruction of the Police President No. 159 dated 2 December 2009 on Escorts, Guard Duties and Police Cells (hereafter simply BIPP). The Annual Reports on Visits to Police Cells (2006, 2007 and 2010) are published on www.ochrance.cz.

Police officers on guard are obliged:

- to notify the appropriate person that there is the risk that deadlines may be exceeded and make a record of this notification in the service files
- before placing a person in a cell, to advise the person of their rights and obligations and the legal reasons for their placement in the cell
- to issue the person with an *Advice* form in the cell

It is not possible to refrain from issuing this Advice purely for the reason that the paper is seen as an item capable of endangering the life or health of the person in the cell. Such an indiscriminate approach is not permissible without an individual assessment of the risks involved. Failure to issue the Advice is in contravention of the requirements of Article 15 Paragraph 1 of BIPP. After an individual assessment of the safety risks it is possible to decide not to issue the Advice; this risk must be recorded in the service files and persons must be informed of their rights. The Advice may then be issued when the person is released from the cell.

This is stipulated by Article 13 Paragraph 5 of BIPP and is there to insure that the person placed in the cell could be deprived of his or her rights or legal entitlements. The police officer placing the person into the cell should ensure that the person has understood their rights and obligations, particularly if the person is slow to understand, refuses to cooperate, or has reading difficulties.

- to individually assess what items can be classed being “capable of endangering” life or health and to only confiscate those specific items

Situations where absolutely all items are confiscated are not in compliance with the provisions of § 29 Paragraph 1 of the Police Act, which only allows the confiscation of “other items capable of endangering life or health”. The commentary on the Police Act states that such an item “is understood to mean an item which, considering its nature and the character of the person in the cell, could be used to endanger life or health”. Considering that no item is capable of endangering life or health in itself, and is only capable of doing so when used by a person who has such intentions in mind (or who acts negligently or incompetently), it is necessary to assess each threat individually with regard to the “nature of the item” and the “character of the person” and only confiscate items “capable of endangering” life or health. If an item is not capable of endangering life or health, it should not be confiscated.

- to allow people to keep glasses (or other medical aids) on principle and only confiscate them in individual cases provided that there is a “special” reason for confiscating them; this reason must be recorded in the service files

Police officers should automatically allow people to keep glasses and medical aids; for the “legal” confiscation of glasses the provisions of § 29 Paragraph 1 of the Police Act stipulate that there must be another, “special” reason (apart from the reason that the item is capable of endangering life or health); the police officer must state this “special” reason in the service files. It is not possible to transfer the authority to make decisions as granted by the law to a doctor, for example, with a statement that the person needs glasses in the cell.

- **when performing inspections, when no special room has been set up for this purpose, to respect personal dignity and privacy (inspections should be performed out of the line of sight of cameras, screens should be used, etc.)**
- **during medical examinations personal privacy and dignity should be respected**

During the course of a medical examination the police officer should remain out of hearing range and, unless the doctor requests the officer’s presence in exceptional cases, out of sight, too.

- **if there is legitimate reason to suspect that a person is suffering a serious illness (e.g. if the person is known to the officers from a previous occasion), it is necessary to request a doctor’s statement on the person’s ability to be placed in a cell with regard to that person’s state of health**
- **to allow persons to select a doctor of their own choice**
- **to respect the right to legal aid without there being a third party present**

The rooms used for interviews with a lawyer must not be fitted with equipment that allows eavesdropping on conversations.

- **to allow people to draw up complaints**

If for objective reasons a person is unable to draw up the complaint unassisted, or with their lawyer, the internal control officer should be summoned to write out the complaint.

In order to improve standards for people placed in police cells the Defender also recommended:

- Meals should be served with respect to the main mealtimes during the day, with the proviso that police officers should check in the service records when the person last ate. The quantity and quality of the food should be up to normal standards.
- Information should always be obtained from a doctor concerning the use of medication, i.e. the time the medication is to be administered, and in what quantities.
- The station should have a list of lawyers in the local area which would be available to those held in cells. Police officers must also mediate the right to legal aid for people placed in cells for reasons of detention, or to those who are awaiting charges.
- It should be ensured that blankets are cleaned regularly and hygiene supplies provided automatically.