



CLIENT GUIDE: **POLICE ENCOUNTERS & YOUR RIGHTS**

We fight police misconduct in the courtroom, not on the street.

I have prepared this guide to eliminate the confusion surrounding your Constitutional rights. Television and movies have created dangerous myths about what police can and cannot do. Believing these myths can get you convicted. Knowing the reality, and the specific Illinois statutes that protect you, can help us get your case dismissed or evidence suppressed.

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1. THE "MIRANDA" MYTH

"They didn't read me my rights! Doesn't that mean the case gets thrown out?"

NO.

This is the most common misconception in criminal law. Under *Miranda v. Arizona*, the police are **not** required to read you your rights simply because they arrested you. Miranda warnings are required **only** when two specific conditions are met simultaneously:

1. **Custody:** You are not free to leave (you are under arrest); **AND**
2. **Interrogation:** The police are asking questions designed to get you to incriminate yourself.

The Consequence: If the police fail to read your rights when both conditions exist, the remedy is Suppression of Evidence, not dismissal of the case.

- The Judge will throw out (suppress) the statements you made.
- However, *other* evidence (video, witnesses, physical items), could let the case proceed.

The Lesson: Whether they read you your rights or not, **you must remain silent.**

2. THE GOLDEN RULE: SILENCE

The right to remain silent is protected by the **Fifth Amendment** and reinforced by Illinois law. You cannot talk your way *out* of an arrest, but you can certainly talk your way *into* a conviction.

Under Illinois law, if you speak to police, they will argue you made a "knowing, voluntary, and intelligent" waiver of your rights. Once you invoke your rights, **all questioning must cease** until your lawyer is present.

Be aware that police are **legally permitted** to use deceptive tactics during interrogations. They can lie and say your friend "snitched" on you. They can lie and claim they have your DNA. **Do not fall for this.** Their goal is to trick you into a waiver.

If police ask you questions, state clearly:

"I want a lawyer. I won't answer any questions without my attorney present."

Then: **STOP TALKING.**

If you keep talking after invoking your right to remain silent and asking for an attorney, you could be turning your perfect handling of the situation into a "knowing, voluntary, and intelligent" waiver by choosing to speak.

3. SEARCH & SEIZURE: THE "CONSENT" EXCEPTION

The Fourth Amendment and Article I, § 6 of the Illinois Constitution protect you from "unreasonable searches and seizures." Generally, police need a warrant or Probable Cause to search you.

The Loophole: "Consent" is the easiest way for police to bypass the Constitution. If you say "Yes" when they ask to search, you are waiving your Fourth Amendment rights. If you voluntarily consent, the search is deemed lawful, even if they had no other legal reason to look. You must **explicitly** refuse. If you refuse, and they search anyway, we can file a Motion to Suppress under 725 ILCS 5/114-12. If you consent, what they find is likely to be used against you.

What to Say:

"I do not consent to a search."

4. SPECIFIC ENCOUNTERS & YOUR RIGHTS

Illinois courts divide police encounters into three "tiers," each with different rules.

A. Traffic Stops (The "Seizure")

A traffic stop is considered a "seizure" of your person. The police cannot extend the stop longer than necessary to write the ticket. If they hold you for 30 minutes just to wait for a K-9 unit without a valid reason, that may be unlawful. If an officer orders you out of the car for safety, **you must comply**. However, lock the door behind you. Do not leave it open for them to look inside.

B. "Terry Stops" (Street Detentions)

If police stop you on the street, it is often a "Terry Stop". They do not need Probable Cause; they only need **"Reasonable Articulable Suspicion"** that crime is afoot. They are allowed to pat down your *outer clothing* strictly to check for weapons (for officer safety). They cannot reach into your pockets unless they feel what is clearly a weapon. **You Ask:**

"Am I free to go?"

If no, state you do not consent to searches and remain silent.

C. Your Home

The home has the highest level of protection. Police generally need a Warrant signed by a Judge to enter, unless there are "Exigent Circumstances" (e.g., chasing a fleeing suspect or hearing screams for help). If they knock, speak through the closed door. Ask to see the warrant. Do not invite them in to "talk."

5. THE "CSI EFFECT" vs. REALITY

Do not assume the State has "scientific proof" just because they claim to. Under Illinois evidentiary rules, scientific evidence (DNA, fingerprints) must meet strict standards of reliability and relevance to be admissible. We will force the State to prove they collected, stored, and tested the evidence properly. If they messed up the paperwork, we move to bar the evidence.

6. THE NARRATIVE

In a **Motion to Suppress Evidence**, the burden of proof works like a tennis match.

- A. *We* (the Defense) have the burden to make a "prima facie" case that the search was unlawful.
- B. If we succeed, the burden shifts to the *State* to prove the search was legal.

Detailed notes are critical to win that first step. Always write down the following immediately:

[] **The Timeline:** Exact times are crucial. How long did they hold you before the arrest?

[] **The Conversation:** Did you ask for a lawyer? Did you say "I do not consent"? What exactly did the officer say to you?

[] **The Location:** Was your car parked legally? Was the area lit?

[] **Witnesses:** Names and numbers of anyone who saw the arrest.

KEY TAKEAWAYS

Stop Talking and Start Fighting.

Television has lied to you about how the criminal justice system works. This guide explains why "they didn't read me my rights" isn't the magic bullet you think it is, and why "consenting" to a search is the fastest way to a conviction. Learn the exact words to say to police to lock in your defense, and understand the specific Illinois statutes we use to fight for your freedom in court.