CLIENT GUIDE:
WHAT HAPPENS WHEN I GET ARRESTED IN ILLINOIS?

Being arrested is one of the most stressful and uncertain experiences a person can face. In Illinois, the moment you are placed in handcuffs, the state's criminal process begins; and it doesn't slow down. Whether you're arrested for a misdemeanor like public intoxication or a felony like burglary or unlawful possession of a weapon, what happens next can shape your future.

People often make the mistake of assuming that the truth will "come out eventually" or that they can explain their way out of it. But law enforcement doesn't make arrests by accident, and prosecutors don't file charges without building a case. The best time to act is immediately, before the damage becomes permanent.

This guide is for those who have been arrested in Illinois and want straight, real-world guidance; not false hope, not empty promises. Just facts, strategies, and what you should do next to protect yourself, your record, and your future.

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WHAT YOU'RE FACING: UNDERSTANDING THE CHARGES

The first step to protecting yourself is understanding what you're accused of and how Illinois classifies criminal offenses. Charges fall into two primary categories: misdemeanors and felonies.

Misdemeanors: Misdemeanors are offenses punishable by less than one year in county jail. While "minor," they still result in a criminal record. Examples include:

- **Retail theft under $300** (720 ILCS 5/16-25) – *Note: If you have prior theft convictions, this can be upgraded to a Class 4 Felony.*
- **Simple battery** (720 ILCS 5/12-3)
- **First-time DUI** (625 ILCS 5/11-501) – *Note: If you have prior DUI convictions, this can be upgraded to various enhanced Felonies.*
- **Criminal trespass** (720 ILCS 5/21-3)

Felonies: Felonies are serious crimes that carry a minimum of one year in the Illinois Department of Corrections (IDOC). They are classified from Class 4 (least severe) to Class X (most severe):

- **Class 4 Felony (1–3 years):** Unlawful possession of a controlled substance (720 ILCS 570/402).
- **Class 3 Felony (2–5 years):** Aggravated battery to a peace officer (720 ILCS 5/12-3.05).
- **Class 2 Felony (3–7 years):** Burglary (720 ILCS 5/19-1) or Aggravated Unlawful Use of a Weapon.
- **Class 1 Felony (4–15 years):** Criminal sexual assault (720 ILCS 5/11-1.20).
- **Class X Felony (6–30 years):** Armed robbery (720 ILCS 5/18-2).
  Note: Class X felonies are non-probationable, meaning mandatory prison time if convicted.

FROM ARREST TO COURT: THE NEW RULES (SAFE-T ACT)

As of September 18, 2023, Illinois **abolished cash bail**. You can no longer post bond to secure your release from jail before trial.

After you are arrested, you are taken to a police station for processing (fingerprinting, mugshots). If you are charged with a significant offense Illinois, you will not just "post bond." Instead, you will be held for an **Initial Appearance** and potentially a **Detention Hearing**.

The Detention Hearing

Under the Pretrial Fairness Act, the judge must decide if you should be detained pretrial based on two factors:

1. **Safety:** Do you pose a "real and present threat" to a specific person or the community?
2. **Flight Risk:** Is there a high likelihood you will flee to avoid prosecution?

The prosecution must file a petition to detain you. If they do, your defense attorney must argue immediately why you are not a danger and why you will return to court. **This is your first major legal battle.** If you lose here, you remain in jail until your trial ends.

The Phases of Your Case

If you are released (with conditions like electronic monitoring or curfews), your case proceeds through:

1. **Arraignment:** You formally enter a plea of "Not Guilty."
2. **Discovery & Pretrial Motions:** We force the state to hand over evidence and file motions to suppress illegal evidence.
3. **Negotiation:** We leverage weaknesses in their case to reduce charges.
4. **Trial or Sentencing:** The final showdown if a dismissal or acceptable plea isn't reached.

WHAT NOT TO DO AFTER YOU'VE BEEN ARRESTED

One of the biggest dangers after an arrest is doing too much, or too little. Avoid these critical mistakes:

- **Talking to police without an attorney:** Police are allowed to lie to you to get a confession. Do not try to "talk your way out."
- **Talking on Jail Phones: WARNING:** All calls from jail are recorded. Prosecutors listen to these calls. Do not discuss your case with family or friends over the jail phone.
- **Consenting to Searches:** Never consent to a search of your car, home, or phone. Make them get a warrant.
- **Posting on Social Media:** Anything you post can be used as evidence of your location, state of mind, or associations.
- **Contacting Victims:** This can lead to new felony charges for "Communicating with a Witness."

STRATEGY: CATCHING UP TO THE PROSECUTION

The State's Attorney starts building their case before charges are even filed. By the time you're arrested, they may already have police reports, body cam footage, and lab results.

We catch up by filing a **Motion for Discovery** under *Illinois Supreme Court Rule 412*. We demand:

- Video surveillance and Body Cam footage.
- Chain of custody logs for physical evidence.
- Disciplinary records of the arresting officers.

POTENTIAL LEGAL DEFENSES WE CAN RAISE

Every case is different, but we look for specific leverage points, such as:

- **Illegal Search and Seizure (Fourth Amendment):** Did the police have a warrant? If not, did an exception actually apply?
- **Constructive Possession:** Just because something was *near* you (like in a car or shared apartment) doesn't mean it was *yours*. The state must prove you had knowledge and control of the item.
- **Self-Defense:** In battery or assault cases, were you protecting yourself?
- **Miranda Violations:** If you were in **custody** and being **interrogated** but weren't read your rights, your statements may be inadmissible.

A Real Case Example: Felony Drug Charges Dismissed

Police often believe that if they find the drugs, the case is a slam dunk. They are wrong. If they violated the Constitution to find those drugs, the evidence must be suppressed.

One of my clients was pulled over for a minor lane violation. The officer claimed the driver appeared "nervous" but observed no contraband in plain view. Instead of writing the ticket and ending the stop, the officer stalled, calling for backup and waiting for a K9 unit to arrive. The dog eventually alerted, leading to the recovery of felony drugs.

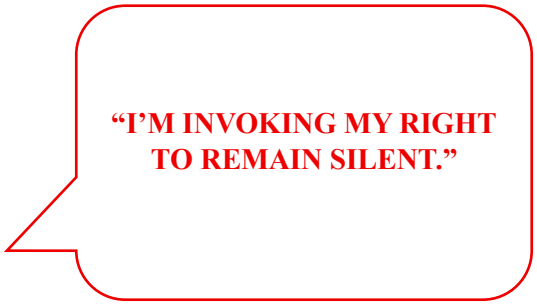
The Strategy: We filed a **Motion to Suppress Evidence**. We argued that the police illegally extended the detention without probable cause. Under Illinois law (*People v. Brownlee*), police cannot drag out a traffic stop just to buy time for a drug dog. Being "nervous" is not a crime.

The Result: The judge ruled in our favor. Because the delay was illegal, the search was unconstitutional. **The evidence was suppressed, and the felony charges were dismissed!**

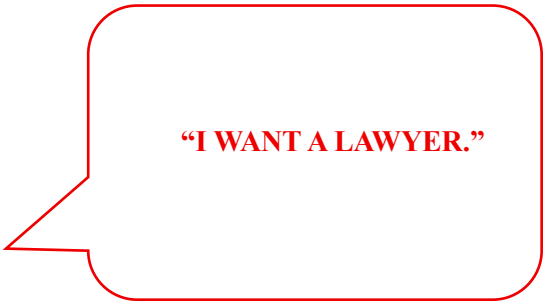
YOUR RIGHTS: THE "BIG THREE"

You have three shields during an arrest. Use them.

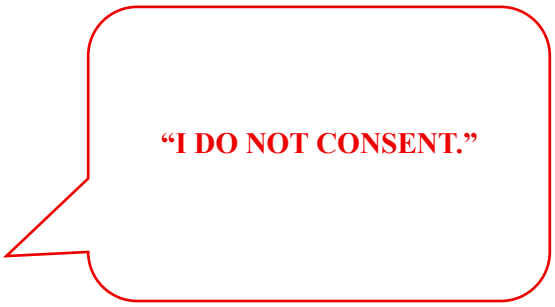
1. **Right to Remain Silent:** You must explicitly say, "I am invoking my right to remain silent." Simply staying quiet isn't enough; you must invoke the right to stop the questioning.



2. **Right to an Attorney:** Demand an attorney immediately. Once you ask for a lawyer, police must stop questioning you until your lawyer is present (*Edwards v. Arizona*).



3. **Right to Refuse Consent:** You have the right to refuse a search of your person, vehicle, or home unless they have a warrant. If they search anyway, do not physically resist—fight it in court later.



WHY HIRING THE RIGHT ATTORNEY MATTERS

The State has unlimited resources. They have an entire police department to gather evidence, a state-funded crime lab to analyze it, and a team of prosecutors whose only job is to convict you.

They have the system. You have me.

Hiring a criminal defense attorney isn't just about having someone stand next to you in court; it's about leveling the playing field against a massive government machine. The first 24 hours after an arrest determine the trajectory of your case. While the police are trained to build a narrative that makes you look guilty, my job is to dismantle it.

You need a lawyer who views "pleading out" as a last resort, not a first option. Here is what we bring to the fight:

- **We Don’t Wait:** Many lawyers wait for the first court date to look at a file. That is too late. We start immediately preserving evidence, securing witness statements, and stopping you from making mistakes that the prosecution can use later.
- **Trial-Ready Preparation:** We prepare every single case as if it is going to trial. This aggressive posture forces prosecutors to look at the weaknesses in their own case. When they know we aren't afraid to fight, their leverage disappears.
- **Dismantling the Narrative:** Police reports are just one side of the story—the side written to justify your arrest. We dig deeper, examining every detail from the reason for the stop to the calibration of the breathalyzer or the chain of custody on physical evidence.

In Central Illinois, where the system moves fast, you cannot afford a "wait and see" approach. You need a defense that hits the ground running. Silence is your first weapon. **I am your next one.**