



# Criminal justice system

## Arrests



The criminal justice system incorporates several governmental institutions to prevent and deter crime, and sanction those who violate laws with criminal penalties and rehabilitation efforts. This *Get the Facts* provides an overview of arrests, including the arrest process, warrants, bail options, and holding procedures.

At what age are you considered an adult in the Illinois criminal justice system?

A person who is arrested and charged with a misdemeanor offense is considered an adult if that person is 18 years of age or older. A person charged with a felony is considered an adult if that person is 17 years of age or older.

What is an arrest?

An arrest is the actual restraint of a person accused of committing a crime, or their voluntary submission to be taken into police custody. Police officers can make arrests within their jurisdictions, and arrest people in other jurisdictions under certain circumstances.

In what ways do police have authority to arrest someone?

A court may issue an *arrest warrant* that commands a law enforcement officer to take a specific person into police custody. Police also may arrest a person when they have probable cause to believe that the person is committing or has committed a crime.

What is an arrest warrant?

An arrest warrant is an order issued by a judge authorizing the arrest and detention of an individual. Warrants are issued based on probable cause for those who have allegedly committed a criminal offense. In addition, warrants may be issued for those who fail to appear in court or do not perform certain court-mandated activities. Arrest warrants can be viewed and served by any law enforcement agency in the United States.

What happens during an arrest?

When a person is arrested, he should be informed by the police officer of the offense that led to the arrest and given his Miranda warnings—protections guaranteed by law. The officer or officers also may search for weapons or contraband prior to taking the individual into custody. The individual will then be transported to a police station or county jail for questioning and/or booking.



## What rights do I have upon arrest?

Upon being taken into custody, every person has the right to remain silent, and no unlawful means may be used to obtain a statement, admission, or confession. People in custody have the right to humane treatment, and to be provided with proper food, shelter, and medical treatment, if required. Any person who is arrested has the right to talk to an attorney.

## What happens after arrest?

After an individual is arrested, background information is collected, including the person's name, address, date of birth, and criminal history. The individual is then photographed and fingerprinted. This information is submitted to the Illinois State Police, creating a record of the arrest. This record of arrest remains a part of the person's criminal history record, or *rap sheet*, unless sealed or expunged by court order.

The law provides for a predetermined amount of bond, also known as bail, for some misdemeanor charges. If bond is posted, the individual will be released from custody (police lock-up or county jail). If the individual cannot post bond or if the law does not provide for a predetermined amount of bond, he or she is placed in a holding cell to await a bond hearing. At the hearing, the judge will set the amount of bond that the individual must post in order to be released from jail. The judge could also order release on an individual's promise to appear.

## How are police authorized to conduct investigations?

Illinois law allows police to conduct searches of persons and their immediate area without a warrant during the course of an arrest. Police also are authorized to stop a person for temporary questioning.

Police may obtain search warrants to search premises suspected of being linked to a crime. A judge may issue a search warrant based on written complaint of a person under oath or an affirmation of facts sufficient to show probable cause. A search warrant legally allows law enforcement to search the property of an individual and seize items. A search warrant specifically names the person or place to be searched and items to be seized.

A search warrant may be used to find anyone or anything linked to the crime for which the warrant has been issued. They also may use eavesdropping devices or electronic criminal surveillance devices as authorized and approved by a judge for the investigation of felony crimes.

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## About *Get the Facts: Criminal Justice System*



The *Get the Facts: Criminal Justice System* series was created to answer common questions about the criminal justice system. Other topics in this series include victims' rights, the pretrial process, the courts, corrections, and criminal records.

