



# Criminal justice system

## Pretrial process



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 what occurs after an arrest, including how charges are filed, options for obtaining an attorney, and pretrial jail alternatives.

### What happens after an arrest?

After a person is arrested, a complaint is filed by the police with the county circuit clerk's office. The state's attorney will then file paperwork with the court detailing the arrest and criminal charges. On felony charges, either a preliminary hearing is held before a judge to determine that enough evidence exists to reasonably conclude that the crime occurred and the person arrested was involved, or a grand jury hears the evidence and decides whether that evidence is sufficient to go to trial.

Grand juries in Illinois consist of 16 jurors who must be U.S. citizens and registered voters in the county of the court. Twelve jurors must be present for grand jury proceedings and nine votes are needed to present a formal accusation of charges against, or *indict*, a suspect. They also may issue subpoenas to gain evidence for the grand jury to consider. Grand jury proceedings are secret. Some cases involve suspects who might flee if they become aware of pending criminal charges.

When a suspect is indicted by a grand jury, a *true bill of indictment* is created and charges are filed. When charges against an individual are rejected, a *no bill* is returned.

State's attorneys may press felony charges against a defendant only after presenting a case before a grand jury or at a preliminary court hearing.

### How does one obtain an attorney?

Any person charged with a crime has the constitutional right to an attorney. Individuals have three options for legal representation in the courtroom. First, an individual may hire his own attorney. Second, if an individual is deemed indigent, or unable to pay for legal representation, the court will appoint an attorney, also known as a public defender. When public defenders are not available, the court will appoint and pay for a private attorney to handle the case. Finally, some defendants may opt to represent themselves.



## What is an arraignment?

During an arraignment, the defendant hears the charges that have been filed against him. A judge will advise the defendant of his rights and notify him of the penalty range for the charges filed. The defendant will then enter a plea. If the defendant pleads guilty to the charges in a felony case, the court will set a date for sentencing. The judge may sentence the defendant immediately upon a guilty plea to a petty or misdemeanor offense. Another court date will be set following a plea of not guilty.

## What do pretrial service agencies do?

Each circuit court has a designated pretrial service agency to provide the judge with background information on defendants charged with a felony offense. This information is used to determine terms and conditions of pretrial release. Pretrial service personnel also supervise compliance with pretrial release conditions, and report violations of those conditions to the court and prosecutor.

## What factors are considered when determining bond?

When the nature of the offense allows for the pretrial release of a defendant, a bond hearing will be held. At the bond hearing, the judge will take into consideration the likelihood that the defendant will appear for all court appearances, will not pose a danger to any person or the community, and will comply with all conditions of release on bond imposed, including keeping address and other contact information current with the court. The judge may decide to deny bond.

## What conditions may be set upon release from jail prior to a trial?

When granted release before trial, defendants are required to submit to all court orders and conditions. They may not leave the state without permission, or commit any other crime in any jurisdiction. In addition, the defendant may be ordered to refrain from possessing a firearm or other dangerous weapons, communicating with certain people, or traveling to certain geographic areas. They also may be required to undergo drug testing or psychological evaluation. In certain circumstances, defendants may be placed under home confinement.

As a condition of pretrial release, a person may be ordered to remain within the confines of his home, with permission to attend work or school. He may be asked to wear an electronic monitoring device to help track his whereabouts. The device also may record conversations and visual images.

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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, arrests, the courts, corrections, and criminal records.

