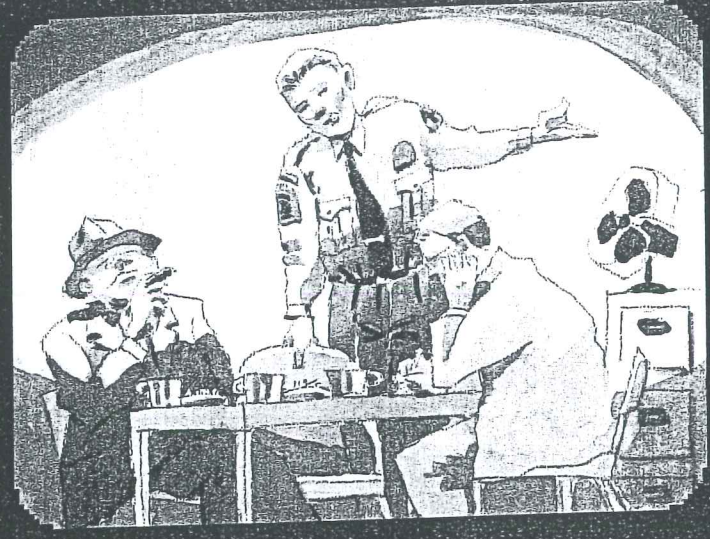


# What Happens If You Are Arrested

Ernesto Miranda was arrested for kidnapping and rape. The police questioned him for hours. He signed a confession. Later, the confession was used to convict him. Miranda appealed, saying that he had not known his rights. No one had told him he had the right to stay silent. In 1965, the Supreme Court ruled in Miranda's favor.



Now, it is the law that the police must tell an arrested person his or her rights. Because of Ernesto Miranda's case, this is called the *Miranda* rule. The rule says that every suspect who is about to be arrested must be read his or her rights as stated in the *Miranda* warning. How do you know if you are under arrest? What are your rights? What happens after you are arrested? In this chapter, you will learn what happens during an arrest and what a person's due-process rights are. You will learn what happens after an arrest. You will learn correct ways to behave when dealing with the police.

On TV, the police always say, "Don't move. You're under arrest. You have the right to remain silent, and anything you say may be used against you." In real life, the police start by simply questioning you first.

When are you under arrest? You are under **arrest** if and when you cannot leave or are in police **custody**. For example, imagine the police are asking you questions on the street. When you want to leave and they tell you that you cannot go home, this means you are under arrest.

The police will have an **arrest warrant** to take you into custody. The reason for the arrest will be a misdemeanor or a felony they actually saw you commit. They can also arrest you because they have good reason to believe you committed a felony. Finally, the police can arrest a suspect if they have good reason to think a citizen's arrest was lawful. It is proper for law enforcement officers to use their best judgment on the spot.

CHECK vocabulary words in bold.  
LOOK UP word meanings in the glossary beginning on page 92.




### CRITICAL THINKING

Some people think that it is not a good idea for many suspects to be out in the community on bail. They are afraid that these people will commit other crimes. Do you think it is a good idea to have bail? Do you think that everyone accused of a crime should stay in jail until the trial? Explain.



Officer Goodman says: "Do not argue with the police or make their job hard. Police are just people doing a job. Occasionally, they might make a mistake, but no matter what, two wrongs do not make a right. You should always do the right thing!"

 **CRITICAL THINKING**  
On rare occasions, police officers may request that you waive or temporarily suspend your rights in order to solve a special case. Why is it necessary for law enforcement officers to have this kind of authority?

## Keeping Calm

How do you keep the questioning calm? Many arrests of young people start with a misdemeanor. Sometimes, however, the police might simply see you in a **suspicious** situation that they need explained for safety's sake, for example, the police might see you with a group of friends, late at night, looking in a store window. The police might approach your group and warn you that this is a high drug area. Because of this, they might ask what you are doing there and for your identification. It is their job. They must follow rules about what questions they ask people who might be suspects.

## Cooperation

The job of the police is to maintain safety. Your job is to cooperate with them. People who are guilty of something often refuse to respect the police by answering questions or showing identification. This is not a good idea: to do this might make the police think that you have something illegal to hide. As a result, they might frisk you.

If you are innocent and they do not find anything illegal, you still might overreact or become too emotional. This can make the police overreact in turn. Both sides can be afraid and nervous. If things continue to get worse, the police may arrest you for keeping them from doing their job. This does not happen often, but you can make sure that it does not happen to you. Do not stop the police from doing their job. Be polite. Answer all questions. Then leave the area.

Make a choice to do the right thing. Being stopped by the police does not have to be a problem.

Can someone who is not a police officer arrest a private citizen? The answer is yes. Anyone can make a citizen's arrest. For example, a store manager saw a student putting cans of soda into her bag without having paid for them. As she walked toward the door to leave, the manager stopped her to check her book bag. The student refused.

The manager grabbed the bag and found the stolen cans. The student said she wanted to leave, but the manager would not let her. Instead, he called the police. As a private citizen, he did not have to give the *Miranda* warning or follow due process in searching her.

## The *Miranda* Warning

What is the *Miranda* Warning? The *Miranda* warning means two things:

1. You have the right to remain silent. You only have to give your name and address. Anything you say may be used against you; that is why you must not say more.

2. You have a right a lawyer. Do not answer any questions until a lawyer is with you. If you cannot afford a lawyer, the state will get one for you. You can tell the police, and they will get one for you.

What if someone you know is arrested? If a friend or relative

**DID YOU KNOW?** It is important to make sure you know the exact date you are suppose to be in court. Do not miss it. If you do, the court will issue you a warrant for your arrest.

**EYE OPENER** According to the Statistical Abstract from 1992 of the U.S. District Court, more than 50 percent of people arrested for a sex offense pleaded guilty.

calls you from the police station because they have just been arrested and need help, remember these three things:

1. Do not ask the person to tell you what happened. Someone might overhear the suspect talking to you. What they say can be used against them. You might even have to testify later about what the person said to you.

2. Call a lawyer. If the suspect cannot afford a lawyer, call Legal Services or Legal Aid in your community. They cost nothing.

3. Go to the police station. If the police question you or the person they arrested, wait until the suspect has a lawyer before you answer. Talking after an arrest can change the case or make things worse.

### The Police Station

What happens at the police station? If you are arrested, the police will take you to the police station. They will fill out papers about the arrest. This is called **booking** you. They will also take your fingerprints and may take your picture.

You will be allowed one or two phone calls. If you have a lawyer, this is the time to call. If you do not have a lawyer, call a friend or family member right away to get one for you. If you cannot afford a lawyer, tell the police.

The police will take your belongings into custody. They will take your clothes, wallet, purse, and whatever else you have. They will give you a receipt that lists everything they found on your person. Your property will be returned to you later.

The police may ask you to be in a **lineup**. They will put you with other people who will be about the same size or appearance as you. They will then ask a witness to pick out from all of the people in the lineup the person who committed the crime. If the police tell you to be in a lineup, ask for a lawyer. The lawyer can make sure the lineup is done in the fairest way possible.

Will there be a record of your arrest? The answer is yes. Even if the charges are dropped the next day, this record can harm your life. Many job applications ask whether you have ever been arrested. Your fingerprints will be on file even if you are never convicted.

The police check your fingerprints to see if you already have an arrest or conviction record. An employer can also choose to check your fingerprints, too.

Some states have laws that let you clear the record if you are not convicted. If the arrest was unlawful, the record can be erased or cleared. Find out your state's laws. Of course, the best thing is not to be arrested in the first place.

### Going to Court

You have the right to go before a judge as soon as possible. This can be the same day as your arrest, or, if you are arrested on a weekend,

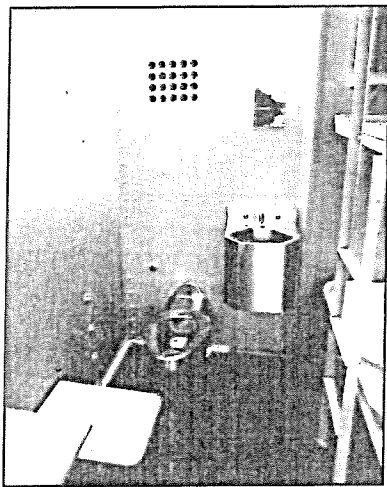
**CRITICAL THINKING**  
The average prisoner is younger and less well educated than the general public. Why do you think this is so?

**DID YOU KNOW?** Crime statistics, like many other kinds of statistics, take much research and survey work. That is why the information for a current year is not available for the general public for at least two years.

**EYE OPENER** According to the Statistical Abstract from 1992 of the U.S. District Courts, of the people arrested for burglary, less than 2 percent were acquitted.

How can your right to stay silent protect you during the first few minutes after your arrest?

**DID YOU KNOW?** The concept of bail is not a modern one: In the earlier system of criminal justice, there were various forms of release for people awaiting trial.



**EYE OPENER** Persons under sentence of death must wait on "death row" in prison for their sentences to be carried out. This is according to the Statistical Abstract from 1992 of the U.S. District Courts. This wait, which has been from one to six years, occurs because the legal process allows cases to be appealed.

Monday morning. Your first appearance in court is often called an **arraignment**. The reason for an arraignment is:

to make sure you are the person charged with the crime. There must be no mistake.

to let you hear the charges against you so that you can say whether you are guilty or not guilty. This is called a **plea**. If you have committed a felony, you will make a plea at a second hearing.

to set bail. Bail is money or property that you will need to give the court in trust that you will show up for the trial. Bail equals how much you are trusted to keep your word.

to give you a lawyer to defend your case.

If you do not have a lawyer yet, do not make a plea without a lawyer! The judge will ask questions about how much money you have. She will decide whether you should have a court-appointed lawyer. The judge will delay the case until you have a lawyer.

The judge should also set bail. It is not supposed to be too much money. However, if you are charged with a serious or violent crime, the judge may want to be sure that you will show up for the trial. She might decide to not set bail, and you will have to stay in jail.

## Bail

**How does bail work?** Do you have to give all of the bail money? Most of the time you have to give 10 percent. You have to show that you or your family would be able to pay all of it if you did not come to the trial. For example, if bail is set at \$500, you will have to give, or put up, \$50. If you show up for the trial and can prove you be trusted, you will get most of it back. If you do not, your family has to pay the \$500.

**What if you do not have the money?** You may have to go to a person called a bail-bonds agent. A *bail-bonds agent* is someone who puts up the bail money for you for a fee. There are bail-bond places near every courthouse.

If your offense is not very serious, your lawyer will try to have the judge release you without paying bail. This means that the judge trusts you enough to let you go. Sometimes, judges will do this if you have a job and a family and have lots of reasons to be responsible.

Once you get out on bail, you can work to find evidence and witnesses. People who are out on bail have a better chance of winning their case. If you have a job, you can keep earning money. If you are in school, you can keep going to school. The judge will look at all these facts later when it is time for sentencing. These facts may help you get a lighter sentence.

**What is the next step in court?** If you have not committed a felony, there should be a **preliminary hearing**. *Preliminary* refers to something that happens before something else, like "first." This hearing happens before the trial. The police or a court official may ask whether you want to waive, or give up, your right to a preliminary hearing. Do

not give up this hearing. It is important in the legal process.

Why is a preliminary hearing important? At this hearing, the judge decides whether the prosecution has enough evidence for a case against you. It is also a chance for your lawyer to find out how strong the district attorney's case is against you. If it is a weak case, the charges may be dropped.

First, there must be enough evidence for a grand jury to indict, or charge, you. There does not have to be enough evidence to convict you, but it has to be clear evidence. The state must make a *prima facie* case. *Prima facie* is Latin for "on the face of it." On the face of it, or just looking at it, the case must appear to be strong.

Second, the judge may lower your bail at this hearing. Third, she will set a trial date. However, at the preliminary hearing, you do not have to give any evidence.

When is there another hearing before the trial? If a lawyer believes some evidence was seized illegally, he will say that the evidence should not be used in court. There will then need to be a hearing so that the judge can decide whether the evidence can be used or not.

There also may be another hearing if the charges are lowered or raised. An arraignment may be called where the charge against you could be raised. For example, you may be accused of a burglary in which someone was shot. If the person dies, the charge will change from a burglary to murder.

The charges may also be lowered. You may change your plea. This is what happens in most criminal cases. This happens because of something called plea bargaining.

### Plea Bargaining

Plea bargaining is working with the prosecutor to come to an agreement that is fair and helpful to all. You agree to plead guilty, and the district agrees to a lower charge. This means that you may not get as harsh a sentence. But it also helps the district attorney to bring you to justice quickly and efficiently. Here, the court is not involved—only the defendant and the prosecutor. Yet, the court decides the sentence.

For example, suppose that you are arrested for selling drugs. The amount of drugs you sold might be very small. But if you are found guilty, the sentence could be harsh, even though it may even be your first offense. Once you cross the line between right and wrong, you are due a punishment.

The witness in this case is the person to whom you sold the drugs. The evidence is the drugs found on you when you were searched. The district attorney might offer to drop the charge of selling drugs and just charge you with possession of drugs. This is because it is your first offense, because you are willing to plead guilty, and because you tell the court you want to get into a drug program in order to change your behavior and build a new life. Just as intent to commit a crime is important to the courts, so is intent to improve one's behavior.



### CRITICAL THINKING

The Constitution says that people have a right to a jury for most crimes. Yet, because of plea bargaining, cases often do not go to trial. Do you think that a person who has not committed a crime would plead guilty and accept a plea bargain? Do you think that most guilty people would accept a plea bargain?

**DID YOU KNOW?** Many people are critical of plea bargaining. However, it allows the courts to save time by eliminating the long delays of trials. In this way, the criminal justice system is able to handle the huge volume of cases.

**EYE OPENER** According to the Statistical Abstract from 1992 of the U.S. District Court, in 1990, less than 6 percent of people arrested for homicide have been acquitted.



### CRITICAL THINKING

How can talking back increase tensions and increase the possibility of an arrest taking place?



The judge does not have to accept the plea bargain. You do not have to either. People who support plea bargaining say that it is good. People plead guilty, help the system work and move along, and do not have to wait a long time for a trial. People who are against it say that too many criminals receive lighter sentences that do not really punish them. What is your opinion?

### Arrest in School

What if you are arrested in school? As always, anyplace, anytime, if you think you are about to be arrested, **do not say anything until you talk with a lawyer**. If the police want to question you at school, ask them to call your parents. You can give them your name and address. It is possible that answering a few questions would not hurt you. You are the only one who knows whether you have done anything illegal. But, whether innocent or guilty, it is best to stay silent.

The police must give you the *Miranda* warning. However, the school officials are not required to. For example, if a high school principal asked a student if he had bought marijuana in school and the student said yes, this would be a confession. This confession would help convict the student. The evidence could be used in court because the school official was a private citizen. Private citizens are not required to give the *Miranda* warning.



Workbook

Self-Check p.20

Reality-Check p.21



TO LEARN MORE

*The Peoples Guide to Government:  
Judicial Branch, pp. 32-33, 48*

### Understanding Chapter 9

1. How do you know when you are under arrest?
2. Explain how bail works.
3. What is plea bargaining?

Chapter 9: ~~Critical Thinking, Did You Know, Eye Opener~~

1. What do some people think about suspects being out on bail? \_\_\_\_\_
2. What does Officer Goodman say? \_\_\_\_\_
3. What is his advice for you to do? \_\_\_\_\_
4. What does he say about police? \_\_\_\_\_
5. What do police do on rare occasions? \_\_\_\_\_
6. Why? \_\_\_\_\_
7. What will happen if you miss your court date? \_\_\_\_\_
8. In 1992 what per cent pleaded guilty to a sex offense? \_\_\_\_\_
9. The average prisoner is what? \_\_\_\_\_
10. Why is crime statistics not available for the general public for two years? \_\_\_\_\_  
\_\_\_\_\_
11. What per cent of those arrested for burglary were acquitted? \_\_\_\_\_
12. What should you do after the first few minutes after arrest according to the lesson?  
\_\_\_\_\_
13. What concept is not a modern one? \_\_\_\_\_
14. Where do persons under sentence of death wait? \_\_\_\_\_
15. Why do they wait there so long? \_\_\_\_\_
16. Why do cases often not go to trial according to critical thinking? \_\_\_\_\_
17. Plea bargaining allows courts to save what? \_\_\_\_\_
18. How? \_\_\_\_\_
19. What per cent of those arrested for homicide were acquitted? \_\_\_\_\_
20. What can increase tensions and the possibility of arrest? \_\_\_\_\_  
\_\_\_\_\_

## CHAPTER 9 SELF-CHECK

### What Happens If You Are Arrested

Circle the letter of the phrase or statement that best answers each question.

1. You are under arrest if \_\_\_\_\_.
  - a. the police stop you and ask you questions
  - b. the police frisk you to check for weapons
  - c. the police write down your name and address
  - d. the police will not let you leave
  
2. A true statement about arrest is that \_\_\_\_\_.
  - a. an ordinary citizen can make an arrest
  - b. the police always need a warrant to make an arrest
  - c. the arrest must occur right after the crime happens
  - d. you cannot be arrested for getting mad at the police
  
3. The *Miranda* case helped suspects so that \_\_\_\_\_.
  - a. now they can remain silent during questioning
  - b. now police must be sure to tell suspects their rights
  - c. now they do not have to confess
  - d. now the court must help suspects get a lawyer
  
4. When questioned, you should tell the police \_\_\_\_\_.
  - a. nothing. Don't say a single word
  - b. your name and address only
  - c. only "yes" or "no" and other short answers
  - d. tell your side of the story to get it all on record
  
5. When a suspect is booked \_\_\_\_\_.
  - a. the suspect is allowed to keep his or her clothes
  - b. the suspect is allowed to make a phone call
  - c. the suspect's fingerprints are taken
  - d. a record of the arrest is made right away
  
6. The purpose of bail \_\_\_\_\_.
  - a. is to punish the accused right away by making him or her pay money
  - b. is to pay the lawyer that the court appoints for the accused
  - c. is to make sure that the accused person will show up at the trial
  - d. is to get the accused to bargain for less bail
  
7. At your first court appearance \_\_\_\_\_.
  - a. the charges are stated
  - b. you are fingerprinted
  - c. you are given a lawyer if you need one
  - d. bail is set



# CHAPTER 9 REALITY CHECK

## What Happens If You Are Arrested

**WRITING ACTIVITY**

Read the following story. Read each item below. Write your answers in complete sentences.

It is three o'clock in the morning and the phone rings, waking you out of a deep sleep. Your best friend is calling from jail. You always knew about his alcohol problem. Now you learn that there was an accident and that your friend has been arrested for drunk driving.

*You find out that there could be other charges later on, depending upon whether or not the injured people from the other car survive. Your friend is upset, confused, and feeling helpless. What can you do to help?*

- 1. List two things you can do to help your friend.

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- 2. Describe how you will do the above two things to help.

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What will you say first to your friend on the phone?

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- 4. What will you say to your friend at the police station?

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- 5. What will you do when you leave the station to be helpful?

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**PEER ACTIVITY**

Choose a partner. Form pairs. With your partner, complete this activity. If time allows, present your team's work to the class.

- Review the questions above in the writing activity to help you plan a role-play.
- Role-play the phone call from your friend in jail. Calm the suspect down by knowing what to do.
- Switch roles in repeating the role-play.



# Classwork

Define:

1. Accuse: \_\_\_\_\_

2. Burglary: \_\_\_\_\_

3. Facial: \_\_\_\_\_

4. Latin: \_\_\_\_\_

5. Prima: \_\_\_\_\_

6. Opinion: \_\_\_\_\_

7. Principal: \_\_\_\_\_

8. Punishment: \_\_\_\_\_

9. Arraignment: \_\_\_\_\_

10. Criminal: \_\_\_\_\_

11. Harsh: \_\_\_\_\_

12. Murder: \_\_\_\_\_

13. Plea: \_\_\_\_\_

14. Principle: \_\_\_\_\_

15. System: \_\_\_\_\_

16. Bargain: \_\_\_\_\_

17. District: \_\_\_\_\_

18. Illegally: \_\_\_\_\_

19. Offense: \_\_\_\_\_

20. Prosecution: \_\_\_\_\_