



KIMBROUGH LEGAL
— PLLC —



I Got Arrested. Now What?

**Free
Resource**



Visit us at:

<https://www.kimbroughlegal.com>



I Got Arrested. Now What?

Getting arrested is hardly at the top of anyone's to-do list; not only is it an embarrassing and potentially dangerous ordeal for some people, but it could quickly spiral into a complicated legal matter if it's not handled correctly. This is why it's crucial to understand each step of the arrest process. Should you ever find yourself in this unfortunate situation, knowing how the arrest process works and where your rights fit in may not only save you in court, but perhaps your life as well.

The Arrest

At the time of your arrest, the arresting officer is legally required to read you your rights. These rights include the right to remain silent ("anything you say can be used against you in a court of law"), the right to consult with an attorney or have a court-appointed attorney if you can't afford one yourself, and the right to have an attorney present during questioning. You must inform the arresting officer that you wish to exercise these rights.

Emotions typically run high during an arrest, so you may end up saying something that the arresting officer finds incriminating. The good news is that if the arresting officer fails to follow procedure and read you your rights, anything you say at the time of the arrest or during an interrogation can be suppressed in court.

One notable exception is saying incriminating things before you were arrested. In this case, these rights will not protect you. To illustrate this, anything you say to the officer between

being pulled over and being arrested can be used against you in court. This can be especially damning in DWI cases, where alcohol tends to loosen one's tongue.

Your Initial Hearing

The law states that you must see a judge within 48 hours of your arrest. This is when the judge will inform you of your charges, as well as if you have an affidavit, or sworn statement, supporting these charges.

Moreover, the judge will also ensure you understand your rights that the arresting officer should have initially read you at the time of your arrest. The judge must legally allow you time to consult with an attorney and request a reasonable bond, if applicable.

Bail and Bond Hearings

During these hearings, judges will determine if you will be released on a personal recognizance bond or a cash or surety bond and judges may impose conditions on your release from jail. With the exception of capital murder charges, all defendants can be released on bail if they can pay the bail amount or furnish enough collateral. These bail amounts vary from case to case and are determined at the judge's discretion.

Sometimes, the bail amount is excessive. In this case, a criminal defense attorney must request a bail reduction hearing and prove that you don't have the money or collateral to pay such a high bail or bond. Other reasons for reducing a bail or bond is if you have a good standing in the community, do not pose a danger to others, and are not a flight risk.

There are a couple important types of bonds to be aware of:

- **Personal Recognizance (PR) Bond** - A PR bond allows you to be released without having to pay or provide collateral. In exchange, you must promise to appear in court despite having your bond conditions removed.
- **Cash Bond** - With a cash bond, you pay the sheriff the full amount determined by the judge. After the case ends, you'll be refunded the money.

- **Bail Bond** - Here, a bail bondsman or bonding company will borrow money to meet the bail conditions determined by the judge. As a result, the bondsman will set additional requirements and charge you a fee. Most importantly, the money will not be refunded to you.

Filing Charges

Next, the prosecutor will file charges either through a complaint (if it's a Class C misdemeanor), information (if it's a Class A or B misdemeanor), or indictment (if it's a felony). Indictments work a little differently, though; prosecutors must present them to a 12-person grand jury, which then determines whether there is probable cause for your guilt. If at least nine jurors vote yes, then the case will go to trial. If this requirement is not satisfied, then no charges will be filed. However, the prosecutor can present this case to a grand jury again at a later point.

Pretrial Hearings and Conferences

After charges are filed, the next step in the criminal defense process is the beginning of pretrial hearings and conferences. During this step, the case is further investigated and the defense will obtain access to the state's file to view items such as video evidence, photo evidence, confessions, and 911 call tapes. During this phase, the prosecution and defense will discuss strengths and weaknesses in the prosecution's case, necessary pretrial motions are filed, and mitigation information is presented.

Plea Negotiations

It's your defense attorney's responsibility to negotiate a plea deal with the prosecutor. Similarly, it's also your defense attorney's responsibility to let you know all of the state lawyer's reasonable offers. However, a plea deal may require you to either plead guilty or no contest or have some of your rights waived.

Furthermore, a judge does not have to accept this plea deal, even if the prosecution and defense both do. If your judge rejects the deal, then you'll have the opportunity to withdraw your guilty or no contest plea.

Trial

The state of Texas has two trial phases: the guilt/innocence phase and the punishment phase. During the former, the state will try to prove your guilt with the available evidence. After that, the defense attorney can cross-examine that state's witnesses and present your case, which may require you to testify. If you are found guilty, then you'll receive your sentence during the punishment phase.

What Are My Rights During a Trial?

Just as it is the case during an arrest, you also have certain rights during your trial. These rights include the right to appeal, the right to summon witnesses to testify, the right to cross-examine the prosecution's witnesses, the right to a speedy trial by an impartial jury, and the right against self-incrimination, meaning you are not legally required to testify yourself.

Moreover, you are innocent until proven guilty, and the state must prove your guilt beyond a reasonable doubt.

Understanding the arrest process can make it less overwhelming as you navigate it with your criminal defense attorney. Kimbrough Legal can explain this process, as well as your rights, in greater detail if you're ever arrested. We've been guiding clients in the Travis County area and surrounding areas through these complicated legal processes, and we'd love to help you do the same. To schedule a consultation, give us a call at 833-533-4251 or contact [kimbroughlegal.com](https://www.kimbroughlegal.com) today.

Notice: The information in this guide is informational in nature and does not establish an attorney-client relationship, which is only formed once you and an attorney have signed an engagement agreement. Information in this guide is intended solely for residents of Texas. Additionally, we cannot guarantee case results.