The police do not have to read you your rights before asking questions in relation to the investigation of a crime.

If you have not been arrested and/or your freedom to walk away from the officer has not been taken away, you are not entitled to a reading of your rights.

If you make voluntary statements to the police before they ask you any questions, they are not obligated to stop you and tell you your right to remain silent.

If you confess a crime to a police officer without being asked any questions by him, or at any point during a preliminary investigation, the police may use that confession against you.

If you choose to exercise your right to remain silent and then voluntarily begin talking to the police, you will be considered to have waived your right to remain silent.

Anytime you waive your right to remain silent it is up to you to reassert it by again stating that you wish to remain silent and that you will not speak until an attorney is present.

DO THE POLICE NEED TO INFORM ME OF MY RIGHT TO REFUSE A SEARCH OF MY RESIDENCE WITHOUT A WARRANT?
No. The police are not required to inform you of your Fourth Amendment rights. It is up to you to remember and insist upon them.

WHAT’S THE MOST IMPORTANT THING TO REMEMBER ABOUT THE FOURTH AMENDMENT?
There are so many exceptions to the Fourth amendment that it is very important that you seek legal counsel if you feel your rights have been violated. Each case must be examined individually. The facts and circumstances of each must be examined to determine if a violation of your rights has in fact occurred.
What You Should Know About Search and Seizure

THIS BROCHURE IS INTENDED TO BE A VERY BRIEF SYNOPSIS OF YOUR FOURTH AMENDMENT RIGHTS AGAINST UNWARRANTED SEARCH AND SEIZURE BY THE POLICE. ENTIRE VOLUMES HAVE BEEN WRITTEN ON THE SUBJECT AND THIS BROCHURE WILL ONLY SERVE TO SCRATCH THE SURFACE OF THE ISSUE.

WHAT DOES THE FOURTH AMENDMENT TO THE CONSTITUTION SAY?
The Fourth Amendment says the American people have the “right to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.”

WHAT IS A “SEARCH AND SEIZURE” UNDER THE FOURTH AMENDMENT?
“Search and Seizure” is the practice whereby the police search a person or a place for evidence useful in the investigation and prosecution of a crime. If such evidence is uncovered in a lawful search it will be seized by the police for use in prosecution of that crime. Seizure also applies to a person if that person has been stopped by the police and is not free to walk away from police interrogation.

CAN THE POLICE SEARCH MY HOME WITHOUT A SEARCH WARRANT?
In general, the police need a search warrant issued by a judge in order to search your home for evidence of crime. However, there are several exceptions which allow the police to search your home for evidence of a crime.

CAN THE POLICE ARREST ME WITHOUT A WARRANT?
Yes. Many arrests are made without warrants, where the arrest is made in public and the police have reasonable suspicion that a serious crime has been committed by the person being arrested.

An important fact to keep in mind is that in Illinois, you have no legal right to resist even an unlawful arrest, so it is better to cooperate with the police if they arrest you and to work it out later with your attorney and with the judge, in order to avoid a charge of resisting arrest. Cooperation does not mean you need to talk to the police. Do not resist the arrest but always remember that you have the right to remain silent and do not have to speak to them at all. Always ask for an attorney.
The police may not enter your residence to make an arrest without a warrant unless it meets one of the exceptions listed below. There are numerous exceptions to the Fourth Amendment prohibition against searches and arrests without warrants. The following are the most common:

CONSENT: If you give the police permission to enter and search, they may do so without a warrant. Also, if the police request that you give them something from your pocket and you comply, then you have consented to that search and cannot say that your rights have been violated. If the police present no warrant to enter or search, you are not obligated to give them consent to enter or to search your residence. You are also under no legal obligation to provide the police with any information.

PLAIN VIEW: If evidence is in a place where the officer can see it and the officer is in a place where he is legally allowed to be, the evidence may be seized without a warrant. The officer is not required to look away and pretend he didn’t see anything.

SEARCH INCIDENT TO ARREST: When you are arrested, the police may search your body for weapons and evidence. They may remove anything found on your body that they may reasonably suspect is a weapon and any evidence of illegal activity that they may find on you. They may also search the area surrounding you in order to determine if weapons may be present in your immediate area. In certain cases, the police may be able to search areas outside of your immediate control if they have reasonable suspicion that there may be other persons in the vicinity who pose a threat to their safety. A search incident to arrest may actually turn into a search of your entire premises through this mechanism.

STOP AND FRISK: You may be searched solely for weapons even if there is not probable cause to arrest you if the police have reasonable suspicion that you may have been involved in a crime. The officer may pat you down for weapons. He may remove anything from your pockets that he could reasonably believe was a weapon. He may also search areas of your automobile where weapons might reasonably be hidden.

EMERGENCIES: If the police are in pursuit of a known felon, they may follow him into any residence he enters in order to apprehend him. They may also enter to capture an individual fleeing from lawful police custody. If the police can show that an occupant of a residence is in imminent threat of death or serious injury, they may enter in order to prevent such injury.

AUTOMOBILES: You do not have the same expectation of privacy in a car that you have in your residence. If you are stopped by the police in a car, the police may search virtually any portion of the vehicle without a warrant if they have probable cause to believe that incriminating evidence may be contained therein. Any evidence obtained during that legal search may then be seized. The police may even be able to open containers in the car, in the trunk, and in the glove compartment as part of a vehicle search.

BORDER SEARCHES: You may be stopped, questioned, and searched when crossing an international border. The police do not need to give a reason for the search.

DO THE POLICE NEED TO READ ME MY RIGHTS?
The rights you always hear on TV (You have the right to remain silent, ...) are rights related to the Fifth and Sixth Amendments to the Constitution.

- The police are required to read you your rights ONLY IF you are being subjected to interrogation after arrest.

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