

What New York Doesn't Tell You After an Arrest

A Case Analytica guide to rights, diversion programs, and the questions that
change everything

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Before You Read This

Why This Guide Exists

A young man once sat down next to me and asked how he could reduce his prison time. As I listened, the pattern was painfully familiar: a deal had been pushed on him before he understood what else was on the table, and now he had almost no recourse but to serve the sentence he'd already agreed to. Nobody had ever mentioned a diversion program existed. That conversation, and the ones just like it, is why Case Analytica exists, and why this guide exists.

Diversion programs and restorative justice exist in New York. So does a real, if imperfect, right to counsel. So does a real process for sealing an old record. None of it is offered automatically. A busy public defender or a private attorney carrying too many cases can genuinely forget to raise an option unless you ask for it directly, by name. This guide exists so that knowing about these options doesn't depend on luck.

This is general information about how the New York State justice system generally works. It is not legal advice, and it does not replace a licensed attorney. Every case turns on specific facts a general guide can't cover. Where a specific number or timeline is cited here, the source is named so you can verify it yourself.

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Rights & Process

1. What Actually Happens After an Arrest in New York State

If someone you love was just arrested, you probably have a hundred questions and nobody explaining them in order. Here is that explanation, step by step.

Arrest and booking

Police take the person into custody, then process them through booking: fingerprints, a photograph, and a record check. New York generally requires police to bring someone before a judge for arraignment within 24 hours, though the real timeline can stretch depending on the day of the week and how backed up the court is. During this window, the person can ask for a lawyer, and they should. Anything said to police before a lawyer is present can be used later.

Arraignment and bail

Arraignment is the first time the person actually stands in front of a judge. Three things happen: they're formally told the charges, they enter a plea (almost always "not guilty" at this stage regardless of the facts, since this isn't the moment to argue the case), and the judge decides on bail or release. Since New York's 2019 bail reform, most misdemeanors and non-violent felonies are "no cash bail" cases, but a portion of violent felonies and repeat offenses remain bail-eligible.

If bail is set

A bail bondsman typically charges a non-refundable fee, usually around 10 percent of the bail amount, that isn't returned regardless of the case's outcome. Worth knowing before committing to one.

Public defender or private attorney

A public defender is a real, licensed attorney: same bar exam, same law degree as private counsel. The difference is usually caseload, not qualification. Chapter 3 covers exactly what that caseload looks like in practice.

Discovery and pretrial

Under New York's 2020 discovery reform, prosecutors must hand over their evidence to the defense quickly, generally within a couple of weeks of arraignment, instead of right before trial. This is also the stage where most cases quietly resolve through plea negotiations, and where diversion or restorative justice can enter the picture, but only if someone asks. Chapter 4 covers exactly what to ask.

Plea, trial, and sentencing

Most cases end in a plea, not a trial. That's true nationally, not just in New York. If a case goes to trial and ends in conviction, sentencing follows, and this is where letters of support, program participation, and a documented release plan start to matter, especially for anything that could later go in front of a parole board.



Access to Justice

2. The Hours Before You Get a Lawyer

Ask most people when the right to a lawyer kicks in after an arrest, and you'll get some version of “immediately.” The honest answer is more specific and more uncomfortable: New York guarantees a lawyer at arraignment, not necessarily before it. In the hours between arrest and that first court appearance, a person can be questioned and held with no attorney in the picture unless they know to ask.

The lawsuit that forced the guarantee

This wasn't always guaranteed even at arraignment. In 2007, the New York Civil Liberties Union filed a class-action lawsuit, *Hurrell-Harring v. State of New York*, arguing the state was failing to provide adequate public defense. The state settled in 2014. The settlement's first requirement: guarantee a lawyer at arraignment for every indigent defendant, starting in five pilot counties before New York extended the guarantee statewide in 2017.

That's a real, hard-won fix, but notice what it fixed. It guarantees a lawyer *at* arraignment. It does not reach backward into the hours before it, which is precisely where this gap still lives.

What you can do

The moment you or a family member is arrested, say clearly: “I am invoking my right to remain silent, and I want a lawyer.” Repeat it if questioning continues. If you're the family member outside, you can call the precinct to confirm custody and expected arraignment timing, and start looking into a private attorney immediately if that's an option: the earlier retained counsel is involved, the more of that pre-arraignment window they can help navigate.

If this is happening right now

A free intake call can help you sort out where the case actually stands and what to ask next, tonight if needed, not after you've already guessed wrong. Book one at caseanalytica.com/about.html#intake.



Access to Justice

3. Why Your Public Defender Might Be Carrying 100+ Cases

A public defender is a real, licensed attorney. What doesn't get said enough is what that attorney's caseload actually looks like, because "same qualifications" and "same amount of time available for your case" are not the same claim.

What the standards actually say

The same Hurrell-Harring settlement required New York's Office of Indigent Legal Services (ILS) to track attorney caseloads and set standards for the first time. Those standards generally cap a full-time public defense attorney at no more than 367 misdemeanor cases or 138 felony cases a year, and for offices measuring weighted caseload, fewer than 300 weighted cases annually.

What "300 weighted cases" means in practice

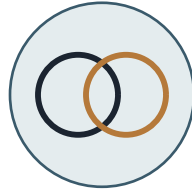
Assume a standard working year of roughly 2,000 hours. Three hundred cases against that budget works out to under seven hours per case, on average, covering every phone call, every court appearance, every document review, every negotiation, start to finish. That's the ceiling the state itself considers reasonable. In counties running above it, the math only gets worse.

What a heavy caseload actually costs a case

A heavy caseload costs time: time to review discovery line by line, time to investigate, time to sit with a client and ask the questions that reveal a diversion program might apply, instead of processing the case toward whatever the DA offers first. This is precisely the condition under which restorative justice eligibility gets missed, not from negligence, but because there isn't a spare hour to go looking for it.

You don't have to fill that gap alone

Case Navigation is Case Analytica's paid, ongoing support between court dates: someone reviewing documents with you in plain language and helping you prepare before every hearing, the exact hours a stretched-thin caseload can't always provide. See caseanalytica.com/case-navigation.html.



Restorative Justice

4. Restorative Justice and Diversion: The Alternatives Most People Never Hear About

The traditional system asks: what law was broken, and what punishment fits. Restorative justice asks a different question: who was harmed, what do they need to move forward, and whose responsibility is it to provide that. It isn't softer. Sitting across from someone you hurt and answering for it directly is often harder than a quiet plea and a fine. In New York, it shows up as three concrete mechanisms actually running in courtrooms right now.

Mechanism 1: Victim-offender dialogue

A facilitated, voluntary conversation where the person harmed describes the real impact directly, and the person responsible answers for it and agrees to specific actions.

Mechanism 2: Diversion programs

The case is paused or resolved outside standard prosecution if specific conditions are completed. Finish them, and a charge can be reduced or dismissed entirely. One example actually running right now: Project Reset, for people who receive a Desk Appearance Ticket on a low-level, non-violent charge like misdemeanor drug possession. Complete the program, and the DA's office declines to prosecute: no court date, no record. (See projectreset.nyc for current eligibility.)

Mechanism 3: Community-based alternatives

Structured, supervised programs (job training, treatment, mentorship) that can substitute for jail time, with real accountability built in.

Why this doesn't happen automatically

None of these three mechanisms get offered by default. Whether one is granted depends heavily on which county and which DA's office is handling the case. You have to know this exists, and you have to ask for it, by name, because you cannot negotiate for an option nobody told you was on the table.



Restorative Justice

5. The Question Before You Plead Guilty

Almost every criminal case in this country ends the same way: a guilty plea, not a trial. Most people plead before they find out what else was on the table, and by the time anyone mentions the alternatives, the case is closed.

None of this comes down to people being careless. Losing income while a case drags on is a real cost. So is the fear that fighting a charge and losing means a harsher sentence than taking the deal now. And a public defender juggling dozens of cases can't give every one the time it deserves. Put that together and pleading quickly starts to look like the only reasonable move. The trouble is nobody stops to check whether fast and good mean the same thing here. Usually they don't.

In New York, before entering any plea, it's worth asking directly: *is there a diversion program or restorative justice option for this case?* Nobody has to bring this up, not the DA, not the court, and not always the defense attorney, even a decent one drowning in cases. Which is exactly why it falls on you.

What representation actually does

Groups like GOSO (Getting Out and Staying Out), based in East Harlem, help young men 16 to 24 rebuild after time in NYC jails or New York State prisons through school, jobs, and real support. Fewer than 9% of their participants end up back inside, against a national average of 54% for the same age group.



Restorative Justice

6. The Bet Every Plea Deal Is Making

A plea offer looks like a number: this many months, this charge instead of that one, sign here. It isn't just a number. It's a bet the other side is making that whoever you hire won't actually take this to trial. Most of the time, that bet is safe.

The strength of a plea offer depends partly on whether the prosecutor believes your attorney will actually go the distance. A defense attorney with a track record of trying cases changes the offer that shows up on the table. One who never does changes it too, in the other direction. This isn't about blaming public defenders, who are usually carrying caseloads that make trial prep close to impossible; it's a resourcing problem, not a character one.

Worth asking directly

"If we didn't take this deal, what would going to trial actually look like, and have you tried a case like this before?" It's a fair question for any attorney, public or private. The answer tells you whether the offer in front of you is generous or just convenient.

None of this means trial is always the right call. Most of the time it isn't, and a good offer resolved quickly can be the best outcome available. But "best available" is different from "only available," and that gap is exactly what asking about diversion or restorative justice, before any of this, is about.

Before you agree to anything

A free intake call can help you sort out whether a specific offer is genuinely generous or just convenient, and whether diversion is truly off the table or simply unasked. Book one at caseanalytica.com/about.html#intake, no cost, no obligation.



System

7. The Clean Slate Act: When Does Your Record Actually Get Sealed

New York started automatically sealing eligible criminal records in November 2024. Most people who qualify don't know it yet.

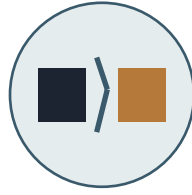
It's not expungement: the record still exists and remains visible to courts, law enforcement, and certain licensing agencies. What it does is seal the record from public view, so for most employers, landlords, and background check services, it becomes invisible.

For a misdemeanor, the record can seal 3 years after the sentence is completed, meaning 3 years with no new arrests. For a felony, it's 8 years. The clock starts once the person is fully off parole or probation, not from the date of the original offense.

Not everything qualifies

Most sex offenses and the most serious violent felonies are excluded entirely, regardless of how much time has passed. Check with an attorney or the applicable county clerk's office to confirm a specific record.

A lot of these convictions didn't have to become convictions at all. Diversion and restorative justice programs can resolve a case without a conviction ever going on the record, but only if someone asks before a plea is entered, not after. That's the point where this decision actually gets made.



Access to Justice

8. The Two Failures Nobody Warns You About

Two things go wrong at almost the exact same moment after someone is arrested in New York, and neither one shows up on any charging document. The first: nobody sits the person down and explains, in order, what is actually happening and what happens next. The second: the law does not guarantee someone with the time, resources, or standing to actually fight for the best outcome, only someone with a law degree.

Roughly a quarter of New York State residents, an estimated 1.8 million people, have limited English proficiency and typically need an interpreter in court, and the state's own interpreter workforce has shrunk by double digits over the past several years even as the need hasn't gone anywhere.

Representation isn't abstract, it's measurable

The Vera Institute's evaluation of the New York Immigrant Family Unity Project found that detained immigrants who represented themselves won their case about 4% of the time. With a lawyer, that jumped to roughly 48%, more than a tenfold difference, for the exact same set of facts and the exact same immigration judge. Representation is not a formality. It's very often the entire outcome.

These two failures feed each other. A defendant who doesn't know a diversion program exists can't ask their attorney about it. An attorney carrying eighty active cases doesn't have the spare hour to volunteer information their client didn't ask for. None of this falls evenly. It concentrates on people already least equipped to absorb a shock. The system doesn't have to intend harm for the harm to land disproportionately.



The Checklist

9. The Complete Checklist: Exact Questions to Ask Your Attorney

Whether it's a public defender or a private attorney, ask these directly, in these words if it helps, as early in the case as possible.

1. "Is there a diversion program available for this case?"

This is the single most important question in this guide. Ask it at arraignment or as soon as counsel is assigned, not later.

2. "Is this the kind of case where a restorative justice or victim-offender dialogue could apply?"

Most available for lower-level, non-violent offenses, but worth asking regardless of the charge.

3. "Has this county's DA's office used diversion or restorative programs for cases like mine before?"

Availability varies enormously by county. Your attorney should know this county's track record. If they don't, ask them to find out.

4. "If I qualify, what would I actually need to complete, and what happens to the charge if I do?"

Get the specific conditions and the specific outcome in writing before agreeing to anything.

5. "If diversion isn't available now, is there anything that changes that later?"

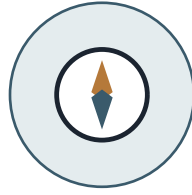
More information, a different charge, a program completed first. Don't assume "not now" means "never."

6. "Roughly how many active cases are you carrying right now?"

Not disrespectful, just due diligence. It tells you how much initiative you may need to take yourself.

7. "If we didn't take this deal, what would going to trial actually look like, and have you tried a case like this before?"

The answer tells you whether the offer on the table is generous or just convenient.



Case Analytica

10. What Comes Next

Everything in this guide is free, and it always will be. Case Analytica exists because knowing your options shouldn't depend on luck.

If you're facing a case right now, or someone you love is, a single free intake call is enough to map out what's actually happening and what to ask next. Book one at caseanalytica.com/about.html#intake.

For ongoing support between court dates, reviewing documents in plain language, and preparing before every hearing, case navigation is available as a paid service beyond the free call. Details are at caseanalytica.com/case-navigation.html.

And if this guide was useful to you or someone you love, consider chipping in \$15, or whatever you can afford, to help fund the next one. If \$15 isn't possible right now, that's fine too; nobody is turned away from this information over money. Donate at paypal.me/DeanMustaphalli.

Be informed before you make your decision, and give people a real chance back into society.