CHOOSING THE WRONG CRIMINAL DEFENSE LAWYER CAN COST YOU A LOT OF MONEY AND RUIN THE REST OF YOUR LIFE! DO NOT HIRE A CRIMINAL DEFENSE LAWYER UNTIL YOU HAVE READ THIS FREE RESOURCE AND ARE COMFORTABLE THAT YOU HAVE SELECTED THE RIGHT PERSON TO FIGHT FOR YOU!

HOW TO CHOOSE THE RIGHT CRIMINAL DEFENSE LAWYER

The process of choosing the right criminal defense lawyer can be daunting, scary, and frustrating. This guide is intended to help you through the process so you can rest assured that you have properly vetted the person you ultimately choose to help you or your loved one through a difficult time. The process can be broken down into 3 steps, which are best done in order.

- First, find experienced, qualified attorneys with the necessary certifications.
- Second, from this list of lawyers, make sure to find the one you trust and who seems to be the best fit for you personally.
- Third, double check that the lawyer you have chosen doesn't put you into one of the listed "common traps" associated with hiring a lawyer to help you with a criminal matter.

If you complete these 3 steps, you can have confidence and trust in your lawyer, which will make navigating through the criminal justice system significantly less stressful.

You may have noticed that price is not a factor listed above. While price is important, and ultimately may be a deciding factor for you, choosing the wrong criminal defense lawyer can cost you significantly more in the long run than paying a little more for the right representation today. Read on and you'll understand why price should only come into play after the first 3 criteria are met.

QUALIFICATIONS:

There are many different qualifications that a lawyer may possess and I will address some of the most important ones in this guide. If you are able to find a lawyer who meets all of these criteria, consider yourself lucky, as these lawyers are difficult to find! In general, this guide should give you an understanding of the types of qualification that matter and why they are so important so you can discover which lawyer most appropriately suits your needs. Look for a lawyer who has one or more of the attributes discussed below.

1. Board Certified in Criminal Law by the Texas Board of Legal Specialization

"Board Certified" is the gold standard for a criminal defense lawyer in Texas. If a lawyer is Board Certified in criminal law, he or she will likely meet most of the other qualification or Certified in Criminal Law at the time of this writing (2015). To become Board Certified in Criminal Law, an attorney must meet certain minimum requirements, including a number of felony and misdemeanor jury trials and appeals, and must also provide a number of references who will all be called and interviewed (including judges and opposing counsel). Finally, a candidate must demonstrate a substantial involvement in criminal law. Having all of the requisite experience is not enough to become board certified, however. If all of the experience and reference requirements are met, a lawyer may apply to take the comprehensive and grueling examination to become Board Certified – some experienced lawyers are not approved to even take the test. Lawyers who are approved to take the Board Certification exam then must pass with a score of at least 70%. According to the Texas Board of Legal Specialization, "approved applicants have 2 opportunities to pass an examination: once during their initial application year and once the following year if the TBLS approves the application for re-submission." Suffice it to say, any lawyer Board Certified in criminal law should have the experience necessary to handle your criminal matter.

For a more in depth analysis of what it takes to become board certified or to find a list of board certified lawyers in your area, see www.tlbs.org.

2. Member of the College of the State Bar of Texas (Texas Bar College)

According to the State Bar of Texas, "The Texas Bar College is an honorary society of lawyers who are among the best trained attorneys in Texas." Members are qualified attorneys who are interested in both high ethical standards and improved training for all Texas attorneys. The College recognizes Texas lawyers who attend at least double the Continuing Legal Education (CLE) required by the State Bar of Texas.

For a list of Texas Bar College Members, see http://www.texasbarcollege.com/members.aspx.

3. Former Prosecutor

Prosecutors spend their careers learning how to build a case from the ground up, while criminal defense lawyers often have to pick a case apart piece by piece. Having a criminal defense lawyer who was once a prosecutor can help you in a number of ways. One of the most obvious advantages to hiring a former prosecutor is that *they know how a prosecutor thinks*. They know what it takes to build a case, so they know how to take it apart as well. In addition, former prosecutors will know what concerns impact the decision making process of the Assistant District Attorney on your case, and if he or she is creative enough, they can find a way to address these concerns while working to meet your needs.

4. Multiple Jury Trials in Multiple Courts

It is imperative that you find a lawyer who has had numerous jury trials in multiple courts covering many different types of cases. You want a lawyer who has faced many different prosecutors, judges, and types of cases because he or she will have faced a *broad spectrum of legal issues and gained valuable trial experience* that could come into play when defending you.

5. Specific Training Related to Your Case

Look for a lawyer who has specialized training or experience in the kind of case you are facing. If you're charged with DWI and blood was taken and tested, find a lawyer who has trained at Axion Training Institute and Analytical Laboratories. Axion offers the most in-depth training that a lawyer can get in gas chromatography, the method used to test blood in DWI cases. If you're charged with DWI and a breath sample was taken, find a lawyer who has taken specialized courses on how the Intoxilyzer 5000 and/or 9000 function. There is often more science involved in a "simple" DWI case than in a capital murder – make sure your lawyer knows the science and how to attack it. Likewise, if key witnesses against you speak Spanish, make sure your lawyer or someone on his staff speaks Spanish. This may sound nitpicky or trivial, but little things can be lost in translation during a trial, and you want to make sure that your lawyer can catch the discrepancies and explain them to the judge or jury in a way that helps you. Oftentimes a word can have more than one meaning – the wrong translation can mean jail time and the right one can mean freedom!

6. Appellate and Post Conviction Experience

Whether you are looking for a lawyer to handle an appeal or a trial case, one who has handled appellate (or other post conviction) proceedings will generally have a *better understanding of the law* than someone who has not. If you are looking for a lawyer to handle an appeal, it goes without saying that someone who has done it before will be better prepared than someone who has not. Even when dealing with a criminal trial case, the subtle nuances of the law can mean the difference between spending years behind bars and walking out of the courtroom with a clean criminal record.

DIFFERENT TYPES OF LAWYERS:

Once you have found a properly qualified lawyer, be aware of the many different types of lawyers and how they handle business. One style might suit your needs and address your specific concerns better than another. This section will help you *know what you're looking for and what you're getting*. Again, you might be able to find a lawyer who excels in some, most, or all of these categories, but just make sure you have the right tool for the right job. One of these is not better than the others generally, but having a screwdriver when you would be better suited with a saw can be quite a predicament. Having a complete tool set is ideal to cover all bases, but at least make sure you have what you think you need for your specific case if you can't find a lawyer who meets all or most of these qualities.

1. The Legal Genius

The "Legal Genius" is the lawyer who has a thorough understanding of the law and how to apply it in different settings. If you are looking for a lawyer *for an appeal or any other post conviction matter, this is most likely the kind of lawyer you want*. The "Legal Genius" has strengths in analyzing complicated issues, *but can sometimes be out of touch with a common juror in a trial setting* – think about a rocket scientist trying to explain the intricacies his or her job to a lay-person and the difficulties involved in communication. If you are looking for a lawyer to represent you in a trial capacity (not an appeal), and if you think you're dealing with a "Legal Genius", make sure they are relatable to the "every-man" too.

2. The Thorough Investigator

The "Thorough Investigator" is a lawyer who leaves no stone unturned. He or she will visit the scene of the crime, speak with every single witness, locate witnesses and evidence that the detectives never thought about, and *knows more about the case than the prosecutor and witnesses, and sometimes even the accused and the victim*. Having a lawyer with this skillset is very important in a trial or post conviction writ of habeas corpus proceeding because you never know when a small detail, fact, or piece of evidence can change the outcome of a criminal case.

3. The Creative Problem-Solver

The "Creative Problem-Solver" is a very rare find. In law school and throughout one's career, a lawyer is taught to learn the law and the facts and to bury their creative side, if they have one, because "the law is the law and the facts are the facts." This type of lawyer is able to figure out what both sides want and why, and is then able to use this information to discover a solution where everyone gets enough of what they want to be happy. Not every criminal case is about more or less jail time, probation, and dismissals. Oftentimes, a prosecutor has to be concerned about the victim's wishes, the political climate, and "the boss" looking over his or her shoulder. A creative lawyer can address these and other issues while still serving the client's best interests. In a trial setting, the creative lawyer can also explain or argue to a jury in a novel way that can be very effective.

4. The Negotiator

"The Negotiator" is a lawyer who does not want to go to trial, he or she just wants to do "damage control" and "get you a deal." This type of lawyer often *does not do a thorough investigation or legal research*, which would result in the optimum outcome. There are times, however, when simple negotiation is advantageous: for instance, if after a thorough investigation, the evidence against you is overwhelming and victory at trial is a long shot, and the prosecutor on your case has "dug his heels in" and is unwilling to give you what you want, negotiating for a slightly lower sentence or shorter probation could be exactly what is in your best interests. Just make sure the lawyer you hire doesn't use this method until after your case has been thoroughly

evaluated and investigated and you have made the decision that you do not wish to gamble with a trial.

5. The Trial Lawyer

If you are charged with a crime, you need a lawyer who has legitimate trial experience that includes multiple misdemeanors and felonies. When your lawyer is discussing your case with a prosecutor, the measure of what a case is worth (prison time, dismissal, probation, or any other disposition) is based on what the likely outcome would be if the case were to go to trial. If a criminal defense attorney has no concept of what might happen if your case were to go to trial, how can he effectively advocate for you by convincing a prosecutor, judge, or jury what it is worth? On the other hand, beware of the lawyer who sees trial as the only option – this is the hammer always looking for a nail. A jury trial is ALWAYS a gamble – sometimes it's a very smart gamble with the odds in your favor, but it's still a gamble. Just make sure that your lawyer has tools in his repertoire other than forcing everything to go to trial.

6. The Scientist

"The Scientist" is almost a necessity in a DWI, Intoxication Assault/Manslaughter, or any other case that involves forensic science (DNA, blood or breath tests, drug cases, and others). The Scientist is a lawyer who has a thorough and genuine understanding of the science and methodology applicable to your case. The best example is a DWI case where blood is taken and the prosecutor wants to use the test results against you. Your lawyer must have a thorough understanding of the process and the science behind drawing your blood and testing it in order to determine if there are problems that might keep the results from being used against you. Non-scientist lawyers will have to hire an expensive expert to make this determination, which will cost you extra. The non-scientist will also not always know which issues to look for and will not know a problem when it is staring him or her in the face. Like the "Legal Genius," if you hire a lawyer with a thorough understanding of the science, make sure he or she can still be relatable to a judge or jury when dealing with such technical information.

7. The Competitor

"The Competitor" is a lawyer who is driven to compete and fight and always get you what you want. He or she may not succeed, but you can rest assured that the competitor will do everything possible to try to get you there. *The competitor is driven intrinsically by their desire to win, rather than being motivated extrinsically by your money*. A lawyer with a healthy appetite for competition can give you confidence in knowing that he or she won't just fold when things get difficult, instead, they will look for another way to win and will continue to push forward. Many trial lawyers fall into this category, but to find the true competitor, look at what your lawyer does outside of the courtroom: look for someone who competes in other avenues as well, such as athletic competition.

8. The Strategist

"The Strategist" is a sharp, outside-the-box thinker who treats criminal defense like a battlefield. This lawyer will try to *figure out where the prosecutor, judge, or jury needs to be focused and will find the proper strategy to get them there*. He or she might keep knowledge of certain pieces of evidence to himself/herself in order to release it at just the proper time when it can no longer be effectively countered by the prosecutor. The strategist will have the prosecutor focused on one issue in order to have him or her lose focus on a bigger, more important issue. The strategist is a good lawyer to have on your side and will often be a "Trial Lawyer," a "Competitor," and/or a "Creative Problem-Solver."

THE PERFECT FIT FOR YOU

Now that you have discovered the base qualifications and work-style traits to look for in a criminal defense lawyer, it's time to determine if your lawyer is the ideal fit for you. Everyone has a unique personality, and it can be immensely helpful to choose a lawyer that "speaks your language" and understands your specific concerns and fears.

The first thing you may want to ask yourself is this: "Does my lawyer know or want to know anything about me as a person, or does he or she only care about my case?" While criminal defense lawyers, prosecutors, and judges often disagree about the law and the facts of any given case, when there is a close call, it can help a great deal to have a lawyer who can not only explain to the prosecutor what he wants but who can also explain why you deserve what you're asking for. Having a lawyer who knows you as a person rather than just a case number will more effectively be able to convince a prosecutor, judge, or jury see you as a father, student, sister, employee, or simply a human being who had a bad day rather than seeing you as a criminal or a case number. A good lawyer needs to know the facts of your case to defend the legal issues presented, but a great lawyer is interested in who you are as a person and needs to address your concerns and fears in addition to the legal and factual issues of your case. Does your lawyer even know what your goals are and what is most important to you about your case? Remember, you are a person, not a case number.

Then second issue to be aware of is: "Does your lawyer tell you what you want to hear, or what you need to hear?" It is important to find a lawyer who will tell you the truth and who will give you realistic expectations while vigorously defending you and your rights. Almost everyone who sits in a lawyer's office is hoping to hear that their case will be dismissed and will stay off their record. Any decent criminal defense lawyer will investigate your case and work to have it thrown out, but the right lawyer will first let you know all of the possible outcomes, the most likely outcomes, and why certain outcomes are more likely than others. This way, if your case is not going to be dismissed, you are properly prepared to make important decisions about whether to accept a plea or go to trial. A lawyer might tell you that if the evidence plays out as it currently appears, you're likely to get 10 years in prison from a judge or jury. This does not

mean your lawyer wants you to go to prison or will be satisfied with this result, it simply is an indication that your lawyer is preparing you for what he or she perceives to be a probable outcome. That way, when the prosecutor offers you probation (or 30 years in prison), you will be confident and prepared to decide whether to take your case to trial or whether to accept a plea bargain. If your lawyer is successful in having your case dismissed, you will appreciate and understand what obstacles were overcome to get there. Having realistic expectations will assist you in taking the smartest pathway when faced with important decisions.

The final question to ask yourself is an important one: "Do I trust this lawyer?" When you meet with your lawyer, does he or she instill confidence in you knowing that they will be fighting for and representing you and your rights? Do you trust this lawyer generally? If not, how do you expect a prosecutor, judge, or jury to trust and believe in your lawyer and the arguments and evidence he or she presents? If you trust your lawyer, you can have faith in knowing that their advice is sound and you can rest assured that you are being guided towards the best possible decisions and strategies when navigating through the system.

COMMON TRAPS TO LOOK OUT FOR

Now that you have found a qualified lawyer who seems to be the right fit for you, make sure to double check that you are not falling into one of the most common traps and *make sure you get exactly what you pay for*. Here are some of the most common traps to look out for. If you find yourself dealing with any of these, make sure to ask yourself if you can live with the consequences – if not, look for another lawyer! *You are now navigating through the criminal justice system, a system where people can easily be taken advantage of in their most desperate time of need. Make sure that you're not being taken advantage of by a lawyer too!*

1. Beware of the Price Quote Over the Phone!

Asking a lawyer for a price quote who does not yet know any of the details of your case and who does not know anything about you can cost you more money in the long run. While there are some types of cases that routinely require a similar amount of work from one client to another, in general, getting an exact quote over the phone will result in a "one size fits all — cookie cutter" defense. It is important to find a lawyer who takes a personal interest in your case and who will custom tailor your defense to fit your specific situation. Without knowing what your situation is, who you are, or what your expectations might be, how can a lawyer adequately estimate the amount of time and work necessary to properly represent you? Oftentimes, a lawyer will have to estimate a worst-case scenario in quoting your fee, which can result in an artificially inflated fee.

Also, when requesting a quote over the phone, do you know exactly what that dollar figure will get you? This leads us to our second common trap:

2. Look Out for Hidden Fees!

When a lawyer tells you how much his services will cost, how do you know what is included for that fee? Is the fee just to appear for the first court setting and everything over that costs extra? Criminal cases can easily drag on for over a year. Does the fee include a jury trial or live evidentiary hearings? Do you have to pay extra to prevent a driver's license suspension or to help get a special driver's license if yours is suspended because of your criminal case (this is always an issue in a DWI or drug related case)? In a DWI case, will your lawyer handle the Administrative License Revocation (ALR) process with the Department of Public Safety (DPS) or will he or she just represent you in the criminal case? Do you have to pay your lawyer extra for each court appearance he or she makes? Does it cost more for your lawyer to prepare a grand jury or pre-trial intervention presentation? Will you be charged for phone calls or office visits with your lawyer? Make sure your lawyer explains precisely what is, and, more importantly, what is NOT covered by his or her fee. This brings us to the next common trap:

3. Get a Written Contract!

When meeting with a lawyer you may want to hire, ask if he or she has a contract that explicitly describes what will, and what will not, be included in your representation. It is crucial to make sure to **get a copy of your contract!** Without a written contract, you will be at a severe disadvantage if there is a dispute about payments, what representation is included and excluded, and whether or not you can expect **additional fees and expenses**.

4. Do NOT Choose a Lawyer Based ONLY on Price!

Price will almost always be an issue when hiring a qualified lawyer to represent you or a loved one in a criminal matter, but remember: you get what you pay for! Price should certainly be considered, but not to the exclusion of the qualifications listed above. And remember to make sure you know exactly what that seemingly low fee includes. Not all lawyers are created equal – criminal defense is a field where experience and qualifications matter a great deal! Hiring an inexpensive lawyer who is not capable of properly representing you can cost you significantly more in the long term, and not just financially - you could end up in prison! If you have to fire your lawyer and hire a new one, don't expect a refund from the first lawyer, and be prepared for the second lawyer to increase his fee if your case is old and he or she has to work at an expedited rate due to the court's scheduling or the case being set for trial. Also, if the first lawyer has communicated things with the prosecutor that may be incompatible with certain defense strategies, your second lawyer will have to work harder to either fix the first lawyer's mistakes or to work around them completely. Also, hiring the wrong lawyer can result in an unfavorable result that could have otherwise been avoided – and the result can cause you to be *ineligible for* certain jobs, licenses, housing, government assistance, military service, and can cause other severe financial headaches.

5. Find a Lawyer Who is Available to You!

Is your lawyer willing to meet with you in his or her office? Will your lawyer give you his or her cell phone number and email address? Will your lawyer meet with you during off-hours to accommodate your work, school, or family schedule? Nobody is capable of being available 24/7, but make sure your lawyer maintains a constant line of communication with you and makes himself or herself available to you when you need it.

6. RUN From the Lawyer Who Promises a Specific Outcome!

Unless a lawyer has already spoken with the prosecutor and judge handling your case, there is absolutely no guarantee about the outcome! Even if he or she has spoken with the prosecutor and the judge, circumstances can change that might alter the course of your case — so there is NEVER a guarantee about how your case will be resolved. *If you speak with a lawyer who says he will get your case dismissed, ask him or her to put it in writing*, signed and notarized, and then watch them try to explain why they cannot or will not. It is *dishonest, unethical, immoral, and possible grounds for disbarment for a lawyer to promise a specific outcome on your case*, so RUN from any lawyer who engages in this type of behavior!

7. Which Lawyer Will Actually Be Handling Your Case?

If you find a lawyer who meets all of your hiring criteria, make sure that the lawyer you hired, or another lawyer you approve of, is the lawyer who will be handling your case. Beware of the old "bait-and-switch" where you work hard to find the right lawyer only to have an associate or another lawyer handling the bulk of your case. This is not necessarily an indication that your case is being handled improperly, but you have worked hard to choose a specific lawyer for a list of reasons and you deserve to get what you pay for. Do not let another lawyer work on your case unless you are comfortable with that lawyer and approve of his or her involvement. Now, it is not uncommon, nor is it problematic, for a lawyer to have someone else assist him or her from time to time, such as appear in court to reschedule your case when your lawyer is in trial, on vacation, or otherwise unavailable – just make sure your lawyer communicates this with you before hand so you're not surprised or upset when it happens.

8. <u>Don't Feel Pressured to Hire Immediately!</u>

If you are currently being investigated by law enforcement, work quickly to hire the right criminal defense lawyer. In almost all other circumstances, *it's better to take your time and choose the right lawyer rather than rushing to hire the wrong one*. There are certain circumstances where having a lawyer immediately could be crucial. When speaking with lawyers you might want to hire, ask if this applies to you and ask for an explanation as to why this applies to you. If you are comfortable with the explanation and with the lawyer, move forward; if not, *proceed with caution*.

BONUS: EVEN SOME QUALIFIED LAWYERS MIGHT NOT CONSIDER THESE!

Lawyer jokes aside, not all lawyers are trying to take advantage of you. While it's true that some may be, others may just not be up to date on of some of the intricacies of the law. Be aware that there are some unique issues in criminal law that can have *life-long implications and consequences* that you may not anticipate. Make sure that whomever you hire is able to address the potential collateral consequences of certain outcomes.

1. <u>Deferred Adjudication</u>

Most people believe that if they accept a plea bargain for deferred adjudication probation, their case will be dismissed, sealed, and off their record. This is partially true, but the details are what matter. First, if you successfully complete a deferred adjudication probation, you need to know if your case is one of the many types that are ineligible for non-disclosure (a type of sealing your record), such as assault on a family member or certain crimes against children. If you fall into one of these categories, a completed deferred adjudication will mean that technically there is no "conviction" on your record, but background checks will still reveal your probation to whoever searches. Second, even if you are eligible for an order of non-disclosure, you must file paperwork, pay fees, and have a hearing to receive the order "sealing" your record. And third, even if you successfully receive an order of non-disclosure, this does not wipe your record clean. Certain state licensing agencies and all of law enforcement will always know about your probation even if the general public cannot. This means that if you want to be a barber, lawyer, nurse, doctor, police officer, or one of a long list of other professions that require a state license, the licensing board will be aware of your probation.

In addition, even if you successfully complete a deferred adjudication probation for domestic violence charges (technically no conviction), the State of Texas can still use this probation against you in a number of ways. The two most common include: 1. denying you the right to possess or own a firearm or ammunition; and 2. using the probation to automatically enhance any future domestic violence charges against you into felonies.

2. Pre-Trial Intervention / Pre-Trial Diversion

In Texas, Pre-Trial Intervention (PTI) and Pre-Trial Diversion (PTD) can generally be used interchangeably to describe the same thing: a contractual agreement between the accused and the prosecutor wherein the accused will perform certain duties and stay out of trouble in exchange for a dismissal. Unlike a deferred adjudication, this type of "informal probation" results in a dismissal that can often result in an expunction, which is what people commonly think of when talking about sealing their record. There are 2 things to be aware of if applying for a PTI/PTD. The first is potential immigration consequences: admitting in writing to certain acts, which is almost always a requirement to apply for PTI/PTD, can cause *severe immigration consequences including deportation* if you are not a citizen. The second issue to be aware of is how the application process can cause you to give up certain rights (such as your right to a trial) and *may cause you to be forced into a plea bargain* if you are not accepted into the program.

3. "Time Served"

"Time Served" describes a situation wherein someone is convicted of a crime and sentenced to a number of days in jail; however, those days are equal to the number of days that the accused has already spent in jail. In effect, the accused does not have to go back to jail and the case is over. With a "time served" plea bargain, there are multiple consequences to be aware of, especially in marijuana/drug offenses, DWI, domestic violence, theft/shoplifting and other common charges:

- a. "Time Served" means you have a conviction on your record forever. It CANNOT be sealed.
- b. Even with a "time served" sentence, you may have to pay court costs and other fees. Failure to do so can *result in you spending additional time in jail*.
- c. Certain types of convictions can make you *ineligible for government assistance* (welfare).
- d. Certain types of convictions can make you *ineligible for student financial aid*.
- e. Certain types of convictions can cause you to *lose a college scholarship*.
- f. Certain types of convictions can make you *ineligible for military service*.
- g. Certain types of convictions will result in a *suspension of your driver's license*. Driving with a suspended license can then result in *additional criminal charges* that result in *spending time in jail*!
- h. All convictions can be used to enhance the punishment range of future misdemeanor cases, meaning future charges would have you *spend a minimum of 30 or 90 days in jail*!
- i. Certain types of convictions can result in drastically *upgraded felony charges* in the future: your 3rd theft or DWI charge is a felony, your second domestic violence or evading arrest charge is a felony, and multiple prostitution or burglary of a motor vehicle charges can result in an upgrade to a felony.

You now possess all of the tools necessary to hire a qualified criminal defense lawyer that will best suit your needs. Be thorough and refer back to this guide if needed. For additional information or assistance, you can find all of my contact information at www.notguiltytx.com.

IF YOU ARE IN OR NEAR THE HOUSTON AREA, CONTACT ME NOW FOR A FREE PERSONALIZED CRIMINAL DEFENSE PLANNING SESSION!

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