

The Truth About Channel

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Arrested? The “Public Defender of the Year” Knows Secrets Your Lawyer May Not Know.

The Truth About Series looks at what you need to do if you are arrested. Private attorney shares insider tips.



As part of our "Truth About" series this month we interview Gary Zeidwig of www.Zeidwiglaw.com in Fort Lauderdale for honest answers to tough questions about what to do after being arrested. Gary Zeidwig's father was formerly a successful criminal defense lawyer having practiced law in Broward County for over thirty years. Gary Zeidwig grew up within the courthouse and attributes much of his success to this. As a star public defender, he has tried more cases in his first year than most private attorneys do in their entire career. He can be reached at 954.523.3993 any day of the week.

Q: Let's say I was arrested and charged with a crime. How do I know how to choose the right attorney?

A: Be sure to look for an experienced trial lawyer. Experience does not mean how many years he or she has been in practice but how many jury trials he or she has tried and won. Ask any lawyer you are thinking of hiring exactly how many jury trials he or she has had. If your lawyer gives you excuses instead of numbers, find another lawyer.

Q: How much will this cost?

A: It depends on the attorney. I meet with my clients at no cost, to assess their cases, and I provide them with a cost estimate at that time. Some attorneys charge their clients just for an initial consultation, even if the client does not hire the lawyer or if the lawyer does not take the case.

Q: Will I go to jail?

A: Every case is different, but probably 95% of my cases resolve themselves without jail time.

Q: Will I be convicted of a felony?

A: No lawyer can guarantee that you won't be convicted. Most of my cases have not resulted in a felony conviction, but this can vary from one lawyer to the next, or one case to the next.

Q: Suppose I've been charged with drunk driving. Will I lose my driver's license?

A: It depends on the case, and it depends on the lawyer, but usually my clients have not lost their driver's licenses.

Q: How long will the case take?

A: It varies, and I can't speak for other lawyers, but most of my cases are resolved within 6 months.

Q: Does it matter if I am guilty?

A: It is a lawyer's job to give you the best defense possible and to present the evidence in the light that is most favorable to the client. If a lawyer gets hung up on your guilt, find another lawyer. This is a mistake that some new lawyers make, and it is an example of where having an experienced attorney can sometimes make a very big difference.

Q: Are lawyers available on weekends?

A: Yes, some are. It is important to find one that is. My office answers calls with a live person twenty-four hours a day, seven days a week.

Q: What if I don't have enough money?

A: If you cannot afford an attorney, then one will be appointed for you by the court. The Public Defenders office, in my opinion, does an excellent job at representing indigent clients, while offering many new attorneys the opportunity to get started in the practice of law. If you prefer a private attorney, my office offers a payment plan, accepts credit cards or family member guarantees, and we have found that this works well. Other lawyers may offer similar plans if you ask them.

Q: Suppose a police officer, without cause, pulled my car over and searched my car without my consent. Is he allowed to do that?

A: Absolutely not. If this happened to you, then an experienced lawyer should be able to have any evidence discovered in such a search held inadmissible in your case. If there is no other evidence against you, your case should be dismissed.

Q: Yeah, on TV I see evidence thrown out if it is not seized properly. How does that work?

A: Well, as I was just saying, evidence can be dismissed when it is obtained subsequent to a search without probable cause. There are many other examples. For instance, evidence can be dismissed if a police officer enters your home without consent and without a search warrant. There are many other examples of evidence, including written and oral statements and breath test results, that a good lawyer can get thrown out of court. And because the specific circumstances surrounding the way in which the police or prosecutor obtained the evidence will often make all the difference, it is important not to discuss these matters with anyone but your own lawyer.

Q: What if a police officer forces me to take a field sobriety test or roadside exercises?

A: Right. That's another great example of what I said before.

Q: After an arrest, can an officer make me answer questions or talk about the charges?

A: Absolutely not. The right not to answer questions from the police is protected by the Constitution. If a police officer compels you to answer his or her questions, your responses may be inadmissible.

Q: What if a police officer offers me a chance to share my side of the story. Should I?

A: Absolutely not. Get a lawyer and let your lawyer do the talking for you.

Q: After I'm accused of a crime, do I have to disprove the charges?

A: One of the greatest things about the American legal system is that the burden of proof is entirely on the prosecution. You don't have to prove your innocence. The state has to prove that you are guilty, beyond a reasonable doubt. That is a very high standard, and, as a result, many guilty people are not convicted of crimes.

Q: Okay. But what if the prosecution seems like it has an airtight case? I mean, suppose I really am guilty of drunk driving. Suppose I took a breathalyzer test and I blew over .08, the legal limit. I can't win the case then, can I?

A: It is certainly possible. DUI's are difficult for the state to prove if you have an experienced trial lawyer.

Q: What if I'm not an American Citizen? Would this arrest affect my immigration status?

A: If you are not a citizen and you are charged with certain misdemeanors or a felony you could be deported. It is imperative that you call a lawyer who understands your situation immediately.

Q: What if my co-defendant has a lawyer? Should I use that lawyer, too?

A: When I was in the Public Defenders office, we had a strict policy of never representing two co-defendants in a case. I agree with this policy. You want an attorney who is going to look out for your interests, not one who might cut a deal for your co-defendant that involves selling you out.

Q: What other tips can you give us for choosing a lawyer?

A: Ask to see references. Most good lawyers have a drawer full of letters from grateful clients. If your lawyer doesn't have references to show you with the names removed to protect lawyer-client confidentiality get another lawyer.

Q: What would you say was one of the biggest advantages of being Misdemeanor Public Defender of the year in the Public Defenders Office?

A: Being in the Public Defenders office I learned the mistakes people make when they are arrested and I will share them with you now.

The 10 Biggest Mistakes People Who Are Arrested Make.

1. Not taking the matter seriously. The criminal charge will follow you for ever, if you are convicted. If you are convicted, there is no way to expunge this criminal record and it will be available for anyone in the general public to discover through a simple background check.

2. Not hiring an experienced criminal attorney. Criminal law has become very complex and specialized in this day and age. As an attorney highly experienced in criminal defense I am able to recognize and detect weaknesses in the State's case and know how to argue them successfully in your defense. Issues regarding admissibility of technical evidence such as breath test results, blood test results, and standardized field sobriety exercises can be successfully recognized and litigated in court by an experienced attorney.

3. Hiring an attorney based on the lowest fees or the highest fees. Don't judge a lawyer by his or her fees. Judge them by their experience and results. The State of Florida has tremendous resources available to them and their only goal will be to convict you of this charge. If you pay a low fee to a defense attorney, he or she will not be able to put in the time and experience that is necessary to protect and successfully defend your case. But there is no need to overpay either. Find an experienced lawyer. Beware of the discount attorney!

4. Driving after your license has been suspended. Being arrested for driving with a suspended driver's license after you have already been arrested for the offense of DUI can be extremely serious. You could be required to serve jail time if convicted of this offense. You will have to post a higher bond, and appear in the same court as your DUI offense.

5. Failing to contest license suspension for a breath test refusal or failure. Many people think that contesting the license revocation hearing is not worth their time and effort. Sometimes this hearing can be successfully defended and the license can be saved from being suspended. Furthermore, I use this opportunity to question the arresting officer under oath. This testimony may be able to be used in your favor in a later trial.

6. Not taking full advantage of your constitutional rights. You have the right to be free from unreasonable searches and seizures, you have the right to remain silent and not give evidence against yourself. You have the right to have an attorney represent you. You have a right to a fair trial, including being judged by a jury of your peers.

7. Plea bargaining without a good lawyer. Generally, the first plea bargain offer from the prosecutor is not in your best interest but merely an attempt to move you off of the court's docket. A lawyer that has a proven track record of fighting cases, and winning cases, has far more leverage to get you a better deal than a lawyer who is known to be weak.

8. Failing to appear in court. If you fail to appear while on bond to your assigned court and court date, the court will issue a warrant for your arrest and forfeit your bond. You will then be arrested with a higher bond or no bond being set for you to be released.

9. Talking to people about your case. The law says that anything you say to anyone who is not your attorney is not protected by the attorney-client privilege and can be used against you in court. Don't talk to anyone about your case.

10. Representing yourself in court. Often people think they don't need an attorney if they are innocent. Others think that if they speak to several attorneys they can handle the case on their own. Nothing could be further from the truth. You need to have an attorney go to Court with you. There's an old saying: "A person who represents himself in court has a fool for a client."

Thank you Gary for your tips. Let's hope not too many of our readers get arrested but if they do, you have given them much needed information.

If you or a loved one has been arrested feel free to contact Gary Zeidwig at 954.523.3993 for a free consultation.