

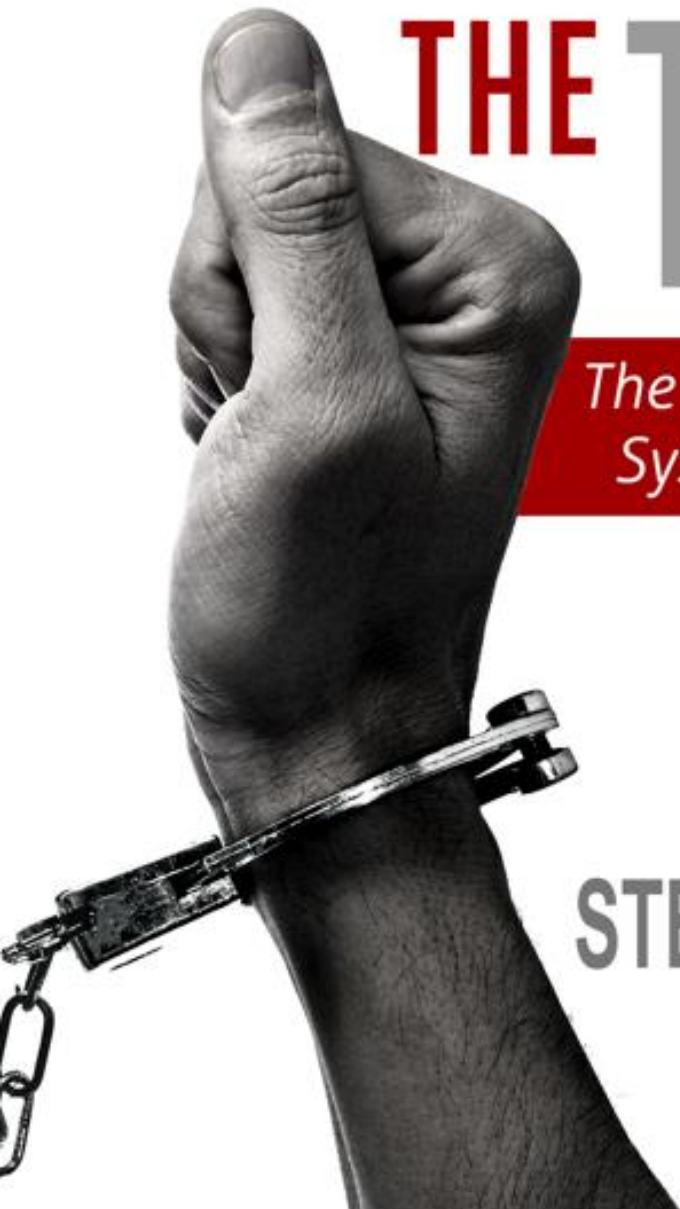
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Client J.G.

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*The Texas Criminal Justice
System and Your Rights*

STEPHEN HAMILTON
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INTRODUCTION

We've always carried with us the strong belief that unless we aggressively protect the constitutional rights of each individual criminal defendant then we are in real danger of losing those constitutional rights for everyone.

Basically, criminal defense attorneys are the "foot soldiers" of our constitutional rights. Have you ever heard the saying that when you take over a country the first thing you do is kill all the lawyers? There's real truth in that statement – if it weren't for the criminal defense attorneys telling our government what they can't do, then the government would do whatever they wanted to

do! That's especially true when it comes to prosecuting those accused of a crime.

Many people mistakenly assume prosecutors are "serving justice." But prosecutors are, as a general rule, far more interested in getting *convictions*. They're less concerned about the actual guilt or innocence of the actual defendant being charged.

And further, police officers are not impartial parties in the criminal justice system. Remember – they actually work on behalf of the state. And while we certainly don't want to paint with a too-broad brush, much like prosecutors, police are often surprisingly unconcerned with the guilt or innocence of those they arrest. You would be surprised how many police officers actually have a dislike of the citizens they are sworn "to protect and to serve". It's irony at its worst.

And it's the criminal defendant who ends up as collateral damage in the wake of the prosecutor and police agenda to convict at all costs. We see it as the ultimate fight against inequality. **That's why we're passionate about what we do!**

We also like criminal defense work due to the client interaction and the people aspect of what we get to do. We really get to know the heart of our clients. In criminal defense, we're not fighting over money or objects (like cars and houses in civil litigation), rather there is a real person at stake – a person, with dreams, feelings, and a family they care deeply about (and who cares deeply about them). Sometimes, that's an underprivileged kid with a painful history and a bad peer group. sometimes it means representing a wealthy businessman who has a drug addiction problem or just had a one-time error in judgement.

We see what we do as a service for people who are scared and who are in bad situations. We want to reach these people and show them there *are* compassionate people who can walk them through their painful experiences and get to the other side. Also when we get to know someone, we get to know what they truly need and how to help them in a specific way. Armed with this knowledge, we can work out a much more favorable agreement with the court which may, for example, include rehabilitation instead of prison time. **We believe everyone deserves a second chance!**

Often when people first come to see us, their biggest fear is the unknown. But once they are armed with real information about their case and possible outcomes, they can see that the worst case scenarios are really not as bad as they think. They then can make more logical decisions regarding their case and their life.

We also see firsthand time and time again how just having a knowledgeable advocate on their side helps reduce, or even eliminate, an immense amount of stress and worry. The arresting officer, the prosecutors and the system in general already assumes you're guilty. They tell you subconsciously that your life is over. That you're messed up. That you don't deserve better. **That's a lie!**

We get to say, "No, what you've been told is misinformation. It's been misinterpreted, and it's been overstated. Here are the real facts. Here's what's likely going to happen. And by the way, you *deserve* a right to a proper defense."

We think the most stressful part of any criminal charge is before the plea or the conviction – before the final order is entered – due to all of the uncertainties. But once a punishment has been

officially entered, you can at least mentally prepare for it, and you know what to expect. So the pre-judgement situation tends to be the most stressful. Clients don't know what's going on. They don't know what may occur. They don't know when it's going to occur. They don't know the probabilities of facing one punishment versus another. So when they have an attorney who confidently and passionately walks them through that process and gives them correct information, it helps alleviate a lot of the stress. **Most of the stress in being charged with a crime comes from fear of the unknown!**

We wrote this book to give you and your family insight into the process of criminal defense, so you will worry less, feel more in control about what's going to happen in the weeks and months to come and focus on positive outcomes. Given what's on the line – your freedom, your finances, your relationships, your career and possibly even your

rights to see your children – you *must* focus on what's important and avoid getting distracted by irrelevant issues.

This book is obviously not a substitute for a consultation with a qualified criminal defense attorney. However, it hopefully will answer many questions that have kept you up at night since the arrest. To that end, we would also like to provide a special, limited opportunity for you to obtain a *free and comprehensive consultation* about how to respond to your criminal charges.

Normally, we charge for consultations with prospective clients (\$300 for a 30 minute strategy session). But we would like to offer you, as an appreciation of reading this book, an opportunity to speak with us *for free*. Just mention you read this book when you call our office at **877-565-1180** and we will waive your fee.

TRUTH 1: What should I do after my arrest?

Whether an officer caught you smoking marijuana with friends, or an intense investigation culminated in humiliating fraud allegations, appreciate that you retain *substantial rights*. It's important you not only remember these rights but that you also *enforce* these rights regardless of the actions or statements of the police.

For instance, police generally must inform you of your "Miranda Rights" – the rights to avoid self-incrimination. Also, you have the right to a defense lawyer. The police will attempt to

intimidate you or even worse, misinform, you regarding your right to remain silent and obtain legal counsel. A common tactic used by police is to tell you they can *help* you if you would only cooperate in discussing the case with them. Don't believe it! The police are never on your side. In fact you can get a lesser sentence by cooperating with the police, then it will be your attorney that will be able to negotiate this plea bargain with the prosecutor, never the police.

Following your booking, you will be able to go before a judge, who will read and explain your criminal charges to you. If you cannot pay for an attorney, you will be provided an attorney free of charge.

Consider what happened to Manuel as a case in point. Manuel was out with his cousins when police pulled over the car because of a taillight malfunction. They discovered that Manuel's

younger cousin had an unlicensed firearm and a substantial amount of marijuana.

Police arrested everyone in the car and peppered Manuel with questions about his cousin, implying he knew about an alleged drug deal his cousin set up. Manuel wisely remembered his constitutional rights and said he wouldn't answer any questions until speaking with his attorney.

Despite feeling very angry and a little scared, Manuel kept his cool and avoided making the situation worse by saying improper things to the police officers, acting in an aggressive manner or trying to flee the scene.

The lessons here are simple:

- Be civil.
- Avoid making self-incriminating statements.

- Speak with a qualified lawyer as soon as possible to protect your rights.

Following the arrest, you may be given opportunity to “post bail.” This means that you pay a certain amount of money in order to leave police custody. In return, you guarantee to appear for hearings about your criminal charges.

After a fatal DWI accident, police held Monica on a \$100,000 bail because they feared, based on her past history (she had been convicted twice before for DWI), that she was a “flight risk.” In other words, she might leave the state, or even the country, and not return for her hearing.

Jeremy, meanwhile, had just been fired from his job as a Wal-Mart greeter when police arrested him and his friends on minor drug charges. He couldn’t afford to pay his \$2,000 bail, so he

EXPOSING THE TRUTH

purchased a bond through a bail bondsman to secure his freedom.

TRUTH 2: How do I know whether the police search was legal and constitutional?

According to the Fourth Amendment of the Constitution, police may not engage in illegal searches and seizures. Every police search, like every other law in this country, must comply first and foremost with the constitutional requirements. If it's not constitutional, then it's not legal.

To make a lawful arrest, police officers in many cases must first obtain what's known as a *search warrant* before they investigate a suspect, car, apartment or property. However, if police have

reasonable cause to believe you committed a crime, they may engage in a search and seizure.

If an officer without a warrant asks to search you or your property, then say “no you may not” in a non-aggressive manner. If the police still insist on proceeding with the search in light of your disapproval, then do not argue or interfere with them. At this point, you have established your constitutional rights and will not be able to do anything to stop the police from conducting the search. Your attorney will address the legality of the search at a later time.

The legal complexities regarding Fourth Amendment questions are profound, and they could fill an entire book. Here’s the bottom line. If your attorney can prove that the search and seizure was unlawful or unconstitutional, the prosecution may need to drop its case against you,

even in the face of compelling evidence that you did something wrong.

In particularly extreme cases, you can even take legal action against authorities for violating your rights.

Reggie, for instance, was driving down to Alabama to visit his nephew, when a local sheriff turned on his lights and pulled him over. Reggie was confused, because his car was in shipshape condition, and he had been obeying all rules of the road.

The officer, however, approached with hostility and gave Reggie the impression that the *real* reason he was being stopped was for DWB (“Driving While Black”). After the officer discovered a small amount of marijuana in the car and cuffed him on minor drug charges, Reggie later worked with his attorney to prove that

discrimination as opposed to “reasonable cause” led to the stop and search. Accordingly, all charges against Reggie are being dropped.

TRUTH 3: What is an arraignment hearing?

After your arrest, a judge must formally describe your criminal charges to you. This hearing should happen quickly after the arrest to make sure that there are no unreasonable delays between arrest and you learning about the charges.

At the hearing, you enter what's known as a *plea*. Perhaps you admit to wrongdoing ("plead guilty"), or you deny wrongdoing ("plead not guilty").

A qualified, defense attorney should advise you about the proper strategy to approach at the

hearing. Your attorney and the prosecutor can also negotiate a “plea bargain.” In exchange for your guilty plea to a lesser misdemeanor charge, for instance, the prosecutor might dismiss a more serious felony count.

Prosecutors take such deals for many reasons – for instance, to clear out the court’s backlog of cases or because they are not confident in the strength of their case against you.

Carissa stood accused of assault and battery on an ex-boyfriend. Police said she attacked him at a shopping complex after discovering him with an ex-girlfriend. With her attorney’s help, she pleaded guilty to a minor offense (disorderly conduct) and thus avoided a long stint in jail.

Studies show that up to 95 percent of criminal cases end, like Carissa’s did, during the plea

bargaining stage (as opposed to ending by either dismissal of the charges or trial verdict).

TRUTH 4: What will happen at my grand jury hearing?

When pursuing serious felony charges against a defendant, a state can utilize either a “grand jury” or “preliminary hearing” system. The point of either of these systems is to make sure adequate evidence exists to formally bring criminal charges. In Texas, we utilize the grand jury system.

Although prosecutors are obligated at trial to prove you committed a crime “beyond a reasonable doubt”, they only need to show the lesser burden of “probable cause” in formally charging you before a grand jury with that same crime.

During the grand jury hearing, the prosecutor presents available documents, witnesses and other evidence to a group of citizens. You know the saying “there’s two sides to every story?” Well, believe it or not, the defendant is not entitled to present his or her side of the story in any regard. Further, the defendant’s attorney is not even allowed to attend this hearing.

Since the citizens chosen for the grand jury are hand-picked by the very system trying to bring criminal charges against you and because these citizens are only hearing one side of the story, then it’s almost guaranteed you will be indicted. You’ve also heard the saying “nothing in life is certain, but death and taxes.” I would also add to that a grand jury indictment.

Of course, the defendant still retains his constitutional rights and there is plenty of

opportunity for his attorney to dispute the *admissibility* of certain evidence. Prior to trial, the defense attorney may argue:

- The evidence presented is irrelevant to your charges.
- Police obtained the evidence unlawfully.
- Someone tampered with or modified the evidence.

Trevor and his stepfather never got along, and everyone in the family knew it. Following a drunken Thanksgiving Day argument, Trevor allegedly assaulted his stepdad by throwing a knife at his head. Trevor was charged with assault and battery with a deadly weapon. Trevor denied this, but prosecutors planned to present the knife as evidence of the violent act.

Trevor and his lawyer successfully argued that police unlawfully confiscated the knife. They thus excluded the knife as evidence, thereby crippling the prosecution's case against him. Without this key piece of evidence, the prosecution is currently deciding whether to pursue their case against Trevor.

TRUTH 5: What if I've been arrested or convicted for prior offenses?

When Ramon saw the flashing lights in his rearview mirror, his heart skipped a beat. He had just completed probation for a domestic violence conviction he received after a bitter, public fight with his ex-wife.

Ramon had just gotten his life back together. He booked a new job and started dating again for the first time since the divorce. Then disaster struck. He unwisely got behind the wheel after drinking three-and-half glass of wine at an art expo.

While being booked for his misdemeanor DWI, Ramon panicked. Would his probation be revoked? Would his past criminal history lead to increased jail time, more fines, and other penalties? Would the court add additional constraints to his future visitations with his children?

The truth is that having “priors” on your record can substantially cost you.

However, your priors are just one piece of the puzzle. Their effect will depend on many factors, including:

- The nature of your past offenses. Were you convicted for a misdemeanor or felony, for instance?
- The relevance of those past offenses to current charges.

- Whether prior convictions were expunged or your record was sealed.
- When your convictions occurred.

Depending on the nature of the charges and your state laws, the court might ignore a past offense.

As a teenager, Karen and her best friend went on a shoplifting spree at Forever 21. Karen still remembers breaking down in tears when an officer arrived at her doorstep later that evening to arrest her. This misdemeanor shoplifting charge was Karen's sole blemish for over 18 years. Then one night, she had a few too many cocktails at a dinner party and ran a stop sign while buzzed. After being arrested for DWI, Karen worried that her prior shoplifting charge could come back to haunt her. However, since the first arrest occurred so long ago, and since Karen maintained a clean

record for such a long time, the prior offense ended up not affecting her case.

A qualified criminal defense attorney can examine your current charges and past history to develop a strategic plan.

TRUTH 6: My charges were “aggravated.” How much more trouble will I face?

At least in theory, the justice system strives to be nuanced and fair. Different criminal offenders deserve different treatment options.

To that end, the system allows prosecutors to charge people with “aggravated” offenses for making situations worse, more dangerous or more deadly. Such factors include:

- Whether you used a deadly weapon, such as a gun, knife or club;

- Whether the crime was a hate crime. For instance, you assaulted someone because of the color of his skin or sexual orientation;
- The status of the person you hurt. For instance, you attacked a government official or a law enforcement officer.
- The severity of the injuries caused. If you hurt someone badly during a robbery or other crime, you will likely face aggravated charges.

Nyugen faced aggravated fraud charges, not because he caused extra injury to the bank he cheated, but rather because he committed *multiple offenses* at once.

Additionally, his co-conspirator and accomplice, Marion, faced aggravated white collar crime charges because of the *huge amount of money* she obtained during the scheme.

Julius was confused by the distinction between *aggravated* charges and *degrees* of charges. He faced a second degree felony drug count for his role in a complicated meth operation. This “second degree” charge had to do with the seriousness of Julius’s alleged crime. Many times, a similar crime will be charged as a different degree based on the *intent* in acting out the offense (for example, you soberly thought about the crime before acting.)

Aggravating factors, by contrast, concern the *actual commission of the wrongdoing*. For instance: what kind of weapon did you use during the assault? Who collaborated with you? What kinds of damages resulted?

Additional punishments for aggravated charges include increased jail time, more extensive fines and stricter terms of release and probation.

TRUTH 7: What is a warrant and how should I respond to one?

A warrant is a court order that sanctions police officers to arrest you. To approve this order, the court must believe that there is *probable cause* that you committed a criminal wrongdoing. This burden of proof is not nearly as strong as what prosecutors must meet at trial, when they must demonstrate your guilt “beyond a reasonable doubt.”

Basically, the police must present a minimal amount of evidence to show the judge you might have committed a crime. For example, the police might seek an arrest warrant after receiving a tip

or doing an investigation into a criminal allegation.

Police showed at Maria's workplace with a valid warrant (signed by a judge) looking for a knife she allegedly used to attack her boyfriend. Although Maria was infuriated and embarrassed by this intrusion at her workplace, Maria was able to think clearly and logically at the time. She decided there was nothing she could do or say to prevent the search so she decided to cooperate and let her attorney fight the legality of the warrant at a later time.

In order to side-step the constitutional requirement of a warrant, many police will ask for your *consent* to a search. If you provide your consent, the police now have permission to search you and your property without complying with the legal requirements of a warrant.

The police knocked on Jonathan's apartment door and stated with authority they would like to search his apartment for drugs – "You wouldn't mind if we did that, right? You don't have anything to hide, right?" Although they did not have a warrant, Jonathan was scared in the moment and believed he had sufficiently hidden the five ounces of marijuana. Two policeman spent the next hour destroying Jonathan's apartment and finding the marijuana.

In addition to writing arrest warrants, judges can also issue *bench warrants* to compel the presence of a defendant, or even a witness, in court.

Erik skipped a criminal hearing regarding charges that he and several partners at his equity firm engaged in mortgage fraud. To that end, the judge issued a bench warrant to compel Erik to return to court and face the music.

TRUTH 8: What should I expect at court?

Angela felt butterflies in her stomach as she climbed the courthouse steps to face criminal neglect charges. A patient at the nursing home where she used to work had developed severe sepsis due to pressure ulcers, and her family (and the nursing home higher-ups) believed that Angela was ultimately responsible.

Angela maintained her innocence, but the prospect of going before a judge and jury filled her with terror and likely contributed to a panic attack she suffered a week earlier.

Thanks to her attorney's help, however, Angela knew what to expect, and she conducted herself accordingly:

- She arrived at the courthouse early to find parking and avoid delays that could start things off on a bad foot with the judge.
- She knew which court was handling her matter.
- Angela knew that she needed to wait for the docket call (which is basically like attendance in school) and to announce her presence when asked.
- She also demonstrated patience, since dockets often last for hours based on how many cases will be heard.

Angela's attorney arrived and greeted her and then discussed her case with the prosecutor,

touching on the evidence and the circumstances. Her attorney and the prosecutor went over plea deals and briefly mentioned diversion programs to keep Angela out of jail. After doing that reconnaissance and preparatory work, her attorney told Angela that she had three options:

- 1) Accept the negotiated plea deal.
- 2) Reject it and go to trial.
- 3) Request a different court date to get additional information.

Luckily, Angela had a qualified criminal defense attorney who was able to walk her through the pros and cons of each option and recommend the best course of action.

TRUTH 9: What happens at a criminal trial? What should I expect?

Although it had been over a decade since he sat in a civics class, Trevor remembered some basic facts about criminal trials:

- All criminal defendants have a right to a jury trial.
- The legal system in the U.S. presumes that you are innocent until you're proven guilty in a court of law.

- For the prosecutor to convict Trevor of his felony drug and battery charges, he must prove Trevor's guilt beyond a reasonable doubt.
- Trevor also remembered that he has the right to stay silent during the trial and that his silence can't be used against him to achieve a conviction.
- If a jury found him not guilty then "double jeopardy" attaches and Trevor cannot be re-tried for the same charges.

The first thing that happens is that Trevor's trial date is set. Before the fireworks begin, his lawyer and the prosecutors engage in *voir dire* to pick jury members. During *voir dire*, the lawyers pepper potential jurors with questions to determine who will be unbiased prior to hearing or seeing any evidence and, therefore, a good fit to hear this particular case.

At the beginning of the trial, Trevor's lawyer and the prosecutor make opening statements, summarizing their positions.

During the next phase, each side gets to present evidence and witness testimony and to challenge the other side's evidence and witness testimony. Because the prosecutor has the burden to prove their case "beyond a reasonable doubt" they will present their evidence and witnesses first.

Once this phase is complete, both lawyers give closing arguments, and then the jury deliberates to figure out whether Trevor is guilty or not. If they acquit Trevor (find him not guilty), prosecutors cannot try him for those felony drug crimes again. However, if they find him guilty, then the court will sentence him to a punishment, including jail time and other penalties.

TRUTH 10: How does the appeals process work?

Following his conviction for armed robbery and assault, Hector was infuriated. He believed his attorney failed to represent him vigorously and, therefore, the jury didn't understand the whole story.

Before serving out his sentence, Hector wanted to exercise his right to an appeal.

To that end, he needed to work quickly to meet relevant deadlines (or risk his appeal being dismissed). Misdemeanors generally need to be appealed within 30 days of the judgment, and

felonies (more serious crimes) must be appealed within 60 days.

At first, Hector thought an appeal was like a totally fresh trial, but his new lawyer explained that the appellate court doesn't actually look at the case's facts (e.g. evidence and witness statements) but rather assesses whether errors of law were made.

For instance, Hector could appeal based on the contention that the jury made its verdict without enough evidence or that his attorney made legal errors that hurt his chances of a fair trial. Hector could not appeal based on the credibility of the witnesses at trial as the appeals court defers to the judgment of the judge or jury who was actually present when listening to the witness.

TRUTH 11: How will a criminal conviction impact my job and career prospects?

It seems insensitive to say “life is unfair,” but the truth is the downstream consequences of criminal convictions do not affect everyone equally.

For instance, Celia was a high level marketing executive indicted for accounting fraud. Despite the seriousness of her charges (and the fact that, upon conviction, she actually served over three months behind bars), Celia kept her job and obtained a *promotion* within a few weeks of returning to her desk.

Kevin, meanwhile, worked as a pilot for Delta for over fifteen years prior to getting pulled over for aggravated DWI after a Christmas party. The conviction led to his being grounded by Delta and forced him out of the airline industry completely.

Depending on the nature and circumstances of your crime, you could face problems like professional license suspensions, higher insurance premiums, or loss of prestige in your office or even throughout your industry.

Ally, an army lieutenant, faced an internal review panel after allegedly plotting an illegal prescription drug operation with her sister and boyfriend.

Cory lost a hard-won position teaching history at the private school where he had been educated

after being convicted of a an assault charge against his girlfriend.

Following a minor drug conviction, Dennis lost his commercial truck driving license and had to accept a lower paying, less glamorous position at the front office. When he pursued new employment in an unrelated field, his prospective boss “Googled” him prior to the interview and read all about his misdemeanor. The first 10 minutes of that interview focused on Dennis’s legal troubles.

The moral of these stories is that your best bet to stave off damage to your career is to avoid a conviction in the first place. The old saying is true: an ounce of prevention is worth a pound of cure.

This isn’t to say that you cannot rehabilitate your record. A qualified defense attorney can also walk through possible “expungement” or “non-

disclosure” scenarios in which your criminal record is cleared of these charges.

TRUTH 12: Can I get my criminal record “cleared” of the charges?

Many people think their criminal record in Texas is cleared if the charges are dismissed or they successfully complete the terms of their deferred judgment agreement. However, the arrest and court proceedings remain a part of your public record unless you take action to remove this information. This means your future employer, bank or anyone else searching for this information will see specific details about your criminal past.

Now keep in mind, not all matters are eligible to be “expunged” (or cleared) from your record. For example, if you are found guilty by a jury or enter

a guilty plea as part of your plea bargain then you are not able to get this information removed. Also, a “no contest” plea pursuant to a deferred adjudication (or “deferred judgement” plea) has the same legal ramifications as a guilty plea in this regard. You will also need to wait a specified time before applying for an expunction. For misdemeanors, that is usually 1 year and for felonies it’s 3 years.

10 years ago when Frederick was 18 years old, he made some bad decisions. One of those decisions involved shoplifting a pair of jeans from a popular department store. Before Frederick was out the door the security guard asked Frederick if he could ask him some questions in a backroom. “This can’t be good” thought Frederick. It didn’t take long for the security guard to confirm his suspicions and call in the police. Fred was arrested and charged with a misdemeanor theft charge.

Upon advice from his attorney (believing the state of Texas did not have sufficient evidence to prove their case), Frederick went to trial on the matter. The jury returned a not guilty verdict in Frederick's favor and all charges were dismissed. A year later, Frederick had his arrest and criminal court records cleared.

Now as Frederick is applying for a lead teller position with a national bank the hiring manager asks Frederick if he's ever been arrested or charged with a criminal matter. Frederick looks the hiring manager in the eye and says "No, I never have." The bank's criminal background check on Frederick confirms the same.

If you are eligible for expunction, you can legally state you have never been arrested or charged with a crime. How cool is that!

If you don't qualify for expungement and unable to get your record cleared using this process, you may still be able to get your criminal record sealed using an option called a "non-disclosure order". Unlike expungement, your records won't be completely cleared. However, it will not be viewable by the general public in most circumstances. Governmental agencies will still be able to view this information, just not the general public.

For misdemeanors, you are generally eligible for a non-disclosure order once you complete the terms of your deferred adjudication plea. For felonies, you must wait at least 5 years before being eligible to seal your records.

So take heart. Your attorney may be able to completely erase, or at least minimize, your past mistakes using one of these processes.

TRUTH 13: How will a criminal conviction affect my immigration status?

If you do not have American citizenship, then a criminal arrest or criminal conviction can have consequences on your ability to legally reside in the United States. How you are impacted is often determined by your current immigration status. In other words, do you have permanent residency (“green card”) or are you here under another situation such as temporary visa, refugee status, or are you in the country without legal documentation?

Additionally, many people I speak with wrongly think that only serious offenses will jeopardize their immigration status. However, that is wrong. For example, any crime of 'moral turpitude' will cause deportation and prevent you from obtaining legal residency in the US. *Moral what?* Basically, moral turpitude is a legal term of art which means the crime was particularly offensive to the public conscience. It's very subjective and can be applied to just about any criminal charge.

Further, you don't even have to be convicted of these offenses. Just the possibility of jail time is enough to affect your legal status.

Guillermo, a non-U.S. citizen, was arrested and charged with hitting his wife. Although Guillermo did nothing more than push her out of the way as she blocked him from exiting the house, he entered a guilty plea since it involved no jail time and made the issue go away. The state of

Texas was satisfied with the result, however the U.S. federal government was not.

Due to the categorization of Guillermo's crime as "spousal abuse", he was deported out of the country within the week. Although Guillermo was able to protect his initial freedom from entering a plea deal with the state of Texas, he lost his greater freedom as he was deported from the country.

You should never be afraid to discuss your citizenship status with your attorney. In addition to those discussions being protected by the Attorney-Client privilege, your criminal defense attorney is on your side and wants all possible information to help protect your freedom, including the ability to remain in this country and possibly achieve citizenship someday.

If your attorney knows you are in the country illegally, then they can caution you regarding the effect a 'guilty plea' may have on your ability to remain in this country. Your attorney can even work with the prosecutors to re-categorize your offense so it doesn't fall under one of the actionable offenses for deportation.

TRUTH 14: What can I do to reset and rebuild my life, relationships and career prospects?

Even if you mount an aggressive and legally sound defense, there are no guarantees the prosecutor will offer a lenient plea deal or you'll succeed in an acquittal ("not guilty" verdict) of your charges. While full of plenty checks and balances, the criminal justice system does make mistakes. You may face especially severe punishment if you seriously hurt or killed someone else, even if by accident.

That being said, your life will go on. What happens after you've served your sentence (and

what it will take to bounce back and rebuild) will determine on many interrelated factors, such as:

- The seriousness of the crime (e.g. misdemeanor or felony)
- The length of your jail sentence (if any)
- The terms of your probation or parole
- Your education, age, health and financial stability
- The strength of your social network and willingness of family and friends to help you out
- Your goals and ambitions
- Your psychological welfare, self-esteem and inherent resilience

Jayden knew it would likely take months, if not years, to get things together after being released from prison following a conviction for second degree robbery. His old corporate employer refused to take him back, and his ex-wife wanted nothing to do with him. He also owed over \$35,000 to various creditors and felt depressed and traumatized because of what he experienced and saw during his three months in prison.

However, Jayden was nothing if not resilient. After some searching, he landed an online social media marketing position. He stopped eating sugar and refined carbs (which he found helped with his mood swings) and started meditating regularly. He also changed the way he thought about his conviction and began to see it as a wake-up call, an opportunity to shuck old baggage and pursue his passions.

In fact, ten years after the fact, Jayden looked up on his arrest and conviction as “the best thing that could have happened to me” because it forced him to rethink his priorities on the highest level and changed the trajectory of his life.

TRUTH 15: Should I hire a criminal defense attorney or handle the matter on my own?

Paco's folks immigrated to the U.S. when he was just six. He developed a passion for hard work and a sense that "anything was possible if you're committed enough." Fueled by these values, he embraced the entrepreneurial mindset and started a successful auto parts supply company that he expanded and franchised with the help of his sisters.

Unfortunately, after a bitter fight with an ex-employee who had stolen from him, Paco attacked the man in the parking lot and found himself

handcuffed and charged with assault and battery. As a result of his background, Paco figured he could represent himself in court. After all, that's the approach he had used to start and grow his business.

Paco unfortunately failed to appreciate the challenges and subtleties of mounting a criminal defense and, as a result of his clumsy self-lawyering, wound up unnecessarily serving a three month jail sentence. Paco also incorrectly believed the judge would be more sympathetic since he was representing himself. However, he was surprised to discover the opposite was true.

In addition to Paco's jail time, this punishment also created downstream problems for his business, scaring away new customers and concerning employees regarding the long-term stability of their job. It nearly bankrupted his business.

The moral is that defending yourself against a criminal charge is serious business. You (hopefully) would never do surgery on yourself or try to build an airplane from scratch and then fly in it. Likewise, avoid the error of approaching your defense casually.

The stakes are too high. It's not just the threat of punishment (for example, jail time or financial penalties) that you need to consider. It's also the longer term negative effects of a less than adequate defense, such as loss of productivity, loss of reputation and damage to your personal relationships. Play it smart: find a qualified attorney.

TRUTH 16: How should I screen possible attorneys and make a good choice about whom to hire?

Gerald knew he needed a seasoned and experienced attorney to guide him through his legal minefield. He faced a multitude of charges, including DWI, assault against a police officer and possession of narcotics with intent to sell.

Fortunately, Gerald was a quick study. When surveying attorneys, he first checked out their websites, looking at client testimonials and assessing their skills as measured by the peer review service Avvo.

He sought out attorneys who had successfully handled similar criminal charges and who seemed to fit his values and personality. Most importantly, he wanted an attorney in which he was comfortable communicating and confident would skillfully handle his case.

While he did consider cost, he knew that his matter was too serious to cut corners. (After all, when you need kidney surgery you generally want to avoid going with the cheapest kidney surgeon!)

Once he booked consultations with attorneys that seemed like possible matches, Gerald asked lots of good questions to inform his decision, like:

- How does your process work?
- Why do you and your team do what you do?

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- What are your fees, and how do you get paid?
- What are your expectations for clients like me?
- What's your track record when it comes to handling cases like mine?
- What differentiates your firm from others?
- What are some reasons clients should *not* hire you?
- How do you communicate regarding the status of my case?

Based on these interviews and careful consideration, Gerald picked a law firm nearby that had a friendly staff and a reputation in the community for dedication to their clients and aggressive defense.

CONCLUSION

We truly hope you enjoyed reading this book on the *Texas Criminal Justice System and Your Rights* as much as we enjoyed writing it. Our primary aim in life is to help as many people as possible in the Texas criminal justice system and we've found one of the best ways to do that is by educating them about their legal rights.

As we end, we want to thank you again for taking the time to read this brief guide and allow us to explain some of the key ideas of criminal defense and what to consider in choosing the right

attorney for your case. We wrote this book to give you real information so you can have peace of mind about your current situation.

And whether you face an intimidating criminal charge that could lead to a multi-year jail sentence, or you're researching for a loved one who's in trouble, we would like to help even more.

Normally, we charge for consultations with prospective clients (\$300 for a 30 minute strategy session). But we would like to offer you, as an appreciation of reading this book, an opportunity to speak with us *for free*. Just mention you read this book when you call our office at **877-565-1180** and we will waive your fee.

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Call now, and let's talk. This private, confidential consultation will give you the peace of mind and confidence you need to face down whatever you're up against. You do not have to go through this alone. Get the help you need and deserve now!

Sincerely,

Stephen Hamilton
Shane Byrd

The legal help you need to get you through this difficult time

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*"I want to thank you so much for the outstanding job that you did for me.
I will definitely refer your name to whoever needs a lawyer. You are my HERO.
Thank you once more for the phenomenal work and God bless you."*

Client E.F.

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The Texas criminal justice system is not fair or impartial! It is out to convict at all costs with no regard to individual circumstances or long term effects. In this book, Stephen Hamilton explains our judicial system and what every individual should know to protect their rights and those they love.

STEPHEN & SHANE

have represented thousands of clients facing criminal charges in Texas and have tried over 100 jury trials. They love helping the underdog and believe everyone is entitled to a second chance.

