WHAT TO DO After An Arrest

BRCK CRIMINAL DEFENSE ATTORNEYS

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CONTENT

INTRODUCTION

Someone accused of a crime has the immediate consequence of being physically arrested, going to jail and then the financial burden of securing bail. For many, this initial arrest leads to lost time at work, causing job loss or career setback. After the case is filed, court appearances can cause further difficulties with work and family. All of these consequences are in addition to the potential loss of freedom that is possible whenever there is an accusation of a criminal offense. If you face criminal charges, you may be overwhelmed and frightened by the potential impact this could have on your life. This book should provide some answers to common questions you may have and while you might be intimidated by the legal process, when you hire an effective defense team you take the first step in securing a favorable result.

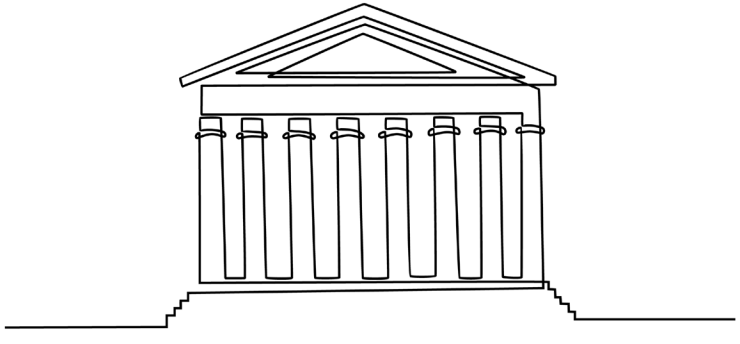
Why BRCK Defense?

As criminal defense attorneys, we recognize that when people come into one of our offices, it is because they are going through an overwhelming situation in their lives.

We are constantly mindful of what our clients and their families are going through. We recognize that when people come in to hire us, they are trusting us to get the best outcome for them or their loved ones. They are trusting us to guide them through a complicated and taxing legal process. They are looking to us for solutions to difficult situations. This is something we take seriously. As your attorneys, we strive to make sure that you remain informed at every stage of your case and that you get the best possible outcome.

We are a criminal defense law firm with over 50 years of combined experience. Every partner in our firm is either a former criminal prosecutor or judge, and each one of us has been named as one of the Best Lawyers in San Antonio in the area of Criminal Defense by SA Magazine.

1
GOING TO COURT



All About Your First Day In Court:

People that don't have a lot of experience in the criminal justice system often wonder, "what's actually going to happen on my first court date?" Your first

court date is generally called your arraignment and it's the first time the court has asked you to come to court and to address the criminal allegations against you. While most cases aren't and certainly shouldn't be resolved in one court setting, it's still an incredibly important part of your case.

What is the court process like?

Traffic, parking, and security all make getting to court take longer than expected. If you've ever been to a courthouse, you'll see these long lines in the morning of people trying to get through security and get to their courtroom. What happens is eventually the judge will come out and will call all the names on the docket for that morning. We're gonna stand up with you and let the judge know that we're present; we're your attorneys and that we're working on your case. Judges don't like if you're late and will not hesitate to issue a warrant if you fail to appear.

Security won't even let you in the courtroom if you're not appropriately dressed. So this means no flip-flops, no shorts, no tank tops and no hats. Our advice to the client is dress for court like you were dressing to go to church.

What will an attorney do on my first court hearing?

By this point you should have consulted with a criminal defense attorney who's been working to prepare your defense. The DA's office has been working on your case and working on getting conviction from the time you were arrested. At your arraignment, your attorney should be on time, prepared, answer all your questions and get you through that first court setting as quickly and painlessly as possible.

What Happens If I Miss My Court?

Missing court is one of the worst things you can do in your case. It's not like missing a dentist's appointment that you can simply reschedule. If the judge calls your name in the morning and you're not there -- two things are going to happen. The first thing is that you're going to get a warrant for failing to appear in the original case. The second thing that's going to happen is you're going to become subject to an additional charge under the Texas Penal Code for bail forfeiture and failure to appear. So unfortunately, if you missed court you have now compounded your problems.

What are the punishments for missing my court date?

You'll pick up a warrant in your original case- if that case was a misdemeanor, you'll pick up an additional misdemeanor charge and if the case that you missed is a felony, you'll pick up an additional felony charge.

What should I do if I miss my court hearing?

If you miss court, that warrant is going to be called a "Bench Warrant," and it allows any law-enforcement officer to pick you up during a traffic violation, pick you up at home, pick you up at work. If you have a bench warrant issued on your behalf what you should do is immediately contact an attorney. We can go to the judge on your behalf, try to explain the circumstances surrounding your failure to appear in court, try to get the bail reinstated, try to get another bond set, try to do anything to keep you out of having to actually go to jail.

What is the best way to not miss my court date?

The easiest way to not miss court -- get an attorney involved early. That way they receive notices as well about your initial court date. We have a system in place where we text all our clients prior to their first court date. That way everybody is on the same page; that way nobody misses court and nobody gets warrants issued against them.

What to Wear to Court:

Whether it's your first day in court or your last day in trial before the verdict is read, there's just some things you don't do. Here's a list of the fashion don'ts that you should remember before you ever set your first foot in a courthouse. The list goes from the most modest to the most outrageous ideas for courtroom apparel. You may think, "No, there's no way anyone would ever do that." But these are actual examples, derived from actual people we have seen over the years in court, we hope this helps.

1. No shorts. This is an absolute bar from most courts. You wear shorts, you win a trip into the hallway and a stern lecture from the judge. Just avoid them.
2. Keep the Loud Ties and Suits out of the Courtroom. Jurors will not appreciate your originality. The Judge will not find you quirky.
3. No Tank-Tops. This is another quick escort out of the courtroom and a quick lecture from the judge.
4. No Flip Flops or Sandals.

5. Johnny Cash sang in Folsom for a reason, he looked like a depressed inmate. Keep the "Man in Black" look out of the courtroom. Dark colors make people think of inmates.
6. Stay away from drug paraphernalia and loud jewelry. Even if you did dress like you should for court, one loud piece of jewelry is enough to destroy everything you've been working for. Keep it at home.
7. Keep any shirts with logos related to your charge out of the wardrobe. If you have a gun charge, don't wear the NRA shirt. If you have a drunk driving offense, keep the funny, "one tequila, two tequila, three tequila, floor" shirts out. If you have a drug charge, no "legalize-marijuana" shirts.

Avoid these major pitfalls and you stand a good chance of avoiding an immediate loss of respect from every member of the courtroom. Keep it simple. A simple dress shirt, tie, a pair of slacks, black socks, a pair of dress shoes and you are set.

Felony and Misdemeanor Differences

In Texas we have two broad categories of crime. We have felonies and we have misdemeanors. Generally speaking felonies are considered more serious than misdemeanors. Felonies come in a few different levels from state jail felony all the way up to capital, whereas misdemeanors go from a Class A to a Class C.

Which charge is worse? A misdemeanor or a felony?

Broadly speaking, felonies are considered more serious than misdemeanors.

What are the different classes of misdemeanors and felonies?

Misdemeanors come in three different varieties: Class A, Class B, and a Class C. It's worth noting that Class C is usually a traffic violation. So something like speeding or running a stop sign and is punishable by fine only. A Class-A misdemeanor is punishable by a maximum up to a year in the county jail. Felonies go from a state jail felony all the way up to a capital felony. Felonies can land you in prison for the rest of your life if convicted.

What are some examples of misdemeanor and felony crimes?

Common examples of misdemeanors in Texas are going to be things like shoplifting, possession of marijuana, DWI 1st offense. Felonies are going to be crimes that are more serious in nature, times where people were hurt physically or financially, things like bribery and fraud, arson and various kinds of assaults.

What if I have prior convictions?

Texas law certainly allows for the enhancement of punishment ranges for certain repeat and habitual offenders. What this means is if you have been previously convicted of a crime, this can be used against you in any subsequent criminal proceedings to enhance your punishment range. So by way of example a DWI 1st -- traditionally a Class B misdemeanor -- is

punishable by up to 180 days in jail. However, a DWI 3rd offense can be treated as a third degree felony punishable up to 10 years in prison.

Bail Bond Issues

If you have watched crime shows on TV or read about famous criminal cases in the newspaper, you have likely seen the term “bail” with an astronomical dollar amount tied to it. A bail is a form of security given by the accused party that he or she will appear before the court for the alleged crime. Along with bail comes a bail bond or personal bail, each of which requires the accused party to put down a certain amount of money to hold him or her accountable for showing up to a scheduled court date. If the accused fails to show up to the listed date, he or she could risk losing that bail amount and face additional charges in Texas.

Bail Bond Violations

When receiving bail, the document will have all of the legal requirements and details enclosed to inform the accused party of his or her rights and restrictions. If the bail is violated, he or she could face a fine of up to $4,000 and/or face incarceration for up to one year. If the act committed is a separate offense, aside from just violating the terms of bail, the prosecuted party will be charged with a separate misdemeanor or felony charge in addition to the violation of the order. The violating party also runs the risk of losing the money that was put down for the bail and depending on where he or she got the bail money as well as how

high the amount was, losing bail funds can be detrimental to his or her financial security.

When Family Is Involved

Family violence cases are taken very seriously by the court, especially when children are involved. For this reason, Texas legislation specifically outlines the consequences that can result from violating bail that was granted for those facing family violence charges. If the court becomes aware of bail violations, the posted bail bond may be revoked or forfeited for violating the bond conditions. The party will then be taken into custody and may be denied release on bail if the judge determines that the violation placed the safety of the victim or community at risk. Before denying bail, the judge will look at the violation evidence and consider the following factors:

The order or condition of the bond

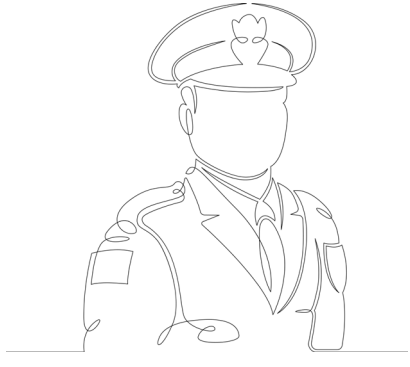
The nature and circumstances of the alleged crime

The relationship between the accused party and the victim

The accused party's criminal history

Any other relevant circumstances that help determine whether or not the accused party poses an imminent threat to the family

2
TALKING TO POLICE



Can The Police Lie to Me?

People are sometimes surprised to learn that the Police can lie to you. During a detention, during an arrest, or just doing a normal conversation. The courts have said that police are allowed to be deceptive as they put it. Some common examples may be telling you a witness has already told us everything so go ahead and tell us your side of the story. We hear them

lie about evidence all the time, “look at your fingerprints or DNA have already been found” or “I already know you’ve been drinking; go ahead and tell us your side of the story.” Another common way we see police officers lie is about their future actions. So we hear things like, “tell me your side of the story and I’ll talk to the DA or to the judge and make sure you don’t get in any trouble.” The truth is police officers are allowed to build rapport with you, build trust, lie to you, get a statement out of you and then use that statement against you in court.

Do I have to talk to the Police?

You’re certainly under no legal obligation to speak with the Police. The biggest mistake we’ve seen over time is people of the mindset of I can talk my way out of this when usually the opposite is true. Generally people give little pieces of information or facts that end up getting themselves arrested and eventually prosecuted. As a US citizen, we all have fundamental rights. We have the right to remain free from unreasonable searches and seizures; we have the right to freedom of speech; and we certainly have the right to remain silent. The Fifth Amendment to the Constitution guarantees every citizen the right to remain silent when being questioned by Police or other government officials.

I don’t have an attorney, should I talk to the Police?

We know the Police can lie to you, combined with the idea that generally you’re under no legal obligation whatsoever to be speaking with the Police in the first place, is how we get to that classic criminal defense attorney advice which is don’t speak to the

Police without your attorney present. Your best bet is to politely, but firmly, let the officers know you're not interested in answering questions right now. When you do this, you're going to want to do so clearly and unequivocally. Nothing wishy-washy, "I don't know if I should say something" or just nodding or shaking your head. Tell the Police very upfront and very clearly, "I'm not comfortable answering any questions until I consult with my attorney." Now people always worry -- isn't that going to make me look guilty, when in fact that could not be further from the truth. It's going to make you look smart and it's going to make you look like you're taking the situation seriously.

What do I do if I am being questioned?

If you're about to be questioned by the Police, or you're getting phone calls from a detective asking you to come in and make a statement, don't do so until you have called us. We can help you through that kind of situation. We helped a lot of other people. That way, you don't get yourself in unnecessary trouble.

It's not to say it's never okay to speak to the police. Sometimes, a conversation with an officer can pre-empt an arrest, or a charge. But the fact is, no one on earth should make that decision without consulting with a criminal defense lawyer first.

This Will Go A Lot Better if You Just Talk to Me"

Okay, so it's not a date, it's an interrogation by a person with a badge either on the side of your car or in

a police station interview room. Unfortunately, most people in this situation make the mistake of thinking that the more you talk, the better off you'll be. It's natural. It's normal. And it's usually a complete disaster.

First, let's begin with the basics: You have a right to remain silent. Those words are in your history books, on every TV crime show, and by now, in your very DNA. The officer will sometimes read you that exact line along with your other Miranda warnings. Then he'll stare at you for a long time and wait for you to speak. Silence begs to be filled. Other times, he'll tell you the infamous line uttered in the title: "This will go a lot better if you just talk to me." Unfortunately, this is only similar to a date in that you two totally want different things out of it. The officer typically wants to confirm his suspicions (or he wouldn't be talking to you in the first place) and you just want to go home and forget the whole thing ever happened.

Unfortunately, the words you put emphasis on may not be the ones your officer is hearing. I'll give you an example: in every criminal case, there is a list of elements that need to be checked off before a jury can overcome a presumption of innocence and find you guilty of a crime. It's a devil's checklist that an officer is trying to complete before he submits his case to the prosecutors. So if he's investigating a crime where he needs to show that (1) On May 25, 2022, (2) in Bexar County, (3) you the Defendant, (4) Intentionally (5) Caused bodily injury, (6) to someone with whom you had a dating relationship. The officer need only ask: "So tell me what happened?"

Let's say your answer is simple, "My girlfriend and I were at my house on Martin Street and I accidentally

yawned really fast and I hit her in the eye. I told her I was sorry."

You're thinking, now the officer knows what really happened, so he'll let me go because it was JUST an accident. But look at the officer's checklist again. You have just admitted to (1) the when, (2) the where, (3) the who, (5) the assault, and (6) the relationship between you and the victim. The officer is undoubtedly thinking that he's gotten everything he needs from your one statement except what was in your mind (your intent) at the time and the jury will make that jump on their own once they hear that you admitted to everything else.

In situations like the example, begin with these words: "With all due respect, I don't want to answer any questions without an attorney present." Try not to pay attention to the officer's disappointed look. At that point, just be quiet and wait until the silence is over, and you are either led away or allowed to leave.

That officer will never be your friend. So don't try to establish a bond. If Men are from Mars and Women are from Venus, then realize you are from Neptune and that officer is from Mercury. You will never be on the same planet. You want different things. It's not you, it's him. Sometimes the old adage is true, "You can beat the rap, but you can't beat the ride." Sometimes there is just nothing you can do, you're getting arrested, no way around it. If that happens, just get to your attorney the moment the "ride" part is over.

3
DWI

3 Types of DWI

In Texas we have a few different variations of the DWI statute. We have a DWI 1st, we also have a DWI 2nd, and then a DWI 3rd statute if you've been previously convicted of a DWI. We have a DWI open container, which is the offense if you have a can of beer or other opened container of alcohol in the vehicle with you. We have a DWI with a child passenger under the

age of 15, as well as a DWI reserved for if you have a blood-alcohol concentration that is double the legal limit.

Which DWI charge is considered to be worse?

Generally speaking, just like any other crimes, felonies are treated more seriously than misdemeanors. In DWI statutes felonies are going to be things like DWI 3rd or more as well as DWI with a child passenger, as well as anything involving a DWI and injury to another driver.

Should I plead guilty if charged with a DWI?

If you're charged with DWI, it might feel like you've got no options -- that you have to go to court and you have to plead guilty. It couldn't be any further from the truth. DWI is unique in that it is an opinion crime, meaning that you can be arrested solely on the opinion of the arresting officer. But look, officers are just like all of us. They're human; they make mistakes; they have good days; they have bad days. If a good attorney can point out the difficulties or maybe some of the mistakes the officer was facing that day, that could make the whole difference in your case.

I've Been Charged With DWI. Who Should I Hire?

This is not the time to be looking at general practitioners or family law lawyers that do a little criminal defense on the side. DWI law is incredibly complicated and constantly changing. You're going to want to

look at people who specialize in criminal offense and who specialize in DWI defense. You're going to want to look at reviews, awards, more specifically you're going to want to look for people who used to be DWI prosecutors. People who are used to working on the other side of the table, people who used to work with police officers and judges in prosecuting DWI cases.

How long do I have to get my DWI taken care of?

Expect to move quickly. You have 15 days following your DWI arrest to challenge your license suspension. What this practically means is that if you want to continue driving, you need to move quickly in hiring that DWI or criminal defense attorney. A good DWI lawyer will start working on your case immediately, both in crafting a defense as well as devising a plan to keep you driving.

I don't have a lot of time. How do I get through this charge?

The truth is DWIs simply take a while. Crowded court system, over crowded dockets, lab results taking longer than they probably should -- all complicate and lengthen the DWI process. Now, look, DWIs are part of life. We've represented doctors, nurses, teachers, who've all had DWIs; and the truth is, you're going to get through it. People do get past a DWI arrest, but you need to have patience. Most DWIs should and aren't resolved quickly, but hiring an experienced criminal defense and a DWI attorney is a great first step in putting this problem behind you. DWIs happen, but if you act correctly and you hire the right representation, you can often minimize the penalties and the effect it will have on your life and your future.

What is a Field Sobriety Test?

We've all seen this on TV and in movies- where an officer suspects somebody of driving while intoxicated. They pull them over, they're on the side of the road, they're gonna ask you to perform a series of tests to try to determine whether you're intoxicated, whether it'd be safe to be driving or not.

What are the three types of field tests?

In Texas officers use three basic field sobriety tests - from the beginning you should know that these tests are designed for you to fail. The first test is going to be the one leg stand. In this test, the officer is going to ask you to lift one of your feet six inches off the ground and begin to count. The officer during this test we'll be watching you for swaying, watching you for losing your balance, watching really everything you do for any signs of intoxication. The second test is the walk and turn. In this test, the officer is going to ask you to imagine a line on the ground, follow that line nine steps, do a turn, do nine steps back. Same thing as the first test, he's looking for swaying, he's looking for using your hands for balance, he's looking for you taking the wrong amount of steps. The third test is the Horizontal Gaze Nystagmus Test or the HGN. This is where an officer uses the pen and asks you to follow with your eye. The officer is looking for involuntary twitching of your eyeball. If your eye is twitching, he's going to count that as a clue, as a reason why he believes that you're intoxicated. All three of these tests are called Divided Attention Tests, meaning they're asking you to do one thing physically, while also giving you something to do mentally. It's the same as

when you initially get pulled over. First thing the officer is gonna do is ask you to pull out your driver's license while simultaneously asking you where you're coming from. The idea here is to give you something to be thinking about while also physically asking you to do something, trying to come up with signs of intoxication, trying to make it appear as though you're confused or stumbling or intoxicated.

What happens if I don't do well on a test?

A lot of people don't do well in these tests. Whether it's because of age, nervousness, or even an old injury. There's a thousand reasons why people don't do well on these tests. That being said, it's not the final word intoxication and a good lawyer can educate both the judge and a jury about the pitfalls and the problems in these tests and why your failure to do well might not necessarily be due to intoxication and might be due to one of many other reasons.

Defense Strategies After a DWI Arrest

Like every state, driving while intoxicated laws are aggressively enforced by police and the courts in Texas.

Regardless of whether you are a first-time DWI offender or you have multiple DWI charges on your criminal record, a DWI conviction can severely impact your life. As a Class B misdemeanor, a DWI can result in anywhere from three days to six months in jail, a license suspension of up to two years, and $2,000 in fines. A DWI charge can negatively affect your

employability, especially if you perform a job that requires a commercial driver's license (CDL).

Still, like any criminal allegation, with a DWI, you are innocent until proven guilty, and the burden rests with the prosecutor to prove that guilt. There are numerous ways your DWI charge can be dismissed. Here are some of the possible DWI defense strategies a skilled criminal defense lawyer can pursue on your behalf:

Unlawful Traffic Stop- A police officer cannot pull you over for nothing. Police may only pull over a driver if they have committed a moving violation or if the officer has legitimate probable cause to believe they are driving under the influence of alcohol. Law enforcement often targets drivers coming out of bars, especially late at night, regardless of whether they have done anything wrong. This is not a legal procedure according to law.

Ineffective Field Sobriety Testing- Standardized field sobriety tests – including the horizontal gaze nystagmus test, walk-and-turn test, and one-leg stand test – are not a universally effective method of establishing an individual's intoxication. Various physical disabilities, neurological issues, and medications can impact a person's ability to pass these tests.

Incorrect Breathalyzer Reading- No technology is perfect, including the blood-alcohol concentration breath tests utilized by police. These units can fail to produce an accurate reading due to non-adherence to scheduled maintenance checks. They are also affected by a person's metabolic rate, the

temperature of an individual's breath, or residual alcohol in a person's mouth at the time of the test.

Can a Person Under 21 Get a DWI Without Being Intoxicated?

In Texas, a driver under 21 years of age does not need to be legally intoxicated to be charged with—and convicted of—a criminal offense. This may seem counter-intuitive, but Texas takes underage drinking seriously out of recognition that a minor's chances of getting into an accident go up significantly after just one drink. If you are under 21 and you have been charged with an alcohol-related driving offense, the penalties can be severe

What is the "Legal Limit" for Persons Under 21 in Texas?

Texas applies what is often called the "not a drop" rule, or the "zero tolerance" rule to persons under 21 when it comes to DWI. This means that if you are not yet 21 years of age, you can face criminal charges if you are found to have any amount of alcohol in your system while operating a motor vehicle. Even if you only drank half a beer or a few sips of a cocktail and do not feel intoxicated, blood alcohol concentration (BAC) test results indicating anything above 0.00 may be sufficient to justify an arrest and conviction.

In Texas, this offense pertaining to underage drivers is typically referred to as DUI, or driving under the influence, to distinguish it from the offense of DWI

(driving while intoxicated), which typically requires a BAC of at least 0.08 or other clear signs of intoxication. A minor who is arrested for DUI can face Class C misdemeanor charges, with a possible sentence including fines and driver's license suspension. However, if a driver under the age of 21 is found to have a BAC above 0.08, they can also face DWI charges. DWI is a Class B misdemeanor, which comes with more serious consequences that may include jail time.

What About Other Substances?

The "zero tolerance" rule holds true for substances other than alcohol. You can also be charged if you have consumed any amount of cannabis, prescription opiates, or other intoxicating substances. These substances can sometimes remain in a person's system at detectable levels long after the intoxicating effects have worn off. Cannabis, for example, can be detected in some users up to a month after their last use. Prosecutors do not have to prove that a minor was actually under the influence of a narcotic at the time of the arrest to get a conviction, so it is especially important to have an experienced defense attorney representing you.

4
FAMILY VIOLENCE

False Domestic Violence Accusations - Why They Happen and What to Do

Family violence accusations are very serious. Even if it is charged as a misdemeanor assault family violence rather than a felony, the stigma associated can limit your future career, educational, and social opportunities. False accusations of intimate partner violence are extremely common, however. The reasons people make these kinds of allegations are numerous.

Whatever happened, you are now facing a very serious charge - for something you did not do.

Why Do People Make False Family Violence Claims?

You may have been completely blindsided by your arrest. You know you did nothing wrong, but you are still facing a terrifying prosecution. There is no good reason for filing a false police report alleging an assault that never happened, but common reasons include:

Divorce - Angry spouses looking to get an edge in the divorce proceedings sometimes falsely claim that their partner was violent. This is especially likely when there are children involved, as one parent may accuse the other of violence in an effort to gain sole custody.

Self-Defense - Police officers arriving on the scene have extremely limited background information. It is not uncommon for them to make a big mistake and arrest the victim, who was merely trying to defend herself.

Spite - After a difficult breakup, or even during a big fight, people will sometimes accuse their partner of attacking them out of sheer spite. In this type of situation, the accuser often calms down the next day and wants the charges dropped - but it might be too late for that.

What You Can Do if You Are Falsely Accused of Family Violence

Facing this type of accusation is frightening, and the situation may feel hopeless. There are, however, a few steps you can take to minimize your risk, such as:

Immediately retain a Criminal Defense Attorney

Stay quiet - Do not talk to the police without an attorney present. If you are taken for questioning, say nothing except that you want a lawyer.

Obey orders - You have probably been served with a protective order. Getting kicked out of your house abruptly is an awful situation, but returning will only make it worse. Do not speak to the alleged victim, even if he contacts you first.

Gather information - At an early stage, you might not even know exactly what it is you are accused of doing or when you allegedly did it. If you do know this information, hang onto anything that might help clear your name, including evidence of any possible alibi.

The most important thing is to get in touch with an experienced criminal defense attorney as soon as you can.

When Can a Person Be Charged With Continuous Family Violence in Texas?

The term “continuous family violence” brings to mind the idea of ongoing abuse within a family—for example, a husband who routinely hits his wife or child. However, in Texas, continuous family violence just means that there were two or more allegations of family violence within a 12-month period. Because continuous family violence is a third-degree felony, as opposed to misdemeanor family violence, this charge needs to be taken much more seriously. Having a felony on your record can have a major negative impact on your life, so it is important to have an attorney who will defend you aggressively.

What Situations Can Lead to a Continuous Family Violence Charge?

The name of this offense can be misleading. The requisite two incidents of alleged family violence can occur on the same day. The state does not need to prove that family violence was an ongoing problem in the home. Here are some common ways the felony of continuous family violence can be charged:

Multiple victims - Family violence can be deemed "continuous" even if there was only one single incident of violence when two or more alleged victims are involved.

Claims of previous violence - Sometimes, when a person is arrested for family violence, the alleged victim may claim that the suspect has been violent before. This can lead a prosecutor to charge continuous family violence, even if you were never charged in any previous incident.

Separate victims and incidents - The alleged victims can be two different people alleging two separate incidents, in two separate households, months apart. For example: a man is accused of pushing his live-in girlfriend in January. The victim does not press charges, but the couple splits and the man moves in with his sister. In November, the sister accuses him of pushing her as well. This counts as two incidents of family violence in Texas. Even if the two victims reside in separate counties, Rachel's Law allows the prosecutor to charge continuous family violence.

Protective Orders in Texas

Protective orders are often misunderstood and are often shrugged off as unimportant. It might be thought that because it is not a criminal charge, it is no big deal. However,a protective order can be a huge problem for you going forward. It is a powerful tool that prosecutors and private attorneys can wield to restrict a person's constitutional rights. A full understanding of what a protective order is, and how to respond when faced with the possibility of having one against you, is extremely important.

What is a Protective Order?

In its most simple form, it is an order given down from a Judge restricting the access and rights of a person who was found to have committed family violence. A person is entitled to the protection of one if the court finds that family violence has occurred and is likely to occur in the future. Protective orders commonly last for 2 years. In more serious cases involving serious bodily injury or felony assaults, the order can last much longer.

What is Family Violence?

Family violence is a term that may seem self-explanatory but is often misunderstood. It encompasses quite a wide range of actions and persons outside of the traditional "family." It is defined as an act of violence, including threats of violence, against a family member (by blood or marriage), someone you are having or have had a dating relationship with, or simply a member of a household.

As you can see, it can obviously include your family, even your own children. But it also includes current

and even former girlfriends or boyfriends. Even people with no relation but living in the same household can qualify for a protective order.

How Can a Protective Order Impact Me?

This is the most important thing to consider as it can have huge impacts on your life. The effects of a protective order can be very restrictive.

A court may prohibit you from doing all the following and more:

Committing further family violence

Going to or near the residence or place of employment of the protected person

Possessing a firearm

Communicating directly or in any manner with the person protected by the order.

Communicating directly or in any manner of the protected person's family members or household.

Acting in a manner that is directed towards a protected person that might annoy, embarrass or harass that person.

Harming or threatening to harm a pet under the care of the protected person.

Furthermore, a court must suspend your license to carry a handgun and the ability to get one. It may also require you to take intensive classes concerning assault and family violence and pay certain costs and fees associated with the court hearings.

Often, people's lives are very intertwined and co-mingled with someone who is seeking a protective

order against them. For this reason, you can see that these restrictions could cause some serious practical issues in your day to day life. You can be prohibited from going back to your home. It might be hard to retrieve your personal items like clothes, money, and valuables left in a home you shared. It can be difficult to see your children, as communication is strictly prohibited. Your ability to go certain places might be impacted and you can't possess firearms you legally own.

Most importantly though, violating any of these prohibitions is a crime, and can land you serious jail time. A court can independently hold you responsible for a violation and hold you in jail up to six months and fine you as much as $500. Alternatively, you may be arrested, and a criminal case brought against you, leading to a conviction and more serious jail time and fines. This is why it is important to fight any proposed protective order against you.

What Should I Do?

The absolute most important thing you must do is show up for your court date. If you fail to show up, a default order will be entered against you. This means you lose the case without having a hearing and will likely be under the severe restrictions for the full two years.

You will be served notice of the court date with papers. Reading through the paperwork can be helpful. It will contain the date of your appearance and might contain specific allegations against you. This can be important in crafting a defense.

Secondly, never contact the person asking for a protective order against you. Sometimes, a temporary protective order will be issued before a formal hearing. It is important not to contact that person, so you don't violate any sort of court order. Plus, anything you say will be able to be used against you, so it's best to just prepare for court.

Finally, never agree to a protective order without speaking to an attorney. You have the right to have an attorney there to represent you and your interests. If you happen to show up to court without one, be sure to ask for extra time to hire one before you agree to do anything else. A Judge doesn't necessarily have to grant you extra time, but often will.

An attorney experienced in protective order hearings will have the knowledge and ability to help you through this process. It might be suggested to consider negotiating with the other side. Sometimes it is best to settle the case for a less restrictive agreement.

Ultimately though, you have a right to a hearing and should take advantage of that fact if a good resolution is not available without one. Don't be afraid to stand up for your rights and tell your side of the story. A protective order hearing is often fraught with emotion because it involves family members and loved ones. Knowing your rights and how to confront allegations can go a long way to getting through this experience with a good outcome.

Can I Fight a Domestic Violence Order of Protection in Texas?

These legal orders can be requested by a person who believes they or their family members are in danger of harm by a family or household member. Legal protection should be put in place for those who need it, but in some cases, these protective orders may be based on false allegations of abuse. If you find yourself facing an unjust order of protection, you do have legal options, and an experienced criminal defense attorney can help.

Types of Protective Orders

There are three types of orders of protection available in Texas, each with its own length of duration. In many cases, the individual filing for the order will get a temporary order initially and work to extend that order in the meantime. The differences between each of the protective orders are described below:

Temporary Ex Parte Order: This order is for someone who has a clear and present danger of family violence. An ex parte order can last up to 20 days, and extensions are available if necessary. This type of order does not require notice to be given to the accused (respondent).

Final Protective Order: This is the longest-standing order available to Texans. If family violence has occurred and is likely to happen again in the future, this is typically what the court will issue. These orders typically last two years, but they can be extended if an alleged victim has suffered a serious physical injury due to the alleged abuse, or if two or more orders have been issued against the same individual. The respondent of this type of protective order must receive notification that it is being issued against him or her.

Magistrate's Emergency Order: If the alleged abuser is arrested for family violence, stalking, or sexual assault, this type of order may be granted. This emergency order lasts at least 31 days up to 91 days. No notice has to be given to the person against whom the order is being filed.

How Can I Defend Myself?

It is not uncommon for orders of protection to be filed against someone who does not deserve it. This can be due to a misunderstanding, or it can sometimes be a ploy to keep the individual away from his or her children in a custody dispute. The respondent of the order is able to request a motion to dissolve or a motion to modify the order if he or she sees fit.

If you believe that a protective order was issued against you unfairly, you can argue to have the order dissolved altogether. You will need to file a motion in court, and you will be assigned a court hearing date to present your defense. You can also request to modify the order. If you believe that the order is too harsh or too broad for your situation, you can file a motion to change the terms of the order. This would not make the order disappear altogether, but it may help you address some of its negative effects, such as your ability to spend time with your children.

5
DRUG OFFENSE

What Are Drug Penalty Groups, and How Can They Affect a Criminal Case?

With the legal changes regarding marijuana shifting from state to state, it can be confusing when trying to understand what the consequences are for various

drug charges. As one would expect, drug charges can vary based on the substance involved and the circumstance of a case. In order to avoid having different charges for every illegal substance, Texas law enforcement has created categories known as “drug penalty groups.” Understanding which group your charge falls under is crucial for determining what your consequences may be. Although the best way to verify the details of your charge is to hire an experienced criminal defense lawyer, having a general knowledge of the different penalty groups is a good place to start.

Penalty Groups in Detail

There are four different drug groups, each of which increases in risk and severity of consequence:

Group 1 - This first penalty group includes hallucinogens such as opioids, methamphetamine, LSD, cocaine, ketamine, and more. The opioids in this group include those used for medical purposes. Penalties involving drugs from Group 1 range from 180 days to two years in jail and up to $10,000 in fines. For possession of 400 grams or more of these substances, an individual can serve life imprisonment and owe $300,000 in fines.

Group 2 - Illegal substances within Penalty Group 2 include PCP, Ecstasy, and amphetamines. If an individual is found with less than one gram of any of these substances, he or she can serve between 180 days and two years behind bars. For possession of 400 grams or more, the sentence can increase to life imprisonment and a $50,000 fine.

Group 3 - The third penalty group includes prescription drugs that give a depressant or stimulant effect,

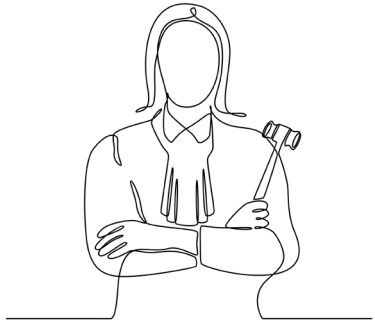
thus making them highly addictive. Drugs that fall under this category include benzodiazepines or sedatives such as Valium, methylphenidate (also known as Ritalin), and anabolic steroids. Those found guilty of charges in this penalty group can serve 180 days in jail up to life in prison. Fines range from $10,000 to $50,000.

Group 4 - These substances include those that are non-narcotic and are used for medical purposes, such as morphine and codeine. If an individual is found with less than 28 grams of these substances, he or she will receive a minimum sentence of 180 days in jail and a $2,000 fine. Those who are given a maximum sentence could spend the rest of their life behind bars and owe $50,000 in fines.

Marijuana - This drug has its own category and consequences, since there are many forms of it, and in some cases, it can be used for medicinal purposes. For lower-level charges of marijuana possession, a person may only serve probation and attend drug treatment. However, if someone has more than 2 ounces of cannabis, he or she can serve up to 10 years in jail and owe $50,000 in fines.

As is evident in the explanations above, drug charges can range from a short time spent on probation to an entire life behind bars. Understanding the general rules of the penalty groups can be beneficial to those who have been recently charged.

6
THEFT



Chapter What Is the Difference Between Theft, Robbery, and Burglary Charges in Texas?

In everyday conversation, the words “robbery,” “theft,” and “burglary” are often used to mean the same thing. However, in a legal setting, these words are not necessarily able to be used interchangeably.

In most states, there are distinct differences between all three charges, as well as different punishments for committing each. If you have been charged with any of these crimes in Texas, you should understand exactly what that crime is.

Theft

There are various situations that can constitute a theft crime. In general, however, theft occurs when a person "unlawfully appropriates property" with the intent of depriving the owner of the property of the item's use. Texas law states that property is unlawfully appropriated when:

It occurs without the owner's consent.

The property is stolen and the perpetrator knows that such property is stolen, but still appropriates it. The property is in the custody of law enforcement under suspicion it has been stolen and the perpetrator appropriates the property. The value of the stolen property is usually one of the biggest factors in determining a sentence for a theft conviction, but it is not the only factor. For example, a person can be charged with a Class C misdemeanor if the value of the stolen items was less than $100, which carries a fine of up to $500. However, a person can also be charged up to a first-degree felony if the value of the stolen items was $300,000 or more. This means a person could face between five and 99 years in prison and up to $10,000 in fines.

Robbery

Texas law states that robbery occurs when a person commits theft and in the process either:

Intentionally, knowingly, or recklessly causes bodily injury to another person Intentionally places another person in fear of bodily injury or death In some cases, a robbery can be considered “aggravated.” If the charge is elevated to aggravated robbery, it is because the actor committed the offense and caused serious bodily injury, used or exhibited a deadly weapon, or committed the offense against an elderly or disabled person.

Basic robbery is charged as a second-degree felony, which carries a potential sentence of two to 20 years in prison and up to $10,000 in fines. Aggravated robbery is a first-degree felony.

Burglary

In Texas, burglary occurs when a person enters or remains inside of a home or building with the intent to commit a felony, theft, or assault. In most cases, burglary is charged as a second-degree felony. If the crime is committed in a place other than a home, such as a store, the crime is charged as a state jail felony, which carries between 180 days and two years in prison and up to $10,000 in fines.

What Are the Grades of Theft in Texas?

The law defining “theft” in Texas is relatively simple. You commit theft when you unlawfully take property from its owner, or when you accept property knowing that it was stolen. The punishment for theft varies

depending on the value of the item stolen, the item itself, your criminal history, and the victim.

Misdemeanor Theft

Theft of property valued at less than $100 is a Class C misdemeanor and could result in a $500 fine.

Theft of property valued at $100 to $750 is a Class B misdemeanor and could result in 180 days in jail and a $2,000 fine.

If you have a prior theft conviction and stole property valued at $100, it is a Class B misdemeanor as well.

And, theft of a state-issued ID like a driver's license is also a Class B misdemeanor.

Theft of property valued between $750 to $2,500 is a Class A misdemeanor and could result in one year in jail and a $4,000 fine.

Felony Theft

Theft of property valued between $2,500 to $30,000 is a state jail felony and could result in 180 days to two years in jail and a fine up to $10,000.

Theft of property valued between $30,000 to $150,000 is a third-degree felony and could result in two to 10 years in prison and a $10,000 fine.

Theft of property valued between $150,000 to $300,000 is a second-degree felony and could result in two to 20 years in prison and a $10,000 fine. This also includes stealing the money from an ATM machine or an ATM machine itself;

And, theft of property valued at more than $300,000 is a first-degree felony, which could result in five to 99 years in prison and a $10,000 fine.

Burglary

In Texas, burglary means unlawfully entering or staying in a building with the intent to commit theft, assault, or any felony. Traditionally, people think of burglaries as being limited to home invasions for the purpose of stealing a family's things. However, the legal definition of burglary in Texas is not nearly so limited. The building or structure targeted need not be a residential dwelling - retail stores, financial institutions, office buildings, or any other public or private building may count for the purposes of a burglary charge. Even a vehicle like an RV or camper that is designed for use as temporary accommodations.

Intending to commit a crime inside is another important element of burglary. Theft, assault, or any felony can count as the planned crime for purposes of a burglary charge. This is where some defendants may become confused about why they are charged with burglary. Many believe that if they did not mean to take anything or hurt anyone, they are not committing burglary. However, felonies like selling narcotics and stalking-related offenses are routinely committed inside structures that no one had a legal right to be in. In Texas, that could be a burglary.

Also, note that unlawfully remaining inside a structure counts just the same as unlawfully entering - so concealing yourself until an establishment closes or refusing to leave a private residence could result in a burglary charge. "Breaking in" is also not required. Entering through an unlocked door or using an old key you do not have permission to use anymore both meet the "unlawful entry" requirement.

The bottom line is that there is a wide range of conduct that could fall under Texas's burglary statute. Burglary is always a felony but could be charged as a first, second, or third-degree felony depending on the circumstances. Unlawfully entering a store while it is closed is likely to be treated as less serious than breaking into an occupied home. However, both are still the crime of burglary.

7
OTHER ISSUES

What Is Pretrial Diversion and How Can It Help Me?

When it comes to the criminal justice system, once you are in it, you quickly begin to feel trapped. Once a criminal charge is added to your record, a certain stigma begins to follow you around. Criminal charges are public records, meaning anyone and everyone can look up your background. For many academic institutions and professional businesses, conducting a background check is simply part of the protocol and any evidence of criminal activity can immediately eliminate you from the pool of applicants. While this may seem fair for those with a past riddled with violent crimes, what about first-time offenders or those with substance abuse issues?

What Is Pretrial Diversion?

Pretrial diversion programs are voluntary alternatives to traditional criminal justice processing, such as large fines and spending time behind bars. As the criminal justice system has evolved, professionals have noticed that offenders have a tendency to re-offend once they are looped into the criminal justice system. This is known as recidivism. The stigma that comes along with a criminal background can keep offenders from securing a stable job and income, often leading them back to what they know best: a life of crime.

Pretrial diversion programs have been created in an effort to reduce recidivism and conserve criminal justice resources for more violent and dangerous offenders. The programs operate at the federal, state, and local levels, which vary depending on where you live and what level of court your case is being tried. Pretrial diversion programs give offenders the ability to make changes in their lives by providing them with the necessary resources, such as counseling, rehabilitation, and more. The programs provide the offender with a supportive, rehabilitative community to help them avoid further entry into the criminal justice system.

Am I Eligible for Pretrial Diversion?

The eligibility requirements for pretrial diversion programs vary from court to court. Generally, defendants who are interested in this alternative must not have any convictions on their criminal records. So, those who have been arrested but were not convicted are still eligible to apply for pretrial diversion. When submitting your application, you must supply a resume and a clean urinalysis (UA). Since many offenders may be facing drug charges, the clean UA shows that you

are taking active steps toward improvement when it comes to your addiction.

You may be able to avoid the harsher criminal penalties that come along with your offense by pleading to participate in a pretrial diversion program. Your plea will need to be approved, making it critical that you have a legal professional advocating on your behalf and explaining why you deserve to be a part of this program.

Probation Violations- Motion to Revoke Probation

If you're on probation the thing you're trying to avoid at all costs is the motion to revoke your probation commonly referred to as an MTR. Now what happens in an MTR is that your probation officer sends a letter or a violation report to the state's prosecutor, letting them know they believe you violated one of the terms of your probation. The prosecutor's office is, in turn, going to file that MTR, send it over to the judge for signature and then a warrant is going to be issued for your arrest.

What are common violations of probation?

Failing to appear, not completing court ordered classes, or failing a drug test are all common examples of probation violations we see but by far the worst violation you can possibly have is the allegation that you've committed an additional or a subsequent crime while on that probationary period. When a judge issues an MTR, they may or may not set a bond when they do.

Some judges wait till you are physically arrested to set that bond, others wait until your attorney actually approaches them and asks for a bond. All of this can be avoided by working with a local criminal defense attorney and a bondsman to turn yourself in the jail and then immediately bond yourself right back out.

What is the process of an MTR court hearing?

If you find yourself in court on one of these motions to revoke probation hearings, the judge is going to want to hear from your probation officer about the allegations surrounding your alleged violations of probation. Now if the judge finds it's true that you violated your probation, they're going to have a number of options available to them including extending your probation, adding in digital classes and fines or either revoking your probation and sending you either to the county jail, or to prison.

How Criminal Sentencing Works in Texas, and How a Lawyer Can Help

If you have been charged with a criminal offense, the outcome of your case is not a foregone conclusion. Even if you know you are going to plead guilty, or that a conviction is likely, there is still much that a skilled defense attorney can do to improve the outcome. Texas uses a determinate sentencing structure, meaning there are sentencing standards based on the crime. However, the actual sentence you receive can still vary quite a bit depending on the circumstances surrounding the crime and your personal history. Whether you are facing felony or misdemeanor charges, our

attorneys are committed to seeking the best possible results for our clients.

What Factors Affect Sentencing?

No matter the offense for which you have been charged, there are a variety of factors a judge or jury can consider before your sentence is decided. Your attorney will be able to present any mitigating circumstances and make an argument for giving you a lighter sentence. In some misdemeanor cases, you may even be able to avoid jail time. However, the prosecutor will have the same opportunity to present evidence of circumstances that may work against you. The judge or jury determining your sentence can consider:

-Your criminal history, or lack thereof. If this is your first offense, and it is a misdemeanor, you could be eligible for what is called deferred adjudication. This means that you will enter a plea of guilty or no contest and be put on probation. If you complete probation without violating the terms, your case will be dismissed. On the other hand, if you have prior convictions, there is a higher chance of receiving a greater sentence.

-Whether you hurt someone, or could have. If you committed a victimless crime that was highly unlikely to injure someone, such as possessing a small amount of cannabis, your attorney can argue for a lighter sentence. But if you put other people in danger (for example, by recklessly firing a gun), or actually did injure someone (such as in assault cases), you are at greater risk for a greater sentence. If there is a victim, they will be allowed to make a statement before you are sentenced.

-Why you committed the offense. If you were facing serious personal hardship that induced you to commit an offense, your attorney may be able to use that to argue for leniency. A classic example is that of an out-of-work parent stealing to feed their family.

-Whether you show genuine remorse. If you appear to genuinely regret what you did, especially if you have already begun to pay restitution, this may help convince a judge or jury to show leniency. If you are struggling with drug or alcohol addiction that played a part in your offense, seeking treatment may be helpful here.

Every situation is different, and this is just a partial list of factors a court can consider during the sentencing process. There is a litany of other circumstances that may come into play and affect whether you ultimately receive a lighter or harsher sentence.

8
RECORD SEALING

What Is An Order Of Nondisclosure?

An order of nondisclosure is the legal mechanism we use to seal the records of an arrest and the court proceedings following a special kind of probation called “Deferred Adjudication.” People sometimes are surprised to find out that they’re arrested for a crime, they go to court, their attorney does a good job and they receive deferred adjudication. They successfully complete all the terms of their probation and they get their case dismissed. Then, later in life, during a routine background check for a job or for a house, the records of the arrest and the court proceedings still pop up, and this is because they have not taken the affirmative step of obtaining an order of nondisclosure to seal all those records from private background checks.

What does an order for nondisclosure do?

So what an order of nondisclosure does is, it's gonna seal the records of your arrest and court proceedings from all private background checks. So if you're in San Antonio and you're applying for a job at HEB or Valero and they run that background check on you, it's not going to pop up at all. This is much better than having to go into your job interview and explain that -- yes you were arrested, you completed your probation, and the case was dismissed. With an order of non-disclosure, you won't have to mention the arrest at all.

Who can still see my records even with nondisclosure?

So law enforcement agencies as well as professional licensing through the state of Texas will still have access to those records. So while it's not a complete destruction of all the records it will hide it from about 95% of the population.

Do I have the right to obtain an order for nondisclosure?

The bottom line is this -- if you have taken the time and the expense to complete your court-ordered deferred adjudication, you have earned the right under Texas law to get an order of nondisclosure. The sooner you do it, the better it will protect your future, your family and your employment.

What Exactly Is An Expunction?

An Expunction is a legal mechanism we use to completely destroy and erase any records of an arrest and a legal prosecution. We use it following a not guilty verdict or a complete dismissal of charges by the state of Texas. Simply put, with an expunction all records are completely destroyed and you are put back like the arrest simply had never occurred; not the FBI, not the government, not the police are gonna have access to the records of your arrest in court proceedings.

If found not guilty, can professionals still see my case?

We've seen it so many times over the years where somebody is arrested for a crime. They go to court and the charges are dropped; the case is dismissed. They simply are not guilty. Years later, during a routine background check for a job or for a housing application, the arrest and the court proceedings pop up and cause them difficulties. The truth is unless you take that affirmative step of getting an order of expunction, it's still gonna pop up on criminal background checks.

What are the qualifications for an order of expunction?

Expunctions are going to be available for a very selected group of people. It's going to be people who had their cases outright dismissed by the state of Texas without any kind of probation, people who completed a pretrial diversion, or people who obtained a "not guilty" at trial. Those people are all going to be eligible for a court-ordered expunction of all the arrest and court proceedings.

Who has the right to obtain an expunction?

If you got your case dismissed without probation, if you've got a "not-guilty" at a jury trial, or if you successfully completed a pre-trial diversion, you have earned the right to get an expunction under Texas law. The sooner you do it, the better it'll protect your future, your family and your employment.

What Are the Benefits of Expunction in Texas?

One of the major obstacles that former offenders face is a stain on their permanent record. Whether they went to prison or not, a criminal history can add complications to their personal and professional lives. Individuals with a criminal record can lose custody of their children and have a difficult time finding employment. To help ease the transition, Texas law allows some criminals to expunge their records, but there are specific eligibility requirements that must be met in order to do so.

What Is Expunction?

The term "expunction" refers to the removal of information about an arrest, charge, or conviction from a personal record. In other words, if a person's record is expunged, the information is removed from his or her record, and he or she is legally allowed to deny that the incident ever occurred. However, this option is not available to most offenders and has certain eligibility requirements that must be met.

Am I Eligible For Expunction?

The following records are eligible for expunction:

Cases in which an individual was arrested but never charged for the crime.

Criminal charges which were dismissed.

Not Guilty trial verdicts

Certain low-level juvenile misdemeanor charges.

Cases in which a minor was convicted of minor alcohol charges.

A minor not attending school, also known as truancy.

A charge, arrest, or conviction on a person's record for identity theft by another person who was actually charged, arrested, or convicted of the crime.

Cases in which an individual was convicted of a crime and was later acquitted.

A person convicted of a crime who was later pardoned by the Governor of Texas or the U.S. President.

What Are the Advantages of Expunging a Record?

There are many benefits that result from expunction. It provides the former offender with a sense of privacy and allows him or her to move on with a clean slate, especially since those who qualify were typically arrested, charged, or convicted of lower-level offenses. As in most states, criminal records in Texas are in the public domain. Expunging the record keeps the offender's past private from the public and future employers. Since most job applications require the applicant to disclose his or her criminal record, the expunction allows former violators to keep this information to

themselves. A criminal record can also restrict one's ability to vote, purchase a gun, and receive federal assistance. Expunction allows all of those doors to remain open, even if an individual did commit a previous offense.

GLOSSARY

Accessory: A person not physically present during the crime but who intentionally aids another individual in the committing of a crime, such as giving the perpetrator advice or helping conceal the evidence.

Accomplice: A person who was physically present when a crime was committed and who helped the principal offender in the criminal act. Accomplices typically receive the same sentence as the principal perpetrator.

Acquittal: A verdict by the jury or judge that the accused is not guilty of committing the crime for which they were accused.

Appeal: A request to a higher (appellate) court that a case be reexamined and reviewed. Appeals are

typically made by the defense or State and the appellate court may overrule the decision of a lower court.

Arraignment: A criminal proceeding during which the defendant is brought to court, informed of the charges filed against them, and asked to say what they plead (guilty, not guilty or no contest).

Arson: A malicious act of setting a fire to destroy property.

Bail/Bond: Money, property or other assets given to the court as a security measure to ensure the accused person returns to trial if they are released before and/or during a trial.

Beyond a Reasonable Doubt: The burden of proof that the government or prosecution must establish in a criminal case in order to secure a guilty verdict. Prosecutors must deliver facts and evidence to the judge or jury to prove that the defendant committed the offense beyond a reasonable doubt.

Bench Trial: A trial during which a judge hears the facts of the case and gives a verdict without a jury present.

Burden: The legal obligation by the prosecution to prove their case.

Circumstantial Evidence: All evidence in a case except for witness testimony, including fingerprints, photographs and other physical evidence.

Closing Argument: The last opportunity a defense lawyer has to address the court and argue the strengths of their client's case and point out the weaknesses of the prosecutor's case.

Conviction: A final ruling by a judge or jury that a criminal defendant is guilty of the crime they were charged with.

Cross-Examination: During a trial, questioning a witness brought forth by the other side.

Defendant: The person accused of a crime in a criminal case.

Direct Examination: When the defense lawyer or prosecutor questions a witness.

Dismissal: The formal dropping or removal of criminal charges against the defendant.

Expungement: The legal process for sealing criminal records from public view.

Felony: A serious crime, typically punishable by at least one year in prison and more severe than a misdemeanor. Felonies are classified by order of most serious to least serious as: capital felonies, 1st degree, 2nd degree, 3rd degree and state jail felonies.

Finding: A formal conclusion reached by a judge, jury or regulatory agency regarding a significant fact in a case.

Grand Jury: A group of 16-23 citizens whose job it is to listen to evidence presented by lawyers from both sides and determine if there is probable cause to bring an individual to trial. Grand juries have the authority to investigate and accuse, not to convict.

Hearsay: Testimony from a witness who did not observe the crime in question, but rather heard it from another source. This evidence is usually not admissible in court.

House Arrest: A lenient alternative sentence to prison where a defendant is confined to his or her place of residence and monitored by authorities.

Hung Jury: When the members of a jury cannot unanimously agree whether the defendant is guilty or innocent.

Inadmissible: Facts or testimony that cannot be used as evidence in a case based on the rules of evidence.

Indictment: A formal charge made by the grand jury, declaring in court that there is sufficient evidence against the defendant to proceed with having a trial.

Jail: A holding cell for less serious criminal offenses and misdemeanors; different from prison.

Misdemeanor: A criminal offense that is less serious than a felony and punishable by a maximum of 1 year in prison. Misdemeanors are classified as Class A, Class B and Class C.

Mistrial: A trial that is ended due to a procedural error or some other problem before a verdict is reached. The trial must then start over from the beginning.

Motion: A request made to the court or judge asking for a decision to be made on an important issue pertaining to the case.

Notice of Appearance: A formal document filed by an attorney on their client's behalf telling the judge and court that they will be representing the defendant.

Objection: A formal disagreement with a statement or procedure being put on the written record in a court case. The judge can choose to either overrule or allow (sustain) the objection.

Prison: A state-operated correctional facility where serious criminals go for years to serve out their sentence; typically with felonies.

Prosecutor / Prosecution: The individual or side who is responsible for proving the case against the defendant on behalf of the state or federal government.

Reset: The postponement on a hearing date

Sentence: The punishment imposed by a court for a defendant who has been convicted of a crime.

Statute of Limitations: The period of time allowed by law for starting a case. The statute of limitations differ from state to state and by the type of case.

Testimony: Verbal evidence given by a witness under oath during a trial. False testimony is considered perjury.

Verdict: The final decision in a criminal case made by a trial judge or jury.

Warrant: Court authorization for law enforcement to make an arrest or conduct a search. A bench warrant, also known as a “capias,” is when an arrest order is issued by a judge.

White Collar Crime: A general term for financially-driven nonviolent criminal activity by a business and/or government agent.

Witness: A person who personally sees or hears a crime and testifies before a court or jury. Witnesses can be called by either side and cross-examined.

ATTORNEY BIOS

Stephen C. Barrera

Stephen C. Barrera was raised in Wilson County, Texas. After obtaining a B.A. in Philosophy at U.T.S.A., he attended St. Mary's Law School. During law school, Stephen made the Dean's List, wrote for The Scholar, St. Mary's Law Review on Race and Social Justice, and interned for United States Fifth Circuit Judge Emilio Garza. Stephen was also awarded 1st place and Best Speaker during the St. Mary's Law School 1L Moot Court Competition.

Stephen's law career began at the law firm of Bracewell & Giuliani, where he worked in the firm's trial section. In 2008, Stephen started his own practice with a focus on criminal defense. Stephen also serves as a part-time judge in Wilson County.

Since that time, Stephen has obtained favorable outcomes for clients in cases ranging from DWI and Possession of a Controlled Substance to Sexual Assault and Murder and is regarded as one of the best trial lawyers in his field.

Christopher D. Cavazos

Christopher D. Cavazos has over 15 years of experience handling thousands of criminal cases throughout San Antonio and the surrounding counties. He attended the University of Texas at Austin, where he earned his B.A. in Government before moving on to receive his Juris Doctorate from St. Mary's School of Law.

Mr. Cavazos has extensive experience in the criminal justice system, practicing law as both a defense attorney and as a prosecutor. Prior to Barrera, Cavazos & Powers, he served as a Prosecutor in Atascosa County and was appointed as a Special Prosecutor in both Wilson and Frio County. Mr. Cavazos specializes in criminal matters, including driving while intoxicated, assaults, protective orders, juvenile, and drug cases and was named as one of the Top Criminal Defense Lawyers in San Antonio.

Chris has taken the time to give back to the local communities as well by serving as a mentor to law students and working with local high school mock trial teams as they prepare for their state competitions.

Upon finishing his time at the Atascosa County Attorney's Office, Mr. Cavazos and his partners Stephen C. Barrera founded BRCK Criminal Defense, bringing together over 50 years of experience as prosecutors, judges, and defense attorneys to vigorously defend those accused of a crime.

Monica Khirallah

Former state prosecutor Monica Ramirez Khirallah has successfully represented thousands of persons facing criminal charges and has tried over 80 cases to a jury.

She is highly rated by former clients who praise her zealous advocacy, compassion, and experience in the courtroom. Monica started her criminal law practice at the Denton County District Attorney's Office where she became Chief of County Criminal Court Number 5. In 2015, Monica left the District Attorney's office to begin a criminal defense practice.

In 2020, she joined BRCK Criminal Defense attorneys where she is a zealous advocate for her clients. Whether your case involves mitigation and damage control or a fight to ensure justice, Monica has garnered the trust and confidence of those she represents and she works tirelessly to secure the very best possible outcome. Monica is fluent in Spanish and is a passionate voice for the Spanish speaking community.

Daniel Rodriguez

Daniel J. (Dan) Rodriguez, a former Bexar County Prosecutor, is a San Antonio native with over 15 years of experience as an effective criminal defense attorney and high-level state prosecutor. A former prosecutor turned criminal defense attorney Dan was born and raised in San Antonio, TX, he received his Law Degree from St. Mary's School of Law and became licensed in November of 2005. Dan served as a Bexar County Criminal Prosecutor for 11 years rising to become a respected Felony Prosecutor in charge of training other prosecutors and handling thousands of serious felony cases before joining BCP Criminal Defense Attorneys.

Daniel has made a successful career as an expert in his field working on thousands of cases in counties around Texas such as Bexar, Wilson, Kendall,

Atascosa, Medina, Karnes, and Beeville. Criminal Law has always been his passion, to ensure that every individual receives a fair chance when it comes to the law.

Over the last fifteen years, Dan has handled numerous cases and jury trials ranging from DWI to Sexual Assault. He has extensive experience representing serious matters relating to Drug Possession, Aggravated Offenses, Assault, and Murder.

Nicolette Saenz

Nicolette was born and raised in the Valley and moved to the San Antonio area to attend University of Texas-San Antonio to obtain her B.A. in Political Science. Nicolette then attended St. Mary's School of Law. While at St. Mary's, Nicolette joined BRCK Criminal Defense Attorneys as a Legal Intern where her passion for criminal defense and zealous advocacy for criminal defendants began. In addition, Nicolette also worked as a Teaching Assistant for the Wrongful Conviction Review Project and a Student Attorney for the Center for Legal and Social Justice.

Nicolette has also worked for the Bexar County District Attorney's Office, Hidalgo County District Attorney's Office Special Victims Division, and the Thirteenth Court of Appeals under Justice Nora Longoria.

After law school, Nicolette was asked to join BRCK Criminal Defense as an Associate Attorney where she works full time serving the needs of the firm's clients.

Nicolette has recently been named as a 2022 S.A. Scene Rising Star Lawyer.