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Notes:

Introduction

I fight for those who don't have a voice. I listen and I don't judge. This world has shown itself to be a bunch of selfish and judgmental people, and I refused to be one of them, nor to pass on those nasty treatments to anyone else. My clients know me for being fair. They know me to be caring, when no one else does. They know that I keep fighting and I don't back down. And they know that I don't half-ass anything that I do. I'm not a miracle worker, but I am the answer when no one else will even listen to you, when no one else will even pick up your call. Defense work is not only what I do, it's who I am. I can't stand unfair treatment and I wake up every day with the focus on stomping it out wherever I can. I've been a lawyer for over 10 years. I been saving people just like you from oppression and persecution for even longer than that. I can't stop, I won't stop. Let me fight for you. Let me help you get your life back.

Notes:

Preface

I created this Book to give you and your family insight into the process of criminal defense, so you will worry less, feel more in control with what is happening 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 an in-person consultation with a qualified criminal defense attorney. However, it should answer many questions that have kept you up at night since the arrest.

To that end, I 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.

You can flip to the end of the book to learn more about how to speak with me personally and get clarity about what to do next!

Notes:

Justice and Fairness 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, you must always remember and appreciate that you retain substantial rights. It doesn't matter what you've done, you still have a right to a defense.

For instance, police generally must inform you of your "Miranda Rights", the rights to avoid self-incrimination, if they are going to question you. You also always have the right to a defense lawyer.

Following your booking, you will be able to go before a magistrate 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 tail-light 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, insinuating that 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 incensed and scared, Manuel kept his cool and avoided making the situation worse by saying bad things to police officers, acting in an aggressive manner or trying to flee the scene.

The lessons here are simple:

- Be civil and courteous.
- Avoid making self-incriminating statements. If in doubt, just remain silent.
- Speak with a qualified lawyer as soon as possible to protect your rights. You have a right to a lawyer before you answer any questions to the officers, but you have to ask, and that request must be very clear. “I want a lawyer before I say anything!”

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 DUI accident, police held Monica on a \$500,000 bail, because they feared based on her history (she had been convicted twice for DUI) 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 purchased a bond through a bail bondsman to secure his freedom.

Justice and Fairness 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, because it violates the supreme law of the land.

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 search and seizure.

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 great 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.

Justice and Fairness 3:

What is an arraignment hearing?

After your arrest, as mentioned, you see the magistrate judge who must 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 your learning about the charges.

At the next hearing, your arraignment 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 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-family violence 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).

Justice and Fairness 4:

What will happen at my grand jury hearing?

When pursuing serious felony charges against a defendant, states 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 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 are 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. Sometimes the defendant or his attorney, can get to the grand jury foreman and secure an invitation to be heard, but this is very rare.

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. There is a joke around that a grand jury will

indict a ham sandwich, to some degree, it's true. 'No bills' do happen, in which the charge is rejected, but again, it is very rare.

Of course, the defendant always retains his constitutional rights, and there is plenty of opportunity for his attorney to dispute the admissibility of certain evidence throughout the case. 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 aggravated assault (may be considered family violence) 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 prosecutors are currently deciding whether or not to pursue their case against Trevor.

Justice and Fairness 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-a-half glasses of wine at an art expo.

While being booked for his misdemeanor DUI, 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 DUI, 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.

Justice and Fairness 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.

Justice and Fairness 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 have to 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 yourself 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 - "Would you mind if we did that? 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 policemen 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.

Justice and Fairness 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 are to be heard.

Angela's attorney arrived and greeted her and then discussed her case with the prosecutor, touching on the evidence and the circumstances. The lawyers went over plea deals and briefly mentioned diversion programs to keep

Angela out of jail. After doing that negotiation 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.

Justice and Fairness 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 proven guilty in a court of law. For the prosecutor to convict Trevor of his felony drug possession and related 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 cannot be used against him to achieve a conviction.

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 ev-

idence and witness testimony. Because the prosecutor has the burden to prove his 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.

Justice and Fairness 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 jurors 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 surrendering his appeal rights). Misdemeanors generally need to be appealed within 30 days of the judgment, and felony (more serious crimes) appeals must be filed 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.

Notes:

Justice and Fairness 11:

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

It seems appropriate 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 even obtained a promotion within a few weeks after returning to her desk.

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

Depending on the nature and circumstances of your crime, you could face the problem of a professional license suspension, higher insurance premiums, or loss of prestige in your office and 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.

After being convicted of an assault charge against his girlfriend, Cory lost a hard-won position teaching history at

the private school where he had been educated.

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 his name 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 is not 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 can be cleared of these charges.

Justice and Fairness 12:

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 killed or seriously hurt 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 innate 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.

Justice and Fairness 13:

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

Jose'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 the till, Jose attacked the man's friend in the parking lot and found himself handcuffed and charged with assault. As a result of this background, Jose figured he could represent himself in court. After all, this was the approach he had used to start and grow his business.

Jose 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. Jose 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 Jose'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.

Justice and Fairness 14:

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 DUI, 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 Avvo and the peer review service, Martindale-Hubbell.

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

While he did consider cost, he knew that his matter was too serious to cut corners. (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, such as:

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

- 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?

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.

Justice and Fairness 15:

Why should I work with your criminal defense firm?

I am so sorry that I am meeting you at one of the worst moments of your life, but I know you will be so glad that now is the time that you are meeting me. I am not the only attorney out here, but I am one of a few who will work for you.

You likely feel like you have been wronged, or that this situation has no way out, but I want to help get you through that. I have worked on all levels of criminal offenses and charges. I not only talk the talk, but I walk the walk. I show up on time, and I don't leave you sitting there all day, just waiting on me. If I am going to be late, because I am answering the call in another location, I try to make sure that you are aware of my tardiness.

My office and I return your calls and messages because I know that you are scared and that you want to know what's going on with your case. You hired me to help you to get your life back, and that's exactly what I do. This task is not always easy, but I don't back down from a challenge. The only thing I ask is that you show me the same respect that I show to you, and that every one of us deserves.

Notes:

Take Action

As we end, I wanted to thank you again for taking the time to read this brief guide and allow me to explain some of the key ideas of criminal defense and what to consider in choosing the right attorney for your case.

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

Normally, I charge for consultations with prospective clients (\$200 for a 30-minute strategy session, or \$300 for an hour). But I would like to offer you, as an appreciation of reading this book, an opportunity to speak with me for free. Just mention you read this book when you call my office at 855-220-2308 and we will waive your fee.

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!

Notes:

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