# Criminal Defense Overview

## Differences Between Misdemeanors & Felonies In State & Federal Court

### Being Charged In State Court Or Federal Court

In state court, depending on the facts, the attorney is usually able to resolve a case so that the charge is eligible for probation and his client isn't going to spend any time in prison. In federal court, the penalties are much more severe. There are mandatory minimum sentences. The Federal sentencing guidelines (FSG) calculate a range of punishment. Your criminal history and the offense level will determine how long someone will spend behind bars. Obviously the more serious the crime and the more extensive the criminal history, the longer the sentence will be. Judges are not bound by these guidelines. They can sentence you to more time or less or even to probation, but usually they will follow the FSG.

In federal court, if you are convicted of a white-collar crime such as wire fraud, securities fraud, bank fraud, money laundering or any other similar crimes, you will go to prison. So, the way your case is handled makes a huge difference. We will fight to keep the case in state court so the possible outcome is not as severe. It is much easier to resolve the case so that your client does not go to prison.

There is also another type of court called Municipal court which handles misdemeanors committed within the actual city itself. Those cases are heard in Las Vegas Municipal Court, Henderson Municipal Court and North Las Vegas Municipal Court. The most serious crimes that the municipalities face are misdemeanor DUIs and misdemeanor domestic violence cases. For a felony or a gross misdemeanor charge, even if it takes place within the city, municipal courts do not have jurisdiction, so it would be prosecuted by the State or by the Clark County district attorney's office.

Oftentimes, when someone is arrested within city limits for something such as possession of drug paraphernalia (a misdemeanor) or possession of cocaine (a felony), the paraphernalia charge will be handled in the municipal court whereas the felony charge will be prosecuted in justice court even though it's part of the same incident.

When this happens, attorneys like to do what's called a 'Global Resolution' and resolve both cases at the same time. That's obviously better for the client. Usually, when it's a drug case and is a straight possession charge as opposed to possession with intent to sell, attorneys are able to knock down the charges to a misdemeanor and in a best case scenario, have it dismissed.

Oftentimes, attorneys also do something called a 'Deferred Adjudication,' which means that the client who was charged with the felony will usually plead to the misdemeanor charge and then the court will withhold adjudication, which means they won't enter it as a conviction. Generally, the client will need to complete

some requirements, such as completing drug counseling, paying a fine and community service. If everything is successfully completed, then the case will ultimately be dismissed.

Once the case is dismissed, a record can then be sealed. Sealing a record is a separate procedure. It's a civil procedure in which you obtain your criminal record, also called scope, which shows that you were arrested and what you were charged with. The criminal record will also show that the case was resolved and dismissed. However, if anyone were to look, they would see that you were charged with a crime. This is when the procedure of Sealing The Record would be beneficial.

### Sealing The Record

To have a record sealed, you will need to get the scope, or a copy of your criminal records. You will then file a 'Petition to Seal' in the district court. The DA generally doesn't object unless it's a sex crime or something similar. Once the record is sealed, if any employer or someone else were to look at your criminal record, it will not show anything. Under Nevada law, if somebody asks, "Have you ever been arrested or convicted of a crime?" you can truthfully say no, after a record is sealed.

When it comes to a timeline for sealing a record, if a case is dismissed or if you go to trial and you are acquitted, you may seal it immediately. In case of a 'Regular Misdemeanor' conviction, which isn't domestic violence or a DUI, you may seal it two years after the case is closed. If you plead guilty and paid a fine to possession of drug paraphernalia, and as part of your sentence, you had to stay out of trouble for a one-year period, the case would not be over until you finish that year. Once the case is closed and the two years lapse, then you may seal your record.

## Penalties Of Misdemeanor And Felony Convictions

### Felonies And Gross Misdemeanor Crimes

The difference between a misdemeanor and a felony is that a misdemeanor will stay in justice court. The most you could be sentenced to would be six months in the county jail and the highest fine would be $1,000.

If you're charged with a gross misdemeanor (GM)or a felony, you'd be entitled to a jury trial. The maximum penalty is one year in the county jail and up to a $2,000 fine for a GM. If you are convicted of a felony, you'd be subject to Nevada state prison for at least one year. There are lower level felonies that are one to five years or one to six years and those are generally eligible for probation.

Some felonies are not eligible for probation, however. Those would include crimes such as sex crimes, including lewdness with a minor under 14. In cases like that, the attorney will try and resolve it to something that is probationable such as attempt lewdness or statutory sexual seduction. That would be a gross misdemeanor or felony depending on the age and the sentence is one to five years in the state prison but it is eligible for probation.

# How Are Criminal Cases Handled In Court?

For both gross misdemeanors and felonies, if you're charged by a complaint, it means that a district attorney has reviewed the police reports and decided there is enough evidence to move forward.

First, you go through a preliminary hearing, which is called a 'Probable Cause Hearing'. This means that the state needs to prove there is probable cause to move forward and which is to say, the state should be able to bring this person to trial.

An important fact to consider in these cases is that there is a different standard of proof. During the preliminary hearing the standard of proof is slight or marginal evidence. Once you go to trial, the standard of proof is beyond the reasonable doubt, which is much higher.

The reality is that the truth never changes. If something really happened, then what you say when you talk to police, during the preliminary hearing and at trial should all be the same.

There may be minute variations but if somebody says one thing in the police report and another at the preliminary hearing, obviously they can't both be true. The prosecutor will most likely assume a person is lying and judges, obviously do not appreciate that. Things like these happen often, and most of the time when a client changes their story, that hurts their case.

**What Happens In Federal Court?**

In federal court, the first hearing is in the initial appearance. There will be a complaint filed. There'll usually be an agent from the FBI, DEA or maybe even a customs agency. The agent may say, in the complaint "I am Mr. Smith and I worked for the DEA for 16 years. I've handled hundreds of investigations involving controlled substance. In this situation, I saw John Smith meet with other people, have a scale, weigh things, meet with people in cars and talk about certain things on the phone. In my training and experience, I believe he was committing the crime of distribution of controlled substance or conspiracy to distribute controlled substance."

Before the preliminary hearing, the prosecutor will present the case to the grand jury and the grand jury will hand down what's called a "True Bill," which would be an indictment. In federal court I have NEVER seen any case proceed to a preliminary hearing. The Federal Government will always indict, unless a deal is worked out prior to the filing of the indictment, and the client may "proceed by information" (an information is another word for complaint ) which means the client waives the right to be indicted and the information sets forth the crimes to which he is pleading.

**What Does Charged By Indictment Mean?**

In addition to being charged by complaint, you can be charged by an indictment. That means that your case was presented to the grand jury which is 18 to 23 people. The prosecutor would present any evidence they want and the defense lawyer is not allowed to say anything, though the client can testify. However, that is not usually a good idea. I always advise my clients not to attend.

### What Happens When You Go To Trial And You Lose?

If you go to trial in state court and you lose, you may file an appeal which either goes to the Nevada Appellate Court, or the Nevada Supreme Court. If it goes to the appellate court, that will be the last hearing. If you lose, that is the end of it. You can request a Supreme Court review but it's not often given. If your case does go to the Supreme Court, it would be one involving life imprisonment such as murder, first degree kidnapping, or a death sentence. There are seven justices on the Nevada Supreme Court and they have what's called a Northern Panel and a Southern Panel with three justices sitting on each.

Normally, those panels will make the final decision. However, if the conviction is affirmed, the defendant can request an "En Banc" hearing.' This means all seven of the justices will hear the case and rule. In most cases, once the three-judge panel makes the determination, the Supreme Court will not rehear the case.

Nevada is in the 9th circuit, which is a federal appeals court for several states: Nevada, California, Arizona, Montana, Washington, Hawaii and Oregon. If you have a federal case in any of those states you would try it in the Federal District Court. If you appeal, then it goes to the 9th circuit court of appeals.

If you lose at the 9th circuit court of appeals, then you can file an appeal to the U.S. Supreme Court on federal constitutional issues. However, U.S. Supreme Court only handles 1 in 7,000 cases. Another way you can get to the U.S. Supreme Court is if you are convicted by the highest court of the state, such as by the Nevada Appellate Court. You may file a 'Writ of Certiorari' I won a case in front of the U.S. Supreme Court.

## What Are Some Things To Know If You Have Been Arrested For A Crime?

### You Have The Right To Remain Silent

When individuals talk to the police, they have an obligation to tell the truth, however, police do not have the same obligation. One of the things someone being questioned may think is, "Well, you know, if I just talk to the police, they'll believe me and I won't be accused of a crime. If I cooperate when they ask me questions, it will be better for me." That's not true at all.

When police question a suspect, they are trying to develop information during their investigation that will help convict that person. In cases in which there are co-defendants, the police will often say, "Well, Mr. Smith said that you were the one that stole this television and he is willing to so testify If that happens, you are going to go to prison. It will be easier on you if you just tell us what happened". Oftentimes, the other person isn't going to say anything and the police haven't developed enough evidence to convict the client, but if the client cooperates by being nice, it gives the police incriminating information.

This can very well be explained by an analogy that says, "What's one of the similarities between a fish and a criminal defendant? If they kept their mouth shut, they wouldn't have been hooked."

People like to talk, and in situations like these, they feel they must talk. Everyone knows about Miranda Rights, "You have the right to remain silent. You have the right to an attorney. If you can't afford one, a

lawyer will be appointed to you at no cost to you.. If you say anything that's incriminating, it can be used against you in the court of law." The best thing in these cases is not to say anything at all.

Sometimes, it's difficult to remain silent, and police may try and bully you. For example, many times, in DUI cases, the police will ask questions. But the less you say the better. You must provide your license registration and proof of insurance because you need to identify yourself. However, you don't need to answer any other questions.

**Do Not Lie To The Police**

The worst thing you can do is lie. Police will ask if you have had anything to drink and may say you smell of alcohol. The client may answer no. In such a case, the police officer could charge you with giving false information to police, which is a felony, in addition to charging for the DUI. You are advised not to say anything at all in such situations.

Case law says that unless you specifically invoke your right to remain silent, the police can keep asking you questions. In such a case, you can say, "I'd like to invoke my right to remain silent," or, "I would like to exercise my right to self-incrimination", or simply, "I'll take the Fifth"

Although that's the best thing to do or say, but if you've been drinking, it's going to be difficult for you to articulate that without slurring your words, which itself is an indication of driving under the influence. So say as little as possible " I take the Fifth!"

**What If The Police Office Asks Me Questions?**

Oftentimes, the police will say, "Well, if you have nothing to hide, why won't you say anything?" In this case, the person should say, "My lawyer advised me not to talk to law enforcement without him being present". If the officer persists again, the person can say, "I do not want to say anything".

We usually give our business card to clients which has certain things written on the back that the client should know. When asked questions, rather than saying anything, the client can present the officer with that business card. On the back of the card it reads, "I want to exercise my right to remain silent and consult with my lawyer without exception. I do not want to talk about giving up my rights until I have consulted my lawyer. I want to call my lawyer. I do not consent to a search of any kind, any test, any lineups or any other identification procedures. I do not agree to any of these things without my lawyer present. I do not want to waive any of my constitutional rights". That's pretty definitive.

If the officer continues to ask questions after the client has unequivocally asked to invoke his right against self-incrimination, and the person answers them, that would be a violation of that person's rights. Based on that violation, their attorney would be able to get the evidence (The Defendant's Statements) thrown out. The lawyer would file a Motion to Suppress evidence. This motion can be filed because the evidence was gained unlawfully as the client invoked his right to remain silent and the officer continued to question him. Or the officer may have conducted an illegal search. Once the evidence is suppressed, then the prosecution must go forward without it.

# How Do Miranda Rights Come Into Play In An Arrest?

### Know Your Miranda Rights In A DUI Case

Everyone knows what Miranda Rights are. They've seen them on T.V, and could probably recite them by heart. One common misconception is that if you are not given your Miranda rights, your case must be dismissed but, that is not accurate. Usually in a DUI case, the officers will not inform you of your Miranda Rights. Many clients will say, "They didn't inform me of my Miranda Rights, so the case has to be dismissed".

Well, that's not the case. Miranda Rights protect you against Self-Incrimination i.e. Statements that you made that would be incriminating in which you were not given your Miranda Rights. For example, if you're in police custody and they ask, "Did you steal this television?" and you say, "Yes," without being Mirandized, they would not be able to use that statement against you as evidence in court.

### What Happens During A DUI Stop?

In a DUI case, after they pull you over, the police will often have you do roadside tests, which are referred to a as field sobriety tests (FSTs). One is the Horizontal Gaze Nystagmus (HGN) test. In this test the police officer will stand in front of you and move his finger or a pen back and forth in front of your face and have you follow it with your eyes without moving your head. If you do this test and your eyes show Nystagmus, which is involuntary jerking of the eye, this is an indication of being under the influence of alcohol.

Another test they will often have you do is the Walk and Turn test. This is a test in which you walk a straight line, heel to toe, nine steps forward, turn around and walk nine steps back. They will often demonstrate this but they won't say anything else. If you use your arms to balance, (which is completely natural) or if your heel is not close enough to your toe or if you step off the (real or imaginary) line, these are clues that you have failed the test the police will say that that this indicates that you are under the influence of alcohol. Therefore, you will fail. It's very difficult to pass this test. The scoring is subjective, you are not informed of some things that you are not supposed to do, i.e. use your arms for balance. Or maybe your heel is not close enough to your toe., but you were never given an exact distance between your heel and toe that would be considered too far apart.

A third test that is often given is called the One Leg Stand. You must hold one leg up off the ground for 30 seconds. Many times the officer will have you count One -one thousand, two one thousand, 3 one thousand etc until you reach 30. Some people can't pass this test stone-cold sober and others have medical conditions, that might make this very difficult, i.e. inner ear problems prior surgeries to the legs. Most people don't normally hold 1 foot up for 30 seconds It is unnatural. The interesting thing is whether the police officer reads you your Miranda Rights or not, it doesn't matter because the field sobriety tests are not testimonial. You didn't SAY anything that incriminated yourself. It was your actions.

### What Are Some Misconceptions Regarding Miranda Rights?

One common misconception is if they don't read you your rights, then the case will be dismissed. This is not the law. Any statements that you made that were incriminating, while in police custody (you were not free to leave), if you were not read your Miranda Rights, those statements must be suppressed by law. But it doesn't mean that your case is automatically dismissed.

For example, if you shot someone and you're charged with battery with a deadly weapon, with substantial bodily harm and police take you into custody, if they don't read you your Miranda Rights, and you say, "I shot Johnny," (If it's not suppressed) that would be incriminating. Based on that statement, you could be convicted.

In addition to your statement, if there is someone there who says, "Yes, I saw Mr. X shoot Johnny." Even if they suppress your statements, you would be convicted. If there is additional evidence such as an eyewitness you can still be convicted, and your case won't be thrown out.

However, if the only evidence they have is your statement and your statement is illegally obtained, because you weren't given your Miranda Rights, then the prosecutor would not be able to proceed.

## What Are Ways People Incriminate Themselves During Or After Arrest?

### What Are Some Ways By Which People Unintentionally Incriminate Themselves Or Hurt Their Case?

In a DUI case, if the suspect is out of the car, when police arrive, the state must prove driving or actual physical control within two hours of the chemical test. A lot of times, the person is standing by his car and they ask, "Is that your car? Were you driving?" If someone answers yes, because of that, the driver has essentially convicted himself of DUI if his blood alcohol level is over 0.08.

There are other defenses. The police didn't see you drive, or they can't put you behind the wheel, or they can't prove driving within 2 hrs of the chemical test. If they first made contact with the driver while parked, or the police don't know how long ago this person parked the car so they can't prove beyond a reasonable doubt that his blood alcohol level was over 0.08 within two hours of driving. If you drink after you have stopped driving, that is not illegal. If you are over the limit but you did not drink until after you stopped driving, that's a defense to DUI. But this defense that must be pleaded specifically. If you are going to testify that you did not start drinking until after you stop driving. You need to inform the prosecutor of this fact, or you will be precluded from using it.

### Talking To The Police

Many times, the police may ask something like, "Didn't you and Mary stab this person?" If someone were to answer, "No. Mary and I were there but I didn't stab this person. Mary did "under the theory of aiding and abetting or under conspiracy theory, you could be convicted. If you didn't say anything at all, the police would have to develop other information. People tend to talk too much. They think, "If I just say this, they will let me go," but it usually doesn't happen that way.

Police are trained to obtain incriminating statements and to intimidate people. Their job is to get a conviction. Once they have a suspect, for the most part, they determine that this is the person that committed the crime and they focus their investigation on that one person.

Sometimes, it may have been someone else but the police were so focused on you as a suspect that they do not consider any other suspects. The police question someone, but if that person didn't invoke their right to remain silent or ask for a lawyer, they will keep asking questions and doing whatever they can to get a conviction.

Sometimes, people also will make false confessions, "Yes, I did it. Just let me out of here." This is a huge problem. Or they may think, "I'll just tell the police what happened but I am not going to tell them that I did anything wrong." Sometimes just putting yourself at the scene is enough. That's how you can incriminate yourself.

## What Are Some Things To Know When Facing A Criminal Charge?

### What Should I Do If I Want To Confess And Just The Case Over With?

The first and most important thing to know here is that whatever you did or did not do, you need to discuss it with an attorney. Anything you tell him will be protected by the attorney client privilege. You're not guilty until you're found guilty or until you plead guilty. The attorney may or may not ask whether you committed the charge. The answer could be yes, and your attorney could never disclose that fact unless you gave him permission. It doesn't really matter what you did or didn't do. What matters is what the state can prove beyond a reasonable doubt. An attorney should be contacted immediately.

### Things To Know If Someone Is Stopped At The Roadside For DUI In Nevada

It is never advisable to take the roadside tests. You cannot be forced to do them and you have a right to refuse. Most of the time, police will try and bully you into taking the tests. They'll also have a portable breath tester at the scene and they will ask you to blow into that. You are not required to do this either.

The Nevada case called Byars vs. State codified a Federal law which said that if one doesn't consent to a blood draw, then the state must get a warrant before they obtain one. In Nevada, you have a constitutional right not to submit to a blood test without a warrant. That's the good news. If you don't submit, by the time they get a search warrant and they do take your blood, if it is over two hours, then that helps your criminal case. If they are not able to get the chemical tests within that time frame, they cannot use it to prove that your blood alcohol level was over 0.08.

Unfortunately, in 2015 the Nevada legislature passed the law that said if you do not consent to a chemical test, such as a breath or blood, and are suspected of driving under the influence, in addition to any other penalties, your license will be revoked for one year.

In a DUI case, if you don't take the test, that increases your chances of winning. That's the criminal case. However, if you don't take the test, then you will lose your license for an additional year after the 90 day revocation that you will get if you are convicted of a DUI or lose the DMV hearing.

If you are going to take the rest, the blood test is more accurate than the breath test. So if you know you do not have a lot of alcohol in your system, take the blood test. If it's close to the 0.08 limit, the blood can

be retested, and often, it will come back a little less. If it comes out less, it can't be proven beyond a reasonable doubt that your blood alcohol level was over a 0.08 at that time.

An attorney would generally resolve such cases so that it's a non-DUI disposition. A common disposition in a case where there is a witness problem or the blood alcohol level is close to the limit would be a "stayed of adjudication." This is how a stayed adjudication works. You would plead guilty to your first time DUI, the court would not enter the conviction. You would need to do the minimum DUI requirements including attending DUI School and a victim impact panel (VIP), both are required by statute in all DUI cases. The VIP is a two-hour seminar put on by people whose lives have been adversely affected by a drunk driver.

The DUI school can be done in-person or online, which I recommend because it takes less time. Also, you will need to pay a fine. If you can't afford it, you may do community service and you'll be paid $10 an hour. So instead of paying $500, you could do 50 hours of community service but it is recommended that people pay the fine as it's much less onerous.

In addition, there may be other requirements, such attending AA once a week for a period of time along with community service. If you successfully complete all requirements and stay out of trouble then you will be able to withdraw your plea and enter a plea to reckless driving, which is not a DUI. That doesn't subject you to the possibility of a second time DUI.

In California, the laws are different than Nevada. They have something called a Wet Reckless, which means if your DUI is reduced to reckless driving and it is considered a wet reckless, if you are convicted of another DUI, that wet reckless becomes a DUI for enhancement purposes. In both California and in Nevada, if you are convicted of a DUI three times within seven years, the third time becomes a felony which carries a non-probationable penalty of 1 to 6 years in Nevada state prison.

## What Is The Sequence Of Events In A Criminal Case?

### What Should Someone Do If They Are Stopped And Interviewed By The Police?

If the police confront you, you need to identify yourself. If you do not identify yourself, most likely you're going to get arrested. Lots of times, especially in sex cases, police will say, "Hey, so and so has accused you of doing this. Would you like to come in and tell us your side of the story?" Many people go down to the police station and willingly incriminate themselves. It is always advised not to talk to the police.

### Get In Touch With An Attorney

Sometimes, people are uncomfortable. They'll say, "Well, the police said I had to meet with them," but the reality is you don't. If you hire an attorney, he can write a letter to the policeman saying, "Hi, I represent Mr. Smith. It's my understanding that you wanted to talk to him regarding an incident that allegedly took place. I have advised him not to speak to law enforcement, so he will not. Please do not contact my client directly. If you'd like to discuss this situation, please contact me. If you decide to charge my client with a crime, please send the summons to me".

This lets the police know who is representing you it also tells them that they can't talk to you. In that case, the police can send the summons to the attorney who will appear at the client's initial arraignment, which is the first court appearance.

The police can either send the summons to a person saying "You've been charged with the crime, you need to come to court on a specific date," or they can swear out an arrest warrant, which means they will go out and arrest the person and then there will be a first appearance, usually while the client is in custody. An attorney wants to make sure this doesn't happen.

When the attorney contacts the police and writes the above mentioned letter, if a summons is sent out, it will be sent it to the attorney, who will appear at the first court date, plead not guilty on his client's behalf, set a preliminary hearing date or a trial date and get a copy of the discovery; police report's witness statements, blood analysis, etc. The attorney will then go over this information with the client and figure out which way to proceed from there.

**What Happens If There Is An Arrest Warrant?**

If there is an arrest warrant and the attorney discovers it, he files a motion to quash the warrant and bring their client into court, the attorney may present the letter and say "My client knows he might be charged with the crime and he is not going to go anywhere. He is not a flight risk and is not a danger to the community. I have been retained for all stages in the proceeding." More often than not, the judge will quash the warrant and grant what's called a O.R release, (release on your own recognizance), which means you don't need to post bail.

However, because there was a warrant, the client has to do what's called a "Walk Through". They will have to appear at the Clark County Detention Center to present themselves in order to be processed and then they will be released. It sounds like a pretty simple process. However, as the jail can be backed up, the process could take up to 12 hours.

In the event there is an arrest warrant and the client is out of state, depending on the circumstances, the attorney may be able to get the warrant quashed without the client's presence. The client doesn't need to return unless they proceed to trial. Often a written entry of plea will be accepted by the court in misdemeanor cases so that the client does not need to return at all.

**Entering A Plea**

In the waiver of appearance and entry of plea, document, there must be a waiver of rights that says, "I recognize I have the right to remain silent and the right to proceed to trial, the right to call witnesses on my own behalf, the right to confront the State's witnesses and the right to make the State prove their case beyond a reasonable doubt. I am waiving these rights, the attorney can appear for the client and conclude the case.

In some cases, depending on the situation, a suspended sentence may be imposed. (If the client does everything he is supposed to do, there will be no jail time.) For instance if someone pleads guilty to a crime, such as misdemeanor possession of controlled substance, he will usually attend and complete drug counseling, pay a fine, and agree to stay out of trouble. If he doesn't successfully complete all

requirements, he will be convicted of the crime, the suspended sentence will be imposed, and there will be a jail sentence that he must serve.

In this type of situation for an out of town client, the attorney must do a written entry of plea. But, If the case is resolved and there is no suspended sentence, the attorney is able to enter the plea on behalf of the client without a written agreement. For example, the attorney may say, "Your Honor, I have authority to enter this plea. My client will plead no contest to possession of controlled substance, will pay a $500 fine and will complete lower court counseling."

In other cases, in which the attorney is able to make a deal ahead of time, the matter can be closed during the first court appearance. The attorney would say "Your Honor, here is the completion certificate for the lower court counseling. I have my trust account check for the $500 fine. At this time, I move to have the case dismissed." The attorney will then present the judge with an order dismissing the case and at that time would be able to seal the record.

## What Issues May Come Up When Defending A Criminal Case?

### What Effect Do Prior Arrests Or Prior Convictions Have In A Criminal Case?

When someone is arrested, there obvious first reaction is that they want to get out of jail as soon as possible. The best case scenario is that, you will be released on your own recognizance, meaning you do not have to post bail. However, if you have a previous conviction, you most likely will have a bail set. Depending on what the offense is, there is usually a standard bail, as set by law.

If you have a prior arrest or conviction, it's more likely that you're going to have a higher bail or in some cases, you may not get bail at all. This may be for charges of some sex crimes or in murder cases as well. Under the U.S. Constitution, you are entitled to a reasonable bail except in a capital case. In the capital case, they can deny bail altogether.

Bail can be paid in several ways. For example, if the bail is set at $5,000, you can post cash bail, which means you post the entire amount with the court. At the end of the case, assuming you showed up and did everything you were supposed to do, you will get the $5,000 back. In the event you don't have the $5,000 and want to be released, you might hire a bail bondsman. A bail bondsman will post the $5,000 and you will pay the bail bondsman 15% of the actual bail amount. This 15% is mandated by Nevada law.

If you don't show up for court, the bail bondsman is then on the hook for the full amount of the bail, which would be forfeited by the court. This is the reason why bail bondsmen have the authority to find and arrest people. They can hire bounty hunters. It's in the bail bonds company to apprehend the clients that have absconded. Should this occur, the person would not get out of jail until the case is resolved, if at all. The bail bondsman would have the bail he posted returned.

### Keeping The Person Out Of Jail

Oftentimes, the attorney can make a motion for bail reduction or release on your own recognizance. Sometimes, bail conditions might even be suggested by the attorney, such as proposing, if the client is

released, he should be required to of wear a GPS monitor. The authorities will know where he is at all times. They can subject him to house arrest which means he would have to remain in his home unless he has permission to go to work, see his attorney, doctor, etc.

They can subject a person to what's called "Intensive Supervision" so even though he's out on bail, he has to check-in person at the Probation Department or Pre-trial Services Department every week just to make sure he is not absconding.

**Costs of Being Charged With A Crime**

First, the client has the cost of hiring an experienced attorney. They also have to pay bail, and in order to properly defend the case, sometimes an investigator or an expert may be needed, which is the client's responsibility, and that also costs money. In some cases, the attorney may be able to get the court to pay for an investigator or an expert.

Cases which involve a lot of costs which the client cannot pay, an attorney will file a motion with the court saying, "Your Honor, my client is in custody. He can't help me investigate this case. Based on that fact and the fact that he's indigent, I would like the court to appoint an investigator to assist me," and generally they will do it.

This happens especially where the client is in custody. The court will generally appoint an investigator, a ballistics expert, an accident Reconstructionist, or a DNA expert if it's appropriate in that particular case.

**What Are Some Things To Know When Facing A Criminal Charge?**

The number one thing to know if you are accused of a crime or if police want to talk to you is, don't talk. You can always talk later. Do yourself a favor and discuss your matter with an attorney first. When you discuss the matter with your lawyer alone, there is an attorney-client privilege. Even if you tell the attorney that you have committed the crime, the attorney will still be able to defend you and you can plead not guilty.

In a situation in which the client admits to the attorney that he has committed crime, the attorney has an obligation to the court not to put on perjured testimony, The attorney can't and won't put the client on the stand and have him say, "I didn't do it". The attorney will instead make sure the State can't prove its case by using various techniques including cross-examination and discrediting adverse witnesses. If there is physical evidence that doesn't fit the prosecution's theory, the attorney can also bring that up. Sometimes, going to trial is not in the best interest of the client. In a plea bargain, it's the attorney's job to get the most favorable result possible.

An attorney's first job is to keep their client out of prison. If they can do that, it's a win. Their second job is to avoid having their client convicted of a felony. When someone is convicted of a felony, they can't own a gun, can't vote, can't serve on a jury and there are other rights that will be taken away. The final thing is if the attorney can walk out of court with their client and have the case dismissed that is a grand-slam home run.

**What Sets Mace Yampolsky & Associates Apart In Handling Criminal Cases?**

Attorney Mace Yampolsky has more experience than most lawyers and a proven track record of getting great results for his clients. He has been practicing criminal law for over three decades and is a certified criminal trial advocate by the National Board of Trial Advocacy Attorney Yampolsky is AV rated, which is the highest rating from Martindale-Hubbell, an independent review by attorneys and judges regarding your legal ability.

He has obtained several murder acquittals and has had numerous murder cases dismissed. He has also won many drug cases and white collar crime cases as well as large cases in federal court. He won a case at the U.S. Supreme Court level which is the crowning achievement of a lawyer. He is also certified as a criminal law specialist by the Nevada State Bar.

He is licensed in Nevada, California, Washington DC, Colorado, and Massachusetts.

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- Should People Take Roadside Tests?
- What Are The Requirements For A DUI School?
- What Is The Outcome For Completing The Minimum DUI Requirements?