1-800-NoCuffs

CALIFORNIA LEGAL GUIDE

DUI Law

Criminal Law

Appeals

Post-Conviction Relief

ATTORNEY
Darren Kavinoky
FOUNDER

NoCuffs.com

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INTRODUCTION

WELCOME TO 1-800-NoCuffs®

If you've been arrested (or you're about to be), I know your stress levels are off the charts.

*Our mission is to do whatever it takes to bring you peace of mind. If you entrust your case to **1-800-NoCuffs**, things will be better. Everything, absolutely everything we do here is designed to fulfill on two goals:*

Deliver you the best possible results in court, and Deliver you the best possible experience of being our client.

We've represented nearly 20,000 people just like you in the two decades (plus) that I've been practicing law. I know that one thing that really matters to people in this situation is their driving privileges, which is why I created a special DMV unit that's focused on only one thing; saving your license. I know that our unique approach works.

***Our win rate is nearly double the statewide average.** But remember, you've got only **10 days** from the date of your arrest to request a special DMV hearing and avoid your driving privileges being automatically suspended (even if you live out of state). So the time to act is now.*

Our team of lawyers include lifelong defense lawyers, former prosecutors and police officers who have advanced training in biology, chemistry and forensic sciences.

Being able to understand and advocate against the "junk science" the prosecution relies on is critical to unraveling a DUI case.

All of our lawyers are certified in Standardized Field Sobriety Testing protocols and the mechanics of breath and blood testing, so we know how to put science on your side.

There are more than 59 reasons why breath and blood tests can be wrong, and most importantly, we know how to harness these issues to drive the best possible result in each case.

As you've probably figured out already, most of the lawyers that defend criminal cases are one-person operations. They've got to waste time doing lots of other things that relates to their need to operate their business, and takes away their focus from the only thing that matters to you, namely, your case.

We do it differently here. *I've built this Firm so that the lawyers who work with me don't concern themselves with answering the phones or getting office supplies,* ***they only invest their time in helping you.***

If you've requested a consultation, within the next few hours you'll be contacted by one of our experienced attorneys.

Our team of lawyers are available 7 days a week, 365 days a year, so please do not hesitate to call our office at any time.

The time to act is now. You need someone with the expertise to solve this problem for you. Let us kick ass for you now, we'll worry about getting the names later.

Darren Kavinoky

Founder of 1-800-NoCuffs®

"WE CAN'T BEGIN TO EXPRESS OUR GRATITUDE AND APPRECIATION FOR THE EXCELLENT REPRESENTATION THAT YOU AND YOUR FIRM PROVIDED"
—D.S., Orange County

"I HAVE NOT MADE THIS STATEMENT SINCE I WAS A TEENAGER, BUT I FEEL IT'S APPROPRIATE NOW; YOU'RE A ROCK STAR! THANK YOU!"—
L.E., Los Angeles

CHAPTER I:**DUI (DRIVING UNDER THE INFLUENCE)**

HOW DO YOU CHOOSE A GOOD LAWYER?

Choosing the lawyer who will fight your DUI charge is one of the most important decisions you'll ever make. The old saying that you get what you pay for, is never more true than when it comes to DUI defense.

Any general practice lawyer can underbid the competition and help you plead guilty. However, attorneys who focus on DUI defense spend years gaining the legal and scientific knowledge necessary to effectively handle a drunk driving case.

Think of your DUI case as you might consider a medical problem, if you had a problem with your kidneys, you wouldn't visit an eye doctor or an orthopedic surgeon. Similarly, DUI defense is extremely complex and technical, so you don't want to entrust your case to a general practitioner or an attorney whose focus is on an entirely different area of law.

However, if you don't have any experience with the criminal justice system, how will you know if a prospective attorney is the right one for you? While there are never guarantees in life, there are some indications that a DUI lawyer is qualified to handle your case.

1. **Years of experience.** Obviously you don't want to entrust your DUI case to an amateur. The more experience your prospective DUI lawyer has, the more he or she will be prepared to handle the details of your particular case.

2. **Memberships in professional organizations.** Active membership in professional groups dedicated to DUI defense is an excellent indication that your prospective attorney has the knowledge you need to aggressively fight your drunk driving case.

3. **Specialized training.** Ask your prospective DUI lawyer if they received advanced training in blood and breath testing protocols and field sobriety testing. Your potential DUI attorney may even own the type of breath testing machine that's used in your jurisdiction.

4. **Track record of success.** Your prospective DUI attorney should be able to tell you about similar cases that were resolved successfully for their clients. Keep in mind that a favorable resolution means different things to different people.

5. **Teaching seminars to other attorneys.** Ask your prospective DUI lawyer if they've been invited to teach their peers at seminars and workshops. This is an excellent indication that the attorney you're considering is respected by his or her peers.

6. **Communication and response time.** You'll realize how important this is the first time you have a pressing question about your case. How long will it take your prospective attorney to return your phone call or answer your email? How often will your defense lawyer update you about the status of your case? Is your new attorney willing to give you their cell phone number or will you be limited to calling during office hours?

> *"THEIR FINANCIAL FLEXIBILITY ALLOWED ME THE PRIVILEGE OF BEING REPRESENTED BY THE VERY BEST LEGAL DEFENSE TEAM."*
> —A.L., Pacific Palisades

My recommendation is to ask any prospective lawyer for their personal cell phone number, just in case you have a question on a Saturday morning or a Sunday night. Their response will be very telling; anything other than an unequivocal "here it is" is a red flag.

WHY CHOOSE 1-800-NoCuffs®?

- **Service.** We don't merely promise great service, we deliver it. We know what's important to you and we are committed to exceeding those expectations.

- **Peace of mind.** We can take care of everything. In most cases, you will never need to step foot inside of a courtroom.

- **Tenacity and aggressive defense.** Whatever happens in a case, no one will outwork us, ever.

- **We're nonjudgmental and really do care.** We know that our clients are good people who may have had bad things happen in their lives or have made some bad choices, but they are not bad people. There's a difference, and we recognize it.

- **We do one thing exceptionally well, rather than lots of things just okay.** We defend people accused of crime, period.

- **We are poised, polished and professional.** When we appear on your behalf, we always look good, so you look good

- **Laser Focus.** Our lawyers focus on helping their clients, and nothing else. Our attorneys aren't concerned with anything relating to the operation of the Firm; they focus only on you.

- **Client-centric.** Our systems are designed to keep you updated all the time. Our clients don't wonder what's going on with their case, they know.

- **Cutting Edge Technology.** If there's any technology that can give us the edge on delivering on our promise, we'll find it and we'll use it.

"THEY REALLY KNOW THEIR STUFF. THEY ARE NOT JUDGMENTAL WHATSOEVER. THEY TOOK CARE OF EVERY ASPECT OF MY CASE WITHOUT ME EVEN STEPPING IN A COURT ROOM."
—G.L., Encino

- **Our Expertise.** We are really into this work and we constantly hone our skills to stay at the top of our profession.

- **Creativity.** We aren't just reactive in a case, we are proactive to bring about the best possible result, and that only comes from a dedication to creativity.

- **Reputation.** Our Firm is so well thought of in the legal profession that we're constantly asked to be a legal expert on various TV, radio and print media outlets. We train other lawyers. That's how good we are. "A" players only. We are the employer of choice for top-level criminal defense trial lawyers and for the people who support them.

- **Resources.** We have resources available in every imaginable area. There isn't a problem we can't answer or a need we can't fill. We know how to get the job done.

- **Team Approach.** Because we are a team, we are each committed to helping each other achieve the best possible result in every single case the Firm defends.

- **... And Results.** We will stack the results produced by our Firm against those produced by any other law firm. We will win that comparison every single time. Not bragging, just telling the truth.

WHAT IS A DUI?

There are a few different theories upon which somebody can be prosecuted or convicted of DUI. The first major category is drivers who meet the legal definition of impairment.

"I CANNOT TELL YOU HOW MUCH WE APPRECIATE THE KAVINOKY LAW FIRM TEAM. IF IT WASN'T FOR HIM AND HIS TEAM, MY WIFE WOULD BE IN JAIL. THEY'RE THE REAL DEAL. FROM MY FIRST CALL I WAS TREATED WITH RESPECT, COMPASSION AND GIVEN CLEAR DIRECTION. WE ARE THANKFUL WE FOUND THEM!"
—J.C.

The second is being above the legal limit at the time of driving. Both of these have very specific definitions and thankfully, at **1-800-NoCuffs**, we can help you fight your DUI no matter what theory the prosecution is using.

HOW ARE UNDERAGE DUI CASES HANDLED?

What about drivers under 21 who are arrested for DUI? There are actually special laws in California for people who are under 21 that are arrested for drunk driving. Just like people who are over 21, there are actually two separate prosecutions.

First, there's the DMV case where the DMV is trying to take away the person's driving privilege, but there's also the criminal court case where the individual faces other kinds of punishment, like jail, fines, mandatory classes and all sorts of other consequences.

However, the punishment is potentially more severe for people who are under 21, especially when it comes to their driving privileges.

Under California's Zero Tolerance Laws, anybody who drives with a .01% alcohol level and that's under 21, faces having their driver's license taken away for a year.

Additionally, they can be charged with a violation of vehicle code section 23140, which is basically the under 21 DUI infraction statute, if their BAC is .05 or greater.

And they can also be charged with the same DUI laws as adults if they're .08 or higher. It is important to have professional help to make sure that youthful mistakes don't have lifelong consequences.

IMPAIRMENT

In terms of impairment, the legal standard is whether somebody is unable to operate their vehicle with a caution characteristic of a sober person of ordinary prudence under the same or similar circumstances. Impairment can actually happen at any alcohol level.

If you're a lightweight and below the legal limit, but you're unable to operate your vehicle like a sober person, you can still be convicted for a DUI under the impairment theory of California vehicle code section 23152 (a).

ABOVE THE LEGAL LIMIT— WHAT IS THE LEGAL ALCOHOL LIMIT IN CALIFORNIA?

California vehicle code section 23152 (b) is the section that makes it illegal to drive above the legal limit. The legislature's created a "bright line rule" at a .08 for people who are 21 or older, for commercial drivers the limit is .04 and for people who are under the age of 21, it's .01 zero tolerance, but the critical issue in all of these cases is what was the condition of the driver at the time they were pulled over, not the later time of testing.

That means that even if the driver is able to drive perfectly and there is no observable impairment to his/her mental or physical abilities, the driver can be considered impaired as a matter of law.

This can get very scientifically complex, very quickly. Call 1-800-NoCuffs and we can talk you through the entire thing.

HOW DUI CASES ARE PROVEN

People who call **1-800-NoCuffs** often ask how DUI cases are proven. I like to think of this like four legs of a table. Since the prosecutor has the burden of proving guilt beyond a reasonable doubt, their goal is to have four sturdy legs.

On the defense, we are in the leg removal business. If we knock out one leg, it's a wobbly table. If we knock out two, that's a hunk of wood that no longer resembles a table, and we win.

So, the four legs that will always come up in a DUI case are driving pattern, physical signs and symptoms (things like red, watery eyes, odor of alcohol on the breath, slurred speech, unsteady gait), field sobriety test performance and the chemical test results (or the refusal to take a chemical test, which the prosecutor will try to use to show "consciousness of guilt").

This is why we tell people that the right to remain silent only helps you if you choose to exercise it! The number of people who try to talk themselves out of trouble, and instead, talk themselves into more trouble, is unbelievable. Be polite, be courteous, and blame your lawyer. But shut up.

And please remember that field sobriety tests are totally optional and that they should also be politely declined. Once again, you should do so in a way that is polite, courteous, but firm. "I'd love to, but my lawyer would kill me, so until my lawyer says okay, I'm going to have to say 'No' to any physical tests."

1-800-NoCuffs is trying to weaken those legs before the case ever gets started. Why give the prosecutor everything they want to gain a conviction?

If you call **1-800-NoCuffs** we can explain all of your potential defenses in greater detail, but if you ever have one of those “oh crap!” moments, where you get pulled over after having something to drink, the most important thing to remember is **1-800-NoCuffs** and calling right away.

1-800-NoCuffs is the most important number we hope you never need to call!

WHY SHOULD I FIGHT MY DUI?

Why fight your case? Many drivers arrested on suspicion of DUI worry that a conviction is automatic and that there’s no point in fighting their cases. Nothing could be further from the truth.

However, unless you stand up and fight your DUI charge, there’s a 100% chance that you’re going to receive the substantial punishment of a drunk driving conviction.

If you decide to challenge your DUI charge, you have a fighting chance at avoiding some or all of the consequences. A DUI charge doesn’t equal an automatic conviction. People make mistakes, and that holds true for police officers, prosecutors, lab technicians, everyone.

Remember, in order to convict you, the prosecutor must prove your guilt beyond a reasonable doubt. The burden of proof is on the government to prove your guilt, not you to prove your innocence.

Also, since the consequences for a first-time DUI are significantly less than a multiple offender, the first one is the one to fight! If you don't fight it, probation, and a slew of direct and indirect consequences are sure to follow.

WHY ELSE SHOULD I FIGHT MY DUI?

Why else should you fight your California DUI case? There are many variables in a DUI arrest that can be open to challenge.

- Did the police officer have probable cause to pull you over?
- Was the breath-testing machine used to determine your alcohol content properly calibrated?

> *"MR. KAVINOKY'S FIRM WAS NOT ONLY PROFESSIONAL AND COURTEOUS BUT THEY TOOK THE TIME TO LISTEN TO MY STORY AND EXPLAIN WHAT MY OPTIONS WERE. THEY REALLY WENT ABOVE AND BEYOND THE CALL OF DUTY FOR ME. I'D RECOMMEND THEM TO ANYONE THAT NEEDS A GOOD LAWYER."*
> —R.S., Sacramento

Even in those cases where a chemical test performed at the police station was a .08% or greater, that doesn't mean that you were legally under the influence while you were driving.

It's not against the law to have a blood or breath alcohol level of .08% or greater a few hours after driving, only when you're behind the wheel.

Most drivers are unaware that their alcohol level can continue to rise after they stop drinking. Most jurors aren't aware of this fact either, and they will never know about it, unless you make the decision to fight your DUI charge.

There are other reasons to fight the case too.

- Many drivers who plead guilty to DUI charges without putting up a fight later regret not exploring their defense options.

- Making the decision to fight your DUI charge, no matter what the outcome, will give you the long-term satisfaction of knowing that you did everything possible to stand up for your rights.

- The peace of mind that you'll achieve is priceless.

SHOULD I REPRESENT MYSELF IN A DUI CASE?

Can you represent yourself in a California DUI case? If the court allows it, a person accused of DUI will be allowed to represent themselves in their California DUI case.

However, doing this makes about as much sense as someone removing their own appendix. It's possible for a person to remove their own appendix, but should they?

DUI defense is a very complicated area of the law that involves knowledge of law enforcement techniques,

standardized and non-standardized field sobriety testing, forensic alcohol analysis, effective cross-examination, rules of evidence and effective courtroom presentation.

Even when the judge does allow someone to represent themselves, they will tell the defendant that they won't be given any special treatment, that they'll be required to perform to the standards of a lawyer.

Lawyers who don't regularly defend DUI cases recognize that they don't have the kind of knowledge, training and experience necessary to successfully defend a drunk driving case.

The bottom line: if you or someone you care about is charged with a DUI in California, you should hire a lawyer who really knows this area of law. If you want a free consultation with a California DUI defense lawyer, call us at **1-800-NoCuffs**.

BREATH TEST CHALLENGES

There are so many problems and pitfalls with testing machines, and until people are educated about them, they cling to a mistaken belief that if the machine spits out a number, that it has to be right. But we know from over two decades of doing this and digging into literally thousands of cases that nothing could be further from the truth. If testing machines aren't calibrated regularly (or they're not maintained properly), the results that they create cannot be trusted and should not hold up in a court of law.

There are literally dozens of challenges just around the functioning of the machine. We've even seen cases with Radio Frequency Interference, where one of the many electronic devices, walkie-talkies, and cell phones throw off the results!

There are also problems with operator error. One example of this would be when the officer who's attempting to use an alcohol testing machine hasn't been properly trained, or isn't administering the test in accordance with their training, not following the correct procedure.

A common example of this is the officer not changing the mouthpiece between tests. If the officer cuts corners or skips anything, the results are not reliable.

We also see problems with an outside source, like radio frequency interference. Have you ever been working on your computer and heard that buzzing when your cell phone rings? That's radio frequency interference. Radio waves from one device interfere with another.

In today's modern, over-connected world, the officer running the breath testing machine has lots of other electronic equipment, including other items that share plugs, their department-issued walkie-talkies and their own personal cell phones, and all of those things can interfere with the correct operation of a breath testing machine.

Another example of an outside source can be chemicals that the machine thinks are alcohol molecules, but really aren't. This can be caused from a recently painted room at the police station, certain cleaning solutions, or even something called Tyndall Effect.

This is where someone's car airbags deployed and they inhaled that particulate matter that's used to pack them, and then they exhale that into the machine, where it's being misread by the machine as being alcohol.

Problems also may arise when the subject being tested is not a suitable candidate for breath testing. This can be caused by physical conditions, like persistent heartburn, a hiatal hernia, or emphysema. Also, significant dental work can trap things in the mouth, like food and alcohol molecules. Unintentional alcohol can be present from cold medicines, lip balms or mouthwash.

Another reason that the breath-testing machine may be off is that it can be elevated body temperature, whether it's from a fever, dancing or exercising, or just being in the hot sun.

Another common area that skews results is someone who is crying just before taking a breath test, since mucus can be very alcohol rich, and that too can be misread by the machine. Even something as simple as a burp or belch prior to the breath testing can throw off the results.

REASONS WHY BLOOD ALCOHOL TESTS CAN BE WRONG

At **1-800-NoCuffs**, we know more than 59 ways that alcohol blood testing in DUI cases can be flawed and give falsely elevated readings.

BLOOD TEST CHALLENGES

Blood test results have many challenges, especially around integrity of the sample. Unlike breath tests, which require two separate samples to be given, a blood test involves only one needle stick, and if there's an issue with that single test, the entire result is compromised.

For example, each blood vial is supposed to have a certain amount of anticoagulant and preservative in it. However, no one at the crime lab is checking to see how much is in any particular tube, and we can use this failure to challenge the test results.

Also, failure to have the proper preservatives, in proper amounts, can lead to bacterial growth, fermentation and artificially high levels of alcohol being reported. These reasons, as well as the possible contamination from other outside sources and chain-of-custody issues, are all factors your lawyer can use and should use to fight your case.

Other problems can result from the procedure that's used to test your blood sample. Some main examples from this would be the lack of proper refrigeration of the sample, a blood draw kit being used after its expiration date, improper chain of custody documentation and even plain human error.

When blood is tested, it isn't like *CSI: Miami* where one lab tech in a pristine white lab coat is counting alcohol molecules through a microscope. Many blood vials are loaded onto a rack and run through a testing machine, which is called a gas chromatograph, at the same time.

If there's a human error, such as putting the wrong vial in the wrong space on the rack, the crime lab's going to misattribute one person's sample to somebody else.

We've seen several blood cases where a particular blood sample that belonged to someone else was being misattributed to the defendant! In just one of our client's cases, we were able to get the sample split, and then tested for blood type, to show the mistake. It was proven to be a different blood type than our client's blood, we were able to get rid of the entire DUI case.

Our team knows how to apply a rigorous science-based approach to get the best result for anyone facing a DUI charge. If you've been arrested for DUI, call **1-800-NoCuffs**.

MORE REASONS WHY BLOOD TESTS CAN BE WRONG

In California the law about driving with an excess alcohol level actually relates to the time of driving, not the time that the sample was taken.

So this opens up some significant arguments about what the actual blood alcohol level was at the time that the person was behind the wheel.
Also, there are many issues that can arise with respect to the integrity of the sample itself. Just one of them is yeast. If yeast is introduced into the blood sample it can produce falsely high blood alcohol level readings.

Yeast consumes blood sugars, the byproduct is alcohol, which is indistinguishable from alcohol whose source is drinking an alcoholic beverage.

Another source of error can be alcohol that's on a swab. If the site of the needle puncture on your arm was first sterilized with any substance containing alcohol, this alcohol can be introduced into the sample and produce a falsely elevated reading.

The bottom line is, if you've been arrested for a DUI, contact us for a free consultation today. Or check us out online at NoCuffs.com.

WHAT DO I DO IF I GET PULLED OVER AFTER DRINKING?

First of all, it's not illegal to have a drink of alcohol and then drive. It's only illegal if you're impaired to the point where you can't drive as a reasonable sober person or if you're above the legal limit, which is .08.

That said, if you do get pulled over and the officer smells alcohol, there is going to be a DUI investigation, and since there are significant liability issues that arise for the police if they pull you over, do a roadside investigation, let you go and then you get into an accident that wouldn't have happened had you been arrested, chances are good that if you've been drinking at all and you get stopped, that you will be arrested.

So the question then becomes, do you want to get arrested and give them all the evidence they'd like to easily convict you, or do you want to exercise some of your rights, improve your odds and give your lawyer something good to work with? Remember, having a right, like the right to remain silent, does you no good unless you choose to exercise it.

So, there are really two scenarios that come up. One, where someone's had one glass of wine or a beer, and another, where someone gets pulled over and they really have the "oh crap" moment, where they know this is going to end up badly.

In the first scenario, where it's legitimately one drink, cooperation and candor may pay off, but with this caveat: Police may ask you to take a roadside handheld breath test, called a PAS test, and that's an acronym for Preliminary Alcohol Screening test.

While this should be no problem for someone that's just had one drink, this machine has a real problem. It can't tell the difference between alcohol molecules that are coming from the deep lung air, which is what it's supposed to be measuring, and alcohol molecules that are coming from another source, like those that are trapped in the mouth due to recent drinking, eating and drinking at the same time, or something as simple as burping.

Bottom line: If you're over 21 and not on probation for a DUI, that roadside test is optional and you should politely decline it.

If this really is an "uh oh" moment, that same advice applies. Do not take that PAS test. Generally speaking, only people who are under 21 or who are on probation already for a DUI have an obligation to take the test. If that doesn't apply to you, then you should exercise your right not to.

The other right to exercise is to decline the roadside agility and gymnastic exercises, the so-called field sobriety tests.

When I hear the word test, I think of situations like tests in school, where everyone gets the material in advance, they get a chance to study and to practice, and then the test is administered in identical conditions that are fair to everybody concerned. Nothing could be further than that in the case of roadside gymnastics.

Law enforcement is looking, not for things that you do right, they're looking for things that you do wrong, and it's all for the purpose of you being convicted. And even though no one will tell you this, the only reason you're doing the tests is because you're consenting to do them. So, the better practice is to politely decline to do them. Be polite, but decline. Once again, it is best to blame your lawyer when declining any of the officer's requests.

"THE OUTCOME THEY SECURED WILL SET OUR CHILD ON A PATH FOR RESUMING ACCOMPLISHMENT, RATHER THAN SPENDING UNPRODUCTIVE TIME INCARCERATED AFTER MAKING A POOR DECISION THAT CAUSED A LEGAL ISSUE."
—K.S., Walnut Creek

The same holds true for any questions that you're asked, such as where you're coming from, where you're going, what you ate, what you drank, when you drank it, how much you've slept and so on. The right to remain silent only helps you if you exercise it!

First of all, talking to law enforcement at all, puts you in the position where they can say you said anything they want and it becomes your word against theirs if you dispute it.

And they also tend to say you had slurred speech, which they always do, even though they have no idea what your voice sounds like.

So the best practice is to politely decline to answer any questions and instead assert your right to have a lawyer present for any questioning if they are not going to immediately release you.

Now, you may be asking, as many people do, “But if I don’t talk to them, and I don’t do the field sobriety tests, and I don’t do the roadside PAS test, won’t they arrest me?” Well, yes, they probably will. But, spoiler alert! They were going to arrest you anyway!

Do you want to get arrested and give them what they want to convict you or do you want to exercise your rights and give your lawyer lots of great ammunition to use to defend you?

After you get arrested for DUI in California, you are required to submit to a chemical test of your blood or breath, to determine alcohol content. If you refuse to do so, after being properly told of this obligation and the consequences for refusing, you can lose your license for one year on a first offense or longer if it’s a multiple offense.

The law here is evolving quickly; as of this writing, officers will be required to obtain a warrant to draw your blood if you don’t consent to it.

Regardless of your situation (breath test, blood test, or refusal to test), we can help. There are more than 59 reasons why both breath and blood tests can be wrong, and we have great attacks on both of them. And there are many technical requirements on refusals that police often failure to observe; in fact, the DUI trial that prosecutors most frequently lose is the refusal case, since jurors are loathe to convict someone of DUI without a number to rely on.

So, here are your 3 main takeaways:

- Exercise your right to remain silent and no talking to police,

- Do not perform the roadside field sobriety tests (blame your lawyer instead!), and

- Do not do the pre-arrest screening test, unless you're legally obligated to do so.

This is going to give your legal team the best chance to fight for you.

WHAT RESEARCH SHOULD I CONDUCT BEFORE MY CASE?

What kind of research should you do prior to the first meeting with your lawyer? Well, legal research is a complex affair, and this is something that lawyers have spent years being trained to do in law school and in

their practice. However, getting familiar with the nature of the offense is a good jumping off point for meaningful conversation.

Other areas of potential research include possible defense, challenges to forensic tests and the DMV's separate process, relating to the possible suspension of your driving privileges.

WHAT IS THE COST OF A DUI?

People often ask, "What is the cost of a DUI in California?" Well, the short answer is: a lot more if you don't call **1-800-NoCuffs**.

Experts like the auto club, or DMV, have estimated that a DUI conviction can cost you in the tens of thousands of dollars, if it goes badly.

Don't skimp when you're choosing a brain surgeon, buying a parachute, or hiring a criminal defense lawyer. Call **1-800-NoCuffs**. A DUI is tantamount to being in shark-infested waters that you don't want to learn to navigate alone, in the dark, in your moment of crisis.

HOW LONG DOES A DUI STAY ON YOUR RECORD?

There are actually two important things you need to know about how long a DUI stays on your record. First thing is that a DUI stays on your record, for purposes of criminal court enhancement, for a period of 10 years (as of this writing; it has gone up from five to seven to 10, and in some states it is lifetime).

That's why it's so important to call **1-800-NoCuffs** upfront, before you decide to plead guilty.

And those 10 years are calculated from arrest date to arrest date. And this period of priorability time applies to both DUIs and "wet reckless" convictions.

If you're arrested for a similar offense, within 10 years of the original arrest date that results in a conviction, this prior offense, can be used to enhance additional convictions.

The second thing you need to know about how long a DUI stays on your record, and this one is especially sinister, is that a DUI will actually stay on your criminal court record forever. Unless you get what's called an expungement.

If you call **1-800-NoCuffs**, we can help explain this process in detail, but essentially an expungement is a legal procedure where you, or an attorney representing you, goes into court to have your original finding of guilt withdrawn, a judgment of "not guilty" entered and a dismissal of the complaint.

California Penal Code section 1203.4 is where you can find more information about the expungement process, but if you call **1-800-NoCuffs**, we can help you with everything there too.

WHAT ARE THE PENALTIES FOR A FIRST DUI?

What is the most common penalty for a first time DUI offender in California? The potential penalty for a first time DUI conviction in California will depend on the unique facts and circumstances of the case. However, there are some common penalties that may be imposed.

If this is a misdemeanor first offense DUI, and no one was injured, and there were no other reasons to enhance the penalty, punishment will generally include being placed on probation for 3 years, a fine that ranges from $1,000 to $2,000 to even $3,000, including all the penalty assessments and court costs, the possibility of jail time that can range anywhere from no jail time up to a maximum of 6 months in jail.

But as a practical matter, only a few California jurisdictions want jail time on a first offense. This does vary from county to county however, so if this applies to you, you are well advised to talk to a lawyer right away.

Also, for those that are convicted of first time DUI, there is generally a requirement that they take a first offender alcohol and drug education program that will last anywhere from 3 to 9 months, depending on the alcohol level or whether there was a refusal to take a chemical test after being arrested.

"ONCE AGAIN, I CAN'T EXPRESS ENOUGH MY GRATITUDE FOR EVERYTHING YOU AND YOUR TEAM ACCOMPLISHED IN BOTH REPRESENTING ME RESPECTFULLY AND SUCCESSFULLY IN COURT. I COULDN'T HAVE ASKED FOR A GREATER OUTCOME OR REPRESENTATION. THANK YOU AGAIN FOR THE GOOD AND HUMBLE NEWS."
—D.W., Van Nuys

One other critical thing to know, effective July 1, 2010, there is a pilot program in California that requires anyone convicted of DUI, that occurred after that date, in 4 specific counties, to get an ignition interlock device installed in their car for a period of at least 5 months. This is a huge change, and experts predict this will soon be adopted in every single county in California.

For right now, the 4 counties that are affected by this pilot program are Los Angeles, Sacramento, Alameda and Tulare, but this is likely coming to everyone before long.

This is yet one more reason why it is urgent that you talk to a DUI defense lawyer if you are accused of a DUI, since this new law applies only to DUI convictions, not to other kinds of plea bargain settlements, which can avoid the ignition interlock requirements.

Also, when it comes to punishment, if there were injuries, kids in the car, property damage, excessive speed, an alcohol level of .15 or higher, or many other factors, the punishment for a first time DUI conviction can go up dramatically.

WHAT ARE THE PENALTIES FOR MY SECOND OFFENSE?

What happens if you get a second DUI in California? As in every criminal matter, the potential penalty for a second time DUI conviction in California will depend on the unique facts and circumstances of the case. But the stakes for a second offender are significantly higher than for first-timers.

There are longer mandatory minimum jail terms, the alcohol education course is 18 months long, probation is typically five years (absent early termination for good cause).

Also, the key question is how long ago the prior arrest occurred. If you're still on probation for a first offense DUI, then you face not only the second offense DUI charges, but also a separate allegation related to violating your

probation. This probation violation can be very serious and carry as much or even more jail time than the second DUI itself.

The first thing to look at is the age of the first DUI. Currently, in California, the law is that prior DUI convictions only count if they happened within 10 years of the current offense.

This 10 year period is calculated by looking at the date of arrest, not the date of conviction. So if the prior DUI arrest is more than 10 years before this one, it won't count for purposes of increasing the punishment.

Generally, if there's no one injured, and no other aggravating factors, like kids in the car, excessive speeding and recklessness, property damage, or an alcohol level above a .15, the punishment will include being put on probation for 5 years, serving some time in jail, fines and other court costs that will total $2,000 to $3,000 and being ordered to attend the 18 month second offender alcohol and drug education program.

The amount of jail time will vary. By law, the minimum amount of jail is 96 hours and the maximum is 1 year.

But there are certain courts that will impose the minimum of 96 hours and others where a second time DUI typically means 30 to 60 days in county jail, or even more.

Also, when the DMV learns of a second time DUI conviction, they will suspend your license immediately, though there are certain opportunities to get a restricted license back sooner, if you successfully navigate the DMV process and have the ignition interlock breath device installed in any car you drive.

The bottom line is that if your freedom or your driver's license is important to you, you must consult with an experienced DUI defense lawyer right away.

WHAT DO I NEED TO KNOW ABOUT PROFESSIONAL LICENSES?

What about professional licensing issues in criminal cases? A California criminal charge can pose significant risks for individuals who hold professional licenses, such as doctors, psychologists, real estate agents and brokers, even attorneys, and many others.

We've frequently been called upon to represent licensed professionals, such as real estate agents, to help save their licenses. (The Department of Real Estate considers DUI to be substantially related to the performance of real estate duties, and takes these matters very seriously).

There are over one hundred licensed professions in California, and it's shocking to see how far out the ripple effect of a criminal conviction can reach.

We've helped paramedics, firefighters, real estate brokers and salespeople, and many others keep the professions they worked so hard for.

Depending on the offense and the type of license, a criminal conviction can result in the suspension or outright revocation of a professional license, or cause the licensing agency to place the individual on professional probation, or another type of restriction. Of course the surest way to protect a professional license after a California arrest is to avoid being convicted at all.

Your defense lawyer can thoroughly analyze your case, and all the prosecution's evidence against you, to determine an aggressive defense strategy. In some cases involving professional licensing issues, a skillfully negotiated plea bargain may be the best option, rather than taking a case to trial, to avoid risk of harm to your professional standing.

Depending on the offense and your profession, it may be possible to plead guilty to a lesser offense that won't impact your professional license. If you or someone you care about needs a lawyer, call us right now for a free consultation at **1-800-NoCuffs**.

WHAT IF I'M ARRESTED WHILE ON PROBATION?

So what happens if you're on probation and you pick up a new case? Well, now you've got two separate problems you've got to deal with. You've got the new case, where you've got the right to a jury trial, the prosecutor has to prove your guilt beyond a reasonable doubt, but you also have the probation violation to deal with.

And for purposes of the probation violation, it doesn't matter whether you're on formal or informal probation, that probation violation is still a separate matter that's hanging over your head. If you're facing a probation violation, there are two critical things you need to know.

First, unlike that new case, where you've got a right to a jury trial, in a probation violation, you only have a right to have the judge decide. It goes back to the judge that originally placed you on probation, most of the time. There are exceptions, but it is just a hearing that happens in front of the judge. There's no jury.

The second thing that you've got to know is that at the probation violation hearing, it is a lower standard of proof that applies. Unlike the new case, where the prosecution has to prove your guilt beyond a reasonable doubt, in a probation violation, it's just preponderance of the evidence. Just tipping the scales in one direction. We sometimes call in the law, "fifty percent, plus a feather."

Just because it's a lower standard doesn't end the conversation though. We've been involved in many cases where PV's were dismissed because of evidentiary challenges, witness challenges, and other problems of proof.

Keep in mind that if you're facing a probation violation, there is still hope for a good outcome in your case. Criminal work is very relationship-driven, and we've been working hard at building these relationships for decades.

This is where a good lawyer, one that's got relationships with prosecutors and judges, can make all of the difference in the world.

WHY DO I HAVE TWO CASES WITH ONE DUI ARREST?

So many people ask, "Why do I have two cases from one DUI arrest?" It's really important to understand that any DUI arrest in California triggers two separate cases.

The first is with the court. There, you're actually given a citation and a notice to appear, or you may be kept in custody until that first court date. So there's no mystery about when that's going to happen.

But the second case is trickier. That's a case with the California Department of Motor Vehicles, or the DMV. When people are arrested for DUI, their license is usually taken away from them and they're given this pink piece

of paper that says in the very, very fine print, you've got 10 days from the date of your arrest to request a special hearing with the DMV, or else your license is automatically suspended.

Unlike the court case, where they tell you when to show up, for the DMV case to happen, you, the driver, or your lawyer, has to request that DMV hearing. You've got only 10 days to do it.

If you have DMV problems related to a DUI arrest, call on an experienced California DUI law firm right away.

Feel free to call on us any time, 24 hours a day, at **1-800-NoCuffs**, or check us out online at NoCuffs.com.

WHAT IS THE DIFFERENCE BETWEEN VEHICLE CODE SECTIONS 23152A AND 23152B?

The two most frequently encountered offenses relating to misdemeanor DUI are California vehicle code sections 23152a and 23152b. The gist of the 23152a is that the accused is under the influence of alcohol or drugs or a combination of the two. The focus is on the condition of the driver as being under the influence.

Being "under the influence" is not dependent upon any particular level of alcohol on the blood or breath. It's possible for a person to seem under the influence of alcohol, based on driving patterns, physical signs and

symptoms, and field sobriety test performance, and even to be charged with driving under the influence, even if the chemical test shows that they're below the legal limit, which is .08, the test for whether or not someone is under the influence is whether, as the result of drinking alcohol or taking drugs or both, they are unable to operate their vehicle with the same caution characteristic of a sober person of ordinary prudence under the same or similar conditions.

Again, this is not necessarily tied to any particular level of alcohol in the body, though the alcohol level may be relevant as a factor to consider.

The mandate of the California vehicle code section 23152b is very different. This code section declares that it is illegal to drive with a blood or breath alcohol level of .08% or higher. This rule does not care about the condition of the driver as being under the influence or not.

23152b ignores the issue of impairment entirely. The focus is on body chemistry at the time of driving, not at the time of the test. In a sense, 23152b is the mirror image of 23152a.

One focuses entirely on the condition of the driver as being impaired or not and alcohol levels don't really matter, the other is focused entirely on the alcohol level and impairment doesn't really matter.

What does matter, especially to the defendant, is that a conviction on either charge is a conviction of a DUI. And since the prosecution typically alleges both counts, it amounts to two bites at the apple for them.

WHAT EFFECTS DOES A DUI CHARGE HAVE ON MY INSURANCE?

What are the insurance consequences for a California DUI charge? There are generally no consequences to your insurance when you face a DUI charge in California.

Remember, under our justice system, people are presumed innocent until they are proven guilty, and a charge does not necessarily mean a conviction.
But if you are convicted of a DUI, or if you either fail to request a DMV hearing within 10 days of your arrest or you have that DMV hearing and you lose it, there are significant insurance consequences that follow.

This is an extremely complex area of law, and there are important time deadlines to be concerned with. So if you've been arrested for DUI in California, you'd better consult with a lawyer right away to make sure you're protected. If you're convicted of a DUI, or you lose your DMV case, your insurance carrier may drop you.

Many of them have strict policies about not insuring drivers who have either been convicted of DUI, or who have had an alcohol-related DMV suspension. If they don't drop you, you can be sure they will increase your

rates, often dramatically. It's also a requirement that you keep an SR-22 proof of insurance certificate on file for 3 years following a DUI. Insurance consequences are just one of the many impacts that a DUI conviction can have.

FURTHER INFORMATION ON FILING THE SR-22 AND ITS EFFECT ON YOUR AUTO INSURANCE.

If you've been arrested for suspicion of DUI, one of the concerns people frequently have is about their auto insurance, the SR-22 certificate that they may need and whether there's a way to keep their rates from getting massively increased.

The world of insurance after a DUI arrest can get really confusing, so if you want to talk to us about it in detail, you're welcome to call.

If you're arrested for DUI, and your license is suspended through either the court or the DMV, you'll need an SR-22, which is a special insurance certificate required by the DMV to show proof of insurance. Sending the DMV your insurance card or some other form of proof doesn't do the job.

The DMV will require the SR-22, which is official notification that you have the minimum legal limits to drive in California. This SR-22 will need to be updated each year, for 3 consecutive years."

For those of you who are accused of a first time DUI, and who did give a chemical test of your blood or breath at the time of your arrest, filing the SR-22 is one of the requirements that will allow you to get a restricted license, after 30 days of suspension have gone by.

Now, the other requirements are enrolling in a first offender alcohol education program, and number two, paying a small license reissue fee.

If you do those things, you'll be able to avoid a 4-month license suspension and instead have a 5-month restriction that allows you to drive to, from and in the course of your employment, and to and from the alcohol education program.

"FIRST I WOULD LIKE TO SAY THANK YOU FOR ALL THE WORK THAT WAS PUT IN BY YOUR FIRM TO OBTAIN THE WET RECKLESS FOR MY SON. YOU HAVE NO IDEA, THIS EXPERIENCE HAS BEEN A CATEGORY 5 HURRICANE AND BECAUSE OF THE HARD WORK PUT IN BY THE KAVINOKY LAW FIRM IT FEELS LIKE A SPRING SHOWER, OK MAYBE A TROPICAL STORM. THANK YOU AGAIN."
-B.N., San Francisco

However, watch out for this. Many drivers experience significant premium increases when they request the SR-22 from their current insurance carrier. In plain language, "they will jack up your rates."

Since there are very few reasons other than a DUI where an SR-22 comes up, it's telling the carrier that they need to look at bumping up your rates, or dropping you all together.

Now, there are strategies and alternatives to filing an SR-22 that can save you time and money, without involving your current carrier, and this can still satisfy the DMV.

If this is something that may help you, please call us so we can help diagnose your problem and see if there's a solution that's going to fit for you.

If you don't own a car, or you're from a state other than California, this SR-22 requirement still applies. There are approaches that can work to save you money in these cases too, and if you have questions, you're encouraged to call us. We know you're going through a difficult time.

WHAT IS WET RECKLESS?

A wet reckless plea is a reduced charge that an attorney skilled in defending drinking and driving cases may determine is in your best interest to accept as opposed to going on trial for drunk driving charges.

An experienced DUI lawyer will help you determine the nature of the charges against you and sometimes advise that accepting a plea bargain compromise is in the your best interest.

If the charge you're facing is felony DUI, misdemeanor driving under the influence is a reduced charge. A wet reckless carries less harsh punishments than some of the mandatory punishments that a misdemeanor DUI carries.

There is, in most California counties, a hierarchy of plea bargain settlement alternatives available, depending on the unique facts of each case. They are, from worst to best:

- DUI conviction (with negotiated consequences)
- Wet Reckless (alcohol related reckless driving)
- Dry Reckless (non-alcohol reckless driving)
- Exhibition of Speed (like chirping your tires leaving a parking lot)
- Moving violations (such as speeding or unsafe lane change)
- Dismissal

DO MY KEYS HAVE TO BE IN THE IGNITION TO BE CHARGED WITH A DUI?

Can you get a DUI in California if your keys are not in the ignition? You can be arrested for a California DUI whether or not the keys are in the ignition.

However, in order to be convicted of DUI, there must be some evidence that you actually drove the vehicle at the same time that you are impaired. This driving element can be satisfied by either direct or circumstantial evidence.

For example, it's a fairly common situation for someone to be found sleeping in their car while they're under the influence of alcohol or above the legal limit.

Even though the arresting officer didn't observe the car being driven, and whether or not the keys are in the ignition, the sleeping person may still be arrested for DUI, if there are facts that suggest that the person did, in fact, drive while they were under the influence.

What are some facts that would support this kind of conclusion? If the hood of the car was warm to the touch, suggesting it had been driven recently, that could be an important fact for the officer to consider in making the arrest.

If there were no footprints around the driver's side car door, showing that someone neither walked away or walked to the car, that could be an important fact. If the person suspected of DUI made any statements to the officer that put them behind the wheel when they were under the influence or above the legal limit, that could do it too.

However, there is a world of difference between a DUI arrest and a DUI conviction. If you've been arrested for drunk driving, it doesn't have to mean a DUI conviction. If you were in a car and never drove it, it doesn't matter how drunk you were, you shouldn't be convicted of DUI under those circumstances.

The bottom line is that these kinds of cases can be very fact-dependent, and if you've been arrested for DUI, whether or not the keys were in the ignition, you should consult with a DUI defense lawyer right away.

DO I GET A PHONE CALL FROM JAIL?

When people are arrested, the folks doing the arresting are not known for providing a great deal of amenities, so usually you are just awarded one phone call, to call a friend or relative and let them know that you're in custody.

Sometimes law enforcement officers are a little bit more flexible. I've heard of cases where people, at the time of their arrest, are able to make a last call or two from their cell phone, but generally speaking, you're not afforded a lot of the creature comforts or amenities that you might get in a fancier hotel.

WHAT HAPPENS AFTER I'M ARRESTED?

Well the first thing is, when somebody's arrested, before they can get out of jail, they've got to go through the booking process.

"THEY REALLY KNOW THEIR STUFF. THEY ARE NOT JUDGMENTAL WHATSOEVER. THEY TOOK CARE OF EVERY ASPECT OF MY CASE WITHOUT ME EVEN STEPPING IN A COURT ROOM. NOW I CAN JUST GET PAST THAT ORDEAL AND MOVE ON. I REALLY LIKE HOW THEY CAN GET YOUR RECORD CLEARED, SO IT APPEARS THAT YOUR RECORD NEVER EVEN EXISTED. I NEVER KNEW ANYONE CAN DO THAT."
—G.L., Encino

So that involves, usually, getting photos taken, fingerprints, and those fingerprints have to go up to Sacramento, so a background check can be done.

Obviously, law enforcement doesn't want to release people who may be wanted on a murder warrant or something like that.

At that point, there's a few ways that somebody can gain their release. They can get cited out and given a notice to appear in court, if it's a relatively minor offense.

Depending on where this happens, you could get that experience with a petty theft, with a first offense DUI case, things like that, you just get a date to appear in court. They give you something that looks like a traffic ticket.

For a more serious offense, there may be a bail that has to get posted, and every county is different, but every county will have a published bail schedule that's going to list every single crime there is and the amount of, what's called, Presumptively Reasonable Bail, that should apply.

So at that point, it's up to the person, or their friends and loved ones, to either post the cash amount of bail or to use a bail bondsman, and how this plays out is going to be very different, depending on which choice somebody makes.

The other opportunity, if somebody doesn't get released, either on their own recognizance (a/k/a being "cited out"), or by posting bail, then they'll be brought to court, generally speaking, within 48 hours (excluding weekends and holidays!).

At that point, the judge may choose to release them, the attorneys can argue about whether bail should be increased or decreased, and what conditions are to be in place if release happens.

If the person gets released, they're out and they get to fight their case from out of custody, otherwise they're going to be in custody and they'll have to fight their case from the inside.

WHAT IS MY NEXT STEP AFTER BEING ARRESTED?

The time you spend in a jail cell surely inspired you to do anything possible to avoid being behind bars again. But what can you do to fight the charges against you and safeguard your freedom?

An experienced defense lawyer may be able to persuade the judge to lower your bail or even to release you on your own recognizance. Once your defense lawyer has helped you to address the most pressing issues they can begin planning an aggressive strategy to defend you against the charges.

A skilled defense attorney can use pre-trial motions and other highly effective tools to suppress evidence, strengthen your case, and possibly even get the charges against you reduced or dismissed.

WHAT DO I NEED TO KNOW ABOUT BAIL?

So what about bail? Everyone arrested for a California criminal offense must either post bail or obtain release on their own recognizance, also known as OR release, in order to be released from custody.

Every California County has its own bail schedule, which details the amount that must be posted for each offense in order to gain release. The judge typically sets bail according to the schedule, unless a defense attorney requested that it be lowered or the prosecutor asked that it be increased.

Before approving such a request, the judge will hold a hearing to consider bail in the case and hear any objections from the other side.

Bail is a deposit that provides insurance to the court that you will appear for future court appearances to answer to the criminal charges. If you appear at all the court hearings and see your case through to the end, the bail will be returned to whoever posted it. If you don't appear, the bail is forfeited.

Many criminal defendants, or their families, choose to use a bail bond firm in order to post bond and obtain release from jail. Bail bond firms typically charge a non-refundable fee of 10% of the bail amount in order to post your bond and take on that risk.

Depending on the circumstances, defendants may be released from jail on their own recognizance. This is most likely if you are a local resident with strong ties to the community, or you're accused of a less serious offense, but the rules vary from county to county. Some California counties have OR officers who review cases to determine which defendants are eligible to be released on their own recognizance.

Other California criminal offenses are governed by special rules that determine a defendant's conditions for release. For example, individuals charged with domestic violence can't be released on their own recognizance without first appearing at a court hearing, or they can post $50,000 bail minimum.

What's most important is that you consult with someone right away who understands the bail concerns in any case involving you or someone that you care about.

WHAT IS THE CALIFORNIA COURT PROCESS?

So what's the process in a California criminal case? The court process in your California criminal case will vary depending on whether you were charged with a misdemeanor or a felony.

Although many aspects of the criminal court process are the same for both types of offenses, there are some significant differences.

Both types of cases start with an arraignment where you'll be asked to enter a plea. Felony cases then proceed to the Preliminary Hearing where a judge will decide whether there's enough evidence to allow your case to go forward to trial. The Preliminary Hearing is of critical importance to the defense.

There are no depositions in criminal cases, so the Preliminary Hearing is your defense lawyer's only real opportunity to cross-examine the arresting officer and any other prosecution witnesses before your case goes to trial. Your attorney can use this information to advance your defense or even use the Preliminary Hearing to call witnesses of their own.

At the conclusion of your Preliminary Hearing, the judge can opt to reduce your felony charge to a misdemeanor or even throw the case out entirely.

Obviously both outcomes are a tremendous win for the defense and it does demonstrate the awesome importance of the Preliminary Hearing.

The next step in both misdemeanors and felonies is the pre-trial phase. Here, both your defense lawyer and prosecutor will submit pre-trial motions.

Your attorney's motions are generally designed to weaken the prosecutor's case, strengthen your defense, and ideally get your case dismissed.

Common defense motions include motion to suppress evidence, motion to gain additional evidence through supplemental discovery, and even motions to dismiss the case. The judge will hold Hearings to rule on the merits of these motions.

At the end of the pre-trial phase, if your case isn't dismissed you will receive an offer for settlement. If it's an acceptable offer, that's going to bring an end to your case. If it's not an acceptable offer, then you can exercise your right to have a jury trial.

"I CAN'T THANK YOU ENOUGH FOR THE TIME YOU TOOK LAST FRIDAY EDUCATING ME AND CALMING ME DOWN. I ACTUALLY SHOULD CORRECT THAT STATEMENT WITH THE MANY TIMES YOU SPOKE WITH ME. I THANK YOU ALL IN ADVANCE FOR YOUR HELP AND SERVICE IN KEEPING ME OUT OF JAIL! I ALSO THANK YOU ON BEHALF OF MY FIANCÉ!"
—C.L., San Diego

What happens at trial, if it does go that far, is a separate discussion, but our experience is that the overwhelming number of cases that we handle are successfully resolved with our client's agreement without the need to go to trial.

Obviously, at trial you have risk and uncertainty. If you or someone you care about needs a lawyer, call us right now for a free consultation.

HOW DO I PREPARE FOR MY CASE?

How can a DUI client prepare for that first meeting with an attorney? Absorbing this material is a fantastic start. At **1-800-NoCuffs**, we have long embraced the view that an educated and well-informed client is often a happier client, and one who actually becomes our partner in achieving the best possible result in the case.

Since the client was there during all of the important moments leading up to their arrest and obviously we weren't, we need the client's partnership in developing the critical facts.

Lewis Carroll is credited as having observed that "if you don't know where you're going, any road will take you there." This is true in the context of litigation as well.

Stop and consider what a successful result really looks like for you. What are your priorities? Is it avoiding jail? Keeping your driving privileges? A rapid conclusion to the case?

Perhaps this is a wakeup call for your problem with alcohol or drugs, and an outcome that includes rehabilitation might be best.

Every case is different and every client is different too. Sadly, too few lawyers actually ask their clients what really matters to them.

1-800-NoCuffs urges you to consider this, and tell any potential lawyer what result it is that you want to achieve.

Recognize that this is an important decision, write out specific questions that you have in advance of a meeting, this will ensure that your concerns are addressed, and it will avoid that feeling of walking out and realizing that there was some matter of importance that's been omitted. We recommend that you visit the attorney's website in advance of the meeting.

Often, lawyers will put helpful information there that may answer some of your questions in advance.

One of the most important things for a client to understand, at the very outset of the representation, is the process by which a case will proceed to conclusion. Understanding this will generally allow the client to sleep better at night, since now they'll actually have a context for what's happening and a general sense of what's to come.

HOW LONG UNTIL MY DUI CASE IS DONE?

One of the questions that people ask when they come and see us is, "how long is it going to take for my case to get resolved?" The answer is, of course, "it depends."

Every case is unique, every courthouse has different policies, and what a case needs to be developed, to go from start to finish, is going to vary, depending on what the issues are in the particular case.

But this really brings up an important issue, because one of the really good reasons to have a lawyer, somebody that you trust to guide you through this process, is to protect you from you. A lot of people have this sense of urgency, that they just want this thing to get done quickly, and be resolved, and be done and over with.

The fact of the matter is, it's far more important that the case get done right than that it gets done quickly. Ideally, we can do both. But if we've got to choose between right and quickly, we're going to choose right for you every time.

Now, all of that said, we've been doing this for over two decades now, so we've got a pretty decent body of experience to draw from. In a misdemeanor case, like a DUI, the average lifespan of a case, from the date of arrest to the date of conclusion, is about 6 months.

With felonies, there is a lot more variation, and because of the Preliminary Hearing, felonies can take considerably longer. But there are times when that can go longer or shorter, depending on the unique facts of your unique case.

WHAT IS THE PRE-TRIAL PROCESS?

So what's the pre-trial process in a California DUI case? In California your attorney can appear in court on your behalf in a misdemeanor DUI case, while you're free to go to work or otherwise attend to your business. This luxury is not available in a felony case where you must personally be present.

The first court appearance is called the arraignment. This is when you, or your attorney on your behalf, will be formally advised of the charges against you and given police reports that justify those charges. While it's possible to plead guilty at your arraignment and settle your case immediately, it's generally not a good idea to do so.

If you are held to answer for trial following the Preliminary Hearing, your defense lawyer can then challenge that order prior to trial with a special motion called a Penal Code section 995 motion. If the judge orders that you be held to answer for your felony charge, your case will proceed to trial, once any pretrial motions are heard.

Just as in a misdemeanor case, at trial, you must be proven guilty beyond a reasonable doubt in order to be convicted. If your felony DUI charge is based on prior DUI convictions, those convictions are generally not introduced in the current trial.

Those priors will be separated, or "bifurcated" as it's called, since that information would be prejudicial against you and it wouldn't help the jurors determine your guilt in the current case.

They would only serve to inflame the passions of the jurors. And for that reason, the jurors usually won't hear about it when they're deciding your guilt or innocence in this particular case.

Fortunately, our criminal justice system has built-in safeguards that are designed to protect the rights of the accused, but you need an experienced attorney fighting for your rights.

Regardless, if you're accused of a misdemeanor or a felony drunk driving case, a skilled DUI defense lawyer will guide you through every step of the process.

"THANKS FOR BEING A HUGE SUPPORT TODAY. I WILL NEVER FORGET YOUR AWESOME EFFORTS. TAKING PROFESSIONALISM TO AN ART FORM IS WHAT I SEE."
—J.S., San Diego

If you plead guilty at your arraignment, you'll be accepting responsibility for the DUI offense, as charged. As your attorney investigates your case, and makes motions on your behalf, it can improve your prospects at trial, or result in a favorable plea bargain down the line.

After your arraignment, there are typically a series of pre-trial conferences and hearings. These hearings present an opportunity to conduct additional investigation, by way of informal discovery requests, or even formal discovery motions.

Motions, by the way, are simply written requests that the court order something. In these various requests and motions, your defense lawyer should ask the prosecutor to turn over additional items of evidence that are not included in the initial arrest reports.

Other motions that can be heard at this point include motions to suppress evidence which allege, for example, that your traffic stop was illegal, and therefore all of the evidence that was collected afterwards must be suppressed as fruit of the poisonous tree.

Or a Pitchess motion, which is a request to the court to order the release of information from the arresting officer's private personnel records.

After the various pre-trial motions are submitted and considered by the judge, there will be one of three outcomes. The charges against you may be dismissed, your case may be settled, or else you have the right to proceed to a jury trial.

If you've been accused of a DUI in California, call us now for a free consultation at 1-800-NoCuffs.

WHAT ARE PRELIMINARY HEARINGS?

What's the potential upside of a Preliminary Hearing in a felony DUI case? Well, for one thing, since the defense can't take depositions in criminal cases, the preliminary hearing may be the only opportunity to cross-examine witnesses and to pin them down in their testimony, before the case goes to a jury trial.

Because of this, the Preliminary Hearing, which is available only in a felony case, provides an excellent opportunity to provide helpful information.

MISDEMEANOR VS. FELONY (DUI) IN CALIFORNIA

From a legal standpoint, the felony DUI is the more serious crime and could be punishable by up to a year in jail, or even longer in state prison.

A misdemeanor is, by definition, a less serious crime that's punishable by no more than one year in jail.

In the world of DUI, whether it's a felony or a misdemeanor, it's serious business, and it's nothing to take lightly.

So, there are 3 things that will cause a DUI to be a felony as opposed to a misdemeanor.

First, someone other than the driver is injured or killed, even if it's the driver's first offense. Two, it's the fourth offense within 10 years, and that's calculated from arrest date to arrest date. The dates of conviction don't matter. Third, the driver has previously been convicted of a felony DUI. Once you're convicted of a felony DUI, all later DUI arrests are felonies, even if no one's injured.

DUI cases that don't fall into these three categories are considered to be misdemeanors however; even a misdemeanor DUI can mean serious jail time. The first offense can mean anywhere from no jail, up to a maximum of 6 months in jail.

However, there are still some courts that do require jail time, even on a first time conviction. The second conviction means a minimum of 96 hours in jail and a maximum of 1 year.

The third way is so tricky that not all lawyers are always aware of it, and that is based on having a prior felony conviction. So here's the hypothetical; your first DUI, for example, is a felony DUI because of injury, then a new DUI arrest involves no injury.

It would normally be a misdemeanor. You simply pull into a sobriety checkpoint and blow a .08. That new case, that would ordinarily be a misdemeanor, becomes a felony because of the prior felony conviction. That's one that's to be ignored at your peril.

This third conviction means a minimum of 120 days in jail and a maximum of 1 full year. Now, in addition to these jail terms, there are numerous direct and indirect consequences.

Including suspension of your driving privileges, installation of an ignition interlock device, which is basically a breathalyzer that's installed in your car to prevent it from being started unless you blow into it to demonstrate you're alcohol-free.

There are also lengthy drug and alcohol education programs and enormous fines. So, as you can see, even a misdemeanor can mean serious punishment.

Felony convictions can mean much lengthier sentences. A first time felony DUI involving injury can mean up to 3 years in prison, with more time added, based on the number of injured people.

If there's a fatality, it can mean up to 10 years in prison, and it's even possible to charge a DUI resulting in someone's death as murder, which means a sentence of 15 years to life in prison.

Now, if you're reading this due to a first offense DUI or a more serious legal issue, just know our lawyers at **1-800-NoCuffs** focus on DUI cases 24/7 and can navigate your case to a successful conclusion.

ARE MILITARY COURTS DIFFERENT FROM REGULAR COURTS?

There are some important differences between DUI cases prosecuted in military court versus a civilian court. While a DUI case tried in criminal court can span several months, or even years for a more serious and complicated offense, a DUI prosecuted in the military will proceed expeditiously in comparison.

The civilian consequences, if you're convicted of a DUI include a combination of several types of punishments including financial penalties, confinement in jail, or even prison, community service, victim restitution, if applicable, and mandatory drug and alcohol classes, to say nothing of the potential driver's license suspension or revocation.

When a member of the military is subjected to a court martial, the judge is not bound by the maximum sentencing guidelines and instead has massive power to impose drastic salary forfeiture and other financial penalties.

They may, at their discretion, even subject the enlisted defendant to strenuous and fatiguing physical labor, and even go so far as confining the defendant and restricting their food intake to a diet of bread and water.

Also very important to realize: your defense needs actually include fighting three separate battles. There are the civilian charges in criminal court, the administrative

per se sanctions imposed by the California DMV as well as the court martial proceedings that you face. If you're in any branch of the service and you've been charged with a DUI or any criminal offense, contact us right away for help.

WHAT IS BOATING UNDER THE INFLUENCE?

Boating under the influence in California is every bit as serious as driving under the influence. Boating under the influence, also called BUI, is precisely what it sounds like. It's operating a watercraft when you're under the influence of alcohol, drugs, or combination of the two.

In a boating under the influence case, watercrafts are considered anything that carries or transports people on water, and that can include water skis. But things that are propelled by water alone such as kayaks, for example, are immune from boating under the influence charges. But if you're thinking your California boating under the influence arrest is beatable, you may just have a point.

Such arrests are fraught with tricky legal angles. For starters, officers may board your boat for safety check reasons that have nothing to do with alcohol. It's what happens while they're on their boat that may get interesting.

Keep in mind that it's perfectly legal to operate a watercraft in California, if your blood alcohol content

is below .08%, but if an officer smells alcohol on your breath while he or she's there, they may use that as an invitation to initiate a field sobriety test for boating under the influence.

Now, consider the state that you may be in after hours of boating. Your eyes may be bloodshot from not wearing sunglasses, or your face may be red from sunburn. Your ability to stand and walk, without wobbling, may be a challenge from water skiing or sitting in a rocking boat all day.

In California, or any other state, a law enforcement officer can mistake these signs that you're displaying as being a boating under the influence. If you've been charged with boating under the influence, give us a call right away at **1-800-NoCuffs** or go online at NoCuffs.com.

WHAT DO MIRANDA WARNINGS HAVE TO DO WITH DUI CASES?

How do Miranda warnings apply in DUI cases? If you've ever watched a TV crime drama, you're probably familiar with the Miranda warnings that begins with the phrase, "you have the right to remain silent, anything you say can and will be used against you."

Some accused drunk drivers complain that they were never given a Miranda warning when they were arrested for driving under the influence.

Unfortunately, failure to administer a Miranda warning won't invalidate your drunk driving case. However, it can result in the exclusion of certain evidence.

The Miranda warning is intended to protect your rights when you're being questioned by police. Specifically, when you were in custody. Custodial interrogation occurs when you're not free to leave or otherwise terminate the encounter; an interrogation is the act of questioning you directly, or even indirectly, in an effort to gain information that can be used as evidence against you.

The big question in Miranda issues is whether you were in custody when the questions were asked.

The courts have ruled repeatedly that most questions asked by police during DUI investigations are put forth before the driver is in custody for Miranda purposes, so there generally is no legal requirement to advise you of your rights at that time.

"THANK YOU FOR THE EMAIL KEEPING ME UPDATED CONCERNING MY CASE. I GREATLY APPRECIATE YOUR TEAM KEEPING ME INFORMED AS WELL AS WORKING HARD REPRESENTING ME. IF THERE IS ANYTHING I CAN DO FOR YOU AT ANY TIME PLEASE FEEL FREE TO CONTACT ME."
—D.M., San Diego

If it is determined that a Miranda violation occurred, it may result in the suppression of statements that you made, but sadly it isn't likely to result in your case being dismissed.

It's important to recognize that Miranda violations do occur in California DUI cases and, therefore, you may have a valid legal challenge if you believe your rights have been violated.

Your California DUI attorney will thoroughly analyze your case to determine whether your Miranda rights were, in fact, violated. If you or someone you care about needs a lawyer, call us right now for a free consultation.

WHAT DO I NEED TO KNOW ABOUT DRUGS AND DUI CASES?

In California, cases related to driving under the influence of drugs are prosecuted in much the same way as DUI cases involving alcohol. The key question is whether you were physically or mentally impaired by the drug, to the degree that made you an unsafe driver.

Being under the influence, whether alcohol or drugs, is defined as physical or mental impairment to the extent that you are unable to drive with the same caution, characteristic of a sober person of ordinary prudence under the same or similar circumstances.

You can be charged with driving under the influence of drugs or DUID after ingesting a drug that is legal or illegal, prescribed or over-the-counter. Many people mistakenly believe that if a doctor prescribes the drug, they are allowed to drive while taking it. Unfortunately, this can be a mistake with severe consequences.

Unlike DUI alcohol cases, there is no per se limit involving drugs. The prosecutor will try to prove that you were driving under the influence of drugs by introducing evidence related to physical signs and symptoms, driving patterns, field sobriety test performance, and chemical test results, if they're available. There are certain law enforcement officers called drug recognition experts, or drug recognition evaluators, DREs for short, who are trained to identify signs of drug use.

Police may call in a DRE to evaluate you if you are suspected of driving under the influence of drugs. DREs are supposed to follow certain protocols in their evaluation, but a skilled attorney may be able to demonstrate that the proper procedures weren't followed, or that the supposed signs and symptoms were ambiguous, and just as consistent with non-impairment as they were with impairment.

Being convicted of driving under the influence of alcohol or drugs can have serious and lifelong consequences. The first step in reducing these repercussions, or eliminating them altogether, is to consult with a top DUI defense lawyer. If you or someone you care about needs a consultation with a lawyer, call us right now for a free evaluation.

WHAT ARE ELECTRONIC MONITORS?

An electronic monitoring device, which is an ankle bracelet, is also called a SCRAM device. SCRAM devices actually will constantly monitor a person's skin to see whether there's any alcohol consumption, and that's tested through the sweat glands. electronic monitoring is a legitimate alternative for those that are facing criminal charges, especially those related to driving under the influence of alcohol.

If you or someone you care about is facing a DUI charge, or any other criminal charge for that matter, call on us 24 hours a day for a free consultation so we can discuss your sentencing alternatives. Those can include electronic monitoring and several other alternatives too. You can reach us toll-free at **1-800-NoCuffs**.

WHAT DO I NEED TO KNOW ABOUT ADDICTION AND ALCOHOLISM?

What about people in the criminal justice system that suffer from drug addiction or untreated alcoholism? One of my frustrations as a criminal defense lawyer is to hear people complain about recidivist crime, about repeat crime, repeat customers of the criminal justice system. When that system is really founded on notions of punishment rather than rehabilitation and reform, for people that are suffering from a problem with alcohol or drugs.

The truth of the matter is that we lock people up for taking an action that offends us as a society, but that doesn't really address the underlying problem. All of these actions are born in thought.

We can't do something without first thinking about it. And the real trouble for those that suffer from alcoholism and drug addiction is that they suffer from a thought disorder that has them continue to take these actions that we as a society don't tolerate.

Yet, somehow, when we lock people away, and we don't do anything to address that underlying thought disorder, we act surprised and we get offended when people get out, go out and reoffend, and continue to take the same actions that got them into trouble in the first place.

The truth of the matter is, we've been dealing with it all wrong. We've been treating the symptoms and not the underlying problem, and until we step back and do something to address what's really going on, and take a fresh look at providing that solution, we're going to continue to see this behavior again and again and again.

Thankfully, there is some law in California that provides for time spent in a drug or alcohol rehabilitation center, hospital, sober living or a similar residential institution, to count just like time in jail.

But it's critical, if you're facing a criminal charge, and you or someone you care about has a problem with drugs or with alcohol, it's absolutely vital that you get

with a criminal defense lawyer right away, that knows about this law and knows how to use it to their client's advantage. I invite you to call on us 24 hours a day for a free consultation at **1-800-NoCuffs**.

ARE YOU AN ALCOHOLIC?

Sometimes people who come to our office are innocent people who have wrongfully been accused of a crime. However, there are others that got into trouble with the law, and what's really going on is a problem with drugs or alcohol.

To help people discover whether or not they have a problem with alcohol, Alcoholics Anonymous has produced the following questionnaire.

Anyone who answers yes to four or more of these questions may have a problem with alcohol.

1. Have you ever decided to stop drinking for a week or so, but only lasted for a couple of days?

2. Do you wish people would mind their own business about your drinking; to stop telling you what to do?

3. Have you ever switched from one kind of drink to another in the hope that this would keep you from getting drunk?

4. Have you ever had an eye-opener upon awakening during the past year? Next; do you envy people who can drink without getting into trouble?

5. Have you ever had problems connected with drinking during the past year? Has your drinking caused trouble in your home life?

6. Do you try to get extra drinks at a party because you didn't get enough?

7. Do you tell yourself that you can stop drinking any time you want to, even though you keep getting drunk, even when you don't mean to?

8. Have you missed days of work or school because of your drinking?

9. Do you have blackouts? Periods of time you just don't remember.

10. Have you ever felt that your life would be better if you didn't drink?

An estimated 13 million Americans suffer from substance abuse problems, but help is available to those that seek it. Alcoholics Anonymous has helped more than 2 million problem drinkers live sober, productive lives. If you, or someone you care about, is battling with a substance abuse issue, call on us 24/7 at **1-800-NoCuffs**. We really would like to help. There are resources that are available to help, and no one needs to go it alone.

CHAPTER II: DMV HEARINGS RELATED TO DUI CASES

ADDITIONAL INFORMATION ABOUT WHAT TO DO NEXT AFTER YOU GET ARRESTED FOR DUI

Did you know that California leads the nation in DUI arrests? Between the police, sheriff and the California Highway Patrol, there are about 200,000 DUI arrests each year in California. So if you've been arrested for driving under the influence, you're definitely not alone. At the same time, as a lawyer who's concentrated on DUI cases for over two decades now, we know that there's no comfort in numbers. The only case that matters to you is yours.

The first thing to know following a DUI arrest is that time is not on your side. One DUI arrest actually triggers two different cases to be fought. One's with the court, the other is with the DMV. And there are strict time limits to be honored, or else you're driving privileges will be automatically suspended.

The first case is the court case, and that's where you face a criminal conviction, being placed on probation, possible jail time, fines, DUI classes, and even being ordered to have an ignition interlock device installed in any car that you drive.

For those of you that don't know, an ignition interlock is a breathalyzer that installs in your car and prevents it from starting unless you first blow into it to show that you're alcohol-free.

The second case is the DMV case, and this is the one that often burns people in the fine print. When someone is arrested for DUI anywhere in California, the police will give them a pink piece of paper that's called a Notice of Administrative Per Se Action and Temporary License.

About two-thirds of the way down the page, in the teeny, tiny fine print, it says that you've got only 10 days from the date of your arrest to request a special hearing with the DMV or your license will automatically be suspended 30 days after the arrest.

All that needs to be done to avoid that automatic suspension is to make a request for a hearing. But there are some important tactical reasons you may want a lawyer to do that for you. And if you miss that 10-day window, the DMV's automatic suspension machine kicks in.

The length of the suspension will vary depending on whether you're over 21 or under 21, whether it's a first offense or a multiple offense, and whether you took or refused a chemical test at the time of your arrest. But the thing that often hurts people is missing that 10 day deadline.

Since the suspension can run from a minimum of 4 months up to several years, or even a lifetime, this can be a really big deal. This is just one of the reasons that it's so very important, that if you've been arrested for DUI, that you talk to a lawyer right away.

There is so much to talk about in the world of DUI defense, so if you've been arrested, we invite you to call us at **1-800-NoCuffs** so we can talk about the specifics of your DUI case.

Just know, that there's many ways to successfully fight these cases, that there's more than 59 ways breath and blood tests can be wrong, so there is hope, no matter what that machine says. But you've got to act fast.

YOU ONLY HAVE 10 DAYS TO REQUEST A DMV HEARING!

You have only 10 days from the day of your arrest to request a hearing with the Department of Motor Vehicles where you then have the opportunity to dispute the charges and even prevent a license suspension.

What happens in this hearing at the DMV could impact the outcome of the court case too, since it provides an opportunity to question witnesses without any criminal prosecutors around. Prevailing at the DMV hearing is not just key to defending your California driving privileges, but may be an important part of winning your court case too.

It could mean the difference between jail time and avoiding the consequences all together.

At **1-800-NoCuffs**, we have a dedicated DMV team to fight for your driving privileges. Our team has a proven record of victory in DMV hearings, and victory here means keeping your license, or reducing the impact of any suspension.

Entrusting your DUI case to **1-800-NoCuffs** means that we'll take care of both your DMV hearing and your court case. Both cases threaten your freedoms and we're dedicated to preserving them.

One of our DUI defense team members is ready to answer your questions about your case, and start planning a strategy to save your license and keep you out of jail.

"WE CANNOT THANK YOU ENOUGH FOR ALL YOUR GOOD HARD WORK IN GETTING MY LICENSE UNSUSPENDED. I AM DELIGHTED. PLEASE GIVE OUR THANKS TO THE ENTIRE STAFF. ONCE AGAIN THANKS A MILLION."
—F.T., Santa Clarita

REQUESTING A DMV HEARING AFTER THE 10-DAY CUT OFF! IT MAY NOT BE TOO LATE!

After a DUI arrest, you have just 10 days to request a hearing with the Department of Motor Vehicles or else your driving privileges will be automatically suspended. If you haven't already requested that hearing, then you may have missed the 10-day deadline.

The good news is that it might still be possible to take some action and save your driving privileges. The experienced DUI attorneys at **1-800-NoCuffs** can request a late hearing on your behalf, and cite any extenuating circumstances that may have prevented you from requesting a hearing before the expiration of the deadline.

Our track record of favorable results here is unparalleled. Give us a call and we'll be happy to tell you more about requesting a DMV hearing after the 10-day deadline has passed.

We at **1-800-NoCuffs** have a dedicated DMV defense unit whose members have the advanced skills and experience to aggressively fight any DMV administrative case. We have a demonstrated track record of "set asides," or DMV hearing decisions that have allowed our clients to keep their driver's licenses.

If the DMV grants your late hearing request, the issues raised will be the exact same as if you'd requested the hearing within the 10 day deadline. We can even get you a "stay" of the suspension, pending the outcome of that hearing.

Fortunately, it is possible to fight for your driver's license, and your rights at the DMV, and win. Our DMV unit will explore every possible option to save your driving privileges. We're ready to answer your questions about the case and start planning a strategy to save your license and keep you out of jail.

WHAT ARE THE BENEFITS OF HAVING A DMV HEARING?

Is there any benefit to conducting the DMV hearing, following a California DUI arrest?

Emphatically yes! It is possible to fight against the DMV administrative action and win. Your attorney may be able to successfully challenge the admissibility of the evidence against you or establish that you did not have an alcohol level of .08% or greater while you were driving, the only time period that's relevant.

But one of the main benefits in this DMV hearing is that your attorney can use that hearing as a valuable opportunity to gain information that can be useful in your criminal court case. In your criminal court case, your attorney isn't allowed to conduct depositions like they would in a civil case.

(A deposition is really just a formal interview, but it's very important, since it's given under oath. They're common in cases where people are fighting about money; we don't get them except in very rare circumstances in criminal cases.)

Having a full-blown DMV Hearing is a way for your lawyer to compel the arresting officer to answer questions under oath. An experienced lawyer may choose to subpoena the arresting officers to your DMV hearing, where they're going to be forced to testify under oath, and any

favorable testimony revealed there can be used in your criminal court defense.

Best of all, at the DMV there's no prosecutor there to coach the officer or to object to any questions that you want to ask. Officer's frequently appear at DMV APS Hearings unprepared, and this can be used powerfully to your advantage.

WHAT IS THE DMV COURT PROCESS?

So what's the DMV hearing process following a California DUI arrest? A California DUI arrests trigger both a court case and a DMV case.

California DMV hearings are unlike court trials in several important ways. One of the most unusual aspects of California DMV hearings is that the hearing officer acts as both a judge and a prosecutor.

That's right; the person who is arguing for your driver's license suspension is the same person who will decide whether or not to do so. This system has been challenged for years, but it persists.

Stranger still is that the DMV hearing officer isn't a judge, or even an attorney; it's a DMV employee without any kind of advanced education in the law.

Another unusual feature of California DMV hearings is that they typically don't feature live testimony. Unlike the criminal court proceedings, where the prosecutor is required to present live witnesses, DMV hearings are usually centered on various documents, such as your arrest report and the results of your chemical test, if you took one.

Your DUI lawyer's role at the DMV hearing will be to challenge the admissibility of each of the items of evidence against you. Now, the DMV's evidence is hearsay, and hearsay is generally inadmissible unless it meets certain indicia of trustworthiness.

So your lawyer is going to be challenging all of that evidence to try and keep it out. The bottom line is this; if you're facing a DUI charge in California, it's vital that you consult with a qualified California DUI lawyer right away, to help you navigate through this DMV hearing process.

The DMV is strangest in this respect: your chances of winning are just as good at .08, .18, and .28… they are so "hypertechnical" that the things that win cases are NOT going to be visible to you at the beginning of the case.

WHAT IF I LOSE MY CASE?

So what happens if you lose a DMV hearing? Well, the consequences of losing your DMV hearing, or not requesting one within the 10 days required by law are severe.

If this is your first DUI arrest within the past 10 years and you lose your hearing, or don't timely request a hearing, your driving privileges will be suspended for 4 months.

However, you can obtain a restricted license that allows you to drive to, from and in the course of your employment and to and from alcohol education classes, if you meet certain criteria, after 30 days of "hard suspension" have passed.

If you refuse to take a chemical test at the time you were arrested, your driving privilege will be suspended for a full year, with no opportunity for a restricted license.

If you're arrested for a second offense DUI, and you lose or fail to request your DMV hearing, your driving privileges will be suspended for 1 full year if you took a blood or breath test, or 2 years if you refused the test.

On a third offense, it's a 1 year suspension if did take a chemical test, or a 3 year license revocation if you refused. There are new laws that allow for the DMV suspension to be shortened for those drivers who install ignition interlock devices in their cars.

They're not available on motorcycles. So it's very important that if you consult with an experienced DUI attorney and really flesh out all of your alternatives here. If you'd like to consult with our Firm, you can call us toll-free at **1-800-NoCuffs**.

DMV PENALTIES FOR FIRST DUI

A DUI arrest in California triggers two different cases. There's a court case, where you've been given a date to appear on your citation, and there's also a DMV case. In fact, if you look at the fine print on that pink piece of paper that you likely received, it tells you there that you have only 10 days from the date of the arrest to request a hearing from the DMV, and if you don't, your license is suspended automatically in 30 days. It's up to you, or your lawyer, to request that hearing and void the automatic suspension. Miss this 10-day deadline and your driving privileges are gone.

- First, if you have the financial capability, hire the best lawyer that you can. Good lawyers aren't cheap and cheap lawyers aren't good, but having the right help can make all the difference.

- Second, you need to make sure that you get a DMV hearing request on file within the first 10 days of your arrest. Ideally, you want your lawyer to do that for certain tactical reasons.

"THANK YOU GUYS SO MUCH FOR ALL OF YOUR EFFORTS AND FOR WORKING SO HARD TO RESOLVE THIS. I AM DEEPLY GRATEFUL AND WILL CONTINUE TO RECOMMEND YOU TO EVERYONE I KNOW."
—M.D., Los Angeles

But whatever you do, do not miss this 10-day deadline, if you can help it. And do that request in writing, and send it by fax, so there's proof that it actually went to the DMV. Don't just make a phone call and think that it's done.

Most first time DUIs include a charge of violating two different vehicle code sections, 23152a and 23152b.

And you may actually see one or both of these numbers written on your citation. 23152a is charging you with driving under the influence of alcohol, drugs or a combination of the two. 23152b is charging you with having an alcohol level of .08% or higher at the time you were driving. A conviction of either charge means a DUI on your record. It's actually two bites at the apple for the prosecutor.

The consequences for a DUI conviction are severe. Being on probation, fines, possible jail time, losing your driving privileges, having to file an SR-22 proof of insurance certificate and on and on and on.

Some courts are now even requiring a breathalyzer to be installed in your car to prevent it from starting unless you blow into it first to prove that you're alcohol-free.

CHAPTER III: CRIMINAL CASES

TOP QUESTIONS TO ASK YOUR CRIMINAL DEFENSE LAWYERS.

So what are the top questions to ask your perspective criminal defense lawyer? Unfortunately a harsh reality exists in the United States criminal justice system. You'll get just about as much justice as you can afford.

There's an old saying that good lawyers aren't cheap and cheap lawyers aren't good. This is especially true in the criminal defense field which is crowded with general practice attorneys who may not have the advanced knowledge and training needed to effectively defend complex California criminal cases.

So how can you tell whether your prospective defense lawyer has the experience and qualifications to handle your case? Of course there are no guarantees, but there are several questions you can ask that will give you a much clearer picture of your prospective attorney's ability and experience.

1. **How many years of experience does your prospective attorney have in criminal defense?** It's important not to entrust your freedom and your future to an amateur. Don't be afraid to ask your potential defense lawyer how many years he or she has been

practicing law, and what types of cases have been handled during that time.

2. **Does your prospective attorney belong to professional organizations relating to criminal defense?** Belonging to one or more criminal defense legal groups is an excellent indicator of your prospective defense lawyer's commitment to staying abreast of the most advanced, cutting-edge defense strategies available to fight your criminal case.

3. **Does your potential lawyer have any specific advanced training in criminal defense?** Ask your prospective attorney about any advanced training or seminars he or she has completed in criminal defense techniques. If your lawyer is relying solely on the information they gained years ago in law school, your defense may be in trouble.

4. **Does your prospective attorney have a proven track record of success?** Feel free to ask your potential lawyer how many cases he or she has defended and how many of those went to trial, resulted in a successful plea bargain, ended up with an acquittal or a hung jury, or resulted in a conviction. While again, there are no guarantees, and every case is certainly different, your prospective lawyer's track record can give you some indication what you might expect in your own criminal case.

5. **Is your potential defense lawyer invited to lecture to his or her peers?** Well-regarded defense lawyers are often invited to train other attorneys at continuing education workshops and seminars. Find out if your prospective attorney is qualified and has experience teaching their peers.

6. **What's your prospective defense attorney's policy on communication and response time?** You may soon discover that this is one of the most important considerations in selecting a defense lawyer.

7. **How quickly will your prospective defense attorney return your phone calls or emails?**

8. **Will your potential lawyer give you a cell phone number and be available on the evenings and weekends?** You may have questions or concerns outside of business hours, and the most effective attorneys recognize this fact and don't want their clients to sit and suffer in silence.

WHAT KIND OF POST-CONVICTION RELIEF IS AVAILABLE TO ME?

Anyone who's ever been convicted of a crime knows that the feelings of shame, guilt and remorse can last longer than any jail sentence. These are feelings that can linger on for years, long after somebody's paid their debt to society.

I know from personal experience, how horrible it can be wondering if a job possibility or some other future dream will die because of a past mistake.

The kind of relief that's available will depend on whether the conviction in question comes from juvenile court or adult court, whether it's a misdemeanor or a felony, and whether the sentence was one that required jail, state prison, or no custody time at all.

Some of the legal remedies act like an eraser on your record and actually remove all references to it. Others aren't an eraser but still represent a massive improvement on a person's criminal record since they reflect the court's "good housekeeping" seal of approval...that the good conduct and reform of a person make them deserving of this relief.

Whether you are eligible for a sealing and destruction of arrest records, a simple expungement, a certificate of rehabilitation, or a governor's pardon, we at **1-800-NoCuffs** know from experience and from two decades of helping people just like you, that this kind of post-conviction relief will silence that little voice when nothing else will.

CHANGES IN THE CALIFORNIA DOMESTIC VIOLENCE LAWS

Domestic violence laws have changed dramatically in recent years. Some of the trends make sense, like expanding the definition of who an intimate partner can be to reflect some changes in values in society. Other changes may have been well intentioned but poorly executed.

For example, one of the big drivers of change in the area of domestic violence was OJ Simpson, who I'm sure everyone will remember as famously being found "not guilty," but civilly liable in the killing of his ex-wife Nicole and her friend Ron Goldman.

One of the things that surfaced in that case was that police had been called to OJ and Nicole's home for domestic violence allegations eight times in the years prior to her death but that OJ had never been arrested. Because of that, law enforcement agencies had a massive attitudinal shift. If somebody calls police complaining of domestic violence, after OJ Simpson, somebody's going to get arrested.

While the rationale behind that policy may have been good, in practice it sometimes became a race to the phone, and the person who called was the victim, and the person who was complained about was going to jail, but sadly, some couples even used domestic violence allegations as a way to get leverage in a divorce or child

custody fight. These cases are often factually complex and very emotionally charged.

Adding to the complexity of this area is that there are many potential criminal charges that can be brought. The most frequently encountered domestic violence charge is violating California Penal Code section 273.5, the traditional domestic violence charge against an intimate partner, which can result in serious custody time for even trivial injuries. Other potential charges include; simple battery, criminal threats, stalking, sexual battery and more.

What can make this even more complex still, is the unique issues that arise in terms of bail, the kinds of protective orders that the court can issue (even requiring the defendant to move out of their house), the kind of evidence that can be introduced in a domestic violence case (which is far broader than in other kinds of criminal cases), and the types of punishments that can be imposed on domestic violence cases.

Of course the number one misconception that many people still have is that the victim can choose to drop the charges after making a domestic violence complaint. Not only is this untrue, but attempting to do so could make matters worse for the defendant since prosecution experts will often say that this recantation is a symptom of battered person syndrome.

Because of the unique issues that arise in domestic violence cases, if you or someone you care about has been charged with a domestic violence crime, please consult with a skilled lawyer right away.

WHAT DO I NEED TO KNOW ABOUT SEXUAL ABUSE CASES?

Cases involving allegations of sexual abuse or violence pose unique challenges for both the prosecution and the defense. Many witnesses aren't comfortable discussing sex crimes, and many jurors are equally uncomfortable hearing about them.

Your attorney should do everything possible to put both witnesses and jurors at ease during testimony about sex crimes, while ensuring that you receive a top-notch defense.

In California, individuals convicted of certain sex-based offenses are required to register as sex offenders for life.

One possible way to avoid this requirement is through a carefully negotiated plea bargain. Your defense lawyer can advise you whether a plea bargain is possible that would prevent you from having to register as a sex offender.

Of course, the best way to avoid registration is not to be convicted at all. Unfortunately, many sex cases involve multiple counts, because each alleged act can be

brought as a separate charge that carries a mandatory consecutive sentence.

As a result, a sex offense can carry potential prison sentences of years, or even decades, in prison. Our defense lawyers do everything possible to overcome these obstacles and work tirelessly to achieve the best possible result in a sexual abuse or violence case.

Your attorney should employ an aggressive defense strategy designed to create reasonable doubt in your guilt, and if you're convicted, seek an outcome that results in treatment, instead of incarceration. If you or someone you care about needs a lawyer, call us right now for a free consultation.

DO SEX AND NARCOTICS OFFENDERS HAVE TO REGISTER?

Under California law, sex offenders and narcotics offenders are required to register with police every year.

Although both of these requirements have been challenged, the courts have repeatedly upheld the government's right to require sex and drug offenders to register with law enforcement every year, and each time that they move.

Certain sex offenders, regardless of where their conviction occurred, are required to register for life in California. They must provide information about their

current location to the state, so that they can be included in the Megan's Law database.

There are three levels of registration, depending on the conviction offense. Users of the Megan's Law database can see the names, addresses and photographs of the most serious offenders. Those convicted of a less serious offense are shown anonymously on a map.

A third level of offender is only known to law enforcement. When registering as a sex offender, you're required to provide your name, current address, photograph, fingerprints, blood and saliva samples and proof of residence. You're required to re-register every year after your birthday, and within five days of moving.

"THE WORDS 'THANK YOU' CANNOT EXPRESS MY GRATITUDE. I AM SO IMPRESSED WITH YOUR FIRM AND THE EFFORT THAT WENT IN TO MY REPRESENTATION DURING THIS VERY DIFFICULT TIME IN MY LIFE."
—J.W., Los Angeles

Narcotics offenders also must register with their local police departments, but the requirements are far less stringent. Unlike sex offenders, the registration information of narcotics offenders isn't disclosed to the general public, and the requirement to register ends five years after release from prison, jail, probation or parole, whichever comes last.

Individuals convicted of various California Health and Safety Code sections are required to register as narcotics offenders within 30 days of moving into a jurisdiction, and within 5 days of moving within that jurisdiction. Police will

photograph and fingerprint the offender, and record the current address in a database.

Registration is an imposition on privacy, causes significant embarrassment, and can even result in protests or attacks. The best way to avoid this consequence is by avoiding conviction for any offense that requires registration.

There are ways to obtain relief from registration requirements related to a criminal case. If you or someone you care about wants to discuss relief from these requirements, call us right now for a free consultation.

HOW TO FIGHT A PUBLIC INTOXICATION CHARGE

You may think that you can be as drunk as you want, as long as you're not driving. After all, if you're not getting behind the wheel, what's the problem?

Not so fast. California has a law on the books, Penal Code section 647(f), which provides that it's illegal to be in a public place where you're so intoxicated, after consuming alcohol, drugs or a combination of the two, that you're a danger to yourself or others.

Sadly, as a criminal defense lawyer, I've seen police use their power to arrest people for this charge, merely because somebody has failed the "attitude test" by exercising their right to speak, which police sometimes

interpret as not showing them the respect they believe they are due.

If someone is arrested for public intoxication, they can be subjected to the embarrassment and danger of being booked and held in county jail and can even be placed in civil protective custody for up to 72 hours.

These cases can often be fought and won, because the police usually don't document them very well. They usually fail to do even the basic investigation, like asking the person to submit to a breath test, so a good lawyer can frequently get these cases tossed.

The sad thing is that often times, people think they can just handle it themselves. That they'll go to court and plead guilty for credit time served, meaning they have a conviction, but no further jail time.

The reason this is a lousy deal is that they now have a misdemeanor conviction on their record, when they could have avoided the whole thing, and in the modern era of computers and smartphones and data sharing, these kinds of convictions can turn up on background checks, job applications and professional licensing applications, and really slow down or derail what was a bright future.

If you or someone you care about faces a charge of being drunk in public, it's worth talking to somebody who knows what they're doing. Beware going it alone, or you could end up getting way more than you bargained for. We at **1-800-NoCuffs** hope this helps.

WHAT ARE AGGRAVATING FACTORS?

California has a determinate sentencing law that spells out the punishment range for most crimes. The possible sentences in a California felony case are known as the lower term, middle term and upper term.

The judge selects your sentence based on aggravating and mitigating factors. In addition to influencing the judge in the selection of your sentence, some of the aggravating factors can be charged as sentencing enhancements that carry added repercussions.

However, just like the underlying charges that you face, any sentencing enhancement must be proven beyond a reasonable doubt or you cannot receive additional punishment.

You can't be punished for a sentencing enhancement if you're not convicted of the underlying offense.

Also, prior convictions can't be used as both sentence enhancements and aggravating factors. As you can tell already, this is an exceptionally complex area of the law.

Aggravating factors in California criminal cases can be related either to the offense itself or to the defendant. These are the offense-related aggravating factors that can be applied to a California criminal case.

- The crime involved great violence, great bodily harm, threat of great bodily harm or other acts disclosing a high degree of cruelty, viciousness, or callousness.

- The defendant was armed with, or used, a weapon at the time of the commission of the crime.

- The victim was particularly vulnerable.

- The defendant induced others to participate in the commission of the crime, or occupied a position of leadership or dominance of other participants in its commission.

- The defendant induced a minor to commit or assist in the commission of the crime.

- The defendant threatened witnesses, unlawfully prevented or dissuaded witnesses from testifying, suborned perjury or in any other way illegally interfered with the judicial process.

- The defendant was convicted of other crimes for which consecutive sentences could have been imposed but for which concurrent sentences are being imposed.

- The manner in which the crime was carried out indicates planning, sophistication, or professionalism.

- The crime involved an attempted, or actual taking, or damage of great monetary value.

- The crime involved a large quantity of contraband.

- The defendant took advantage of a position of trust or confidence in order to commit the offense.

Now, these are the factors related to the defendant themselves that can aggravate a California criminal offense.

- First, the defendant has engaged in violent conduct that indicates a serious danger to society.

- The defendant's prior convictions as an adult, or sustained petitions in juvenile delinquency proceedings, are numerous or of increasing seriousness.

- The defendant has served a prior prison term.

- The defendant was on probation or parole when the crime was committed.

- The defendant's prior performance on probation or parole was unsatisfactory.

- Just like the aggravating factors that influence the outcome of California criminal cases, mitigating factors are also divided into those related to the offense and those related to the defendant, but those we're going to address in a separate discussion.

Aggravating and mitigating factors can have a tremendous impact on the sentence in a California criminal case, so it's up to your attorney to bring in as many mitigating factors as possible, so that way the judge is aware of the good things, the good factors, and minimize those aggravating factors.

WHAT ARE FACTORS OF MITIGATION?

What about factors of mitigation in criminal cases? California has a determinate sentencing law that spells out a punishment range for most crimes. The possible sentences in a California felony case are known as the lower term, middle term and the upper term.

The judge selects your sentence based on aggravating and mitigating factors. In addition to influencing the judge in the selection of your sentence, some aggravating factors can be charged as sentencing enhancements that carry additional repercussions.

However, just like the underlying charges that you faced, any sentencing enhancement must be proven beyond a reasonable doubt or you can't receive additional punishment. You also can't be punished for sentencing enhancement if you're not convicted of the underlying offense.

Prior convictions can't be used as both sentence enhancements and aggravating factors. Just like the aggravating factors that influence the outcome of a California criminal case, mitigating factors are also divided into those related to the offense and those related to the defendant.

The following are mitigating factors related to the offense that can be considered in a California criminal case.

- First, the defendant was a passive participant or played a minor role in the crime.

- Next, the victim was an initiator of, a willing participant in, or aggressor or provoker of the incident.

- The crime was committed because of an unusual circumstance, such as great provocation that is unlikely to recur.

- The defendant participated in the crime under circumstances of coercion or duress, or the criminal conduct was partially excusable for some other reason not amounting to a complete defense.

- The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

- The defendant exercised caution to avoid harm to persons or damage to property, or the amounts of money or property taken were deliberately small, or no harm was done or threatened against the victim, or the

defendant believed that he or she had a claim or right to the property taken, or for other reasons, mistakenly believed that the conduct was legal.

- The defendant was motivated by a desire to provide necessities for his or her family, or themselves.

- The defendant suffered from repeated or continuous physical, sexual or psychological abuse, inflicted by the victim of the crime, and the victim of the crime who inflicted the abuse, was the defendant's spouse, intimate cohabitant, or parent of the defendant's child, and the abuse does not amount to a defense. Now, these are the mitigating factors related to the defendant.

> *"JUST WHEN I THINK YOU CAN'T POSSIBLY IMPRESS ME MORE THAN YOU HAVE THUS FAR, I READ THROUGH YOUR MOTION TO SUPPRESS AND FIND MYSELF IN AWE. YOU'RE A STAR AND I COULDN'T BE HAPPIER OR LUCKIER TO HAVE YOU REPRESENTING ME!"*
> —R.S., Van Nuys

- The defendant has no prior record or has an insignificant record of criminal conduct, considering the date in frequency of the prior crimes, or that the defendant was suffering from a mental or physical condition that significantly reduced culpability for the crime.

- The defendant voluntarily acknowledged wrongdoing before arrest or at an early stage of the criminal process, or the defended is ineligible for probation, and but for that ineligibility it would have been granted.

WHAT IS THE THREE STRIKES LAW?

What about California's three strikes law? Tens of thousands of Californians have been caught in the net of the state's controversial three strikes law. Although it was sold to voters as a way to put dangerous criminals behind bars for life, 65% of those sentenced under the three strikes law committed non-violent offenses.

California's three strikes law dictates that serious or violent felony convictions each count as a strike. The list of serious or violent offenses is lengthy. Felony manslaughter, rape, aggravated assault, robbery and even burglary count as strike offenses. Individuals with 2 prior strike convictions can be sentenced to life in prison for a third felony conviction, if the third felony is a serious or violent felony.

Under the three strikes law, your punishment for a non-violent felony conviction can be doubled, merely because you have a single strike on your record.

For example, someone with a prior felony burglary conviction, which is a strike, who is facing 3 years in prison for a drug charge, can be sentenced to 6 years in prison, because of the prior strike offense.

A Romero motion is one method your defense lawyer may use to try to protect you from the excessive punishment of a second or third strike conviction. A Romero motion is a request to the court to challenge one or more of your

prior strike convictions, so that you can avoid the harsh consequences of the three strikes law.

In some cases, the court will strike a prior conviction from consideration in a second or third strike case, if your defense attorney demonstrates just cause and that the interest of justice would be served.

Of course, the most effective way to ensure that you can avoid the consequences of a third strike, is to avoid getting convicted at all.

At **1-800-NoCuffs**, our aggressive and experienced defense lawyers analyze every aspect of the prosecutor's case against you to determine whether evidence was improperly obtained, whether police followed correct procedure when obtaining and executing search warrants, and we do anything and everything we can to prevent a conviction.

If you or someone you care about needs a lawyer to help with a three strike case, or any other, call us right now for a free consultation.

WHAT DO I NEED TO KNOW ABOUT SEARCH WARRANTS?

Many California criminal investigations involve the service of one or more search warrants. A search warrant is an order signed by a judge that allows the police to look for contraband or evidence of a crime.

The fourth amendment to the US Constitution protects all of us against unreasonable search and seizure. So warrants are meant to ensure that those rights have been protected. The rules that govern search warrants are complex and constantly evolving which means that police can make mistakes in drafting and executing them.

This is great news for the defense because evidence seized with an invalid search warrant may be inadmissible as evidence in your case, and the prosecutor's entire case against you or someone you care about may hinge on that evidence.

If you wish to challenge a search on a fourth amendment ground, you must first have standing to do so, meaning that you can't object to a search on the grounds that have violated the rights of someone else.

For example, if you are a passenger in someone else's car or guest in their home, that individual has a reasonable expectation of privacy in those areas, but you may not.

However, there are grey areas in warrant law that may allow this type of search to be challenged, so help from an experienced defense lawyer is critical.

Police are typically required to knock and announce themselves before executing a search warrant, but they can enter by force if they're denied entry after doing so.

Also, police can sometimes obtain authorization for what's called a "No Knock" warrant. These types of

warrants are generally approved only in cases where law enforcement officers have good reason to believe they will face undue harm by announcing themselves.

If you or someone you care about needs a lawyer and there's a search-and-seizure issue involved, call us right now for a free consultation.

WHAT DO I NEED TO KNOW ABOUT INFORMANTS?

What about informants? Police use informants to gather evidence in many different types of criminal cases. Informants provide information that is used to make arrests, obtain search warrants and other elements of police investigations.

"I CAN'T TELL YOU HOW MUCH I APPRECIATE ALL YOUR EFFORTS, PROFESSIONALISM, COMPASSION, AND SKILL!"
—C.H., San Diego

However, informants have been known to supply information to police that is mistaken, or even made up. Informants are often times individuals with criminal records themselves, and may not provide reliable information. Even worse, they may make up information to get out of their own pending criminal cases.

Because information provided by informants is sometimes questionable, the defense lawyers at **1-800-NoCuffs** work hard to challenge aspects of your criminal case that rely on informant information.

Criminal cases sometimes hinge on the input of confidential informants, also called CIs. Confidential informants supply information in exchange for money, or consideration in their own cases.

Police also have confidential reliable informants, individuals who are believed to have provided reliable information to investigators in the past, and they're expected to do so in the future. Information provided by confidential reliable informants may appear to be more difficult to impeach, but can still be challenged effectively.

Citizen informants, such as neighbors who report signs of criminal activity, can also trigger police investigations. Our defense lawyers thoroughly investigate any reports made by citizen informants to determine whether the information was reliable. Even though the United States Constitution purportedly gives you the right to face your accuser, unfortunately prosecutors and investigators fight hard when it comes to revealing the identity of their confidential informant.

Courts have sometimes even ruled that the police may be allowed to withhold the identity of informants in order to encourage future tipsters.

These are the types of cases where an aggressive defense lawyer is essential. Your attorney should make a motion to reveal the identity of any confidential informants involved in your case and may also challenge the validity of any search warrants obtained with information the informant supplied.

Any evidence at all that's obtained in violation of your constitutional rights should be suppressed. If you or someone you care about needs a lawyer, and suspect that an informant was involved in the case, call us.

WHAT IS THE ROLE OF A SUBSTANCE ABUSE EXPERT IN A CRIMINAL CASE?

So what might be the role of a substance abuse expert in a criminal case? A qualified substance abuse expert can be an invaluable asset to your defense team in California criminal cases involving alcohol or drugs.

In some cases a substance abuse expert may testify about a defendant's alcohol or drug dependency as a mitigating factor, meaning something that helps explain the defendant's actions.

In other cases an expert may find that a defendant does not have a substance abuse problem and that the alleged criminal behavior was an aberration that isn't likely to be repeated. Each perspective can be useful, depending on the facts of the case.

Studies have shown that many criminal defendants have an unaddressed problem with alcohol or drugs, and a knowledgeable substance abuse expert who determines that you could benefit from treatment can provide input that may persuade the court to treat you with greater leniency.

Conversely a substance abuse expert who determines that you don't have an alcohol or drug problem can testify on your behalf and assure the court and the prosecutor that your arrest or whatever led to it was merely a temporary lapse in judgment and that you're not likely to reoffend because of an untreated, unaddressed issue relating to alcohol or drugs.

A qualified substance abuse expert can provide powerful evidence and testimony in your California criminal case that supports your defense. **1-800-NoCuffs** has a strong working relationship with some of the top substance abuse experts in the country, who are available to consult on your case if needed.

WHAT DO I NEED TO KNOW ABOUT PROBATION VIOLATIONS?

What about probation violations? If you're convicted of a California criminal offense, you may be placed on probation as part of your sentence. If you're on probation that means that you're under the supervision of the court and you must meet certain terms and conditions.

If you fail to meet those obligations, or you're charged with a new offense, you may be found to be in violation of your probation.

A probation violation can result in you being sentenced to the maximum possible sentence for your original offense.

Unfortunately, you don't enjoy as nearly as many constitutional protections when accused of violating your probation as you do when being tried on a criminal charge in court.

When you're accused of a new case, you're entitled to a jury trial and you can't be convicted unless all 12 jurors are convinced of your guilt beyond a reasonable doubt; the highest burden of proof in the legal system.

By contrast, if you're accused of violating the terms of your probation, a judge alone will decide whether you should be punished and the standard of proof is much lower. Instead of guilt beyond a reasonable doubt, the judge must merely find by preponderance of the evidence that you violated the terms of your probation.

"MR. KAVINOKY'S FIRM WAS NOT ONLY PROFESSIONAL AND COURTEOUS BUT THEY TOOK THE TIME TO LISTEN TO MY STORY AND EXPLAIN WHAT MY OPTIONS WERE. THEY'RE NOT THE CHEAPEST FIRM, BUT I SUPPOSE YOU GET WHAT YOU PAY FOR. THEY REALLY WENT ABOVE AND BEYOND THE CALL OF DUTY FOR ME. I'D RECOMMEND THEM TO ANYONE THAT NEEDS A GOOD LAWYER"
—R.S., Encino

Preponderance of the evidence is often described as 50% plus a feather, just enough to tip the scales against you.

However, there is hope. If you or someone you care about needs a lawyer, call us right now for a free consultation. Our toll-free number is **1-800-NoCuffs**.

WHAT ARE MIRANDA WARNINGS?

If you've been arrested on a California criminal charge, there's a good chance the police read you a statement of your rights called the Miranda warning that sounded something like this, "you have the right to remain silent, anything you say can and will be used against you, you have the right to an attorney, if you cannot afford an attorney one will be provided to you free of charge prior to questioning."

Because Miranda warnings are so common in television and film you might have known these rights already, but if the police didn't read you your Miranda rights before questioning you, any admissions you made may be suppressed from evidence. However, contrary to popular belief, your case won't automatically be dismissed if police failed to read you your Miranda rights. Miranda warnings are designed to keep police in check during custodial interrogations.

Custodial means that you were in custody, that you weren't free to leave, or otherwise terminate the encounter. Interrogation is questioning by police designed to dry out an incriminating statement. Common questions or issues relating to Miranda warnings are whether or not you are actually in custody when the police were questioning you, or whether whatever happened was questioning at all.

Both direct questions and other activity calculated to draw out an incriminating response could trigger the requirement to give Miranda warnings.

Here's the most important thing to know, a skilled defense lawyer can review your case to determine whether police violated your rights and what types of challenges can be brought on your behalf.

CHAPTER IV: CRIMINAL COURT PROCESS FOR MISDEMEANORS AND FELONIES

HOW MUCH JAIL TIME CAN BE HANDED DOWN?

The first question almost every California criminal defendant asks, understandably, is the amount of jail or prison time that can be handed down if there is a conviction.

Of course, even if you're convicted, the best possible outcome is no jail time at all. Determining how much jail time you face if you're convicted of a California criminal offense is a complex task.

Under California law, each felony offense has a lower, a middle and an upper prison term. The judge is required by law, to oppose the middle term, unless it's determined that a different punishment is more appropriate based on factors of aggravation or mitigation.

However, in 2007, the United States Supreme Court ruled that allowing judges to add additional years to a prison sentence without the input of a jury violated defendant's constitutional rights.

Certain sentencing enhancements can add additional years to an already lengthy prison sentence. For example, a defendant facing a second-degree robbery charge faces a prison term of 2, 3 or 5 years, but a firearm enhancement can add 10 years or more to the sentence.

Prison sentences for multiple convictions are either imposed concurrently, meaning they're served at the same time, or consecutively, meaning that one term must be served before the next one begins. Consecutive prison sentences in California are usually limited to one third of the midterm, so that limits on a defendant's exposure on multiple consecutive prison sentences is observed. Obviously it gets very, very complex.

"I WAS AMAZED AND ENORMOUSLY GRATEFUL TO HAVE YOU MEET US AT THE COURTHOUSE. YOUR TEAM WAS ABSOLUTELY STUNNING IN THEIR DEFENSE FOR US. THEY POSSESSED INCREDIBLE INSIGHT INTO THE SITUATION AND TOOK THE TIME TO MAINTAIN A CONTINUOUS DIALOG OF INFORMATIVE COMMUNICATION WITH US THROUGHOUT. THEY WERE STELLAR AND ON POINT WITH THE DISTRICT ATTORNEY AND THE JUDGE, SOMEHOW OBTAINING A JUDGMENT THAT I THOUGHT WOULD HAVE BEEN AN IMPOSSIBILITY JUST WEEKS BEFORE!"
-S.A. AND G.A., LOS ANGELES

In some cases, consecutive prison sentences are limited by laws that forbid what amounts to multiple punishments for a single transaction. Other cases, most notably certain sex offenses, require consecutive sentencing, meaning that one sentence is served before the other one begins.

Because of the many rules governing sentencing, this is an extremely complex area of the law. Under California Penal Code section 2900.5, a defendant who has spent time in a jail, rehabilitation center, a halfway house or another approved facility while awaiting adjudication for a criminal offense will receive credit against a jail or prison sentence.

At **1-800-NoCuffs**, we know that avoiding jail or prison is one of your primary concerns and we'll fight aggressively to protect your freedom. If you're charged with a felony that is a strike and you have no prior convictions, the real impact will be that the prosecutors may be forbidden from engaging in plea-bargaining to lesser charges, unless certain requirements are met.

If convicted you also get less credit for time spent in custody. Non-strike felonies usually mean actually serving about 50% of the time they're sentenced to. With a strike, you'll end up doing 80 to 85% of the time.

But the real impact of the 3 strikes law is on people who have prior convictions that are strikes. If you have a prior conviction that's on the list of either serious or violent felonies, conviction on a new felony can mean your current sentence is doubled. And to get you double the time, the current charge does not have to be a strike. If that sounds harsh, hang on.

For someone that has two prior convictions that are strikes, that used to mean that if a third conviction for any felony got you a minimum sentence of 25 to life!

Because this resulted in some really insane outcomes, like homeless people getting sentenced to life in prison for shoplifting a shaving kit or stealing a slice of pizza from a food cart because they were hungry, in 2012, the California voters changed this, so that in order to get life in prison, the third strike that sent someone there had to be a serious or violent felony (not like a simple shoplifting charge). As a result, about 3,000 people that were serving life terms became eligible for re-sentencing.

WHAT ARE PRE-TRIAL MOTIONS?

Pre-trial motions are important tools for a defense lawyer fighting a California criminal case. A “motion” is simply a formal request that a judge order something. They are effective ways for your defense attorney to improve your prospects at trial.

A successful pre-trial motion can achieve everything from suppressing evidence, to generating additional information for the defense, to actually resulting in the dismissal of your entire case.

Some common motions used by **1-800-NoCuffs** include motions to dismiss, to suppress evidence, to gain supplemental evidence through additional discovery, to strike prior convictions, to suppress statements made by the defendant, and what is known as a Pitchess motion, a request to gain access to the arresting officer’s private personnel records.

The issues your defense attorney will weigh when considering pre-trial motions in your case include whether or not your arrest was lawful, whether you were given a Miranda warning before being questioned by police, whether the police officer who arrested you used excessive force or engaged in dishonesty when writing reports, and whether evidence might be suppressed on other grounds.

Pre-trial motions, as the name suggests, can be introduced any time prior to a trial. The judge will schedule a hearing so that both your defense lawyer and the prosecutor can argue the merits of the motion before the judge announces a ruling. Carefully considered pre-trial motions are an extremely important weapon in your defense lawyer's arsenal.

"THANK YOU FOR YOUR SUPPORT AND HELP. AS ALWAYS, THE KAVINOKY LAW FIRM CAME THROUGH FOR ME. I AM SO GLAD I CAN COUNT ON YOU WHEN I REALLY NEED HELP!"
-M.M., Los Angeles

Successful pre-trial motions can make the difference between acquittal and conviction in some California criminal cases. **1-800-NoCuffs** can begin reviewing potential pre-trial motions during your initial consultation and will incorporate them into an effective overall defense strategy.

WHAT ARE THE SENTENCING ALTERNATIVES?

What about sentencing alternatives? If your best interests are served by a plea of guilty to a California criminal offense, or you are found guilty in court after a trial, you may be eligible for alternative sentencing that can reduce or eliminate jail time and other harsh punishment.

There are many types of alternative sentencing options that may be substituted for more traditional punishment in your California criminal case.

Possible sentencing alternatives include house arrest with electronic monitoring, work furlough, community service, freeway cleanup, and when appropriate, drug or alcohol treatment, sober living environments, and an attendance in 12-step meetings such as Alcoholics Anonymous or Narcotics Anonymous. In many cases, participation in these sentencing alternatives is credited against the jail sentence on an hour for hour, or day per day basis.

While some sentencing alternatives may seem less than enticing, after all no one wants to pick up trash on the freeway early on a Saturday morning, they can keep you out of jail and that can be priceless. Sentencing alternatives aren't an option in every California criminal case, but if they are available they provide a viable alternative to jail and other traditional punishments.

CAN I WITHDRAW A GUILTY PLEA?

What about withdrawing a guilty or no contest plea? It's not uncommon to plead guilty or no contest to a California offense and then regret it later. Call it buyer's remorse.

You may have pled guilty because you felt you had no other options, or simply to try and put the experience behind you quickly, but now you believe that it wasn't in your best interests.

Fortunately, it may be possible to withdraw your guilty plea, with the help of an experienced lawyer. Whether you can withdraw a guilty or no contest plea, and how complicated it will be, depends on whether or not you've been sentenced.

If your sentence hasn't yet been handed down, you can withdraw a guilty or no contest plea by demonstrating good cause.

For example, perhaps you didn't understand the proceedings or pled guilty against your will. If you've already been sentenced, withdrawing your guilty or no contest plea is a more complex process, but it's still possible.

Timing is important, so it's critical that you get with your lawyer right away. Your attorney can submit a motion to withdraw your plea. If that motion is rejected, your lawyer will have to submit a writ of habeas corpus on your behalf.

If the court approves your petition to withdraw your guilty plea, or your writ of habeas corpus, it will essentially restart the prosecution of your criminal case so you'll have to be prepared to either stand trial or negotiate a new plea bargain.

If you're concerned about whether or not you did the right thing, **1-800-NoCuffs** can review the facts of your individual case and advise you of the likelihood of withdrawing your plea, and to help you determine your best course of action.

THREE THINGS TO KNOW ABOUT FEDERAL CHARGES

There are three things you need to know if you're facing federal charges.

First. The federal court system is radically different than the state court system. A criminal case is going to be in the federal court system if the government asserts jurisdiction because of a violation of federal law, and these are laws that are found in the United States code, or if it's a crime that occurred on federal property, like a DUI that happens in a National Park, or on a military base.

Second. There are many instances where the potential defendant is going to learn of a federal investigation long before formal charges are initiated. These situations offer a unique opportunity for defense lawyers to work with federal prosecutors, who are called assistant U.S. Attorneys, or AUSAs for short. That's going to help your lawyer have time to shape the possible outcome, including negotiating an out-and-out dismissal of the charges. This is just one of the reasons why it's so vital to bring in a lawyer at the first hint of an investigation. If you wait too long, you limit what can be done to help you.

"THANK YOU SO MUCH FOR ALL THAT YOUR TEAM HAVE DONE FOR C AND ME. YOU ALL HAVE TRULY BEEN A BLESSING BY ASSISTING US AND SAVING US MUCH HARDSHIP. WE WILL ALWAYS BE INDEBTED TO YOU! I WILL GLADLY REFER YOUR TEAM TO ANYONE NEEDING YOUR SERVICES."
-K.B., Santa Rosa

Third. A federal case may begin with a grand jury indictment and the arrest of the defendant. And this is the typical move where there's an allegation of ongoing criminal activity and the AUSA wants to make their first moves in secret. But it's also possible for a federal case to be started with the filing of a criminal complaint, along with the filing of an arrest warrant. If this is the path that's chosen, the defendant has to be indicted within 30 days. And in cases where time is of the essence for the AUSAs, the filing of a criminal complaint is easier and faster than going to a grand jury. So this is a fairly common scenario.

But not matter what kind of federal charges you may face, do not try to go this alone. Talk to a lawyer who really understands the ins and outs of the federal system, so they can work things to your advantage and not the government's.

WHAT IS THE DIFFERENCE BETWEEN THE FEDERAL COURT AND STATE COURT?

In our system of government, crimes can be prosecuted in either the state court system or the federal court system. Usually one system or the other's going to have exclusive jurisdiction over a case.

For example, if a crime is alleged to have occurred on federal property, the case will be heard in federal court. Sometimes a crime can be charged in either state or federal court, and then it's going to be up to the prosecutors involved to sort out where the case is going to proceed.

Cases that are routinely heard in federal court are sometimes quite complex, like large-scale fraud, money laundering, or other white collar offenses, or large drug cases, especially those involving significant quantities of narcotics or large, sophisticated distribution networks. Or a federal case could be something as simple and straightforward as a DUI that occurs in a National Park or on a military base.

It's important to recognize that federal court is very different from state court. The process by which a defendant can gain release from custody and post bond is different than in state court. The process by which a case proceeds from start to finish is different than in state court, primarily because of the extensive use of federal grand juries.

The case settlement options are different than in state court and the means of calculating potential prison exposure is very different in federal court than it is in state court. This frequently means that federal cases carry a risk of harsher punishment, since many crimes carry mandatory minimum sentences of five or ten years in prison, with a variety of factors that can quickly add even more years of federal time.

If you or someone you care about has been charged with a federal offense, please contact us right away so that we can help you navigate the very unique and challenging landscape of the federal court system. On behalf of **1-800-NoCuffs**, we hope this information helps.

WHAT ARE PLEA BARGAINS?

With some California criminal charges it may be in your best interest to take your case to trial, but in others the best path may be a skillfully negotiated plea bargain or settlement. Plea bargains should be just what the name implies, a good deal for both you and the prosecutor.

You plead guilty or no contest to a lesser charge, receive more lenient punishment, or both, while the prosecutor and the government are saved the time and expense of taking the case to trial. California law prohibits plea bargains in certain cases. Certain cases defined as serious felonies, any offense that counts as a strike under California's three strikes law, and certain other offenses cannot be negotiated to a lesser charge or punishment, absent unusual circumstances.

That's just one of the many reasons why it's important to consult with a very experienced criminal defense lawyer if you or someone you care about has been charged with a crime. This is also because there are important exceptions to those limitations, which give prosecutors some latitude in negotiating pleas.

"WE CANNOT BEGIN TO EXPRESS OUR GRATITUDE AND APPRECIATION FOR THE EXCELLENT REPRESENTATION THAT YOU AND YOUR FIRM PROVIDED. WE WERE TRULY AT OUR WIT'S END WITHOUT KNOWING WHICH DIRECTION TO TURN. DARREN, YOU ONCE AGAIN PROVED TO BE OUR KNIGHT IN SHINING ARMOR, COMING TO THE RESCUE WITH SUCH HEARTFELT ADVICE AND EXPERT CONSOLE DURING THIS MOST CONFUSING AND STRESSFUL TIME."
-T.M., San Francisco

Under California law these offenses can be included in a plea bargain if there is insufficient evidence to prove the people's case, or if the testimony of a material witness can't be obtained. This is why having a skilled defense lawyer is so very important. By aggressively challenging the prosecutor's case, your attorney may be able to arrange a plea bargain in cases where the law would appear to forbid it.

The bottom line when it comes to settling cases is this; an experienced defense attorney from **1-800-NoCuffs** can review your individual case, advise you of your individual options, and help you determine whether a plea bargain may be the best decision for you.

WHAT HAPPENS AT A TRIAL?

If you've been charged with a criminal offense in California you have the constitutional right to have a jury trial where you can't be convicted until, and unless, all 12 jurors agree that the government, the prosecution, has proved you committed each and every element of each crime charged, beyond a reasonable doubt, to the exclusion of every reasonable doubt, and if there is any doubt based in reason, you are entitled to a vote of not guilty.

If yours is a case where favorable settlement isn't possible, you may choose to exercise that right to a jury trial. So what happens there?

After dealing with any pre-trial motions, and a motion is simply a formal request that the judge order something, such as the exclusion of evidence, your trial will begin.

First your defense attorney and the prosecutor will select the jury, which will include 12 jurors and some number of alternates.

During the trial both lawyers will deliver opening statements, present evidence, examine and cross-examine witnesses, and deliver closing arguments. Then the judge will instruct the jury on how to apply the law to the facts of your case.

The jurors will be sent to the jury room to deliberate. If the jurors agree on a unanimous verdict they'll announce it to the court. If the verdict is guilty the judge will set a sentencing hearing.

If the jurors are unable to reach a unanimous verdict after sustained deliberations the judge will declare a hung jury. Although it may not seem that way, a hung jury is a huge victory for the defense.

Remember, the prosecutor has the option of re-trying your case but often they opt not to. After all, if the prosecutor had trouble persuading 12 jurors of your guilt the first time around, it may be even more challenging to do so during a second trial.

At this point, the prosecutor may also offer you a more favorable plea bargain. If you or someone you care about needs a lawyer, call us right now for a free consultation.

HOW CAN I GET A DRUG CHARGE DISMISSED?

Drug cases can be very complex, and even though there's a variety of alternative sentencing programs that can be available, like Penal Code section 1000 - Drug Diversion, drug courts and Prop 36, knowing the pros and cons of each of these programs, and which one may be right for you in your unique circumstances, is an important conversation to have with a skilled and knowledgeable attorney.

Of course, before any of these alternative sentencing solutions might be appropriate, a drug case should be fully analyzed to see if it could be defeated without needing any of those things, and the risk of future punishment that all of these options have.

This is one the biggest mistakes that we see other lawyers make in drug cases: to make a leap towards one of these solutions, without first testing to see if an out-and-out dismissal is possible.

And there's no bigger opportunity for dismissal of charges than in a drug case. Obviously, nobody should be convicted of a crime, unless the prosecution can prove each and every element of the case beyond a reasonable doubt, and in a drug case, the most important element is usually the drugs themselves.

If it can be demonstrated that the drugs were discovered as the result of an illegal search or seizure, then the drugs themselves are suppressed and the case will usually collapse.

Darren Kavinoky: *"I've been personally involved in many cases in which this has happened, and it's come up in a lot of different ways ... everything from an inappropriate traffic stop, to an inappropriate pat down, to a bad search warrant and a confidential informant that a prosecutor would rather protect, even if it means dismissing a case.*

Whether a drug case involves a small amount of medical marijuana, possession of a gram of cocaine, or a large-scale methamphetamine lab that would dwarf the operation on Breaking Bad, it's vital that you consult with a lawyer that really knows what they're doing to make sure that you're getting the best possible result. We at 1-800-NoCuffs hope this information helps."

CHAPTER V: SPECIFIC COUNTY INFORMATION FOR DUIS AND CRIMINAL CASES

WHAT TO KNOW ABOUT A DRUNK DRIVING ARREST IN LOS ANGELES COUNTY

Drivers suspected of DUI in Los Angeles County may be stopped by one of several law enforcement agencies. There are many local police departments, like LAPD, Santa Monica PD, Beverly Hills PD, Burbank PD, and more. Other agencies that routinely make DUI arrests in LA are the Los Angeles County Sheriff's Department and the California Highway Patrol.

Knowing that there are so many possible arresting agencies is really important for people who may be trying to find a loved one in the system, because there's lots of places to search for somebody who's been arrested in LA.

This is because, after an arrest, suspected DUI drivers are taken to the police or sheriff's station that is closest to the location of arrest. The CHP, who makes lots of arrests, doesn't have its own custody facilities. They have agreements with the police and sheriff's departments

So, for example, a CHP arrest that happens along the 101 Freeway may go to the Lost Hills sheriff's station or it may

go to the LAPD station in Van Nuys, depending on which is closer. Also, for women who are arrested, they often divert to Van Nuys because they're one of the few LAPD stations that have custody facilities for women.

As far as release goes, assuming the person has valid ID and no other warrants, first time DUIs will usually be released just on their promise to appear. Multiple offenses or felony DUI cases involving injuries will require bail, in accordance with the Los Angeles County bail schedule.

Keep in mind that a DUI arrest in Los Angeles means that there are 2 separate cases that must be fought. There's the criminal court case, which will take place in one of LA County's Superior Courts, and a DMV case, which will be fought in one of the DMV Driver Safety offices in LA. The busiest DMV office is in El Segundo, but there are also Driver Safety offices in Van Nuys, City of Commerce and Covina.

The court case is where a prosecutor will be trying to secure a criminal conviction and all the consequences that go along with it: jail, fines, alcohol education classes and more.

One of the things that are unique about LA DUIs is that there's now a legal requirement that anyone convicted of a DUI in Los Angeles must get an ignition interlock device installed in their car for a minimum of five months.

This is a breathalyzer that gets installed in your car, and you've got to blow into it to show that your alcohol-free

before your car will start. One way to avoid this is to get DUI charges dismissed or reduced to some other charge. So getting great legal advice is more important now than ever before.

Separate from this criminal court prosecution is the case with the California Department of Motor Vehicles, where the DMV is trying to suspend the person's driving privileges.

The most important thing to know here is that time is not on your side. You've got only 10 days from the date of the arrest to file a hearing request. Now if you don't make that request in 10 days, the DMV will initiate a suspension that starts automatically in 30 days.

WHAT TO KNOW ABOUT A DRINKING & DRIVING ARREST IN ORANGE COUNTY

Drivers suspected of DUI in Orange County may be stopped by one of several law enforcement agencies. There are many local police departments, like the Huntington Beach Police Department, Newport Beach, Irvine, Westminster, Fullerton and lots more. Other agencies that routinely make DUI arrests in Orange County are the Orange County Sheriff's Department and the California Highway Patrol.

Knowing that there's so many possible arresting agencies is really important for people who may be trying to find a friend or a loved one in the system, because there are several places to search for somebody who's been arrested in Orange County, California.

After an arrest, suspected DUI drivers are generally taken to the police station that's closest to the location of the arrest, when it's the police who made the stop, or to the men's central or women's central jail in Santa Ana, if the arrest was made by the Orange County Sheriff or the CHP.

So, for example, a DUI arrest that happens along the 405 Freeway may mean that the driver would go to the Irvine police station if the stop was made by the Irvine PD, or to the men's central or women's central jail in Santa Ana.

As far as release goes, assuming the person has valid ID and no other warrants or holds, first time DUIs will usually be released just on their own promise to appear. Multiple offenses or felony DUIs, which involve injuries, will often require bail in accordance with the Orange County bail schedule.

One of the most important things to know is that a DUI arrest in Orange County means that there are two separate cases that have got to be fought. The criminal court case and the DMV case. The criminal court case, where prosecutors will be seeking a DUI conviction and all of the consequences that go along with it, will take place in one of Orange County's Superior Courts, either

the Harbor Justice Center in Newport Beach, the West Justice Center in Westminster, the North Justice Center in Fullerton, or the Central Justice Center in Santa Ana.

Separate from this criminal court prosecution, there is a case with the California Department of Motor Vehicles, where the DMV is trying to suspend the person's driving privileges. All of the DMV cases in Orange County, no matter what agency makes the arrest, are heard in the Irvine Driver Safety Office.

The most important thing to know here is that time is not on your side. You've got only 10 days from the date of arrest to file a hearing request, and if you don't make that request in 10 days, the DMV will initiate a suspension when the clock hits midnight, and clicks over to day 31.

"I THANK YOU ALL IN ADVANCE FOR YOUR HELP AND SERVICE IN KEEPING ME OUT OF JAIL!"
-C.L., San Diego

WHAT TO KNOW ABOUT A SAN DIEGO COUNTY DUI ARREST

Drivers suspected of DUI in San Diego County may be stopped by one of several law enforcement agencies, like San Diego PD, Chula Vista PD, Carlsbad PD, or many more local police departments. Other agencies that make San Diego DUI arrests are the San Diego County Sheriff's Department and the California Highway Patrol.

Knowing that there's so many possible arresting agencies is really important because there's lots of places to search for somebody who's been arrested for DUI and who may be in custody in San Diego.

After an arrest, suspected DUI drivers may go to one of several places. Most women end up at Las Colinas Detention Center for Women in Santee. Most men go to San Diego Central Jail in Downtown San Diego, unless they're short on space, in which case they may be sent to George Bailey Detention Center near Chula Vista. In North County, San Diego, most arrests, whether they're male or female, go to the Vista Detention Center.

As far as release goes, assuming the person has valid ID and no other warrants or holds, first time DUIs will usually be released after posting a $2500 bail.

Multiple offenses or felony DUI cases will often require even more bail in accordance with the San Diego County bail schedule. Bail can be made either by posting the funds yourself or by using a bail bondsman ... and there are pros and cons of each.

The DMV case, where the DMV is trying to suspend your driving privileges, is going to be fought at the San Diego DMV Driver Safety Office on Frazee Road in Mission Valley, no matter what law enforcement agency makes the arrest, or where in San Diego the arrest happened.

The most important thing to know about the DMV is that time is not on your side. You've got only 10 days from the date of arrest to request a special hearing with the DMV, and if you don't make that request within the 10 days, the DMV will automatically initiate a suspension on your license when the clock hits midnight, and clicks over to day 31 following the arrest.

One of the things that's unique about DUIs in Downtown San Diego is that the San Diego City Attorney is now seeking to force people to install an ignition interlock device for one year on all DUI cases with an alcohol level of .15 or higher.

An ignition interlock device is a breathalyzer that gets installed into any car the defendant drives, and it's got to be blown into, to show that you're alcohol-free, or the car won't start.

One way to avoid this is to get DUI charges dismissed, or reduced to some other charge. So getting great legal advice is more now than ever.

DUI ARRESTS IN CALIFORNIA FOR OUT-OF-STATE VISITORS

This topic addresses concerns of people who come to California for business or pleasure and then return with something they didn't want; a DUI arrest.

A California DUI arrest triggers two different cases. One's with the court and the other is with the DMV. For the court case, the motorist is given a date when they must appear in court. For the DMV case, it's different.

On the DMV case, the motorist (who receives a pink piece of paper), or their lawyer, must file a request for a DMV hearing within 10 days of the arrest, or else the motorist has their license suspended.

If you hold a driver's license from a state other than California, you may be asking, "Why should I care?" Well, there's something called the Interstate Driver License Compact, which means your California DUI arrest can cause you massive problems in your home state if it's not properly handled.

And the second reason for filing with DMV may be even more important still. By requesting that DMV hearing, and having it, you can actually develop evidence that's extremely helpful in the criminal case.

So even if you don't care about your driving privileges, you can use that DMV hearing as a way to generate a better result in the place you do care about: the courtroom.

The Interstate Driver License Compact is what facilitates the sharing of information between the motor vehicle departments of different states and, generally speaking, a suspension in one state will be honored by another.

So for this reason, if nothing else, it's important not to ignore that 10-day window to request your DMV hearing.

Also remember that it's possible that the evidence developed at the DMV hearing can have a huge positive impact on the outcome of the court case. In California, lawyers aren't allowed to take depositions in criminal cases.

This means that we can use the DMV hearing for a possible tactical advantage to question a law enforcement officer at the DMV hearing where there's no prosecutor there to prepare them.

As far as the court case is concerned, if you're from out of California and you hire a lawyer to represent you, generally speaking, that lawyer can appear on your behalf, without you having to return.

There are a couple of caveats. First, this only applies to misdemeanor DUIs. If you're charged with a felony DUI, which generally means there was an accident causing injury to somebody else, or it's your fourth offense within 10 years, then you must be personally present.

Also, you may be required to return to California if you want to exercise your right to a trial. However, in most cases, **1-800-NoCuffs** is able to effectively represent people without them having to bear the expense and inconvenience of coming back.

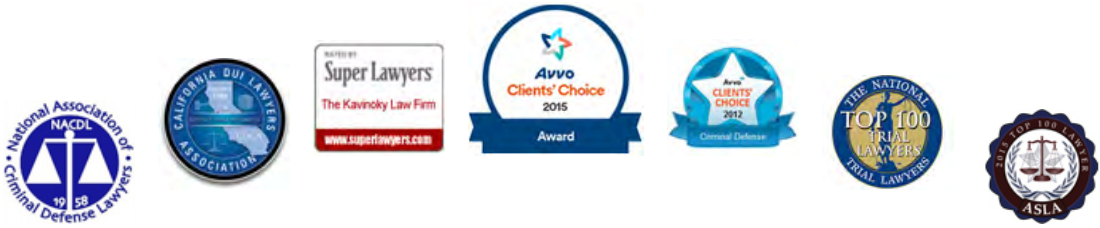
"THIS FIRM WILL ULTIMATELY BE RESPONSIBLE FOR GIVING ME THE SUCCESS I NEED, AND I AM FOREVER GRATEFUL TO YOU AND THE KAVINOKY LAW FIRM FOR IT."
—C.H., Los Angeles

"I CAN'T TELL YOU HOW MUCH YOU MEAN TO ME AND TO ALL THOSE WHO HAVE BEEN SO CONCERNED FOR ME! THANK YOU, THANK YOU, AND THANK YOU!"
—R.B., Van Nuys

"DARREN, YOU ARE AND YOUR TEAM ARE WORTH EVERY PENNY YOU CHARGE. I HOPE I DON'T KNOW ANYONE ELSE WHO HAS TO GO THROUGH THIS BUT YOU CAN BET I WILL BE SINGING YOUR PRAISES FOR YEARS TO COME."
—L.M. and T.M.

"I HOPE THIS EMAIL FINDS YOU AND YOUR TEAM WELL. I CERTAINLY APPRECIATE THE WORK THAT YOU AND YOUR FIRM PUT INTO MY CASE. THE RESOLUTION ON THE CIVILIAN SIDE WAS EXCELLENT."
—H.S., San Diego

"A TRUE PROFESSIONAL WHO DOES GIVE THE WORD "LAWYER" A GOOD NAME!"
—G.H., San Bernardino



1-800-NoCuffs®

If you've been charged with a DUI in California, regardless of where you live, this can all be really confusing.

Call us at 1-800-NoCuffs®, we can help.

NoCuffs.com

THE KAVINOKY LAW FIRM IS AN EXPERIENCED CRIMINAL DEFENSE ATTORNEYS WHO FOCUS ON DUI CASES AND OTHER CRIMES SUCH AS DRUG ARRESTS, THEFT CRIMES, AND DOMESTIC VIOLENCE. READ MORE ABOUT THE LEGAL PROCESS, ASK QUESTIONS AND GET THE LEGAL HELP YOU NEED QUICKLY. LEARN ABOUT POST-CONVICTION, AND READ ABOUT YOUR RIGHTS IN OUR BLOG. OUR TEAM OF PROFESSIONALS ARE STANDING BY AND ARE READY FOR YOU 24/7.