

CHAPTER 9

RIGHT ATTORNEY AT THE RIGHT TIME



It is never too early to get an attorney involved in the case, to protect you from making mistakes like speaking to law enforcement, saying certain things to witnesses, posting harmful content or comments on social media, etc. The goal is just to stop the bleeding, and not let the investigation get any further that it needs to. Many times, people wind up digging a deeper hole for themselves to get out of, not necessarily for what they are being accused of doing, but how they handled themselves during the investigation stage. This can happen when an

attorney does not represent you, or even worse in some instances, the wrong attorney, who's not advising you accordingly, represents you.

It's important not only to have an attorney, but also to have the right attorney, preferably a locally experienced criminal defense attorney, when charged with or being investigated for a crime as early on in the process as possible. Often an accusation is made and an investigation is launched, but there's not a whole lot of evidence there other than the word of the accuser. Many times people come to my office and they say "I've been contacted by the police, they want to talk to me about the accusations that someone has made against me. Do I need a lawyer now?" My best advice to these individuals is they definitely want to hire a quality, locally experienced, criminal defense attorney as soon as possible. Responding to criminal accusations in any way without first consulting a quality, experienced, criminal defense lawyer is never advisable. And, no, hiring a lawyer cannot be used against you in court. And SO WHAT if the police think you are guilty because you hired a lawyer. They probably think you're guilty anyway. Such situations are not the time to try and

make friends and worry about what others may think. It is the time to be smart and exercise your rights to protect your future.

Hiring a quality criminal defense law firm early on enables them to reach out and let law enforcement know the accused has retained counsel and that any future contacts or questioning should come through the law office. My personal practice is to request law enforcement direct any and all questions they may have for our clients to the attorney, in writing. That way our clients are protected from getting caught off guard and having their answers used against them. What that does is enable us to get a preview of what it is exactly that law enforcement is looking into without the risks associated with the accused individual personally responding to the investigating agency's inquires.

Don't lie to the police. Don't over or under exaggerate to the police. Say nothing to the police when under investigation for a crime and hire a good lawyer! The greatest example I tend to use with my clients is what if someone says, "I want to talk to you about a crime that happened here earlier today", even though you know you

weren't even in that city, or that county, or even that state, the best approach is to keep your mouth closed and get an attorney. This is for many reasons, not the least of which you do not know if law enforcement is telling you the truth. Sometimes they might try and make you say where you really were, basically tell you that a crime was committed in City A, and ask you to confirm if you were there. The crime might have been in City B all along, and they're just trying to confirm that you were in fact in that city at the time of the offense.

Other times, without the help of an attorney, people will go speak to or get caught by surprise by law enforcement or the alleged victim or the alleged victim's family. Law enforcement or the alleged victim's family might say, "He or she said you did this to them 10 times," and if you reply, "No, I didn't. I only did it three times," you may think you're helping yourself. However, in reality, what you've just done is that you have admitted you did something. The whole accusation that you've done something 10 times may be a complete lie on behalf of the accuser, but now you've admitted to it at least one more time than they may have been able to prove without your statement. Resist the urge to

Speak with anyone, other than a quality criminal defense attorney, when being accused of a crime by anyone.

How Does An Aggressive Pre-filing Strategy Work In Criminal Cases?

The best approach is to exercise your right to remain silent and let your attorney handle the direction of the case during the pre-file stages. When you come into a situation, you may be under investigation for a certain crime, and because of your own statements, you may lead them to other offenses that you can now be charged with. The best approach when you hire an attorney, is for that attorney to say, "Okay, you want to talk to my client, that's fine. Let me know what you want talk them about, and then and only then will we determine whether or not we have anything to say," because many times, people wind up dealing with an investigation, and they fail to help their cause delaying hiring an attorney.

I don't necessarily care for the word "aggressive" when describing a style of criminal defense. Criminal defense attorneys can be aggressive and not know what you're doing, due to their inexperience, ego, and/or outright incompetence. Unfortunately, the person who

suffers the most from such “aggressive” tactics is the client. There is a time and a place to be “aggressive,” and it is up to your attorney to know when the best time is for your individual situation, and to act accordingly.

On the flip side, your attorney should not be lackadaisical, indifferent, or incompetent. Any decent attorney will, at the very least, reach out to let law enforcement and/or the prosecutor know, that the client has retained their services, is exercising their right to remain silent, and attempt to open some sort of dialogue. Sometimes, although they are under no obligation to, law enforcement or prosecutors will tell the attorney what the specific allegations are, or what specific charges they believe they’re filing. If there’s information that could be presented effectively to law enforcement or to a prosecutor, and which exonerates the accused totally, or at least of some of the more serious charges, or even to cast some doubt on the credibility of the person making the accusations, that’s something the attorney will want to present. He or she may say something to the effect of: “Although my client is not going to say anything, here’s

some information about your alleged victim or your key witness(es) that you might not know”.

Another benefit of hiring the right criminal defense law firm during the pre-filing part of a case is to not fall too far behind from an investigation standpoint. Many times, it is too late to get a favorable statement from a witness, assuming they will even speak to a defense investigator, once the case has been formally filed in court. That is for many reasons which are not necessarily relevant for purposes of this book. For no other reason, you should want your investigator reaching out to as many potential witnesses as possible, as soon as possible, while the topics your defense team wishes to speak to them about are still fresh in their minds.

CHAPTER 14

QUALITIES TO LOOK FOR IN A CRIMINAL DEFENSE ATTORNEY



Let's face it, your attorney must be experienced in criminal defense. My firm doesn't handle family law or employment discrimination cases; we wouldn't know where to begin. You want someone who is experienced in criminal defense, and, preferably, in the courthouse where your case will be heard. Ideally you want to hire a law firm, not just a solo attorney, who has experience, not just in years in practice, but in number of cases and types of cases handled. Some attorneys advertise about their decades of experience, but how many of those years were doing

criminal defense? How many criminal defense cases have they handled over the course of their career? Or are they just hanging onto the fact that they've been an attorney for 20 years who may have only handled 100 criminal court cases? In that case, you're better off with an attorney with ten years' experience who has represented over 1,200 criminal defendants.

Don't get blinded by years of experience, and take everything with the grain of salt. The past decade has seen exponential growth in internet advertising and social media marketing. With that, a lot of people are not held accountable like they should be for what they're saying and what they're advertising. You want a law firm whose attorneys are experienced, and you want to try and find a way to prove or actually verify that they are in fact as experienced as they say. You want someone who is visible online, so you can do your research on him or her. Look at their YouTube channel, look at their video blogs, look at their written blogs, look at their social media postings, and look at their community involvement. You want someone who is around, who is under the watchful eye of the community, and who still has a pristine reputation. An

attorney's reputation will be passed onto the clients they represent, particularly in criminal defense where credibility with judges, prosecutors, and court staff sometimes makes all the difference in how favorable a case can be resolved. If you go and hire an attorney who does not have a good reputation with prosecutors, court staff, and judges, you are going to be looked at differently than the client who hires an attorney who has a great reputation with these key individuals.

The importance of the internal organization of the law firm you hire cannot be understated. Ideally, you want to hire a law firm that runs with policies, systems and procedures. Particularly in criminal defense, there are a lot of solo practitioners and there's nothing wrong with that. At one point in my career, I was a solo practitioner, and I wore every hat in the firm. At any given moment I was the receptionist, legal assistant, rainmaker, and associate attorney. Looking back at things now, particularly when representing clients in complex and serious felony cases, I was not nearly as well equipped to handle those cases as I am today. That is in large part due to the internal structure and organization of my firm.

Physical appearance and personal hygiene matter. Your attorney should take care of both their mind and body, inside and outside of work. How, or why, can you trust an attorney to handle your case if they can't even take care of themselves? If they don't care about their appearance, if they don't care what other people think about them, they don't care how they look and how they act and that's them—it's their life, their reputation, their future, their financial livelihood—it makes sense that they would care even less about your life. That's something that's very important, because many times I see attorneys who get paid a decent amount of money from clients, and they just embarrass themselves, and more importantly they embarrass their clients by the way they act, by the way they look, by the way they prepare, and more importantly, by the way they don't prepare for court and their interactions with prosecutors and law enforcement.

Actual former client reviews matter. You are better off hiring an attorney that has 20 reviews, even if two or three of them are not that good, than hiring an attorney who has four reviews and they are flawless. How do some attorneys with four years' experience have 300 online reviews from actual

clients? That doesn't necessarily reconcile with the number of people they've represented, and the number of legitimate reviews they may or may not have.

Awards and recognition matter, some more than others. How many of your attorney's awards were peer reviewed? Were the awards all pay for play, or was there an actual vetting process prior to receiving such recognition? Was it an independent agency who looked at these attorneys, looked at their reputation, looked at their experience, had other people nominate them, and had their peers evaluate whether or not they are deserving of that award, or was it just, "Hey, as long as your check clears, we'll send you a plaque."?

How organized and clean is your attorney's office? It may be more indicative of the type of representation you will receive than you first may think. There was a time in my life where I would frequently have to remind my staff that "attention to detail" matters. Those who got the message stayed on. Those who didn't were no longer allowed to work for my firm.

What type of negotiator is your attorney? Imagine the law firm you want to hire asks for \$10,000 to represent you but eventually you get them down to a \$6,000 retainer. Good job on your part, but what does that say about that firm? If they would be willing to be bullied by you over *their* money, can you imagine what it will be like when they are negotiating for your freedom and *your* money? Some law firms are also so desperate to stay afloat they will undercut competing firms, irrespective of what the case is really worth. Someone who is disorganized and appears to be weak, how do you think they're going to be in court when they're representing you, if they can't handle their own business?

Hiring a criminal defense attorney when you or a loved one have your future in the balance can be overwhelming. But don't overanalyze things too much. Ask around, read reviews, check out some websites, et al. Meet with a few firms and hire the best one you can afford, if you ultimately feel comfortable with the firm you can afford. Resist the urge to get any attorney just to say you have an attorney or hired an attorney for your friend or family. Hiring an attorney solely because of

price will be a regrettable decision. Spending money on an attorney if they are not the right fit for your case is not money well spent. It all goes back to how they handle their own business will be indicative of how they're going to handle your life and your case.

FACING CHARGES IN SAN DIEGO?

Here's What You Need To Know To Regain Control of Your Future

David P. Shapiro, Esq.

Despite being in law school at the time, David had no idea what to expect when he was arrested after committing a crime in 2004. Was this going to be the end of his law school career? How long was he going to have to stay in jail? How was he going to survive it all, both personally and professionally? Not a day goes by where David does not think about that stressful time in his life.



David saw firsthand how hiring the right attorney at the right time can make all the difference in the outcome of a criminal case. Founded in 2010, the Law Office of David P. Shapiro is comprised of a team of attorneys and legal assistants who all share in David's passion and vision for providing clear, unparalleled guidance throughout the criminal court process for his firm's clients. The Law Office of David P. Shapiro prides itself on helping good people get through bad situations and regain control of their future when charged with a crime.

"Living out of the country I was in need of an attorney for my son who had got himself in some legal trouble in California. David did an excellent job explaining the options and I believed saved my son from some serious jail time. I would highly recommend David to someone who finds themselves at odds with the law..."

-Curtis

"Mr. Shapiro is a highly skilled criminal defense attorney who will defend your case with care and consideration. My family has used his services several times with the best possible outcome. You can expect thorough, easy to understand explanations of court proceedings and your best options. He is confident and comfortable in the courtroom and you can rest easy knowing he is on your case. I would recommend Mr. Shapiro for your legal defense."

-Hayden J.

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