

## The Basics of Finding a Lawyer

If none of my defensive suggestions works and you are busted, how do you find a lawyer?

If you can't afford a retained counsel you get a public defender. Among them – just as in the rest of the criminal defense bar – are some of the best and some of the worst lawyers around. You have to have the guts and the tact to try to sort them out. It's no easy task, particularly since you often have to try to do it while in very desperate circumstances. It helps if you don't call them, or even think of them as “public pretenders.” They are only human, after all. Anyone who would forgive you for an insult like that is probably not tough enough to help you out. Better you should show them respect and courtesy. Remember, while you may have the right to “demand” a lot of things, the way it is in the real world, and most certainly is in the criminal justice system -- is that if you are an asshole, you are going to get the shit.

I recommend that you come to your meetings with your lawyer armed with notes of things you think may be important. I can tell you sincerely that this makes our job so much better -- not just easier. You can be sure your public defender has too many cases, and not enough time. You can be relatively sure that s/he is not being paid what s/he/s worth. But they are there for a reason. Most often it's because they believe that everyone must have counsel in the criminal justice system. Period. Otherwise it goes completely out of control and becomes even more destructive than it already is. OK, I admit it, there are some among the public defenders (matched by an equal number of better-disguised private counsel) who are just dump trucks. And guess what? Big name and/or big reputation really doesn't do you any good at all in 99.9% of the pot cases I see. It doesn't even guarantee that your lawyer isn't a dump truck. What does make a difference is understanding why pot cases are different from other criminal prosecutions. But I digress . . . . That's another subject. The point is, don't rely on reputation – talk to the lawyer as intelligently as you can. If you don't establish communication, it won't happen. Without good counsel in this justice system, it's possible to have a real bad experience.

If you can afford private counsel, I recommend going to NORML's web page, [www.NORM.org](http://www.NORM.org). Talk to a few of the lawyers listed for the place where you were busted, and see if they show an interest in your case. Some want only the big cases, some (including me) like the little ones too. Misdemeanor pot charges make up 80% of the 750,000 annual potbusts in this country. Misdemeanors, though they don't cost you your rights, can cause devastation in your life. If you are charged with a misdemeanor, a good private attorney can often squeeze a little extra break out of the prosecutor where the public defender that walks that beat every day might not.

Expect to pay for good representation, but don't be intimidated. Take part in your defense, rather than waiting for your lawyer to tell you what to do.

Many lawyers will tell you early on to plead guilty, or to snitch and plead guilty. Sadly, this is often the best advice, though the snitch part is really a very personal decision. The sentences are so long now that anybody who commits any kind of drug trafficking crime these days risks being forced to choose between extremely long prison sentences and snitching off those closest to you. In making this decision it's so so important to have the advice of a lawyer who is familiar with the *realities* of your case, not your wishes for what the facts really were.

Trial is another matter. They don't happen much in dope cases. Either we win them by suppressing the evidence, or we negotiate a plea. These days the federal public defenders sometimes try only one case a year. In state court, the numbers are higher, but the truth is if your pot case is "triable" from the defense perspective, you will probably get a plea offer that you really can't refuse.

I see lots of cases go to trial that shouldn't, though most of them aren't pot cases. The same gambling Jones that makes knuckleheads take risks that got them busted often causes them to draw to an inside straight, or go to trial when the odds of winning are minute, and the consequences of losing catastrophic.

Some lawyers will tell you to go to trial when that is the worst advice. We lawyers are a scandalous lot. It's best if you participate in your case enough so that you make the decision yourself. If your lawyer tells you to cop a plea, ask her: please summarize the admissible evidence against me. Then you consider it yourself. Beware, however, of one of the biggest pitfalls: just because it's possible to find numerous inconsistencies in the government's case, and numerous reasons why the snitch would lie about anything to save her own worthless self, that doesn't mean the jury won't find you guilty. If there is one piece of evidence that just can't be denied that points to your guilt, then the flaws will be forgotten. I call it "the choker." I look for the evidence that I just can't get around and I know I'm going to choke on. If it's there, then it's not in my client's best interest to have a trial.

If your lawyer suggests trial, what you want to know is what are your weakest points, and how can the lawyer defend against them. In dope cases, this is rarely complex.

Here's the most important rule to observe when you become a customer of the criminal justice system: whether you have a public defender or retained counsel there is one simple rule, the breaking of which causes more cases to turn into nightmares than any other single event in the criminal justice system: don't tell your lawyer fairy tales. Simple. In the words of Sherlock Holmes: "I cannot assist you if you will not tell me the truth."

Hopefully, when you meet your lawyer, you will have followed the advice on the back of my card, and his or her job won't be impossible. If you've read this far, you know what my card says. Simplified it's shut up and be nice. Good Luck.

js