

11 FATAL MISTAKES PEOPLE MAKE WHEN A FRIEND OR LOVED ONE IS ARRESTED BY THE POLICE

It's the middle of the night and you are sound asleep when the phone rings. You nervously answer the phone and hear your child in a frightened voice tell you that he or she has been arrested and they are in the county jail.

You're not sure what to say or do. You tell him or her not to worry and that you'll be right down. But now you are worried and scared. Your only contact with the criminal justice system was five years ago when you fought and lost that speeding ticket.

MISTAKE #1 Not finding out exactly what your child is charged with and the amount of bail

In order to help your child or friend you must know exactly what happened. Your child or friend may not be able to explain the situation in detail because they are probably speaking to you from a pay phone in the jail cell with the other inmates listening.

First try calling the county jail, but they may or may not be helpful. If you don't get a quick response, immediately start calling bail bondsmen in the town where your child is incarcerated. They want your business so they'll be very responsive. Usually within an hour they will be able to tell you the charges and the bail.

MISTAKE #2 Not paying for bail immediately

Once you know the charges and the bail, your first decision is whether to bail out your friend or relative or leave them in custody. Some parents are of the mind set that leaving the child in jail will teach them a valuable lesson. But if this is your child's first arrest, it is best to get them out of custody as soon as possible.

The county jail is a dangerous place. Your relative or friend is at risk from hardened criminals who may be sharing the same cell. Typically 10-20 people are housed in the same "tank." They also may be at risk from the jailers who are nervous and on edge and will quickly resort to violence if they feel threatened.

The quickest way to get your child out of custody is with the assistance of a bail company. Bail bondsmen usually locate their offices near the county jail and are open 24 hours a day. The bail agent can typically have your child out of custody in a few hours.



In order for a bail bondsman to help your child you will need to pay 10% of the bail. The bondsman will take cash or a credit card and some guarantee that you can pay the other 90% of the bail. If you own real estate, that usually satisfies the bail agent.

The bail agent will be more flexible if the charges are not serious and your child has strong ties to the community. The bail agent's fees are all the same since they are regulated by state law so it doesn't do much good to shop around.

MISTAKE #3 Hiring an attorney recommended by the bail agent

If you will be hiring the attorney for your friend or relative this is the most critical decision that you will make. The bail agent probably will recommend a specific private attorney. Be careful here, some attorneys and bail agents have informal relationships in which they agree to refer each other clients. This is legally a little shady and it's best to pass on the recommendation of the bail bondsman.

MISTAKE #4 Using the Public Defender

Your friend or relative may qualify to be represented by the Public Defender's Office. Public Defenders are honorable people and work hard for their clients, unfortunately they are always overworked and underpaid. If the family can afford an excellent private attorney it is absolutely worth the cost. A criminal conviction, especially a felony, can haunt your friend or relative for the rest of his or her life. It can literally change the course of a person's life.

MISTAKE #5 Hiring an attorney from the yellow pages instead of a website

Most good criminal attorneys will have a website. Since the yellow pages will tell you very little about an attorney, it's best not to waste your time here. A website will give you pages of information about the attorney, including their education and professional background.

MISTAKE #6 Hiring an attorney who doesn't specialize in criminal defense

When searching the web, first look for an attorney that specializes in criminal defense. If the attorney practices criminal defense, personal injury and bankruptcy don't bother calling him or her. Criminal cases are serious and the law changes every day. It makes most sense to hire an attorney who spends all day and everyday on criminal defense.

MISTAKE #7 Hiring an inexperienced attorney

You want an attorney with at least ten years experience in criminal defense, more experience is better. An attorney who has practiced at least ten years should have many jury trials under his or her belt and have developed a friendly and professional relationship with the judges and prosecutors. This isn't the time to hire a newer attorney who may charge a lower fee, let them gain their experience on someone else's case.

MISTAKE #8 Hiring a former prosecutor

You want an attorney who has always been a criminal defense attorney. Some prosecutors quit

the District Attorney's office and become defense attorneys because they get passed over for promotions or they don't get along with their boss. But can you really trust them to passionately and aggressively defend your friend or relative? How can they intellectually switch from being a hard nosed prosecutor hell bent on sending people to prison for many years and then miraculously transform themselves into an aggressive defense attorney? It isn't possible, stick with a career defense attorney.

MISTAKE #9 Hiring an attorney who rarely goes to trial

You want an attorney who goes to trial often. Trial attorneys are the most respected attorneys at the courthouse and they get the best deals for their clients. But trial work is the hardest part of being a criminal defense attorney. It means lots of intense hard work in a short period of time and an immense amount of pressure. Many criminal attorneys shy away from trial work for these reasons and because of a lack of self confidence. Ideally you want an attorney who goes to trial at least twice a year.

MISTAKE #10 Not hiring a certified specialist in criminal law

An excellent way to find a top notch attorney is to go to the California State Bar Website and look for a Certified Specialist in criminal law in the county where your friend or relative's case is being prosecuted. These attorneys have received excellent reviews by Superior Court Judges and other attorneys who are very familiar with their work. They have also passed a grueling Criminal Specialist examination. Finally they have taken a great number of advanced courses to stay on top of their profession. Generally they are the best attorneys.

MISTAKE #11 Not hiring a big city attorney

One question that may arise if your friend or relative was arrested in a rural or suburban area is whether to hire a local attorney or hire an attorney in a nearby big city. The best attorneys

usually gravitate toward big cities. Generally speaking attorneys that practice in big cities have handled a wider variety of criminal cases and have gone up against tougher opposition than those in rural or suburban settings. If there is a big city within driving distance of the county where your child is being prosecuted, it's worthwhile to speak to a certified specialists in that city.

Finally, your friend or relative's arrest is not the end of the world. Young people are learning how to navigate their way through the world and they make mistakes. The vast majority of them will go on to lead rich, fulfilling and law abiding lives.

Christopher F. Morales
Attorney at Law
Certified Specialist
Criminal Law
Board of Legal Specialization
State Bar of California
415-552-1215