

2024 AIAC Toolkit

DIFFICULT CONVERSATIONS: FINDING A CRIMINAL DEFENSE LAWYER

By Allegra Pocinki

FINDING A LAWYER	<p>Websites for finding criminal defense attorneys:</p> <ul style="list-style-type: none">• avvo.com: search by location and practice area; read attorney reviews• expertise.com/legal: search by lawyer specialty to find law firms, not individual lawyers• https://generalbar.com/State.aspx: list of all state bar associations, each of which has a list of attorneys by state• hg.org: one of the first online law information sites; search for lawyers by geographic area, practice area; also has an expert witness provider directory• justia.com/lawyers: search by location, rating, services, video conferencing capability, fee structure, languages spoken, years of experience• lawyers.nolo.com: search by lawyer specialty, geographic location (only certain states)• superlawyers.com: search by legal issue, attorney name, location; also has free legal resources and articles
PUBLIC VS. PRIVATE	<p>A public defender can be appointed to represent individuals who cannot otherwise afford to hire a lawyer for themselves. There is a common misconception that public defenders are free. 18 states require upfront application/appointment fees, which range from \$10 to \$400 and are imposed whether an individual is adjudicated guilty or not. 42 states and D.C. have recoupment/reimbursement fees for the cost of counsel, and 17 states have both application/appointment fees and recoupment/reimbursement fees.*</p> <p>Questions to ask:</p> <p>Public defender: How much time can you dedicate to this case? What is your current caseload? Do you have assistance? How often can I meet or talk with you? Remember: You can ALWAYS ask for another public defender! You are not “stuck” with any attorney.</p> <p>Private attorney: What can you provide that a public defender cannot?</p>
EXPERIENCE	<ul style="list-style-type: none">• How long have you practiced criminal law?• What are your educational and professional credentials?• How often do you appear in the courthouse where my case will be heard?• Do you know the prosecutor? Have you tried a case with this prosecutor before? What was the result?• Have you tried a case like this before? If so, do you have testimonials from those clients, and can I read them? If not, why not?• How often do your cases go to trial? What percentage of those cases have you won?

*Source: <https://www.nlada.org/public-defense-system-fees>

COMMUNICATION	<ul style="list-style-type: none">• How often will we communicate? How responsive are you to emails and phone calls? What is the best way to reach you? Will you provide me with your personal contact information if I need to contact you direct?• What is your level of commitment on this case? Will you be the one working on my case, or will there be a junior associate/paralegal? Will you have adequate time to focus on my case?• Do you have a 24/365 answering service if I need an immediate response after hours? Who would answer this call?
TRIAL PREPARATION	<ul style="list-style-type: none">• What/how many charges have been filed?• Based on these charges, what potential penalties am I facing? Are there mandatory minimums? Is this a determinate or indeterminate sentencing state? What are the options for time served/earned credits?• Do I have any options besides going to trial? What is the difference between a bench trial and a jury trial? Should I take a plea? Why or why not?• Have you reviewed all discovery for the case?• What strategy would you propose for handling this case?• Do you recommend having any expert witness on trial? Who would they be and what would they add to my case?• What about character witness letters? Should I collect them and if so, who should write them?• What weaknesses can you identify in the prosecution's case?• What investigative steps will you take to prepare my defense?• What motions will you file?• What is my role in the case? How do you feel about me working with you on the case to assist with ideas, information, and research?• How long is this whole process expected to take? How long would it be until a trial starts, depending on the approach we choose?• Would you file appeals on my behalf if we do not get the expected outcome? How does the appeals process work?
DON'T FORGET!	<ul style="list-style-type: none">• Attorney red flags: If you feel like your attorney is not listening to you, spending enough time with you, brainstorming legal arguments outside the norm, ask for a replacement. If they are not working with you, allowing you to be a part of the case, this is a bad sign!• This is your life! Always be your own advocate. Do not rely on any attorney, public or private, to fight for you as you would fight for yourself. Do your own research, bring ideas, and even bring case law to the table. Make them argue certain points. They work for you; you are the client!• You can always ask for a new attorney! You can ask for a new public defender. For a private attorney, ask for the portion of money back that has been spent and go down the road.• Attorney complaints: It is your responsibility to make sure your lawyer is doing the best for you. You can always file a complaint with your state bar association against your attorney. They are not invincible!