

### **THREE MOST FREQUENTLY ASKED QUESTIONS\* (FAQs)**

*\*These might not necessarily be the 3 questions that are at the top of your list, nor should they necessarily be the Top 3. However, these are the 3 most frequently asked questions, by volume, that I get in my practice on a weekly basis.*

#### **1. How much is this going to cost me?**

This is not the first question that is asked, but it is usually the one that most clients want to ask first. It doesn't matter how much you make, money is always an issue, and rarely has a person budgeted for a criminal defense lawyer, bond, and trial costs, in advance of an issue being raised. If finances are tight on a monthly basis, this could be your main concern. Can I even afford a lawyer? Some clients want the absolute best they can afford, but don't know what they can afford. Other prospective clients only want the cheapest lawyer they can find, until they learn what is at stake and the seriousness of the charges. Sometimes there is sticker shock associated with legal fees, especially in the area of sex crimes and crimes against children.

The bad news, defending a sex crime or crime against children charge is expensive. That is the bottom line up front. How expensive depends in part in the court the charge is filed in (what county, State or Federal Court), the nature of the charge (1st degree rape vs. indecent exposure for example), necessity to retain experts or private investigators, the number and variety of counts, how far the case goes (Phase 1 vs. Phase 1 &2), and finally the quality and exclusivity of the lawyer you select.

In State court, part of the initial expense is the bond. The bonds on these types of cases are high. The typical bond can be as low as \$10,000 on a lesser offense, up to \$50,000 to 1st degree rape and child sexual abuse. These numbers are multiplied for the number of counts and if the client has any prior criminal history. Traditionally bondsman will charge 10% of the total bond amount to post the bond. For example, if you have three counts of 1st degree rape and had no criminal history, you could easily be looking at a bond around \$150,000, thus costing you \$15,000. This bond money paid to the bondsman is non-refundable. It is the cost of simply securing your release.

A private lawyer in Federal Court is more expensive than if the case was filed in State Court. The same is true if the matter is filed "out of county," meaning the case is in a county other than where the lawyers office is located. Costs also rise depending upon certain counties that are more irritating and difficult to practice in because of either the Judges, DA's, or law enforcement.

If your case will require the use of an expert for trial, for additional testing, or to aid in the defense, or if you will need to hire a private investigator, these costs are in addition to the bond and attorney's fees. Whether or not any of these are recommended is a decision made by your lawyer, whether you choose to spend the money is entirely your decision.

How far the case needs to go procedurally also weighs heavily on the costs. Phase 1, which is typically through preliminary hearing and up to District Court Arraignment for

me (only through preliminary hearing for some lawyers) is traditionally charged separately and distinctly from Phase 2, which is from District Court Arraignment (DCA) through trial.

The vast majority of criminal lawyers in Oklahoma bill by flat fee as opposed to hourly. The difference is fairly straightforward. Flat fee billing means you pay one fee for all attorney services from one point in the case to another, i.e. phase 1 or phase 2. An example would be in a basic felony drug case, an attorney may charge a flat fee of \$5000.00 for Phase 1 (pre-filing up to the DCA). If the case is not resolved up through the DCA level by way of plea or dismissal, the client may choose then to contract with the attorney for Phase 2 (DCA through jury trial). The client could also choose to go hire another lawyer. This is where the natural break in representation happens and the client is free to hire someone else. For example the client could then decide to hire the attorney for Phase 2 for a flat fee of \$10,000. The flat fees only covers the lawyer's work and does not cover any additional costs. These are known to the client as static costs that do not change.

The hourly method is where you give the attorney a retainer, say \$5,000. The attorney bills against the retainer by the "hour." Every month you are sent a bill and required to pay that amount that was billed against the account. The total fee has virtually no limitations other than if the lawyer agrees to a limit in advance. For example, you provide lawyer A with a \$5,000 retainer that the attorney bills against at \$300/hr. At the end of the month if the lawyer spent 10 hours on your case, you will get a bill for \$3,000 that you must pay back into the trust account. At the end of the representation, any unspent funds in the trust account are returned to the client.

My practice uses single phase flat fee billing. I contract separately for Phase 1 and Phase 2. This way the client does not pay for something they may not need. For example, if I am successful in Phase 1 and get the case dismissed or negotiate plea terms you accept, you have not paid for Phase 2 work which is never required since the case concluded in Phase 1. I would avoid any lawyer that attempts to charge you for the entire case through trial at the very beginning.

Attorney's fee vary from lawyer to lawyer and traditionally move up or down in line with their experience, skills, ability, practice, reputation, or knowledge of the subject matter. A newer, less experienced lawyer with not very much business, should cost substantially less than an experienced and well respected lawyer that is in demand. You will pay more for a high quality, scarce resource, that is in demand. These lawyers have clients that care more about obtaining high quality legal assistance and the end result far more than price.

It is my opinion that the law of diminishing returns does not apply to high quality legal services. High end, high quality, unique legal services are not commodities. Only at the lowest end of the practice does commoditization exist. Only there is the quality so poor and similar and the end results and work product so comparable that price does play a part in the decision making for the client.

I work to be as transparent about fees as absolutely possible in every case. Each case is different and unique, and as such, I prepare a Fee Worksheet on every case and I am willing to share it with the client if they ask. I work to keep the client's fees fair, reasonable, and appropriate to the task and challenge in front of us, and analyze each phase to provide the greatest value for the client's investment.

I will discuss and review all costs with the client in advance. I will provide the client with a professional opinion on what costs you should spend your money on and what is a poor choice for your hard earned dollars. I realize the client is making an investment in their life, freedom, family, and future. The client needs that investment to have value from day 1. From personal experience I know how unsettling it can be to make a large purchase, only to see it drop substantially in value immediately after the deal closes.

I would suggest that if you are looking for the cheapest lawyer for your case, you should read some of the other free Reports available on my website. If after reading those reports you feel the same way, I can tell you without reservation that I will not be the right attorney for you and you will not be the ideal client for me. I believe that maintaining the cheapest lawyer opinion after having reviewed all of the available information comes from a philosophy, mindset, or a way of viewing the world that is inconsistent with a proper defense minded orientation for a client.

### **Can I prevent the police from arresting me at home in front of my kids or at work in front of my peer?**

Short answer: Yes, it is very possible, even probable to accomplish this goal.

In most cases where charges have not been filed, there are a few tricks of the trade we can employ to best defend against that adverse even from happening to you. Commitment, diligence, and prior planning serve as the foundation for properly defending against this possibility. However, after years of doing this very kind of work, I have developed systems that can be put in place and are necessary for my clients to be put in a position to best avoid this from happening to them. Once you are shown what to do, where to go, where to look, who to contact, and how to do it, the process will seem very simple. It isn't full proof, but as close to it as possible given the limitation placed upon us.

Can I keep my name out of the paper and my mugshot off of TV and the internet?

Short answer: Maybe, but probably not.

There a few factors at play in the answer. First, is it a slow news day? Honestly, if it is a busy news day with bigger cases and busts, your case very well may be overlooked. It can be as simple as that. This very situation unfolded recently with the last few clients I had. A case that involved three counts of child sexual abuse, another case involving possession of child pornography, and another case with a charge of soliciting a lewd act, none of these cases made the news given the volume of other major news stories playing out. Compare this to several years ago when nothing was going on in the news

and a plain and basic case involving indecent exposure made all of the news outlets like it was the crime of the century.

Second, is the case a State case or a Federal case. There are more filings in State court than in Federal court, so it is easier for a state case to get lost in the volume. Federal cases stick out, and are more likely to draw the attention of the media. There are few benefits ever to a Federal indictment, however, one of the benefits is of the unavailability of the booking photo as opposed to State court cases. State cases result in a booking photo available online, and the various mugshot tabloids like JustBusted.

Third, if you are in a high profile case or designated as one of Tulsa's Top 10 Most Wanted there is an almost certainty that your case is newsworthy and you will make the internet, newspapers, and local news channels. Not only do we need to worry about this type of publicity, but we need to also concern ourselves with the possibility of law enforcement calling the local news outlets about the arrest so they can make you do the "perp walk." Some of the same steps we take in number 2 above help to mitigate the chances of this happening and can completely eliminate the "perp walk" exposure.