

Great Lawyering Means Creating Great Options

Facing criminal charges involves making difficult choices. Namely, whether to accept the known parameters of a plea deal, or to gamble on the unknown consequences of trial.

A good criminal defense attorney's number one goal is to save you from this difficult decision. How? By getting your case dismissed.

This best case scenario cuts off the expense of defending yourself, and eliminates the risks of losing out on a plea deal or being found guilty at trial.

In [The Truth About Getting Your Case Dismissed](#), we discussed how your criminal defense attorney can best increase the odds of getting your charges dropped.

That article addressed the **importance of preparing your case as if it's going to trial**. Even if a trial is unlikely, the prosecutor will have little incentive to dismiss a case unless the criminal attorney is doing the homework.

(While the trial preparation prong is up to your criminal attorney, the other prong is largely up to you, and you can read about it in our article, [10 Ways YOU Can Help Your Attorney Get Your Case Dismissed](#)).

However, as the above-linked articles address at length, the decision to dismiss is ultimately up to the prosecution. This means that there are no guarantees, which is why your criminal attorney cannot bank everything on this outcome.

Accordingly, this article discusses what happens when your case DOES NOT get dismissed.

But to begin, let's talk about something you may not have considered:

Not All Dismissals Are Created Equal

In assessing your choices, it's important to point out that sometimes, you actually may not want to have your case dismissed.

See, dismissals don't always come with a government apology. Sometimes community service or a rehabilitation program is required, with the agreement to dismiss only after you've completed the prescribed program.

To some defendants, that possibility may sound like a dream come true. But if you feel you've been wronged by the justice system, you may feel compelled to pursue justice for yourself, your loved ones, and/or the principles you believe in.

You also might consider that willingly accepting any form of punishment could be viewed as an admission of guilt. Thus, depending on your place in the community and/or your personal [values](#), you may choose to decline an opportunity to have your case dismissed with strings attached, in order to defend your reputation.

All of these concerns are valid, and they all speak to the importance of your role as decision maker. However, you shouldn't expect to be offered a conditional dismissal. Because it may not happen.

With that being said, if you're facing criminal charges, you should expect to be offered a plea deal.

This choice often arises on day one, before you have even retained an attorney. It generally involves an opportunity to accept a lesser charge, and receive a reduced penalty, provided you plead guilty within a certain period of time.

For example, perhaps you blew just over the legal limit when stopped at a DWI checkpoint. If found guilty, your punishment could include anything from a large fine, to jail time, to a suspended license, and would generally involve some combination of those penalties.

However, the prosecution might offer you the opportunity to plead guilty to running a stop sign instead, without jail time, if you accept the offer within one month. Depending on the circumstances, additional conditions may be imposed, such as the requirement that you attend a defensive driving course.

While running a stop sign is certainly less damaging to your criminal record than a DWI, the charge will still have a lasting effect on your life. Unlike a dismissal with conditions,

in which the effect is limited to your reputation, pleading guilty to a criminal charge has tangible legal consequences.

That means that if your case is not dismissed, going to trial is your only hope of innocence.

That means no community service, no jail time, no fines, and no stain on your permanent record.

To be able to say to your loved ones, your community, your clients, and your future employers, “I fought the charges, and the jury found me not guilty” is to imply that you endured this unfortunate experience as a victim of injustice. Other than getting your case dismissed, it’s the only possibility that offers complete exoneration.

The downside is that if you’re found guilty at trial you will face your original charges. In other words, you could walk away with a harsher punishment and a bigger stain on your record than you would have had if you accepted a plea deal on day one, well before you spent a dollar on criminal attorney’s fees.

Indeed, the costs associated with defending a case at trial can be steep. The number of hours your criminal attorney spends representing you at pretrial court appearances and preparing strategy add up. In addition, you’ll likely need to hire experts, pay for witnesses travel expenses, among countless other litigation expenses.

As you can see, there are major strengths and weaknesses to both options, and which you choose will ultimately come down to which you feel best suits your circumstances. However, you need your criminal attorney’s help in assessing those circumstances.

If your criminal defense attorney is asking you to decide whether to take a plea deal or go to trial, you need clear answers to these two questions:

What is my chance of winning?

The only way that you can make a meaningful decision is if your criminal attorney has done their homework. How can you decide the risk of going to trial if your criminal

lawyer doesn't know? And how can your criminal lawyer know if he hasn't been working your options all along?

Your criminal defense attorney cannot adequately advise you regarding the strength of your defense without a detailed, granular understanding of the evidence. And if your criminal lawyer has not made attempts to challenge the evidence, he can't give you an accurate assessment of the prosecution's strength,

It's up to you to determine the severity of your charges and how heavily a conviction will weigh on your future. But it's up to your criminal attorney to determine how reasonable it is to take the risk of trying your case.

This leads to the second question you need to ask your criminal attorney if you are faced with the need to choose:

Is this plea offer that you've communicated as good as you're ever going to get?

All of your criminal lawyer's efforts to prepare your case for trial are not in vain if you choose to accept a plea deal.

In fact, where those same efforts fail to [get your case dismissed](#), they often succeed in getting you a better plea deal than you were initially offered.

Recall the DWI example. The offered running a stop sign charge could now be reduced to a speeding ticket.

But the nail biting reality is that the decision of whether to take a plea deal requires the client to accept some level of heightened risk.

As we discussed earlier, plea deals often come with an expiration date. It is your criminal lawyer's job to advise you as to whether or not they think that expiration date can be extended, or whether the prosecution is bluffing.

Oftentimes the plea deal *can* be extended by a savvy criminal attorney who knows how to do it. There's a way to put a pin in the case while your criminal lawyer tries to make it better. Meaning, even when the prosecutor tells you a decision must be made by next week, an experienced defense attorney can assess the likelihood that the prosecutor will stick to that deadline.

While there are never guarantees, good things happen when clients are willing to push a case closer to trial and say no to a tempting plea deal.

Just as you may need to walk away from a used car salesman's alleged "final offer" to see how low he's willing to go, successfully negotiating a criminal case often requires a similar level of strategy.

If you find this information anxiety producing, the good news is that you don't have to be the expert at the negotiation table. That's your criminal attorney's job.

Your job is to find the criminal attorney best suited to your circumstances.

For the reasons we've discussed, the low financial risk of hiring the cheapest criminal lawyer comes with the high risk of forfeiting the opportunity to either get your case dismissed, receive a better deal, or succeed at trial.

A criminal attorney overburdened with too many clients and undercharging for his services may lack the incentive and/or ability to give your power as decision-maker the respect it deserves. However unwittingly, he may bank on the likelihood that you'll accept a plea deal and steer the case toward a point where success at trial seems unlikely.

The problem then is not just that he cannot effectively counsel you, but that the options you're faced with are not as good as they could have been.

So if your most important consideration is maximizing your chances of dismissal, acquittal, or reduced charges, then you need to hire a criminal attorney who is willing to do the homework. As we discussed [here](#), the time and effort invested in trial preparation helps to:

- (1) Uncover weaknesses in the prosecutor's case,**
- (2) Communicate a strong defense to the prosecutor, and**
- (3) Assess the possibility of success at trial.**

Making decisions in a criminal case is not easy. But the right representation can make them easier.

Whether you came to this article looking for assistance in choosing a criminal attorney, in deciding whether to keep your current criminal attorney, or simply to better understand the criminal process, you're hopefully feeling more empowered regarding your choices.