SOMEBODY HAS BEEN ARRESTED, WHAT DO I DO?

Contact an experienced, local criminal defense attorney immediately. Only a private lawyer can effectively insure that an arrestee is not interrogated and that key evidence will be preserved. Often an accused's mental state or physical condition is important in developing a viable defense. A local criminal defense attorney can insure that necessary psychological testing is done close in time to the alleged offense. Scientific samples such as blood or gunshot residue swabs can be obtained for later analysis if a lawyer is retained quickly, before the evidence dissipates.

A Public Defender cannot even be appointed until there is a court appearance which often occurs weeks after an arrest if an arrestee posts a bond before First Appearance. Even when appointed a Public Defender, any personal contact with your actual attorney often takes place long after an arrest and usually not soon enough to be of any assistance in the initial phase of developing a defense.

If you know or suspect that someone has been arrested locally, it is important to find out what agency made the arrest. If Federal authorities (FBI, DEA, ATF) made the arrest, the person will normally be transported to the 33rd Street Jail, in Orlando.

If local law enforcement agencies make the arrest, those persons arrested will eventually arrive at the Brevard County Jail. As in all arrests, there will be a delay between the reported arrest and the arrestee's arrival at the jail. If the exact agency that made the arrest is known, i.e. Titusville Police Department or Brevard County Sheriff, the places where detainees may be located can be determined.

Arrestees are either taken directly to the Brevard County Jail, in Sharpes, or to arresting agency's facilities for breath testing, booking, interrogation or to await further transport to the jail.

Before being entered into the computer system, it is often impossible to verify information regarding were an arrestee is being held, what the charges are and the amount of bond.

If an arrest takes place a considerable time after the commission of the offense, after a relatively extensive investigation, or involves a serious felony, the likelihood that a suspect will be detained for an interrogation will be greater. Though a person can be released from any facility after booking and posting a bond, only the jail is equipped to accept bonds.

Sometimes the arresting agency will reveal the amount of the bond before the jail is able to, but this does not speed

up the bonding process.

If the person is in the Brevard County Jail, and his arrest information is in the Sheriff's computer system, bond information can be obtained by calling 690-1500 or perusing the Sheriff's inmate list online Brevard County inmate list. A bondsman can often make discrete inquires to the jail and get advance information.

HOW TO POST A BOND

Once a bond amount is ascertained, a decision must be made to determine what the best method is to post a bond. The first type of bond, referred to as a "cash bond, **II** is posted by depositing the entire amount of the bond in the form of a money order, cashier's check or certified funds at the Brevard County Jail. Though still referred to as a "cash bond", the Brevard County Jail will not accept any actual cash.

If you have a credit or debit card, you can log on to WWW.govpaynet.com or call 1-888-561-7888 and arrange to post the bond.

The second method is to hire a bail bondsman and pay a non-refundable bond premium equaling 10% of the amount of the bond.

SHOULD I POST THE ENTIRE AMOUNT MYSELF OR PAY A BONDSMAN?

If you have the entire amount of the bond available to you, a "cash bond" can be posted without the need to hire a bondsman. The advantage of this method is that you do not have to pay a bondsman a non-refundable bond premium in an amount equaling 10% of the entire amount of the bond. If you have the money on hand that is not earning very much interest, it may make financial sense to post the "cash bond. **II** As long as there is no court order changing the bond, the bond will stay in effect until the case is resolved.

The disadvantage of a "cash bond" is that in the event that the arrestee willfully fails to appear, the entire bond is subject to forfeiture and you can lose all of your money. Additionally, even if there is no forfeiture, the Clerk of Courts will apply the amount on deposit toward any fines, court costs, and other obligations.

Since most bondsmen require collateral equal in value to the amount of the bond posted, you may have no choice but to post a "cash bond, **II** if the bondsman requires more collateral than you have.

The advantage of hiring a bondsman to post a bail bond,

is that it requires 90% less cash. However, if you put up collateral, for instance your home, and there is a willful failure make a court appearance, the bondsman can go after your collateral to satisfy any losses incurred when there is a forfeiture and the amount of the bond has to be paid by the bonding agency.

A bondsman can "go off the bond" and rearrest the person who has bonded out and return that person to the jail, based merely on a belief that the risk of flight has increased, even in the absence of any failure to appear. Your 10% bond premium will not refunded. You can however, obtain release by posting a "cash bond" or pay another or even the same bondsman an additional premium.

WHEN SHOULD I POST A BOND?

If you have the financial resources, including collateral, and you want to get the person out of jail as quickly as possible, post either type of bond as soon as possible. The initial bond amount is set by the number and type of charges multiplied by an amount determined by the bond schedule contained in an administrative order.

The initial bond amount is often enormous and waiting for the judge to modify the amount can often save a lot of money and allow you to afford hiring private counsel.

Be aware that some judges are famous for increasing the amount of the bond at the first appearance on their own motion or upon a motion by the State. An experienced lawyer can advise you of the likelihood of a bond increase. If you can afford a bond, and you think a bond increase is likely, post a bond before it can be increased by the judge.

Most of the time, the first opportunity to get a lower bond occurs at the First Appearance, held at the jail, presided over by a judge. A defendant is required to be brought to First Appearance within 24 hours of an arrest.

Before committing your resources early, consult an experienced criminal lawyer beforehand.

Often, especially in less serious crimes, the judge at first appearance will lower the bond based on the following factors:

1. The type of offense;
2. Then strength of the State's case;
3. Family ties and length of residence in the county;
4. Employment history;
5. Financial resources;
6. Criminal Record;
7. Past failures to appear;

8. The danger a release would pose to the community;
9. Source of any funds used to post bond;
10. Street value of any drugs involved;
11. Probability of witness intimidation;
12. Whether there is probable cause to believe defendant committed a new crime while on pre-trial release.
13. Whether the offense is gang related
14. Any other fact the court thinks is relevant.

ARE THERE ALTERNATIVES TO POSTING A BOND?

Some fortunate defendants who, are only charged with minor offenses and have insignificant criminal histories, will often be released after their arrest but, before their First Appearance by being placed on Community Supervision without being required to post a bond. There is about a $50.00 monthly fee and probation-like conditions that can become onerous if the case is protracted.

Often, it turns out to have been cheaper to have simply posted the initial bond. Attorneys often motion the court to allow their clients to post a bond to avoid continuing supervision on Community Control.

Though rare, a person in custody can be released on his own recognizance(ROR) without paying any money if it if ordered by a judge. If a private attorney is hired early enough in the process to attend the First Appearance, a ROR can be requested of the judge.

UNDER WHAT CIRCUMSTANCES CAN A PERSON BE DENIED A BOND?

The administrative order establishing the bond schedule lists offenses which require an arrestee to attend First Appearance before a person can be bonded. If a person is arrested for DUI, the jail will hold the arrestee for at least 8 hours to provide a period to "sober up."

If a person is arrested on a warrant for violating probation or community control, and the warrant does not set a bond amount, that person will usually be held in custody, until the judge that signed the warrant sets a bond upon proper motion filed with the court and set for a hearing.

In some violation of probation or community control cases which involve violent felony offenders, sexual offenders, and habitual offenders, state law prevents any form of release until the case is resolved.

If a person is arrested on new charges and are currently serving felony probation or are on community control, they will receive an "on site violation" for which no bond is set.

Thus, even if there is a bond on the new charges, and even if that bond is actually posted, the probationer or community controllee will be held without bond on the "on site violation" even if there is no violation warrant.

Often a bench warrant, issued for a failure to appear will have no bond amount, and will have special instructions that prohibit any form of pre-trial release until that person is brought before the judge who signed the warrant.

The appropriate judge can set a bond on a violation of probation or community control upon a proper motion being filed with the court and set for a hearing. Some judges have a policy of not granting bonds for violations of probation or community control, since there is no constitutional right to release.

Persons charged with capital offenses are not entitled to a bond as a matter of right and are usually kept in custody until their case is disposed of or their charges are reduced to a lower level offense.

WHEN CAN THE BOND BE CHANGED?

The first opportunity to change the bond amount, established by law enforcement using the bond schedule, is at the First Appearance which is held within 24 hours of an arrest.

The presence of a private lawyer can increase the likelihood and amount of a bond reduction at the First Appearance. At a later time, a motion to reduce the bond can be set before the actual judge who is assigned to handle the particular case.

A private lawyer can expedite the process. If a request to lower the bond is denied, a subsequent bond hearing can be requested is there is some change in circumstances.

If fewer or lesser charges are eventually filed by the State, the judge will, upon filing of a proper motion, lower the bond accordingly.

CAN I ATTEND THE FIRST APPEARANCE?

All First Appearances can be attended by video provided at the Brevard County Jail. A lawyer can attend First Appearance in person, and can actually confer directly with his client.

WHAT HAPPENS IF NO BOND CAN BE POSTED?

If a person is being held with no bond or the bond is too high to post, even after being reviewed by the judge, they will usually remain in jail until final disposition of the case. If the absence of a bond or the amount of the bond is contrary to

established law, a Writ of Habeas Corpus can be filed with a higher court to attempt to lower the bond or establish one.

WHAT HAPPENS IF CHARGES ARE NOT FILED ON TIME?

With some exceptions, if the State fails to file any charges within 33 days from the time of the arrest, an accused must be released on their own recognizance (ROR) without having to post any bond. A proper motion must be filed and transmitted to the court clerks at the jail and the State. If after being notified of the lapse of time and the motion, the State fails to file formal charges before the hearing on the motion, an ROR will be ordered that applies only to the case not filed upon.

DO I NEED A LAWYER?

The answer is yes. If you cannot afford to hire a private lawyer, and you are eligible for the appointment of the Public Defender, or other court appointed counsel, make sure you ask the court to appoint you a lawyer at your next court appearance. With limited exceptions, you have a constitutional right to counsel and for good reason.

Do not represent yourself or act upon advice of anyone but an experienced criminal defense lawyer.

WHY NOT JUST USE THE PUBLIC DEFENDER?

In terms of pure volume of cases, the most experienced criminal defense attorneys are Public Defenders. While this volume gives them invaluable experience, the sheer enormity of the case load that each Public Defender is required to handle, makes it is impossible for them to devote enough time to each case. Public Defenders want to provide their clients with the best representation possible, but there are just not enough hours in the day to allow it.

WHAT CAN A PRIVATE LAWYER DO FOR ME BEFORE FORMAL CHARGES ARE FILED?

You will be able to confer freely with your lawyer about the predicament you now face. Private counsel will be able to interact on your behalf with the State, the court and law enforcement. This minimizes inadvertent admissions or damaging statements to the court or other persons such as alleged victims.

Your lawyer will be able to give you an objective view of your situation and guide you through the series of decisions that must be made before your case is resolved. A private lawyer is able to represent you immediately upon being retained. You may not be appointed a lawyer until after you have been formally charged.

Before a charging decision is made, a private lawyer

can act as your intermediary, and can present evidence, witnesses and legal reasons to the State Attorney making the final charging decision to charge fewer and less serious offenses, allow your case to be sent to a pre-trial diversion program or even cause your case to be dropped completely.

Your own lawyer can make sure that favorable evidence is identified, preserved and timely disclosed to the State. Your lawyer can interview witnesses early to assess the value of their testimony and include them in your witness list that must be timely filed with the court.

Diagrams, maps, and photographs can be assembled to portray aspects of your case favorably. If necessary, expert witnesses can be identified and prepared to explain and counter scientific evidence against you.

If a defendant is incompetent by reason of mental illness to assist in his defense, counsel can insure that proper evaluations will be made by qualified forensic experts. If necessary appropriate treatment can be obtained to restore a client's competence and allow the case to proceed promptly.

If insanity is a viable defense, your lawyer can file the proper notice with the court within the prescribed time limitations and guide forensic experts to any necessary information upon which they can base their opinions. The early determination to employ an insanity defense is important, so that experts can evaluate a defendant's behavior close in time to the crime charged.

WHAT CAN A LAWYER DO FOR ME AFTER I AM FORMALLY CHARGED?

After a charging decision is made by an intake attorney, it will be assigned to a trial attorney who will handle it to its completion. This provides your attorney with another opportunity to encourage the State to alter the charges, divert your case to a non-judicial disposition, or get your charges dropped altogether.

Ten days after the filing of formal charges, your lawyer will be able to obtain a copy all police reports, witness statements, photographs, lab reports, medical or, autopsy reports and other materials from the State. A review of these materials, called discovery, usually reveals the extent of the case against you and the bases for which to attack, both the admissibility and the credibility of the State's damaging evidence.

A private lawyer will have the time to go over every detail of your case, including what the State will have to prove in order to convict you and be able give you an informed opinion on the strength and sufficiency of the evidence against you.

If additional information is needed, your lawyer can issue subpoenas to obtain documents or other information, visit

the crime scene and take photograph or measurements, and can view the actual physical evidence that the State intends to introduce against you.

The witnesses against you can be compelled to answer your lawyers questions under oath about the testimony they will glve at trial. These proceedings, called depositions, can be transcribed for use at trial in the event that witnesses change their testimony.

Your lawyer can attended any depositions of any of your witnesses taken by the State and will be able to ask them questions to insure that all relevant facts are revealed.

If the evidence the State intends to use against you is incompetent or privileged, your lawyer can file Motions in Limine attacking its use and have the judge rule on its admissibility.

If evidence against you has been obtained by unlawful means, Motions to Suppress can be filed to prevent such evidence from being introduced against you.

The passage of time and the inactivity of the State in timely bringing you before the court can result in your case being completely dismissed due to violations of speedy trial rules or violations of the statutes imposing time limitations on prosecutions.

WHAT CAN A LAWYER DO FOR ME AFTER COMPLETING DISCOVERY?

After all discovery is completed and pre-trial motions are heard by the court and ruled on, your lawyer can attack the sufficiency of the evidence to support some or all of the charges by filing and having heard, by the court, Motions to Dismiss.

Once the State is informed of the weaknesses in its case and the strengths in your case, it can again reconsider what charges deserve to be pursued or even decide whether to discontinue prosecution altogether.

At some time after completion of discovery, your lawyer will have to guide you through critical phases of your case and help you make decisions concerning waiving speedy trial, considering whether to accept a negotiated plea or go to trial.

The majority of cases end with a negotiated settlement commonly called a plea bargain. Because of this fact, having a lawyer with experience is very important. Before entering into negotiations with the State, a lawyer needs to know the State's case inside and out, legally and factually.

In addition to knowing the State's case, a criminal defense attorney needs to recognize his client's defenses. If there are weaknesses in the State's case, he needs to decide whether to reveal them to obtain a better plea offer, or to wait

until trial and spring a trap.

A thorough knowledge of the Criminal Punishment Code is necessary to determine what the client will score under various sentencing scenarios. The scoring process is complicated and can be explored in more detail.

Since part of the scoring process involves adding points for prior record, and experienced lawyer will research a client's history at its source to determine what the exact record is.

The State generally relies on secondary sources such as local, state and national databases which can be fraught with mistakes. Reported convictions can relate to another person with the same or similar name. The exact crime or actual disposition can frequently be misstated.

Often, out of state convictions are for crimes which are not equivalent in severity to similar sounding offenses in our State. Additionally, even those offenses properly identified and properly attributed to a defendant can nevertheless be excluded because of the age of the conviction or the fact that certain convictions were the result of a defendant not having counsel.

There are numerous statutes involving the nature and timing of previous convictions or incarcerations that can be used to significantly enhance a sentence which must be identified and considered.

Once a client's exposure is determined, the negotiation process can begin. The process can be protracted and involve numerous factors, including the sentencing practices of the judge, the habits of the prosecutor and input from victims. Your lawyer's ability and willingness to actually try a case, may be key in reaching the most favorable resolution possible.

In almost every case, a defendant will eventually have to decide, whether to accept a negotiated settlement or go to trial. The factors to be considered are numerous and an experienced trial attorney will be able to distill these factors into the dispositive ones and permit the optimal decision.

I HAVE DECIDED TO GO TO TRIAL, WHAT NEXT?

Your lawyer will help you decide whether it is better to try your particular case before a jury or before the judge sitting as the trier of fact. An experienced lawyer will have extensive knowledge of all of the judges, by virtue of having appeared before them numerous times. Depending on the who the judge is, an experienced lawyer may even have tried cases with or even against the judge when he or she was a practicing lawyer.

Often, there is no appropriate choice but to choose a

trial with a jury of strangers rather than one with a known sitting judge. The factors that must be considered in ultimately deciding who the finder of fact will be can be vexing because of their numerosity.

Your lawyer will need to help you decide which of the defenses that are available to you should actually be presented at trial. Sometimes the assertion of too many defenses or inconsistent defenses can actually reduce the chances of an acquittal. It may be prudent to abandon the use of weak defenses and argue that the lack of credible evidence and existence of reasonable doubt warrants an acquittal.

When your case is actually set for trial, your lawyer will issue subpoenas for witnesses, make arrangements to have experts on stand-by and insure that other evidence favorable to you will be available at trial. Your witnesses will need to be re-interviewed and prepared to testify on your behalf.

WHAT CAN A LAWYER DO FOR ME AT TRIAL?

An experienced trial lawyer will make sure that a client is appropriately groomed and attired for trial. If a jury will decide the case, they will have to be selected beforehand. An experienced lawyer recognizes that jurors have many opportunities to view their clients before they meet in the courtroom. An initial bad impression gained prior to the formal jury selection process can impact the deliberations.

An experienced trial lawyer will make sure that all information about the prospective jurors is obtain and evaluated. If there has been extensive pre-trial publicity, or there are other sensitive issues that need to be explored with each prospective juror outside the presence of the rest of the panel, your lawyer can ask the court for individual *voir dire,* the traditional term for jury selection.

Your lawyer can insure that the state does not ask improper questions that prejudice the jury against you. An experienced trial will be able to ask prospective jurors revealing questions to ferret out those jurors who would be most likely reject your defenses, harbor some resentment toward you or have strong feelings about some aspect of your case.

If prospective jurors expose a state of mind that prevents them from serving on a jury, they can be stricken for cause, thereby conserving precious discretionary challenges.

Your lawyer will assist you in ultimately deciding which prospective jurors who cannot be removed for cause, should be stricken from the panel using the limited discretionary challenges each party is allowed.

In some rare instances, if your lawyer believes the number of discretionary strikes are not sufficient to insure a

fair and impartial jury, he or she can ask the court for more challenges.

If the State attempts to exclude minorities from the panel, your lawyer can lodge the proper objections and require the state to provide non-discriminatory reasons for excluding a prospective juror. In the absence of a sufficient, nondiscriminatory reason for exercising a discretionary strike, a member of a minority group must remain on the panel.

An experienced trial lawyer will insure that any adverse rulings made by the judge during jury selection are objected to and properly preserved for review on appeal.

Once the jury is selected, your lawyer can help you decide whether or not to make an opening statement or reserve it for the beginning of the presentation of your portion of the trial.

During the first part of the trial, the State puts on its case and your lawyer can contest the admissibility of damaging evidence on the grounds of relevancy, materiality, or undue prejudice. Your lawyer can assert privileges on your behalf and prevent some testimony from being used against you.

By skillful cross examination of the State's witnesses an experienced trial lawyer can show a witness's prejudices and biases, reveal weaknesses in the ability of the witness to have perceived the evidence testified to and expose defects in the recollection of the events they are describing.

By bringing to light prior inconsistent statements, offers of leniency or favor, prior convictions and other facts, your lawyer will be able attack to veracity of your accusers.

During the entire trial process, an experienced trial lawyer is vigilant against any juror misconduct and will bring to the court's attention any impropriety that can lead to the removal of juror.

At the close of the State's case your lawyer can make motions before the court to attack the sufficiency of the evidence presented to support some or all of the charges. If a proper basis is given, the court will dismiss or reduce all of the charges, or just some of them.

If the State's case survives your lawyers motions, you will need to be guided through what is usually the most difficult decision. Do you put on a case, or rely on the lack of persuasive evidence and the existence of reasonable doubt in your summation to the jury? If you do put on a case, should you testify or exercise your right to remain silent. The choices are weighed and tested against your lawyers experience.

If a decision is made to put on a case, an experienced

lawyer, whose skills have been honed through experience, will present that evidence and testimony that will be most persuasive and less vulnerable to attack by the State.

After both sides have rested, defense attorneys renew all motions previously made and if they are not granted a charge conference is held where the judges decide what instructions the jury will be given to guide their deliberations.

Your lawyer must now advise you on whether to request that instructions on lessor included offenses be read. Instructions on lesser included offense give the jury the opportunity to compromise and find you guilty of lessor charges. The absence of lesser included offenses give the jury an all or none choice.

The final jury instructions are composed from standard instructions that must be tailored to fit the charges and evidence in your case. If there are no standard jury instructions covering some aspect of your case, lawyer must compose special instructions and support the use of them with case authority.

Once the judge rules on what instructions will be given, all objections must be renewed to preserve the right to raise the issues in an appeal. The actual instructions that are to be read to the jury and taken back with them to the jury room for deliberations must be examined to make sure no excluded instructions are inadvertently included and no proper instructions are omitted.

Your lawyer, now knowing what the jury instructions will be and what evidence has been presented, will be prepared to give a closing argument to the jury on your behalf. The closing argument, also called final argument or summation, usually involves a discussion of the facts as they relate to the law.

The prosecutor gives the first and last presentation, to the jury during which a defense lawyer must be sure to object to any improper argument being made to influence the jury.

After the closing arguments are concluded, the judge reads the instructions to the jury. Your lawyer must follow along to make sure that no beneficial instructions are omitted. If the judge's voice inflections, when reading the instructions, placed any improper emphasis on any of the instructions, a timely objection must be lodged in order to preserve the issue for appeal.

After the jury is sent to the deliberation room, your lawyer must examine each piece of evidence to make sure that only that which was been properly admitted is used during deliberation.

During the deliberation process, jurors will invariably ask questions of the court, request that portions of testimony be read back or ask that recordings be replayed. Your lawyer must

know the law and object when necessary to any prejudicial ruling of the judge with respect to the response to the jury questions and requests.

Once a verdict is reached, if adverse, you lawyer must inspect the jury form and object to any irregularity or legally inconsistent verdicts and request further deliberations by the jury if warranted.

If the jury's verdict is not-guilty, you will be discharged. If you were in custody, you cannot be forced to go back to the jail to be processed out. Your lawyer can now advise you whether or not evidence of your arrest and prosecution can be stricken from the public records. You can also be advised on the viability of any suit for false arrest, false imprisonment, malicious prosecution or violation of your civil rights.

WHAT CAN A LAWYER DO FOR ME IF I AM FOUND GUILTY?

Your lawyer can file timely motions to seek a new trial based on any errors occurring during the trial. If juror misconduct is suspected to have influenced the verdict, your lawyer can ask permission of the court to interview the jurors about their deliberation and if misconduct is found, use that misconduct to impeach the verdict and gain a new trial.

Each defendant has a right to present mitigating circumstances to influence the court's sentencing decisions. Mitigating circumstances are varied but usually involves exploring the past history and the future potential of the defendant.

Expert testimony about the defendant's mental health can be presented, and used to explain the defendant's actions and predict the likelihood of future criminality.

The presentation of some mitigating factors can actually allow the court to depart from the recommended sentence indicated by the scoresheet prepared by the State.

The scope of mitigation is almost limitless and is confined only by the ingenuity of your lawyer.

Since victims of a crime have a right to address the court at sentencing, your lawyer must be prepared to counter the adverse impact of their participation in the sentencing process.

The correctness of the data used in preparing the scoresheet should already have been determined well prior to trial when your lawyer determined your exposure when evaluating any plea offers. However a scoresheet can incorrectly assign points for duplicate offenses that violate double jeopardy.

After a sentence is imposed, if there are grounds for appeal, your lawyer is obligated to initiate the preliminary stages of your appeal. If you are unable to afford the services

of an appellate lawyer, your lawyer can insure that you are appointed a lawyer to pursue your appeal.

And finally, if you prevail on your appeal, and your cases is remanded for a new trial, your lawyer, having tried the case once, will be in a position to try the case again or negotiate a more acceptable plea.

CALL US NOW AT 321-269-0606 OR E-MAIL US TO ARRANGE FOR YOUR FREE CASE REVIEW AND EVALUATION.