

# Facing Criminal Charges in New Jersey?

Helpful Information That May Mean The Difference  
Between Freedom and Incarceration



**Law Offices of Samuel L. Sachs, Esq.**

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**Written by:** Samuel L. Sachs, Esq.

# **FACING CRIMINAL CHARGES IN NEW JERSEY?**

HELPFUL INFORMATION THAT MAY MEAN THE DIFFERENCE  
BETWEEN FREEDOM AND INCARCERATION

*By Samuel L. Sachs, Esq.*

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This publication is intended to be informational only. No legal advice is being given, and no attorney-client relationship is intended to be created by reading this material. If you are facing legal issues, whether criminal or civil, seek professional legal counsel to get your questions answered.

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# CLIENT TESTIMONIALS

*“My family recently had the need for an attorney for a criminal court issue. I came upon Sachs Law Office in an online search, as I did not have a recommendation from friends or family. I was amazed at the quick response I received for Sam Sachs. He was consistent, knowledgeable, highly professional, and a true calming factor in his dealings with my family, and the courts. He was successful in his litigation of our case, and I would highly recommend Sachs Law and Sam Sachs to anyone in need of legal representation.”* – **Pamela D.**

~~~~~  
*“I was extremely impressed by Sam and Lauren’s services from the first phone call. I truly appreciate their intellect and expertise around my case. They are quite passionate and will fight very hard for you while realistically managing your expectations and providing sound counsel. I was very fortunate to choose them to represent me in unfortunate DUI case that resulted as positively as possible. I would recommend them to others, without question.”* – **Jason O.**

~~~~~  
*“Scardella helped me with my case. I was extremely nervous with the outcome, but she assured me the procedures and different paths we could take. She was always on time, responded to my questions quickly, and knew exactly what she was talking about. She even looked up outcomes of other cases like mine to see which option would be the most reasonable.”* – **Antonio Q.**

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# ATTORNEY INTRODUCTION

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Samuel Louis Sachs, Esq. attended Trenton State College (now the College of New Jersey) and graduated with a Bachelor of Arts degree, magna cum laude. He also attended the National Law Center of George Washington University, and graduated with a Juris Doctor degree, with honors. Mr. Sachs is admitted to practice law before: the Supreme Court of the United States of America; the Third Circuit Court of Appeals; the Court of Appeals for the Federal Circuit; the United States District Court for the District of New Jersey; and all courts in the State of New Jersey including the Supreme Court of New Jersey. He has actively practiced law since 1982.



Mr. Sachs has served as a Municipal Public Defender, a Municipal Prosecutor, and as the Municipal Court Judge of East Windsor Township from 1989 to 1998. Since leaving the bench, Mr. Sachs has been in full time private practice, his

practice being substantially devoted to motor vehicle and criminal matters. He is the editor of Municipal Court Practice, a textbook used by the Institute of Continuing Legal Education (ICLE) for educating lawyers as to Municipal Court practice, and he is a regular lecturer at ICLE since 1992.

In the past, he has also lectured on the law at Trenton State College and at the Administrative Office of the Courts Orientation Program for Newly Appointed Municipal Court Judges.

Mr. Sachs was named Municipal Court Attorney of the Year for 2006 by the New Jersey State Bar Association because of his work on *State vs. Chun* before the New Jersey Supreme Court.

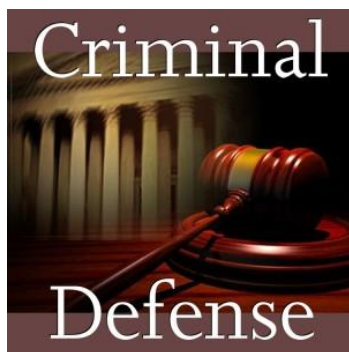


## INTEREST IN CRIMINAL DEFENSE

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**Interviewer:** How many cases do you think you've defended in all the time you've been practicing? Thousands?

**Sam Sachs:** Thousands? I've never counted. I've probably done in excess of a thousand municipal court cases. As a Public Defender, Prosecutor, Judge and as a defense attorney, I couldn't even count. After 30 years and I've been doing predominantly criminal work and DWIs as a defense



attorney for 16 years, I wouldn't even know the numbers. Plus there's the sheer volume of cases when I was a judge; probably 60-70,000 municipal court cases crossed my bench when I was a judge, so I couldn't even begin to tell you.

**Interviewer:** Do you get friends and family and people say to you, "Oh, how can you defend those people? Aren't they all criminals?"

**Sam Sachs:** Yes, of course you do and that's because they're naïve, unless of course they are the ones accused. I always tell them the same thing. You have the mistaken idea that the defendant is on trial. In fact, when I teach other lawyers, I say don't ever get hung up on whether the client is guilty. If you're hung up on whether your client is guilty or not, you shouldn't take the case. The issue is not what your client did; it's what the state can prove. That is the essence of our constitutional presumption of innocence.

The way I look at it and the way I explain it to lay people is that they're mistaken to think the defendant is on trial. The State is on trial! The State has to prove their burden beyond a reasonable doubt in each and every case because if we don't hold them to their proofs, even if you think someone is obviously guilty, then they start snatching up the rest of us like they used to do in the old Soviet Union and decide they're going to charge us with offenses without ever having to prove them, and our Constitution won't allow that.

I look at it like the state is on trial each and every time, not the defendant. It's not what the defendant did; it's what the State can prove.

## **Typical Clients & the “Good Person” Defense**

**Interviewer:** Of the people you see, are many of them hardened criminals? Or are a lot of them just first-time offenders that made a mistake but are otherwise good people?

**Sam Sachs:** Overwhelmingly, it's first-time offenders, with some exceptions. People that have issues with drugs tend to be recidivists, so we see that happen more often. Sometimes good people do bad things. Sometimes bad people do things that are consistently bad, but more often than not, they're good people who made a misjudgment.



Sometimes there's a fine line between being foolish and having criminal intent and most of the time, intent is proven by circumstantial evidence, so to the police and a prosecutor, it may look like they had

criminal intent, when really they just did something that wasn't very well thought out. Those are the cases that I enjoy the most because I feel as if they did something improvident (like we all have from time to time) and I have an opportunity to convince the state that that's what it was: for want of a better word, maybe stupidity, but not criminality.

**Interviewer:** On the defense side, how often do you have a client come to you and say, "I'm a good person. I have a family. I have kids. Why are they wasting time coming after me? Won't they just see that and let me go?"

**Sam Sachs:** A lot, especially for first offenders. "I've never done anything bad before in my life." Well, most murderers only do it once, so that's obviously not a defense. What I do very gently is to be sympathetic as to the how the trouble they are in will affect their lives. I do things to try and make them comfortable and I listen to how they think things are going to tear up their life, but unfortunately, the decision as to whether or not their life is going to be affected doesn't mitigate what they did or didn't do.

It may mitigate the punishment, but if you embezzle \$50,000 from your employer and they have you cold, and then you come in and say, "Geez, I'm a really good person and I don't know why I did this and I never did anything like this in my life before," maybe that mitigates what punishment you're going to get, but it doesn't negate the crime itself.

Why are they going after *you*? The answer is a legal one. They don't have to go after everybody. They just have to catch lawbreakers one at a time, so why they're going after you, unless it has a discriminatory basis, makes no difference whatsoever. They're going after you because they see fit to do so. Throughout history, some crimes are always prosecuted more severely than others.



For instance, offenses against children, during my career, have been prosecuted much more rigorously than in other areas. Offenses against women have been prosecuted more rigorously than maybe 50 years ago. Every prosecutor gets to set their tone. For years and years the punishment was worse for

people in the hood who got charged with crack than people in suburbia that snorted cocaine. That doesn't make any sense. It's clearly discriminatory and a lot of that's changed, but the law evolves over time. I always say we have the finest justice system in the world, quickly followed by saying that it's not perfect.

**Interviewer:** Does the “I'm a good person” defense come into play at all to help people when you do have someone that you really feel is good and they made an honest mistake? Besides actions, can that be used?

**Sam Sachs:** As I said, sometimes there's a fine line between criminal intent and making a poor judgment, and if they are truly a good person, sometimes that will sway a prosecutor in regard to whether there was really criminal intent or not. Sometimes people obviously had criminal intent. Sometimes they even announce it. "I'm going to go kill Charlie." There's no doubt, if he goes to kill Charlie, what his intent was. Other times it's not so cut and dried and then their background plays into it. Lots of times, their mental health plays into it.

When I see people under extreme stress or tough circumstances, I will sometimes recommend that we have a forensic psychiatric evaluation if I think that's a component in convincing the prosecutor that maybe the intent wasn't there or maybe the punishment shouldn't be terribly harsh. I've had very good success in doing that. I don't do it in a lot of cases, but I do it in cases where I believe it will help. The same thing goes for getting expert witnesses. Most of the time, intent is proved circumstantially and the mindset of the defendant is a big portion of that.



When I teach this and when I practice it, I always say that your job as a defense attorney is to make your client a living, breathing person to the prosecutor and the judge and, if it goes to trial, to the jury. It's not just a file. They're a person. What are they about? What did they do? What have they suffered? What have they accomplished? You have to make them a person. It's a lot easier to convict somebody if you don't understand who they are and a lot harder if you

understand them as a person, and they are a good person.

## EXPERIENCE AS A PROSECUTOR

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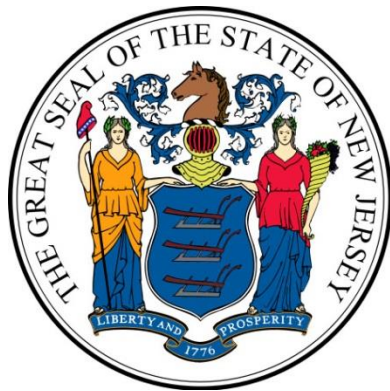
**Interviewer:** What was being a prosecutor like? What was your intent when you were a prosecutor? Were you out to get people? Were you out to convict them? What was your mindset?

**Sam Sachs:** Before being a prosecutor, I was a public defender. I was one of the first municipal public defenders in New Jersey. I served three years as a public defender and then a year as a prosecutor. Prosecutors take an interesting oath. A prosecutor does not take an oath to convict people. A prosecutor takes an oath to do justice. Justice is simply doing the right thing, and that's why prosecutors have discretion. I was a very vigorous prosecutor, but again, you have to temper justice with mercy and compassion and that's exactly what I tried to do.

There were some offenses that I felt were particularly despicable and as every prosecutor decides, I would decide as a prosecutor that maybe I was going to prosecute those a little more toughly. Then there are



others where you want to have some pity for the defendant and you realize they were sometimes caught in bad circumstances. There's a difference between a person who steals a loaf of bread because they're starving and a person who steals a loaf of bread because they can. It's not the exact same thing and that's when you have to decide, whether you're going to be compassionate or not.



### **Some Prosecutors Resort to Stacking Charges to Get a Higher Conviction Rate**

**Interviewer:** I've heard of prosecutors stacking charges and seeming to just want to get as many convictions as possible. Do you think that that is a common thing?

**Sam Sachs:** For some of them, it goes to their head and they get rabid over it. I never even thought about what my conviction rate was. As a prosecutor and as a judge, I wanted to be able to go home at night and sleep without having any second thoughts about

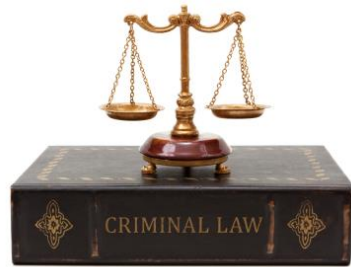
what I did. I wanted to know that I did the right thing when I took that oath to do justice as a prosecutor. It wasn't to convict people. I wanted to feel like I did the right thing every day. When I judged cases, if I was on the line and I couldn't decide as a judge which way to go, I always resolved it in the favor of the defendant. That's what the law requires. That's what I did.

**Interviewer:** Since you were a prosecutor and now you defend clients, what kind of perspective do you think this gives you when you're going against prosecutors now on behalf of your client?

**Sam Sachs:** Although prosecutors are considered adversaries, in New Jersey, lots of times judges are also considered adversaries. Lots of people will accuse judges of having a prosecutorial bent more often than a defense bent, and when I look at the prosecutors, I don't look at them as adversaries. I look at them as colleagues. I find that as my mother taught me when I was a kid, you catch a lot more bees with honey rather than with vinegar. I am always cordial, respectful, and get to know the prosecutors on a personal level if I can. That and a

combination of always, always, always maintaining my credibility is very important. Professionalism means a lot when you go into court.

I've had prosecutors who, when I say, "Let me show you the document," will look at me and say, "If you say that's what it says, I trust you." That trust gets built up over years because I don't make misrepresentations.



I don't deceive them. I don't pull fast ones on them, and I get respect for that.

On the other hand, they also know that I'm the nicest guy in the world until I step into the courtroom. If they want to go toe to toe with me, I'm going to do my best, pull out all the stops and I'm going to shake the witnesses, and that's just the way it is, but I save that for the courtroom. I don't do that on a personal level.

## AGGRESSIVE ATTORNEY APPROACH

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**Interviewer:** I see in the news and the media that a lot of attorneys say, "I'm aggressive. I'll fight for you," that kind of thing. What do you think about that attitude? Does that serve the client's interest?

**Sam Sachs:** I think most attorneys are aggressive in collecting their fees.

Whether they're aggressive in court or not, I hear that all the time.

Sometimes being aggressive is stupid. I've



been teaching lawyers municipal court practice for 20 years now – continuing legal education – and I've taught at different institutions that provide that, and I always tell them that being aggressive with a prosecutor when you're trying to negotiate your case or get the discovery is wasted effort. You don't yell at police officers. You don't yell at court staff and you don't carry on with prosecutors. That's when you need to do the right thing and behave yourself.

The time to be aggressive is when you can't work the case out and you have to step into the courtroom. Then you pull out all the stops, but people that do take this aggressive fighting stance consistently do it to the detriment of their clients. You have to balance it with reason. I know when to get aggressive and because I have a long-standing reputation, they know what it's going to be like if they try a case against me. I have a certain style and a certain way of doing it. I get good results when I try them and I don't make it easy on prosecutors or witnesses for the State, and I tell them, "Whatever happens, don't take it personally."

Afterwards, win, lose or draw, I shake their hands. I shake their hands when I enter the courtroom. I'm always cordial, but the time to be aggressive is not when you're trying to work a case out. The time to be aggressive is once a trial starts and the prosecutor says to you, "There's no way that this is going to be worked out. We can't give you what you're asking for," which is usually reasonable. Then we're going to war.

The funny thing is, when they tell me they are going to war, I go into war mode. I prep my case for trial. I walk into the courtroom. I don't even want to speak to the prosecutor anymore, because as far as I'm concerned, I'm ready for war, but I don't get ready for war until I think there are no other options.

## **Plea Bargaining**

**Interviewer:** Why would a prosecutor offer a deal and why wouldn't they? Would they get in trouble from their bosses if they don't convict enough people?

**Sam Sachs:** No, they don't keep track of convictions for prosecutors, but in New Jersey, we have an interesting system.

Municipal court prosecutors are only appointed for a one-year term, so they always have to worry about whether



they're going to be re-appointed, if the cops are happy, if the judges like working with them – so that's a very strange situation.

Judges in municipal courts are never tenured. They only serve three-year terms, so they have to be worried about whether they get re-appointed. In municipal court, the only prohibitions for plea bargaining pertain to drug cases and DWIs or anything with a mandatory sentence. For those you can't plea bargain. Everything else is permissible.

In Superior Court, it's a funnel. They have to plea bargain the cases based on the sheer number of cases that come in and how many they possibly can try. That's when you have to do your background work. I like getting involved in cases as early as possible, finding out who the prosecutor is, and then start working the case, looking at getting the discovery, speaking to the prosecutor, discuss what my thinking is, and letting them know what they didn't hear from the police that I've ascertained from my client. I've never really had a prosecutor tell me, "I have to get a conviction on this one." What I've had them say is, "My boss won't let me do anything but this," in which case I usually say, "Okay, let's go speak to your boss."

I find an overwhelming number of county prosecutors are extremely reasonable. It does vary

throughout the State of New Jersey. The more rural counties tend to be a lot more aggressive in prosecuting than the more urban counties, but when you practice long enough, you get to know what the house rules are in each different jurisdiction. You get to know the prosecutors and you have a pretty good idea of what they're willing to do. In certain counties, they'll consider something very minor an aggravated assault, and in other counties, it's got to be almost horrendous before it's an aggravated assault because of the sheer volume of cases they have.

## **FAMILIARITY WITH SYSTEM / PLAYERS**

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**Interviewer:** How often, when you're in court, do you know at least some of the players that you're up against – the judge, the prosecutor?

**Sam Sachs:** Almost always, and if I don't know who they are, then I check with one of my colleagues. Obviously I've been practicing and teaching for a long time and I have a network of people that I'll speak to. There are over 500 municipal courts in the state and we have all the county courts. There are some that I appear in more regularly than others, but



if I'm going to a county where I don't know the particular judge or it's a new judge, I'll call one of my colleagues and find out what the lay of the land is or what the prosecutors are like. That's how we all network. People ask me the same kind of information.

**Interviewer:** When someone's considering hiring you, more often than not, you'll know who they're going to be up against and the personality and the particular bias or flavor of those people, right?



**Sam Sachs:** Yeah, I pretty much can tell what the outcome's going to be based on who the judge and the prosecutors are, especially if I deal with them frequently.

**Interviewer:** Oh, okay, very good.

**Sam Sachs:** I'm not talking about trial. I'm talking about the pre-trial outcomes, whether or not they're

going to make a reasonable offer or not make a reasonable offer, those kinds of things.

## **Advising Clients on Potential Outcomes**

**Interviewer:** Do you feel like people are penalized if they take a case to trial? Do the judges get mad?

**Sam Sachs:** Lawyers always joke about a trial tax, and whether they take a case to trial is ultimately up to the client. I believe that attorneys have an obligation not to tell the clients, "Maybe this could happen, or maybe that could happen. You never can say for sure." You don't need an attorney to put that down in your mind. They've had that doubt from the day they were arrested. What you have to tell them is, "This is the way I see it. This is what I think the likelihood of success is going to be. I recommend taking this to trial, if you want to put yourself through that, or you can accept what the state has offered and what we negotiate," or, "I don't think you're going to win at trial, but it's your decision." I'm not always right, but I always give them guidance.

I've tried some cases where the chances were slim to none, and it's always a wildcard when you try a case

because you don't know what's going to happen during the trial. Sometimes I tell clients, “Based on its face, unless something happens during the trial that nobody anticipates, you're probably going to be convicted,” or, “I think I have a very good chance of winning this at trial,”



or maybe, especially from a matter emanating from municipal court, “You frequently win those cases on appeal because the appeals go before Superior Court Judges that are tenured rather than Municipal Court Judges that frequently are looking to keep the and the police happy and the prosecutors and convict people and collect money for the townships.”

I think attorneys need to give their clients solutions, not just, “Maybe this, maybe that.” When I argued State vs. Chun before the New Jersey Supreme Court that was the way I introduced my take on my argument. I'm not here to tell you “maybe this, maybe that.” I'm here to tell you what the issue is and how you can solve it.

## EXPERIENCE AS A JUDGE

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**Interviewer:** I'm sure the common person, the public, thinks that, for instance, a prosecutor's just out to convict everybody and they have to convict as many people as possible in order to look good, but you dispelled that myth.

**Sam Sachs:** That's not the mandate, but there are a lot of them that behave that way. Judges are supposed to be neutral parties that adjudicate the law and the facts. Most people have some biases but judges are supposed to put those aside.



**Interviewer:** What have you heard that the public thinks of judges? What have you felt is their perception is of judges – besides being afraid of them, I'm sure?

**Sam Sachs:** It depends on how the system treats them. Some judges are extremely respectful. No one ever came into my courtroom where I didn't call them sir or ma'am. Other judges are demeaning and

they make fun of people because they don't speak English properly or they're of different ethnic backgrounds. Hopefully the system weeds those people out. It's gotten better and better over the years. As I said, we have the best system in the world, but it's certainly far from perfect.

I remember, when I first started practicing, women were given a hard time when they were lawyers. It's not like that anymore. There are a lot of women on the bench now, but the system evolves slowly.

**Interviewer:** Did you get jaded or did you feel like you got jaded or your heart turned cold because you heard so many people may be giving you excuses for getting in trouble?

**Sam Sachs:** There are some things that are nonsensical, like with a speeding case when someone says to you, "My car doesn't go that fast." I'm not buying that. First couple of times you hear that, you laugh, or you have a young woman with little kids that gets a speeding ticket and she says, "I wouldn't go that fast with my children in the car." Please! You chuckle the first few times. Around the thousandth time you hear that, yeah, you get a little jaded about

it, but by and large, you have to measure each person by their credibility.

I was very analytical about deciding cases and do the same thing in preparing my cases for defense. There is almost always some physical evidence or some scientific evidence and I try to see if the stories match the physical evidence, and



where they match, then it's probably true. Where they don't match, then you have a discrepancy. When you have two different witnesses, you've got to decide which one makes more sense and which doesn't, who has a motive to say something and who doesn't, which is more logical and which isn't?

Statements people make right after an incident, right after they're arrested –although I advise people never to make statements –tend to be more unvarnished than the ones that they speak about three months later after they see an attorney, so you have to take that into consideration. I taught at the new municipal judges conference for several years while I was a

judge and I used to tell the newly appointed judges that when the cases before them became files rather than people, it was time to get off the bench.

**Interviewer:** What kinds of things would people in your courtroom do that would make you angry or make you not happy with them? What things made you happy with them?

**Sam Sachs:** I didn't want them to make me happy and I didn't really want them to aggravate me. What I wanted was respect for the forum, and I wanted to have them not make a lot of noise and not carry on, but within the realm of all the things that could happen, you have to understand, people are under stress. Most people are scared to death when they're in court. I used to sit in many municipal courts around Mercer County and I would frequently be in the urban areas where there is significant poverty. One of the things that's unpleasant for a judge to do is to collect outstanding money.

They'd lock them up because they didn't pay fines for years and years and years, and then they would come out of a jail cell and I would say, "You owe the court \$800 for the last 17 years." Their response was

frequently, "Well, Judge, if you'll let me go today, I'm starting a job on Monday." Yeah, okay. Playing me for a fool was never something that I was particularly happy about happening, but the other half of it is, whatever was going on in my life; I tried very hard not to bring it into the courtroom. Sometimes you have good days. Sometimes you have bad days. I've been before judges and wondered, "Did they have a fight with their spouse this morning? Did they wake up on the wrong side of the bed?"

I don't think there's any place for that in the courtroom, nor is there any place for that when you're representing somebody. You've got to give it 100% when you're doing it. It's the same thing with a prosecutor. People have different axes to grind for different reasons. If you're a prosecutor and one of your relatives was killed by a drunken driver, how vigorously do you think you're going to prosecute drunk driving? If you're a prosecutor and one of your family members was raped or a friend was raped, are you going to be objective about handling a rape case?

Those are the kinds of things you have to think about. As a judge, and as I taught other judges, you



might like somebody's attorney. You might not like their attorney. You might think the defendant's well educated or you might think they look like a street person, but what you should do in your head is say, "If this person had a different attorney, or if this person was dressed well instead of shabbily, would I still come to the same conclusion?" Everybody has some bias. The question is whether you can keep it out of the process and that's always what I strive for.

**Interviewer:** Did you feel like there was a mercy of the court? Did people try to say that - "I throw myself on the mercy of the court" - or is that just a false premise?

**Sam Sachs:** Occasionally, you'd have someone say that or someone would come into court and call me "Your Eminence," which I always thought was hysterical. Being unduly solicitous never played well. I also thought it was rather insulting when women came into court and dressed provocatively, as if my judgment was going to be



tempered by the way that they looked. I just thought that was insulting to me.

By the same token, if a guy works all day long and comes in with grease on his hands and under his fingernails and he's wearing work clothes, I have just as much respect for him as the guy who comes in a three-piece suit. You can't let that get into the equation and the same thing goes for my clients. I don't judge clients.

I had a very interesting discussion with a renowned man of the cloth one time. He wanted to ask me about how I judge people, and I said, "I don't judge people." He said, "Well, you punish people." I said, "Yes, I do." He said, "You must judge them." I said, "No, I don't. I don't decide whether someone's a good person or a bad person. That's for a higher authority, if you believe in a higher authority, which I certainly do." I said, "What I judge are people's actions. I don't judge whether they're good or bad. I just judge what the State can prove beyond a reasonable doubt what they did or didn't do."

## CHOOSING AN ATTORNEY: PRICE & VALUE

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**Interviewer:** How about the question of price? I hear from a lot of attorneys nowadays, and obviously their potential clients, "Oh, well so-and-so will do it cheaper," so for the price you charge, whatever it may be, what can you do and what would happen if you charged a thousand dollars less? What could you do in that case and what would you do if you had unlimited money to defend a case?

**Sam Sachs:** Unfortunately, the profession's their own worst enemy. We have more lawyers than we need. The law schools keep on churning them out and instead of trying to distinguish themselves, especially young lawyers, based on their experience, their expertise, and their accomplishments, they try and distinguish themselves based on what they charge, and that's the most foolish way in the world to pick an attorney.



If I needed a heart transplant, I wouldn't shop around and pick the surgeon that charges the cheapest amount. I would pick the doctor that has the best credentials and the best success record. It's the same thing with attorneys. Unfortunately, with doctors, you either make it or you don't. With attorneys, you get to live with what the outcome is, so hiring the least expensive attorney may work out, it may not, but there are really two elements to it.

One is what kind of a defense you are going to get, and even in a marginal case, you can have an attorney that leaves no stone unturned. Are they going to just try and take you in, plea bargain and plead you? Or are they going to go through and try and defend your case? That takes time. Which leads to the second element, what are you going to pay? When you have an attorney that charges \$5,000 for a matter and another that charges \$1,000 for a matter, the guy that's charging \$1,000 cannot possibly put the preparation and analysis time in and the legal research to properly represent somebody. It just can't happen.

A defendant is almost always upset. They know there may be penalties, or there's going to be life repercussions financially, and when I get a phone call and somebody says to me, "I got an aggravated assault charge. How much do you charge?" I always respond by saying, "That's the last question you should ask me, because if you're shopping for price, there's always some attorney somewhere who probably doesn't have a lot of experience or maybe somebody that does a little real estate, chases ambulances, does some workmen's comp, will do a real estate closing for you, and they'll tell you they'll represent you on a criminal matter."

I'm a specialist. All I do is criminal and drunk driving and serious motor vehicle stuff. I don't do anything else. I don't take only the simple cases. I take the cases other attorneys don't want to handle or the ones that are referred to me from other attorneys for that reason. I need to spend the time to make sure my files are prepped.

We tag-team in my office. Every file that comes in is handled by me and by my associate. There are always two pairs of eyes that go over every inch of

the file. That takes time. Time is money. If you want someone to look at it quickly, not really understand in depth how to analyze it, that doesn't know the law, isn't going to check and go in and say, "Okay, what kind of deal can you make me, Madame Prosecutor or Mr. Prosecutor?" and let's plead this out and get rid of it – then hire a budget attorney.

It's hard sometimes; I may leave no stone unturned and not find one that's helpful, but there is some satisfaction in knowing that if you're in a jam, you did the very best you could as a defendant to try and get out of it, so you don't always have to wonder, "Geez, I hired this guy for \$1,000. I wonder if my life would have turned out differently if I had somebody that knew what they were doing." I can't tell you how many times people have called me up after they didn't retain me, because they hired somebody else because of what the fees are, and then say, "I made a real mistake."

I've run into them on the street. I ran into a guy one time at the local cigar store saying to me, "I made the biggest mistake of my life. I spoke to you. I liked you, and then I decided to hire someone that charged less.

He sold me down the river. I lost my job. I lost my pension. I've regretted it every day since." I said, "You know, I don't know if I could have done any better for you. I don't know the facts of your case, but I never had an opportunity to look at it. At least if you had hired me, you could have stood a chance." I always say I'm the most tenacious guy on the block. I don't give up and I like to look at things out of the box. I'm not a linear thinker.

**Interviewer:** You talked about being paid enough to do the "necessary work."

**Sam Sachs:** Yes, and I don't imply that my fees are at the top of the scale. They're not. For guys with my kind of experience and my kind of commitment, I'm probably at the middle of the scale.

**Interviewer:** Sam, I wanted you to go over, literally, what you would do for X and what you only could do for X minus \$1,000 or X minus \$2,000. Meaning for your fee, you can make up to a certain number of appearances, you could hire an expert witness. With a cheaper guy, you'd be unlikely to get the extra witness, for example. I just want you to spell it out

literally – a few of the things that a lawyer could do in a case that he couldn't do with less money.

**Sam Sachs:** Almost all my cases are done on flat fees.

The reason I do work for flat fees is when I first started in private practice, I found out the two biggest complaints about lawyers were they don't return their phone calls and you never know



how much to you are going to pay them. We make it a practice to return phone calls within hours, or at the latest, if it's late in the day, the next day. I'll take phone numbers home with me and call people at night because I know that the kind of work I do is anxiety-ridden. I give people my cell phone number and say, "If you're freaking out, give me a call." That part was easy to take care of.

The other part is how much are you going to pay? That scares the hell out of people. Somebody will quote you a fee and you think you will save a thousand dollars, but what they don't tell you is that the retainer says that every time they go to court,



they charge another \$500. I decided that I'm willing to average that out and I've had cases where I've gone back 13 times to get the right result. They paid exactly the same flat fee I quoted.

With other cases, maybe I can get it done after two or three times in court, so I've taken that out of the equation. I'm willing to balance my time out, so if I have to go more often, I'm willing to go, and I don't want the clients to have the anxiety of paying extra. Sometimes I say it's better for the client if I'm coming back and I'm going to take another run at the prosecutor. I may want to speak to the police officer. I may want to get an expert to do a report. I don't want them freaking out - "Oh my god, we have to pay another \$500 or \$700 to come back." It's included in the fee. Relax. I'm trying to get the best result here.

That's one way I take the anxiety out. The other thing is; the fees are calculated so in some cases I spend more time than others, but the average works out okay, and some I earn less, but the cases are won in my office. They're not won in the courtroom. They're won through preparation. They're won from looking at videotapes of the defendant. They're won by

looking at photographs, by poring over police reports, and by doing timelines. That takes time.

It takes a lot of prep to know your case frontwards and backwards and if you're charging 25% of what a lawyer should charge, you can't do that prep, so you look at it and you have to say to yourself, this is a third degree indictable and I'll probably walk in, and maybe they'll give me a fourth degree. Maybe I'll ask for no incarceration. Maybe the guy will do six months. He'll think I did a good job and walk away. I don't even get there until after I look at every shred of evidence in the case and lots of times, I would say more often than not, I find pieces missing and I'll say, "I want this, I want that, I want the other thing," and I won't go ahead without getting it.

I'll give you an example. In drug cases, lots of times, if the prosecutor makes what seems like a reasonable offer an attorney will go ahead and plead somebody without ever seeing a drug lab. I consider that malpractice. I will not take a first offenders program and I will not plead somebody unless I make sure the state has all their evidence. Every once in a while, the state police lab makes a mistake or they don't analyze

the sample properly. Why should I go ahead and dispose of the case, except for my own greedy reasons, if I haven't seen all the state's evidence? I never do that.

I had a drug case where they had my client charged with second degree cultivation of marijuana. There would be jail time – no two ways about it. The way our statute works is the gradation of the charge is based on how many plants you have, and they said, "Well, we found all these flower pots and they took the plants. We sent them to the lab and we're making you a non-custodial offer. It's a really good deal." I said, "You know what? It may be. I want to see a lab."

What happened was they got the lab. The lab has a certain way of counting plants. They count the plants only if they have stems and intact root systems, and when the police pulled them out, they destroyed the root systems on some of the plants, so the number of plants the lab actually counted as separate plants was under the enhanced penalty, and as a result, the case dropped down to a third degree and my client got a first offender program because I insisted on seeing

the evidence instead of taking the easy way out. You can't do that if you take a bargain basement fee.

As I said, we always have two pairs of eyes on every file. Lauren will prep a file, and then I'll prep a file. I'll prep a file, then she'll prep the file, and we consult about it. It's one of the nice things about having another specialist in the office because we have an ongoing dialogue about the law, about what the latest cases are, about what we found in this case, about what the judge may or may not do, about what the prosecutor will do, and that all takes time. Just taking a file and looking at it the night before and bopping into court and taking the first thing they throw at you – that's not practicing law. That's robbery.

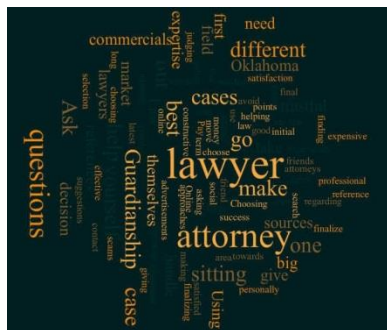
## **CHOOSING AN ATTORNEY: ADVICE TO CLIENTS**

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**Interviewer:** You know how to choose, let's say, the best or one of the top defense attorneys, but the public doesn't, and they're hearing from people about price, and they're hearing from attorneys "I'm aggressive" and they're hearing from attorneys "I

have experience” and all that, so if you were facing being charged with a crime, and you didn't know what you know, how would you find the best person for you? What advice can you give to people searching?

**Sam Sachs:** I would go one step past what you said. They're hearing what they want to hear. Even when I speak to defendants, they hear what they want to hear. They'll call you up and say, "I got charged with this. I got charged with the other thing. Can you beat the charges? What do you think the outcome's going to be?"



and I always tell them the same thing. Any attorney that tells you over the phone, “I can get you off the charges, and don't worry about it, I'll take care of it,” is not telling you the truth.

I tell them, “If you want someone to say that to you, just look on the internet. Keep on making phone calls. Somebody will tell you exactly what you want to hear or you'll think they tell you exactly what you

want to hear, but just like a doctor, you can't call a doctor up and say, 'Oh my god, my nose is bleeding. I have a bad stomach ache and I can't move my jaw. Am I okay or not?' He or she is going to say, 'You've got to come in. I've got to examine you. I've got to run some lab tests.' No doctor's foolish enough to make a diagnosis over the phone, and no lawyer should make a diagnosis without looking at the evidence."

Again, it's not what the defendant did. It's what the state can prove, so if somebody tells you, "I'll take care of you," run in the other direction.

**Interviewer:** Let's say someone speaks to three different attorneys. They all sound good and they all sound reasonable, like they could help them. Now, what would they look for to really differentiate and find the right one for them?

**Sam Sachs:** You have to have confidence in who represents you. You have to decide who you're going to have confidence in because if you're second-guessing your attorney and you don't feel a level of comfort, you're never going to be okay and you're not going to take their advice. If I'm in a situation where I

sense somebody is having some doubt about what I say, I tell them, "You know what? Maybe I'm the wrong guy for you. You've got to find someone whose personality and whose professional wisdom you respect." That's first and foremost. If someone's abrasive or difficult or doesn't care that much about you, and those things are important to you, then that's not the attorney that you should pick.

Then you've got to look at what their background is. What do they do? Do they do a little of this, a little of that? Are they a jack-of-all-trades, master of none? Or do they specialize and do the same thing day in and day out in the same way? That makes a big difference.



During my law school years, I worked at The Applied Physics Laboratory of Johns Hopkins University and I had a lot of collaborative projects with the medical school. One of the things I realized was the doctors weren't any smarter than most doctors not at Johns Hopkins, but because they specialized, they saw the same thing day in and day

out they got better results. You might go to a local doctor in a suburban community who sees three rare cases a year, or you could go to someone in a medical center who sees the same thing 100 times a year. Who do you think is going to diagnose you and take care of you faster? The guy who sees it all the time, and that's exactly the way I feel about lawyers.

If an attorney does three drunk driving cases a year and most of the time he or she is doing real estate closings, he or she probably doesn't even know what the latest law is, but if he or she does it day in and day out, every single day, or he or she does criminal cases day in and day out, every single day, he or she has got a much better chance of getting a good result. He or she may not be any smarter, but he or she is going to be better seasoned and better able to defend you. That's an important fact. In a perfect world, it might not make a difference, but it's not a perfect world.



# **PUBLIC DEFENDERS VS. PRIVATE ATTORNEYS**

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**Interviewer:** What about the debate when someone says to you, "Well, maybe I should just go for a public defender or a court-appointed attorney"? I know we've covered this.

**Sam Sachs:** There's a lie about public defenders. When I was a young public defender, I met with someone in a holding cell that was charged with a crime, and the person said to me, "Are you the public defender or are you a real attorney?" I always get a chuckle out of that. I found it funny



and insulting at the same time. A public defender is a real attorney, but it's simply a matter of how much time they can devote to your case.

If you're going to use the public defender in Municipal Court or in the early stages in State Court, the public defender doesn't get involved with the merits of your case until after you've been in court,

after it's been assigned to a prosecutor, and then finally you get a chance to speak to a the public defender who will handle your case. I like to get ahead of these cases when I defend them. I want to start a dialogue with the prosecutor as soon as I can. I don't want to wait until I've been before the judge one time to start seeing what they have to say or to find out what the evidence is.

Public defenders, by and large, are well-meaning, competent people. They generally do a good job. However, they have a tremendous overload of cases and they have to move them. When I'm working on someone's case, that's the only case in my mind. That's it, and public defenders don't have that luxury, so I really don't want to say anything bad about their intentions, and certainly their earnings are not what they could do in the private sector, and of course, some are great and some are not great, but you have to understand what you're getting.

You're paying a relatively small fee or no fee. They're supported by public funds and they only have so much time to devote to each case. That's it. You've got to take that into consideration. "Well, I know the

state's got me cold because I did it." "You did it" has got nothing to do with whether the state's got you cold or not. Go back to the beginning of our conversation. I don't care what you did. It's about what the state can prove.

Lots of times I've helped people to avoid being charged with crimes when they call me as soon as they're suspects. I tell them what they shouldn't do and I tell them what they shouldn't discuss with other people, and I tell them not to speak to the police. Police never interview people to try and exonerate them. They only interview people to try and convict them.

The point is, that when you get a public defender, you never get to speak to them until after you're charged or indicted, whereas if you call a private attorney, I've headed off prosecutions by simply saying, "Don't say anything." Then the police don't have enough evidence to go ahead. Here's what I would counsel you to do: you have a Fifth Amendment right not to incriminate yourself. Use it. Police are very good at getting people to talk. One of the most valuable books I ever read was about police

interview techniques. They know how to get you to say things and they know how to seduce it out of you. They're good at it. That's part of their job. If you're going to use a public defender, you don't get to speak to an attorney until all that's over, so that's the biggest impediment.

**Interviewer:** You don't get to pick who you get if you get a public defender, right?

**Sam Sachs:** Exactly, and police say stuff like, "We can do this the easy way or the hard way. If you're straight up with us and tell us what you did, we'll tell the judge you're a good guy." Okay, so you go to jail for 10 years with the judge knowing you're a good guy. What does that mean? Or they'll say, "You know what? If you cooperate with us and tell us what happened, we'll ask the judge for a low bail." Right. You're still going to jail. What difference does it make?



That's what they do. The book that I read back in law school about police interrogation techniques taught me a tremendous amount of how they condition defendants. Most crimes are solved with confessions and people say, "Well, I was taught to be honest and tell the truth and I told the truth." My answer is, "Yeah, that's what I call a confession." You have the right to remain silent. When they call me, I say, "Don't say anything." You can't call a public defender before you've been indicted or charged and in court, so they lose the benefit of that counsel which may avoid them ever being prosecuted.

**Interviewer:** How hard is it to even qualify for one? Aren't they just for truly indigent people?

**Sam Sachs:** Yes, they look at your assets. They look at your income. The judges have some leeway for lesser crimes. In municipal courts, they're pretty stringent about it. For more serious things, they look at the broader picture. Attorney representation in serious cases is expensive, but still, it's a crime to perjure yourself when you make financial disclosure, and if you tell the truth, you may not qualify, so now you've waited until after you've been charged, maybe


after you've been indicted. Now you're going to court and you're first asking for a lawyer, which then gets refused, and two-thirds of the case against you is already water under the bridge. Not a smart system.

## PLEADING GUILTY

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**Interviewer:** Do you have people that call you and say, "Oh, I did it. What's the point? Maybe I should just give up and plead out?" What do you say to those people?

**Sam Sachs:** Whether you did it or not has nothing to do with whether you should plead out. Yeah, again, it's not what they did. It's what the state can prove. Now, they may decide, if they get a



reasonable offer in lieu of a harsher punishment, and they don't want to take the chance at trial, sometimes pleading out, if it's the right plea, is the smart thing to do. Other times, it's not, but giving up is never the smart thing to do. Unless you're advised by an attorney, you're going nowhere. Some people are hell

bent on going to trial. I love to try cases. You want me to pay me to try a case? I'll try a case, but I'm going to tell you that there may be little likelihood of success. If you want to do it, it's okay with me. I win some of those cases. It's up to the defendants as to whether they want to take the chance.

## **Miranda Rights**

**Interviewer:** How often do you have people saying, "The police didn't read me my Miranda rights, so can't you just get my case thrown out?"

**Sam Sachs:** Or they have recorded the wrong height or the wrong weight or the wrong hair color. You hear that all the time. Those are urban legends. Miranda only applies if they're going to take a statement from you when you are detained. They can arrest you, throw you in a jail cell, never give you a Miranda, charge you, and let you loose. All Miranda does is stop them from using the statement against you. They don't have to give it to you.

People become pretend lawyers because they watch too much TV.

**Interviewer:** Won't the police ask you everything they want to know first, and then arrest you, so it doesn't even get covered by Miranda?

**Sam Sachs:** Once you're a detained suspect, they have to give you Miranda if they want to keep on talking to you. One of the things I advise people to do, if they say, "Well, I was peripherally involved in something



and the cops want to talk to me," is retain me, and let me talk to the cops, and I ask them point blank, "Is my client a suspect?" If they are, then there's no statement because Miranda kicks in. If they aren't, I want an explanation as to why they need them as a witness against somebody else and I may let them speak to the police if I'm there under controlled circumstances.

When they bring you in, you don't know what the reason is that they're bringing you in, and again, they're very good at doing what they do. They may get information from you that is not admissible in



court because they didn't give you Miranda and certain preliminary questions are always okay.

You've got a situation where somebody rolls their car over and there are two dead people on the side of the road and the driver of the car is standing in the middle of the road and a cop comes up and says, "What happened?" That doesn't need Miranda. That's just a preliminary question, and you say, "Oh my god, I had too much to drink and I lost control of the car and I killed those two people." Oh, well.

## **SPEAKING TO THE POLICE**

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**Interviewer:** How often do you get calls from people who've been approached by the police or the police called and say, "We want you to come down and talk to us. You're not under arrest, but we need you to help clear stuff up"?

**Sam Sachs:** That's one of their techniques. "Clear stuff up" – baloney. They're either calling you because you're a central witness against someone else, which is maybe two percent of the time; 98% of the time, they want to pin something on you and

what they want to do is fill in the blanks that they don't have.

**Interviewer:** What do you tell people that are approached like that or called like that? What should they do?

**Sam Sachs:** They should tell the police that they're represented by an attorney, that I'm the attorney, and that I'll deal with the police, and I do. I call them and I say, "I've never met a defendant that was helped by speaking to the police, so if you're going to tell me that you have some reason you're going to help my client if they speak to you, let me know. If not, they're standing on their Fifth Amendment rights and I'd be glad to talk to you about the case if you'd like." Usually they laugh, because I know what I'm doing and defendants get lulled into this false sense of security. "Well, I feel like if I'm really cool with the cops, maybe they just won't do anything to me." Please!



Juveniles are the worst because parents bring their kids in and say, "I brought you up to tell the truth. Now you tell the officer exactly what happened," and then after they're done confessing, they call me and say, "What do I do? What do I do?" I say, "Well, it's a shame you didn't call me ahead of time because I would have advised you not to tell your kid to tell the truth about everything, and just not to make a statement. Not to lie, but not to make a statement." Unfortunately, they helped the police make their case by coercing the kid into confessing. It happens a lot with juveniles. "I brought them up to do the right thing. Now you tell the cops exactly what happened."

**Interviewer:** What happens if the police pressure you though? They say, "Look, you've got to tell us or it's going to get really bad for you or we're going to arrest you." What do people do then?

**Sam Sachs:** Usually what they do is threaten you with a high bail. "If you talk to us and you're cool with us, and you cooperate, we'll release you on a summons. If not, we're going to throw you in the county jail on a warrant." Those are the people that I hope call me before they go to speak to the police

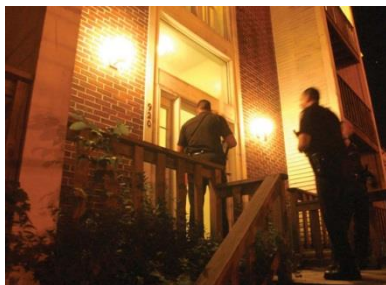
because I'll say, "Look, if they want you, I'll negotiate your surrender. I'll negotiate your bail ahead of time. I'll bring you in and you don't have to talk to them." Don't let them get into the position where they think, "Oh my, I'll never survive if I am in county jail. I don't want to go there."

Instead we make arrangements ahead of time so they know exactly what they're going to need to do. I give their family members my cell phone number. Family members are made aware of what resources they need or whether they're going to need a bail bondsman, and it's a silly reason to be coerced into making a confession.

The other thing is, unfortunately, in New Jersey, a lot of the municipal judges give the police the authority to set bail. They set high bails because they want people to be scared and talk to them. What I'll say is, if there's a high bail set, I know it's uncomfortable to have your loved one in jail for a day or two, but we'll go and ask for a bail hearing and if the bail is unreasonable, I'll get a reduction. In New Jersey, for certain crimes, you can post a 10% bail, which means that you give the state 10% rather than a bail

bondsman 10%. As long as the defendant shows up, you get your money back.

Let's say it's a \$50,000 bail, 10% is allowed, and they pay 10% to the court. As long as the defendant shows up, they get the 10% - \$5,000 - back, whereas if they go to a bail bondsman and buy a \$50,000 bond, it costs them \$5,000 and that



money is gone. Now they've blown their money on getting their loved one out of jail, and instead, now they have no money to pay a lawyer. How much sense does that make? It happens so often you wouldn't believe it.

**Interviewer:** How can you be polite to the police so they won't make it worse for you, but still you refuse to give them info?

**Sam Sachs:** You just have to hang tough and that's why it's easier for me to hang tough for a defendant. I've called police stations and a loved one will call me and say, "Hey, my wife just got arrested." That's a case I remember vividly. They were taken away on a

child endangerment charge and I said, "Which police? Where's she going?" He told me which police station. I called up on a recorded line. I said, "Hi, I'm Samuel Sachs. I'm an attorney. You probably know who I am. I represent Mrs. So-and-So. She's just been arrested. I want to speak to the officer in charge of the station." They put the officer in charge on. I repeat what I said again. "It's now 3:20 in the afternoon and you are not to take any statements from my client under any circumstances. Period."

They break that, whatever the defendant says goes out and that's how you avoid them from being pressured – by being proactive and hiring an attorney as soon as you can.

## DISCLAIMER

This publication is intended to be informational only. No legal advice is being given, and no attorney-client relationship is intended to be created by reading this material. If you are facing legal issues, whether criminal or civil, seek professional legal counsel to get your questions answered.

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# Facing Criminal Charges in New Jersey?

Helpful Information That May Mean The Difference  
Between Freedom and Incarceration

*"My family recently had the need for an attorney for a criminal court issue. I came upon Sachs Law Office in an online search, as I did not have a recommendation from friends or family. I was amazed at the quick response I received for Sam Sachs. He was consistent, knowledgeable, highly professional, and a true calming factor in his dealings with my family, and the courts. He was successful in his litigation of our case, and I would highly recommend Sachs Law and Sam Sachs to anyone in need of legal representation."*

– Pamela D.

*"I was extremely impressed by Sam and Lauren's services from the first phone call. I truly appreciate their intellect and expertise around my case. They are quite passionate and will fight very hard for you while realistically managing your expectations and providing sound counsel. I was very fortunate to choose them to represent me in unfortunate DUI case that resulted as positively as possible. I would recommend them to others, without question."*

– Jason O.

*"Scardella helped me with my case. I was extremely nervous with the outcome, but she assured me the procedures and different paths we could take. She was always on time, responded to my questions quickly, and knew exactly what she was talking about. She even looked up outcomes of other cases like mine to see which option would be the most reasonable."*

– Antonio Q.

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