

The At Risk of Arrest and Arrested
Fraud Victim Manual

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Fraud Aid Fraud Victim Advocacy 501(c)(3) Nonprofit

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Introduction

What to do if you are a fraud victim who has been arrested or is at risk of arrest

If you are too nervous and upset to read these pages carefully please call a friend to read them with you!

There is NO CHARGE for our services. Fraud Aid, Inc. professionals are Certified Fraud Examiners, former law enforcement officers, and former fraud victims who have gone through the exact same experiences you are encountering.

We are on your side.

This document contains 6 Sections. Please click on the Thumbnail icon in the toolbar to quickly choose the Section you are looking for (Fig. 1).

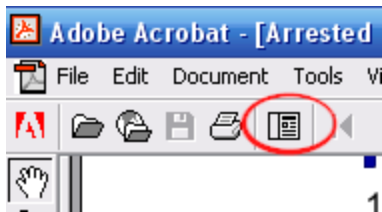


Fig. 1

In Adobe Reader version 9.0, access the Thumbnails by clicking on the Bookmark icon in the left side navigation panel (Fig. 2):



Fig. 2

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[Miranda: Know your Rights and how to use them](#)

If you have not been arrested but are at risk of arrest, this document will explain exactly how you should conduct yourself to prevent further damage. The arrest procedure is humiliating and scary even if you are prepared; it is very easy to make mistakes if you don't know what to look for, what to listen for, and what you should and shouldn't say.

If you are at risk of arrest, keep this document with you at all times and keep it ON THE TABLE if you are interviewed or interrogated.

[You and law enforcement](#)

The reality of your relationship with law enforcement when you are suspected of a crime: it's not like on TV.

[You and your attorney](#)

How to work with your attorney to achieve the best defense

[Permission Letter](#)

A letter you give to your attorney giving him permission to discuss your case with us.

[Explanations & Definitions](#)

This document gives you a breakdown of the terms, processes, and what to expect before, during, and after you have been arrested. By understanding what everyone is talking about you will not be hit with confusing and distressing surprises.

[How to write a narrative](#)

This section provides step-by-step instructions for writing a narrative, which is a chronological list of the events of the scam and the consequences of the scam that brought you to us.

About Fraud Aid

Fraud Aid, Inc. is a California Public Benefit Corporation and 501(c)(3) nonprofit organization founded to provide free support and guidance to fraud victims and their families worldwide; to provide fraud awareness, prevention and recognition education in a manner easily understood by all; and to support law enforcement at all levels in their effort to deter fraud and bring its perpetrators to justice.

CORPORATE INFORMATION:

Fraud Aid, Inc. is a California Public Benefit Corporation, #2820910 and a 501(c)(3) nonprofit - December 2, 2005.

In the late 1990's, there were but a handful of web sites on the Internet centered on fraud. The few that existed were not helpful in a practical, applicable sense to victims of fraud, their friends, and their families, nor did those sites provide in-depth fraud recognition education that could be immediately absorbed and understood by any reader, regardless of nationality or level of education.

Fraud Aid was founded to fill that gap. Originally a web site in 1999 called The International Fraud Center, the site name was changed to Fraud Aid in 2000 and the company was incorporated as Fraud Aid, Inc. in 2005, having grown from a one-person effort to a staff of volunteers that include Certified Fraud Examiners, former law enforcement officers, computer experts in both programming and forensics and, of course - former fraud victims.

Fraud Aid staff members can be reached through our web site: www.fraudaid.org or www.fraudaid.com, or by writing to help@fraudaid.com.

Fraud Aid, Inc. is a non-profit organization supported by donations from people just like you.

It is through donations that we are able to offer the assistance that we do. If you can contribute anything or know of anyone who can, it will help to continue and improve this type of support.

Please send your tax-deductible donation, your name and your address to:

Fraud Aid, Inc.
1605 E. Ocean Blvd. #10
Long Beach, CA 90802

Your tax-deductible receipt will be mailed to you.

Thank you,

Annie McGuire
Founder & CEO
Chief Fraud Victim Advocate

Services

We do not charge you for our Victim Advocacy services, nor do we charge your attorney except for in-depth email tracking reports and on-going trial strategy. Our goal is always to get a criminal case dismissed long before jury selection.

When you are at risk of arrest or have been arrested, it can feel as if your world is falling apart.

Fraud Aid Fraud Victim Advocates strive to help you cope with the feelings of guilt and confusion that occur when you are suddenly thrust into the unfamiliar environment of the justice system.

Emotional challenges

The emotional impact of discovering you have been scammed, coupled with the pressure from friends, family, bosses, security departments, fraud departments, law enforcement, and self-imposed pressure is handled in different ways by different people.

It's important to understand that even if you feel you can handle what is happening to you and feel you are not experiencing severe stress, the effects are still having an effect on you. You should seek counseling as soon as possible from your pastor, priest, imam, doctor, or other members of your community who are compassionate and above all, practical.

For those of you who understand that you are perhaps not thinking clearly, and who cannot sleep, cannot concentrate, cannot eat, are not taking medications as prescribed, and generally feel lost and unwell, advise us of the situation as soon as possible by writing to help@fraudaid.com. A Fraud Victim Advocate will contact you.

Do not feel shy about asking for help. Those of us who are Fraud Aid Fraud Victims Advocates are former fraud victims who have gone through our rigorous training program. You would be hard pressed to come up with an emotion or reaction we have not experienced. We understand you as few others ever will.

Working with your attorney

Whether you are facing a civil issue or a criminal issue, we work very hard to provide your attorney with as much information as possible to assist him in presenting a vigorous defense.

The information we provide is based on years of experience successfully working with attorneys who represent people just like you, on our years of fighting fraud, and on the up-to-date information about scammer activities gathered by our Law Enforcement Support Unit.

Our Attorney Liaison Officer is a Certified Fraud Examiner who is familiar with the law and is a professional consultant to civil and criminal attorneys in developing effective pre-trial and trial strategies.

Working with creditors

Frequently, those who are at risk of arrest or have been arrested also owe a bank or store.

We work with you to guide you through the systems and processes necessary to address your creditors, keep the landlord at bay, put food on the table, to get assistance with medication costs, and obtain social service assistance where available.

If you owe creditors as a consequence of the scam, please contact us through the Fraud Victim Debtor Intake Form which you will find here: http://www.fraudaid.com/Forms/form_list.htm.

Disclaimer

At Fraud Aid, Inc. we do our best to guide fraud victims through the fear and confusion of suddenly finding themselves at the mercy of creditors, civil attorneys, and/or law enforcement due to the misfortune of having been the target of a scammer.

No matter how hard we work for you, we cannot guarantee a successful outcome. We are not attorneys and do not provide legal advice. We advise you of options and provide information based on solutions that have been successful in the past; however, it is impossible for us to know all local and state laws, and while fraud victims can accomplish a great deal on their own, there are times when it is necessary for fraud victims to consult with an attorney.

The suggestions provided by Fraud Aid, Inc. are not legal advice and are not intended to take the place of legal advice. You should always consult with an attorney.

We are Fraud Victim Advocates who use our experience and knowledge to the best of our ability in guiding fraud victims in the proper direction. We strive to help all fraud victims but are not always able to do so.

Fraud Aid, Inc. is not responsible for the actions of or the consequences of your relationship or interaction with any third parties listed in this document or mentioned on our web site, www.fraudaid.org / www.fraudaid.com.

MIRANDA: Know your Miranda Rights and how to use them

IF YOU ARE A FRAUD VICTIM AT RISK OF ARREST, KEEP THIS DOCUMENT WITH YOU AT ALL TIMES! If you are arrested it will give you something to hang on to and something to refer to so that you don't panic.

Most arrested fraud victims come to us having waived their Miranda Rights or Warning and occasionally they have unwittingly made self-incriminating statements to law enforcement.

None realize that this is what they did. None realize that they may have caused themselves additional harm.

There is never any guarantee that justice will prevail in the way the arrested fraud victim expects. In those instances where the victim has waived his Miranda Rights and made self-incriminating statements, unwinding the damage and achieving justice for that victim can be very difficult.

Reading of Miranda Rights or Warning: Not all states at all times are required to read you your Miranda Rights at the time of arrest. That does not mean you don't have them. It is a common misunderstanding, a myth, that if you were not read your Rights, your case can be thrown out of court.

The truth is that if you are not interrogated after your arrest, there is no reason for law enforcement to read you your Rights. However, if you are interrogated after your arrest without having been read your Miranda Rights, statements made by you during that interrogation cannot be presented in court.

Interview: the period of questioning by law enforcement investigators prior to arrest. You have no obligation to consent to an interview, nor should you feel at any time that you are under arrest during an interview.

You should be able to leave at any time. Law enforcement must inform you that you are free to go, and there must not be any physical obstacles between you and the exit door nor any impediments to your departure.

Statements made during an interview can later be used against you in a court of law.

Interrogation: the period of questioning by law enforcement investigators after the reading of the Miranda Rights or Warning.

Person of Interest: This is a term you may have frequently heard in the news. It is normal Justice Department parlance for subjects of investigation and includes 'suspect', 'subject' and 'target'. http://en.wikipedia.org/wiki/Person_of_interest If

you are termed a "Person of Interest" and the police want to interview you, STOP. You need an attorney present to protect you from making unintentional self-incriminating statements.

Arrest: You can be arrested anywhere and read your rights anywhere. Many police vehicles have installed video and voice recording devices and because of this, in some states the arrest and arrest statements can take place in the police vehicle without going back to police headquarters or Sheriff's Department.

These are the Miranda Rights or Warning as dictated by Miranda vs. Arizona:

"In the absence of other effective measures the following procedures to safeguard the Fifth Amendment privilege must be observed:

The person in custody must, prior to interrogation, be clearly informed that he has the right to remain silent, and that anything he says will be used against him in court; he must be clearly informed that he has the right to consult with a lawyer and to have the lawyer with him during interrogation, and that, if he is indigent, a lawyer will be appointed to represent him."

Below is the Miranda Rights text most states use:

"You have the right to remain silent. Anything you say will be used against you in a court of law. You have the right to an attorney during interrogation; if you cannot afford an attorney, one will be appointed to you."

1. "You have the right to remain silent" means KEEP YOUR MOUTH SHUT. It's not called a **Warning** for nothing. You may safely state the following:

- (a) Your name.
- (b) Your address.
- (c) Your Social Security Number if asked.
- (d) "I invoke my 5th Amendment right to an attorney."

Invoking your Rights is not an admission of guilt. It just means that you are smart enough to call in an expert for advice.

2. "*Anything you say will be used against you in a court of law*" means that **anything** you say **will** be used against you in court. You can count on it.

3. "*You have the right to an attorney during interrogation*" sounds as if you can invoke your right to an attorney at any time during the interrogation. **Don't count on it and don't bet on it.** Ask for an attorney *before* the interrogation.

4. "***But I don't need an attorney! I didn't do anything wrong!***" is the most disastrous phrase a fraud victim can say to law enforcement detectives because it tells the detectives that they can use all interrogation techniques at their

disposal (including the use of deception, which they are allowed to do) without the presence of advising counsel to guide you through your answers or silence.

Fraud victims who are arrested are always an emotional disaster area, frightened, confused, angry, and not thinking straight. In other words: ideal for interrogation.

Law enforcement works for the prosecution. If you are considered a suspect in a crime, the police are not on your side, even if you are a fellow law enforcement officer.

No matter who you are, no matter what your job title is, from President of a major corporation to law enforcement, to professional to housewife, to politician to business owner, to Hollywood star to college student, *during an interrogation the police are not your friends, no matter how they act.*

YOU AND LAW ENFORCEMENT

The police do not interview a person who is under arrest about his or her participation or knowledge of a crime unless that person is suspected of having committed a crime or been a participant in the commission of a crime.

Participation means having an active involvement in, or purposely unreported knowledge of, the crime before, during, or after it was committed. The legal terms are Accessory Before the Fact, Accessory During the Fact, and Accessory After the Fact

Fraud is a theft crime, sometimes only State, sometimes only Federal, sometimes both.

Rule #1: DO NOT lie to the police.

If you are a fraud victim contacted by the police:

- 1.** Unless you are witnessed committing a crime by someone at the scene or by law enforcement and the arrest is proximate to the crime, you cannot be arrested without an arrest warrant signed by a judge. You have a right to read the warrant, and you have the right to a copy of the warrant.
- 2.** Do not accompany the police anywhere until you are arrested. Merely state that you "respectfully decline." If all they want to do is talk to you, they can do so where you are at that moment or at your home.

If at any time you feel uncomfortable about the interview, you have every right to stop it.

If the police are agreeable to an interview at your location of choice, **do not** speak to them without a witness and, if possible, a tape recorder in plain view. Say, "Do you mind if I tape this conversation?" If the police object to either the witness or the tape recorder, respectfully decline the interview.

You do not have an obligation to accompany the police to their offices, and we don't recommend that you do unless you're going to be looking at mug shots.

If you provide statements about the crime before you are Mirandized, your statements can be used by law enforcement.

Your evidentiary legal protections don't start until you are placed under arrest.

- 3.** Once you have been read your Miranda Rights or Warning, SHUT UP until your attorney is at your side advising you.

4. If you are asked to sign a document agreeing that you have been read your rights and understand them, STOP. Read the document slowly and carefully. Take your time.

Make very sure the document doesn't also contain a waiver of your Miranda Rights and if it does, make very sure you are signing on the correct line. Place your finger on the correct line and sign your name next to your finger. Don't be confused by any line marked with an X.

5. Immediately invoke your right to private consultation with your attorney, court-appointed or otherwise. This is the phrase to use:

"I wish to cooperate with authorities in this process, but I also wish to exercise my Miranda Rights and not make any statements or answer any questions without a lawyer being provided and being present."

Use this phrase each and every time an officer attempts to question you, and each and every time a new officer is presented to you.

6. **Do not** under any circumstances, sign any document between the time you have read your Miranda Rights or Warning and the time you consult with your attorney except:

(a) The acknowledgment that that your Rights were read to you and that you understand them as explained in 3 above.

(b) The inventory list of what was taken off your person.

(c) In some states if you are fingerprinted, you will be required to sign the fingerprint card.

7. NEVER WAIVE ANY RIGHTS. Do not, under any circumstances, waive your Miranda Rights. Keep your mouth shut. Do not start talking. If you hear yourself talking, stop it. **It is possible that if you start answering questions, it may be construed by the District Attorney's Office that you waived your rights.**

8. Invoking your Miranda Rights does not mean you will go to jail. No one can advise you that if you do *not* waive your rights, you will go to jail. That is against the law. It may be termed Intentional Infliction of Emotional or Mental Distress. http://en.wikipedia.org/wiki/Intentional_infliction_of_emotional_distress

9. No one can truthfully say, "It will go easier on you if you don't ask for an attorney." That is a myth created in Hollywood.

10. *Law and Order* and *NYPD Blue* are not real life. Do not make life-altering decisions based on what you have seen on those shows.

Detectives interview and interrogate bad guys all day, every day. They study interview techniques, interviewing psychology, body language, tone of voice, phrases to watch for, discrepancies and changes in answers. It is their job to elicit a confession of guilt or to elicit incriminating statements from suspects.

They are as skilled at their job as the scammer is who talked you into the fraud. You are a fish out of water. You can incriminate yourself in the blink of an eye with a statement you believe will absolve you of all guilt. Just keep your mouth shut!

The Constitution guarantees the presumption of innocence. In order to do their job with any degree of success, investigating detectives must operate under the presumption of guilt. The presumption of innocence begins in the courtroom, not outside of it.

Name: Your name
Date:
To: Your attorney's name
Ref: Your case number

I, _____, give you permission to discuss my case with the following Fraud Aid, Inc. Fraud Victim Advocates and other Fraud Aid, Inc. parties as you deem necessary for my defense.

Fraud Aid, Inc. is a California Public Benefit Corporation, #2820910 and a 501(c)(3) nonprofit - December 2, 2005. Fraud Aid does not charge victims or their attorneys for defense services and defense tools. Fraud Aid does charge for ongoing trial strategy if required as determined by the Defense Attorney. Certified Fraud Examiners who are trained Expert Witnesses are available as Friend of the Court or on behalf of the Defense and charge a fee independent of Fraud Aid, Inc.

Frank Walker, Attorney Liaison Officer, Certified Fraud Examiner, PI,
Senior Fraud Victim Advocate
500 Wall Street, #1616
Seattle, WA 98121
206 441-5822
Email: frankwalker@nabc-coach.com

Annie McGuire, President, CEO
Chief Fraud Victim Advocate
1605 E. Ocean Blvd. #10
Long Beach, CA 90802
562-436-1076
Email: annie.mcguire@fraudaid.com

Respectfully,

(signature) _____

(print name) _____

YOU AND YOUR ATTORNEY

1. DO NOT take any evidence to the police. Once a person has been arrested or is considered a person of interest (aka suspect), THE POLICE ARE NO LONGER YOUR FRIENDS. (See [You and law enforcement](#))
2. All evidence goes to your Defense Attorney.
3. If you do not have an attorney present at the arraignment or pre-trial, KEEP YOUR MOUTH SHUT. You can acknowledge your name and state that you do not have representation. Period. An arraignment is when the plea is stated or an attorney is appointed, it is not a trial. Anything you say becomes public record and can be used against you at trial.
4. If you cannot afford an attorney or need to determine if you qualify for a Public Defender, contact your local Public Defender's Office to find out when and how Public Defenders are appointed.
5. If you can afford an attorney, you want a Criminal Defense Attorney. Do not gamble with your life by hiring any other kind.
6. Give your attorney **written** permission to discuss your case with Fraud Aid's Attorney Liaison Officer and Chief Fraud Victim Advocate. Complete the [permission letter](#) and give it to your attorney.
7. Send your attorney's contact information to our Case Manager: help@fraudaid.com.
8. Please ask your attorney to contact Fraud Aid – two contacts are listed on the permission letter. Because of Defense Attorney schedules, we have found that it is far more efficient for your attorney to get in touch with us than for us to try to hunt down your attorney.

Our goal is ALWAYS to help your attorney present a preponderance of evidence and argument that will lead to dismissal or acquittal. We're very good at what we do, and our services are free unless prolonged trial strategy or other special services are required such as in-depth email tracking reports, Internet forensics, and witness interviews and investigations.

There have been times when arrested fraud victims have expressed fear and doubt regarding Public Defenders (PDA's). Public Defenders are just as competent, able, smart, cunning, and willing to give their all as Criminal Defense Attorneys who work in the private sector.

Yes, occasionally you will find a Public Defender who is more than weary and overloaded. It doesn't matter. We are there for your attorney to help him or her get you out of hot water. We will save your Defense Attorney time and effort. Your attorney's goal is to win and we can help him do that no matter how many cases he has piled up.

You can run into an attorney who is new to your type of case whether you're paying attorney fees or have a Public Defender. This does not mean your attorney cannot give you a stellar defense. Even if your attorney is fresh out of law school and you are his first client, it doesn't matter. We will educate your attorney about the case *then* give him the tools to win.

How to alienate your attorney:

- Lie: either straight out or by omission. If you do not tell your attorney everything – the good, the bad, and the downright ugly, you may be convicted because the Prosecution can present information in court that your attorney doesn't know about, leaving him with no time to work out a response.
- Quote the law
- Call incessantly
- Don't do as your told
- Don't help your attorney in any way

How to form a team with your attorney:

You and your attorney are a team; don't cop an attitude. He or she is not the master and neither are you. You do not simply nod your head up and down like a bobble toy at everything he says, nor do you demand that your defense attorney perform magic tricks.

You *must* actively participate in your own defense. This is the only way you will help your attorney give you the *best* defense.

- DO NOT LIE, DO NOT OMIT. If you do, you might as well hang it up right now. Omissions can lead to your conviction just as fast as an outright lie.

Guidance and representation is entirely based on your statements. One lie and you can be advised to turn left instead of right. In other words, you can land in jail when the truth would have gotten you off.

Omissions can be disastrous in court. If the Prosecution brings up something in court that your attorney is not prepared for, the jury will listen to the Prosecution and realize that you held back information.

We, you're attorney and Fraud Aid, have heard it all; we do not shock; we are grown ups who don't care what you're into or what you've done.

- Do not think you know more about the law than your attorney. Your attorney knows the judges, the Prosecution, local attitudes, and most of all, how the law is interpreted in the community.
- Do not call your attorney day after day. If you have new information, put it in an envelope and drop it off. Your attorney will not contact you unless there is a reason to, such as a court date, word from the Prosecution, request for clarification of a statement you made, or other pertinent information that either you or your attorney needs to know.
- Research the Internet for other cases like yours and learn how to print articles the right way. Ask us or your attorney how to do this.
- Give your attorney a decent narrative of the events and whatever evidence you have. You will find instructions and examples in this manual.
- Ask your attorney what you can do to help, especially if you are working with a PDA. Public Defenders are constantly overloaded. Any assistance you can provide on your case will be appreciated.
- If you don't understand something, ask. You are no good to yourself or your attorney unless you completely understand what he or she is telling you.

There is no such thing as a stupid question other than you wanted to ask, but didn't. The rest of your life is at stake. If you do not completely and clearly understand a statement and the consequences of that statement, do not agree until you do.

Ask your attorney to request for broad discovery, as broad as he or she can make it. Broad discovery means any and all information and documents held by the prosecution that pertain to your case. You cannot mount an intelligent defense if you do not know what you are up against.

Discovery, broad or otherwise, can be very long coming. The Prosecution can find all sorts of reasons for delaying discovery, including placing your case so far on the back burner that your attorney may have to ask the judge to demand discovery from the Prosecution.

BE PREPARED each and every time you have a court date. Consult with your attorney to understand what "prepared" means for you. If you can't reach your attorney, bring all your case documents, nicely organized in an accordion folder or catalog envelope.

NEVER MISS A COURT DATE unless your attorney specifically tells you that you don't have to appear. Whether you are in the US or Canada, some court sessions do not require your presence. We've seen this happen with the Crown more often than in US courts.

Do not be surprised at endless continuances or new court dates. Your attorney has a limited number of times he or she can ask for a continuance, but in some US courts the Prosecution can come unprepared and ask for a continuance month after month until the Judge orders the Prosecution to be prepared or drop the case.

The Crown handles certain cases differently and a new court date is not necessarily the result of a request for a continuance.

No one has the right to take away *your* right to a trial by a jury of your peers. You can give it up (plea bargain) but no one else can take it away from you. It is a Constitutional Right.

Pleading to a lesser charge means that you are turning your fate over to the very people whose job it is to put you in prison. If you are not guilty of any charges, don't agree that you are if there is ANY way to put forth irrefutable evidence or argument that you are not guilty.

If your attorney suggests you take a plea that has been offered by the Prosecution/DA, and you do not have a full and complete understanding of the conditions and consequences, STOP. What you are doing is entering a guilty plea, and though there can be circumstances in which taking a plea is the best choice, you must understand all the conditions of the plea and all the consequences of the plea before making your decision. See [Misdemeanor](#), and [Pleas, accepting a plea](#).

Explanations and Definitions:

NOTICE: Please review this section with your attorney as process and procedure differs from state to state, country to country.

I didn't do anything. I didn't know. Why was I arrested?

You have most likely been arrested for one of the following main reasons:

You took a counterfeit check to the bank on which it was drawn;

You took counterfeit money orders to the issuing company;

You took counterfeit checks or money orders to a check cashing store;

You took checks or money orders to a bank or casino that were recognizable as counterfeit to the teller or cashier;

Stolen money was wired into your account and you sent it as instructed or you spent the money.

You deposited counterfeit/stolen/forged checks or money orders in your account and when they were returned, the bank or credit union called law enforcement (this usually only occurs at small financial institutions).

You owe a bank or other business for negotiating counterfeit checks or money orders and have failed to repay the debt or correspond with the creditor for several weeks or months.

Advice from friends and relatives: Be very, very careful about taking advice from well-meaning or drama-soaked friends and relatives. The closest most people every get to a criminal case is *NYPD Blue*, *Perry Mason*, and *Law & Order*. If you want solid, experience-based advice, ask your attorney. See [You and Your Attorney](#).

A person of interest: A person of interest is usually a veiled term for a suspect or target, but it can also be a reference to someone who was the witness to a crime. If you are described as a person of interest and you have even a distant involvement and knowledge of a crime, it's safe to assume you are being regarded as a suspect until determined otherwise in a court of law or by the Prosecution.

Arraignment: An arraignment is not a trial. An arraignment is where you are read the charges and asked to enter a plea (guilty, not guilty). It is at arraignment that the first court date is usually scheduled. You will read more about arraignments in the Instructions. You should never, ever represent yourself at your arraignment.

If you cannot afford an attorney or if you have not yet hired a private defense attorney, one will be appointed to you by the court or your arraignment will be continued until your attorney can be present.

Checks in your pocket: When you are arrested for presenting a counterfeit draft and have other, undisclosed counterfeit drafts in your pocket or purse that are discovered when you are searched, in the eyes of the arresting officer this behavior is an indication of intent to defraud.

Criminal Defense Attorneys: There are two types of criminal defense attorneys available to you: public and private. A defense attorney in the public sector is called a Public Defense Attorney or PDA and works in the Public Defender's Office. See [Public Defense Attorney](#).

You cannot obtain the services of a PDA prior to being arrested or if you can afford a private attorney. Whether you are eligible for a PDA or not varies from state to state and sometimes from county to county. Please contact your local Public Defender's Office to find out if you are eligible for public defense.

Private sector attorneys are called Criminal Defense Attorneys and it is in your best interest not to just go hunting for one in the phone book. Try to get a recommendation from friend or family or church leader. Do not try to hire an attorney

who is not a Criminal Defense Attorney! A Real Estate Attorney or Business Attorney has no experience in managing a criminal case.

Most Criminal Defense Attorneys and Public Defense Attorneys have little or no experience with Nigerian and Eastern European scams. Fraud Aid does and we have tools your attorney can use to defend you. When we assist a defense attorney in this type of case, the case seldom goes to trial.

Notice I said "seldom." It can happen, so you must be prepared for every scenario.

Please keep in mind that we DO NOT charge for our services unless your attorney needs ongoing trial strategy consultation, and it's very rare for such a situation to arise.

Deferred sentencing: This means that instead of any conviction the person is sent directly into probation. The person must follow the conditions of probation ordered by the court for anywhere from 6 months to a year, and must report to a Probation Officer on a regular basis during the probation period.

The appointments may be once a month, every 6 weeks, every other month, or a regular telephone call to the Probation Officer. Any violation can result in arrest and a reversal of the Prosecution's position in its leniency.

Discovery: Discovery is an exchange of information between your attorney and the Prosecuting Attorney. This is when each party shows the other what they have, and nothing is supposed to be withheld. Not that the withholding of information doesn't occur, it's just not supposed to.

Your attorney's request for Discovery should be as broad as possible, encompassing every aspect of the Prosecution's notes and reports from law enforcement officers and witnesses and any other possible source.

Your attorney is supposed to show the Prosecution everything you and Fraud Aid have provided him, and this is one of the times when a discussion of dismissal may arise.

Expunging your arrest record: See [Removing the arrest from your record](#).

"Innocent until proven guilty": Legally you are innocent until proven guilty only in the courtroom. Until you appear in a court of law, law enforcement will consider you guilty until proven innocent. That is a fact of life and in most instances this attitude is necessary for law enforcement to carry out its duties effectively.

Indictment: This is a very important document. It will arrive by surface mail so make sure the court has your correct mailing address.

The indictment tells you the name of the court in which you are to appear and the list of charges being brought against you. You will find out what to do with the indictment in the Instructions.

Intent: Intent is what the Prosecution must prove beyond a reasonable doubt.

Interview vs. Interrogation: Technically, an interview occurs before an arrest and an interrogation takes place after an arrest, but things don't always work out that way.

An interview is when law enforcement has not made a determination about your involvement in a crime. You might merely be considered a witness, or it may be that you are a suspect.

A police interview is a fact-finding interaction and not adversarial or accusatory like an interrogation. Still, it is always best to have a witness present when speaking with law enforcement in reference to a crime in which you may be at risk of arrest.

Be aware that statements made by you during an interview OR PRIOR TO AN INTERVIEW are just as likely to end up in court as a statement you make at any other time. When you are being regarded as a suspect in a crime, the police DO

NOT enter into idle chit-chat with you. Each action and every sentence has the goal of getting you to admit to a crime.

Please keep in mind that if there is the possibility that law enforcement considers you a suspect, they are NOT your friend and there is little or nothing you can do to make them your friend.

Hard, fast, unbreakable rule: When in doubt, keep your mouth shut and get an attorney. Opening your mouth can self-convict you of crimes you did not commit.

See [‘Miranda: Know Your Miranda Rights and How to Use Them’](#)

Please be aware that law enforcement may decide to arrest you at any time during an interview, or change the tone of the interview to that of an interrogation. It is very, very easy to incriminate yourself without meaning to do so and once you have, law enforcement's attitude toward you will change.

If at all possible, have law enforcement come to your home to speak with you in the presence of a trustworthy friend or relative; take notes and try to have a tape recorder running in plain view.

If the officer refuses to interview you with a tape recorder running, then stop right there and get an attorney.

If it is not possible for law enforcement to come to you and you must go to the station, then follow the same rules as above or request that an attorney be present. Having an attorney present IS NOT an admission of guilt; it's just a good business practice.

If you are arrested and read your rights, KEEP YOUR MOUTH SHUT. DO NOT WAIVE YOUR RIGHTS. ASK FOR AN ATTORNEY!!

Waiving your rights does not demonstrate your innocence in any way, nor does it make you appear to be a friend of the police. Asking for an attorney is not an admission of guilt, it is your right! See [“Your Miranda Rights and How to Use Them.”](#)

You are free to leave a friendly interview or one that turns into an interrogation AT ANY TIME prior to being arrested and read your Miranda Rights. That is the law.

Misdemeanor: A misdemeanor is a lesser charge, but a charge nonetheless. The Attorney for the Prosecution will ask you to plead to a misdemeanor because he realizes he may be unable to get a conviction for the charges listed on your indictment, or because he is under pressure to obtain a charge regardless of your situation.

Be very careful about the conditions of the misdemeanor. You may be asked to plead to a Class A, Class B, or Class C misdemeanor, and each class carries different conditions, consequences, and affects your life in a different manner.

If, due to certain acts you committed before, during, or after you handled money acquired as part of the crime, your best option is to plead to a misdemeanor, be very certain you understand the conditions and consequences of the misdemeanor and how it will affect your life.

In most cases, a misdemeanor does not mean you cannot get a job and resume your life as it was before the arrest except for the conditions imposed by the misdemeanor, such as reporting to a Probation Officer. See [Probation vs. Parole](#).

Pattern of behavior: Some victims of Internet counterfeit draft schemes have received more than one check or money order and have attempted to cash or deposit them in more than one place.

In the eyes of the arresting officer, this demonstrates a "pattern of [criminal] behavior" and when arrested, the activity at prior establishments is taken into account, as well as the reason for any priors you may have on your record.

Evidence of this nature is definitely not good, but there are ways this can be addressed and we will work with your attorney to the best of our ability to help him properly present the situation to the Prosecution.

Pleas, accepting a plea: Be prepared to be asked to plead to a misdemeanor although we consider such a plea to be a last resort.

The offer of a plea to a misdemeanor may occur when the Prosecution decides not to waste the Court's time and proposes to your defense attorney that you take the offer of a lesser charge than whatever is stated on your indictment.

However, please understand that the offer of a plea can also arise when the Prosecution doesn't really have a viable case but is under pressure to come away with something other than a dismissal.

A misdemeanor is not a felony charge. While in some cases a misdemeanor can lead to no more than 1 year of jail time, in your case you would most likely be looking at a period of probation. See [Misdemeanor](#)

Regardless, if you accept a plea you are admitting guilt to a crime; you need to weigh your options very carefully and make a serious determination as to whether you want to proceed with a jury trial. It is your Constitutional right to have a trial.

Police interrogation: see [Interview vs. Interrogation](#)

Police interview: see [Interview vs. Interrogation](#)

Presenting a counterfeit check at the bank on which it was drawn: When you take a check to the bank it was drawn on for cashing, they are forced to call the police. This is standard policy at all banks when presented with a counterfeit, stolen, or forged check drawn on one of their customer accounts. Had you taken it to another bank you would still be in trouble, but it is unlikely that you would have been arrested.

Priors: The term "priors" refers to past arrests/convictions, in other words, a record. Priors may or may not affect the arresting officer's attitude toward you; however, it will definitely affect that attitude if you have a record of drug-related activity or violence.

Priors are seldom admissible in criminal court unless the arrest/conviction was for the same crime, and even then the record may be disallowed.

When speaking with law enforcement and your attorney, IT IS ALWAYS BEST to admit to having a record and to avoid making any excuses for it.

Probation vs. Parole: Parole occurs after a person has been incarcerated, usually for a felony. Parole means the person has served time for the crime and must report to a Parole Officer for whatever period of time has been ordered by the court.

Probation is a bit different. Probation is frequently ordered by the court instead of jail time in a misdemeanor case, and it means that the person must report to a Probation Officer on the dates ordered by the court.

Probation may last anywhere from 6 months to a year. During this time, the person must report to the Probation Officer, ON TIME on the appointed dates.

Any violation of the conditions of the probation (including being late for or entirely missing an appointment) can, and often does, result in the person being put back in

jail. Depending on the state and the conditions of the crime, violation of probation can also mean that the prior misdemeanor charge is changed to a felony charge.

Public Defense Attorney, Public Defender (PDA): You cannot obtain the services of a Public Defender nor have one assigned to you unless you have been arrested and cannot afford a private Criminal Defense Attorney.

If you are assigned a Public Defense Attorney, the one who appears at your arraignment may not be the same one who handles your case. Be prepared for one or more changes in the assigned Public Defense Attorneys and be prepared for the possibility that your attorney will not answer your phone calls.

Public Defense Attorneys are always overloaded with cases, and clients who are anxious and worried have a tendency to want to speak with their attorney about issues that carry no real importance at the time.

If your PDA does not return your phone calls or does not meet with you as often as you feel is appropriate, that does not mean that he will not perform to the best of his ability on your behalf.

If your PDA is not performing on your behalf at all, you can request another attorney. It's not an easy thing to do so please come back to us for advice and procedure.

In some states, there is a nominal fee that must be paid to the Public Defender's Office for the service of your attorney. This fee may be as little as \$50 as much as \$200.

See [Your and Your Attorney](#) for more information about working with your attorney

Removing the arrest from your record: If you have accepted the charge of a misdemeanor, the removal of your record of arrest from your police file may be very expensive. See [Misdemeanor](#) and [Pleas, accepting a plea](#).

There also exists the possibility that the court may deny your request for removal.

Even if the charges are dismissed, which is our goal, you will still have to pay the court to remove the arrest from your record, and you will have to pay a civil attorney (not your criminal defense attorney) to file the request.

The average time before a request can be submitted is 6 months to 1 year from the time the charges were dismissed.

Trials: Court appearances are very often continued and continued. There are two reasons for this – one is that your attorney asks for more time, and one is that the Prosecution is not ready. This last one happens a lot.

In most cases where a Nigerian or Eastern European scam network counterfeit check / money laundering scheme is involved, there was no investigation of your case at the time of arrest and there will be no investigation now.

This leaves the Prosecution with the responsibility of proving intent based on the accusations of the bank, check cashing store, or casino combined with evidence of your behavior and past record, even if your past record is not admissible in court.

Your attorney will ask the Prosecution for Discovery and the Prosecution may drag its heels providing it. You may go to court only to find out the assigned Prosecuting Attorney hasn't even read the file yet. This can go on for months.

This is why Fraud Aid does its best to provide your attorney with enough information and assistance that a trial never becomes necessary.

The outcome of a trial can never be guaranteed; your life is in the hands of a jury panel that, for the most part, is composed of people don't want to be there and who are influenced by regional attitudes and personal bias.

While jurors may not have a personal reason to see you convicted of anything, they are still swayed by the prevailing attitudes of the community.

A court room is a very scary place no matter how innocent you are; however, so long as you are well-prepared, have provided your attorney with your true and accurate story, and have confidence in your attorney, you have a more than even chance of refuting the Prosecution's accusations of intent to commit the crime.

How to Write a Narrative for Your Attorney

Why do you have to write a narrative?

A properly written narrative gives us and your attorney the Who, What, When, Where, and Why of the events, providing the information we need to assess the best course of action for your defense.

A clear, *complete* narrative helps your attorney determine the best defense strategy he can use in your case and helps us provide your attorney with the best tools to use in your defense.

Your narrative starts with the scam and ends with the last correspondence from your creditor(s) or other parties involved in the repayment of your debt.

These are the elements of a narrative:

- > **Who** was and is involved;
- > **What** happened to you;
- > **Where** it happened to you;
- > **When** it happened to you.

A. Overview

Starting with the scam and working through to the last contact with law enforcement or any other party involved in your arrest (bank, store owner, scammer), a narrative is a chronological list of facts, a list of events: "On that date, this happened."

1. Above the narrative, place the date you submit the narrative, your Case File No., your name, address, and phone number(s).
2. Double space between events ([see sample](#)). **If you send us one long paragraph, your narrative will be returned to you for correction.**
3. You can describe how you felt at the time of an event, and you can describe how the con artist or other parties made you feel, but do not write emotionally. Only the facts and events are useful. The facts tell us about the scammer and his effect on you.

Continued on next page.

4. Do not lie or try to make the events work in your favor. If you lie or try to color the events, it will only work against you; we can't determine a course of action if we are relying on inaccurate information, and your attorney can be blind-sided by surprise information, causing his entire defense strategy to fall apart.

5. Don't worry about actions you feel make you look stupid – the scammer's objective is to get you to act without thinking and your actions tell us what we need to know about the scammer. All scam victims have 20-20 hindsight.

6. If you can't remember the details of an event, write "I don't remember" and "to the best of my recollection" to describe parts of an event. Fuzzy memories are okay; you may remember events more clearly later.

7. Clarity: Do not use he, she, they, we, them, or us (you can use "I" when speaking of yourself).

Neither your attorney nor Fraud Aid staff members are mind readers; a sentence like "he told us that they would send the money to them" creates confusion and **will cause your narrative to be returned for clarification**. Write "Jim told Mary and me that Union Sweepstakes would send the money to Willgood Insurance Company in London."

8. Tell your story in your own words – do not try to sound like an attorney or like anyone other than yourself. We do not care about typos or spelling. We don't care about grammar or punctuation.

We only care about the time line of the events and **the truth**.

B. Instructions

PART I - Correspondence establishes a time line: Gather together whatever records of communication you have from the scammer. Putting correspondence in order by date will help jog your memory and it will establish a time line.

- Emails from the scammer: Create a folder in your email account titled 'Scammer' and move all the emails from the scammer into that folder.
- Chats: If you have a record of chats, even a partial record, it will help you with the sequence of events.

(Continued on next page)

- Telephone calls: It's easy to look at your telephone bill for a record of calls you made, but if you used a land line you won't have a record of incoming calls; cell phone bills record both incoming and outgoing calls. Still, you can call your phone company who may be able to help you determine when calls came in to your land line from out of state or out of country.
- Documents: Scammers send documents as attachments to emails and occasionally by fax. Put whatever documents you received, including employment contracts, in order by date received.

Proceed to PART II on the next page.

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PART II - Now that you have your email, chats, and other references in order by date, it's time to start the first draft of your list of events:

- a. The draft works best when written on yellow lined paper.
- b. Refer to the items you gathered together in PART I to establish your time line.
- c. Leave yourself plenty of room between each memory of an event.
- d. As you remember events you can jot down memos in the margin, under an event, draw arrows, put in question marks, drop in odds and ends that come to mind, etc. Don't worry – no one is going to see your draft unless you choose to share it.

Think of it as a worksheet but try to be neat and tidy for your own sake because organized notes will help you think more clearly.

PART III - Time to list your sequence of events ([see sample on next page](#)).

- a. Place the date, your name, Case No., address, and contact information above the narrative.
- b. Number each event starting with 1.
- c. Date each event.
- d. Leave a double space between events

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SAMPLE NARRATIVE

Date: Saturday, November 3, 2007

Jane Doe

Case No. _____

123 Main Street

Anytown, State

Phone: 555-222-1111

Cell: 555-333-4444

1. Monday, June 5, 2007: Met Denis Swabu on BoyMeetsGirl.com, an Internet dating site forum. Denis sent me a Private Message asking if I would like to talk with him. I said yes. Denis and I were on Private Message for around 4 hours, to the best of my recollection. Denis told me that he is an American engineer from Texas who is working on a project in Ghana.

2. Tuesday, June 6, 2007: Denis telephoned me and we talked for an hour (he called when I was getting ready to go to a Dr's appointment for my monthly medication review – I am on Disability because of injuries sustained in an automobile accident in November of 2006 and I have to take strong pain pills every day).

3. Wednesday, June 7 thru Monday, August 23, 2007: Dennis and I emailed, chatted, and talked on the phone. It was during this time that Denis proposed and I accepted. Denis told me he would be returning to the US sometime in November or earlier. I was very excited and could hardly wait for him to arrive back in the States.

4. Tuesday, August 24, 2007: Denis told me he needed some help with a new business venture and that since I will soon be his wife, he wanted to include me. He also told me to keep the money he and I would be making to pay for our honeymoon.

After that I didn't hear from Denis until the first week of October. I was frantic with worry and very relieved when I received his next email. I felt like I hadn't breathed in weeks.

5. Friday, October 5, 2007: Received an email from Denis telling me that he had set up the business and that I would receive the first check on Monday, October 8th.

6. Continue as above right through to the last event or the last contact from law enforcement, the bank, the store, the scammer, or any other party involved in the scam or your arrest.

Once you've listed the last event or contact your narrative is complete.

7. Give your narrative to your attorney and email a copy to help@fraudaid.com or directly to your Fraud Victim Advocate.

Please include your Case File # on all your correspondence with Fraud Aid.

If you have not received your Case File # yet, please write to help@fraudaid.com, Subject: What is my Case File # ?