

Defense Attorney

Jim Medley

Jim Medley offers a unique perspective as a police officer turned criminal defense attorney

Jim Medley is a Houston-based attorney who focuses his law practice exclusively on the defense of those accused of crimes. Medley has 15 years of experience in the criminal justice field, including experience as a police officer, professor of criminal justice and attorney. Medley is uniquely qualified to effectively defend anyone accused of a crime, being one of the only defense lawyers in Houston with a masters degree in criminal justice, in addition to a doctorate degree in law. His office has represented nearly 2,000 people and has had almost 200 criminal cases dismissed or found not guilty by juries. Medley is a certified instructor and expert in sobriety testing and a certified operator of the breath test machine. He has been published regarding breath testing and was nominated one of Houston's top lawyers in *H Texas* magazine in 2004.

How can the police or prosecution "pick up" a charge if the victim doesn't want to file criminal charges?

When a criminal law is violated, the state is legally the victim. The penal code is the list of society's forbidden behaviors. When a law is violated, it is society's rule that is broken, not the victim's rule. We usually only hear the term used in the context of domestic violence cases, but the principle applies to every crime. The human "victim" of a crime is, in a legal sense, only a witness.

If someone is arrested, don't the police have to read them their rights in order for the arrest to be legal?

Not at all. The Miranda warnings that we've all heard on television are not "magic words" required to make an arrest legal. Miranda warnings are only required in order for answers to police interrogation to be admissible later in court. If the police don't have any questions after an arrest, no warnings are needed.

What happens if the police ask me for consent to search my car?

Your rights are only yours to give up. A refusal may make the police suspicious, but it is your right to do that. If you toss your rights away, the police may inspect the contents of your car and all containers inside of it. If anything illegal is found, you will be arrested and charged with a crime.

Can a person give consent to the police to search their spouse's room or container?

Yes, if the consenting spouse has access to the room or container to be searched. If the non-consenting spouse has an expectation of privacy in a place that the consenting spouse does not have access to, then the consent will not be valid.

If drugs are found in my car or home, am I automatically guilty?

All possession offenses require a guilty mind to accompany the possession. In order to be convicted of possessing something illegal, the government must prove you intended to possess or at least knew about the possession. Unfortunately, those accused are most often forced to try to prove they didn't know the drugs were where they were found.

Do I have to participate in police sobriety exercises on the side of the road if I'm stopped?

No. There are no legal requirements to participate in police roadside exercises. A police officer may choose to arrest a driver after they refuse the tests, but that arrest will not be lawful unless the officer had enough evidence without the tests to justify probable cause (PC) for arrest. In such a case where the police already have PC, participating in the tests even successfully would not necessarily prevent an arrest.

Should I take the police breath test if I'm accused of DWI?

If you've had nothing to drink, you can generally trust the breath test machine to clear your name. If you have had any alcohol that

evening, you cannot trust the breath test machine to measure that amount accurately. Even if the machine says you're under the limit, the police will often accuse you of being impaired anyway, or just on some other "unknown" drug. You will not be automatically released for passing the breath test.

If my license has been suspended, how can I keep my job?

In most cases, a person will be eligible to receive court-ordered permission to drive for work or school from a judge. This permission is generally limited for the purpose of work/school only, and will usually be limited to a number of hours per day.

What qualifications are important to look for in a DWI defense lawyer?

Any criminal defense lawyer will take money to represent a DWI. Caution should be used in rushing to the cheapest lawyer in town, though. These cases require special knowledge and understanding of pharmacological, medical, chemical and many legal issues unique to DWI cases. Qualifications to look for include: police experience, sobriety testing expertise, breath testing expertise and, of course, a history of winning case results! ■

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