



A GUIDE FOR CHOOSING A DWI ATTORNEY IN HOUSTON, TEXAS

AUTHORED BY

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Texas DWI Attorney

TABLE OF CONTENTS

(i) About the Author	2-3
1. Introduction	4-5
2. Texas DWI Cases: A Closer Look	6-9
3. Know Thy Rights: The Basics of Texas DWI Law	10-13
4. How to Choose a DWI Lawyer in Texas	14-20
5. Reviews	21-25
(ii) Contact Me	26

ABOUT THE AUTHOR

Herman Martinez

Herman Martinez is one of Texas' most trusted DWI Attorneys. Setting legal benchmarks one case at a time, Mr. Martinez has now been in the profession for over fourteen years. He has been named 'Houston Top Lawyer' by H Texas Magazine 2008-2011 and was also nominated for 'Super Lawyers'. Doctor and Lawyer review website Avvo.com gives Mr. Martinez a 10/10 'superb' rating.



A man dedicated to his profession, Herman Martinez has put in the effort required to understand the working of the judicial system. He began with a legal internship at the United States Court of Appeals for the Fifth Circuit in 1995. In 1996-97, he

served as a briefing attorney for the 334th District Court of Harris County, Texas. He is among the chosen few of Texas DWI attorneys who have prosecution experience; Mr. Martinez served as a Chief Prosecutor for the Harris County District Attorney's Office (1997-99). Currently, he serves as an Associate Municipal Judge for the City of Houston besides running his own law firm.

A man who has seen both the offenders' and the government's side of law, Mr. Martinez is dedicated to delivering his legal expertise while defending his clients. His purpose of writing this book is to give DWI offenders in Texas the knowledge they need when choosing a DWI Lawyer.

INTRODUCTION

Statistics show that Driving While Intoxicated (DWI) cases account for nearly 18,000 road fatalities in America per year. The state of Texas has the second highest DWI fatalities, next to California. Even more harrowing is the fact that every 20 minutes, a Texan is killed or hurt due to driving while under the influence of alcohol. With such statistics, anyone could find themselves involved in a DWI incident, even you. Thus, Law enforcement over-compensates by arresting a great number of people who may be innocent of driving while intoxicated.



**TEXAS HAS THE
SECOND HIGHEST
NUMBER OF DWI
CASES AMONG ALL
STATES IN
AMERICA**

The spectrum of DWI offenders in Texas ranges from juveniles to senior citizens. If you or anyone close to you has been charged with a DWI case, your choice of attorney can make all the difference to your case. It is important to remember that no lawyer appears incompetent when he/she markets his firm/expertise,

therefore it is important to carefully research and select someone who can expertly defend your case. Many will claim to have won 'impossible' cases in the past.

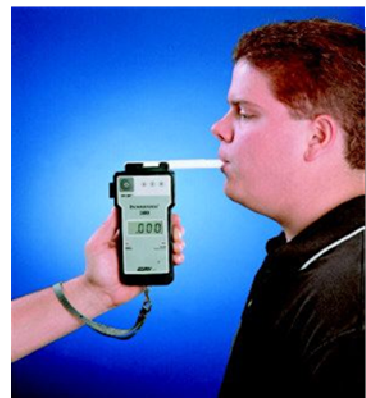
Never underestimate Texas' DWI Law. It is among the most complex in the country and because of the high occurrences of DWI cases, the law enforcement is particularly aggressive.

TEXAS DWI CASES: A CLOSER LOOK

When you are charged with a DWI case in Texas, the anxiety alone can be enough to unsteady you. Add to this the tension of legal proceedings and even the most coherent of us can be baffled by the process. I understand that for many, their DWI case is their first brush with the Texas Criminal Justice system and therefore, it is easy to get lost in the legal jargon. Before I introduce you to Texas Laws on DWI, I will give you a brief overview of the various terms, and types of Texas DWI cases.

DWI Texas Legal Terms

Breath and Blood Tests



When a police officer suspects you of driving under influence, he may ask you to take breath, blood or urine tests to establish the alcohol content in your blood. You may refuse to take this test, but if you refuse, your driver's license may be suspended. A breath test involves blowing into an Intoxilyzer machine. The credibility of all these tests is highly debated and an efficient attorney may be able to cite the possible error in such tests while defending you.

Field Sobriety Tests

This is perhaps the most unreliable of all the tests used to establish the level of intoxication of a driver. Field sobriety tests involve the police officer asking the driver to perform a set of



physical or mental tasks. You may be asked to stand on one leg for 30 seconds while counting out loud or to walk in a straight line.

ALR Hearings

When a police officer arrests or charges you with DWI, he will also confiscate your driving license. A Notice of Suspension is issued which sets a deadline for the

**FIELD SOBRIETY
TESTS ARE
KNOWN FOR
THEIR
UNRELIABILITY.**

suspension of the confiscated driving license. You, or your attorney must schedule an Administrative License Revocation (ALR) hearing within 15 days of the serving of the notice in order that your driver's license can be saved. The ALR hearing then considers the results of field sobriety test, blood and alcohol test and your account to arrive at a decision about the suspension of your driver's license. The hearing is conducted either in a hearing room or over the phone. All of our clients receive a hearing a person in order to properly attempt to save their license.

Texas DWI Types

DWI cases can be broadly divided into three types. All three of these have been discussed below.

Felony DWI

In Texas, a felony charge may be slapped on someone who has twice before been convicted of DWI. Usually charged as 3rd degree felony, it has a maximum incarceration time of 10 years

in the Texas Department of Corrections with a fine of up to \$10,000. A person driving while intoxicated with a child of less than 15 years of age may also face felony charges.

Underage DWI

In the State of Texas, any individual below the age of 21, with even the slightest detectable trace of alcohol or drugs in his blood is charged with DUI (instead of DWI). A DWI charge at such an early age can jeopardize their entire future including job opportunities, eligibility for loans and insurance and credit rates.

Commercial Driving License (CDL) DWI

A driver with a Commercial driver's license can't have a BAC(Blood Alcohol Content) higher than .04%. Additionally, a DWI conviction may cause a CDL holder to lose this license despite the fact that they were not driving a commercial vehicle when they were stopped for the DWI.

KNOW THY RIGHTS: THE BASICS OF TEXAS DWI LAW

As I have already stressed in the first few pages, Texas DWI laws are among the most stringent DWI Laws in the United States. Noted below are the most prominent highlights of Texas DWI law. These are followed by punishment terms as outlined on the Texas Department of Transportation's Website.



Highlights of Texas DWI Law

- Texas law dictates that a driver with a BAC (Blood or Breath Alcohol Concentration) greater than .08 may be arrested and charged with DWI.

- Texas DWI law states that the driver may be considered ‘intoxicated’ if he/she is impaired due to alcohol or other drugs, regardless of BAC.
- If stopped by a police officer, a driver may refuse to take a blood or breath test. In such a case, his/her driving license may be suspended for 180 days.
- A person charged with DWI may also be charged with the crime DWI with child passenger if he/she is carrying passengers who are younger than 15 years old. DWI with a child passenger is punishable by a fine of up to \$10,000, up to two years in a state jail, and loss of the offender’s driver license for 180 days.

In addition to these laws, Texas DWI law now includes the following:

A First DWI offense is punishable as a Class-A Misdemeanor (up to 1 year in jail and \$4000 fine) if the person driving had a blood alcohol concentration of 0.15 or higher at the time the analysis is performed.

A person charged with intoxication assault will be facing increased punishment under a law that doubles the possible

prison time to 20 years for intoxication assault when a victim is left in a vegetative state.

Punishments

First Offense

- A fine of up to \$2,000
- Three days to 180 days in jail
- Loss of driver license up to a year
- Annual Surcharge fee of \$1,000 or \$1500 for three years to retain their driver's license

Second Offense*

- A fine of up to \$4,000
- One month to a year in jail
- Loss of driver license up to two years
- Annual Surcharge fee of \$1,000, \$1,500 or \$2,000 for three years to retain their driver's license

Third Offense*

- A \$10,000 fine
- Two to 10 years in prison
- Loss of driver license up to two years
- Annual Surcharge fees for three years to retain driver license

*After two or more DWI convictions in five years, you must install a special ignition switch that prevents your vehicle from being operated if you've been drinking.

Surcharges

In Texas, those convicted for DWI have to pay a yearly surcharge. The surcharge can range from \$1,000 to \$2,000 depending upon the circumstances. These surcharges have to be paid for three years after a conviction for DWI.

You can find more information about Texas DWI law at the Texas Department of Transportation website www.txdot.gov.

HOW TO CHOOSE A DWI LAWYER IN TEXAS

I am sure that you are by now aware of how grave DWI charges in Texas can be. You must do everything in your power to protect yourself before pleading guilty. A DWI case can have serious repercussions on the rest of your life. In this section, I present a carefully compiled list of ten questions that you must ask of any lawyer before hiring him/her. No matter how insignificant and even rude they might appear, these 10 questions may shape the result of your DWI case.



1 “What is your legal experience in handling Texas DWI cases?”

Those charged with DWI usually overlook one crucial fact. Not all attorneys in Texas handle DWI Cases. You may go to a top law firm but if they have no history in DWI cases, it is unlikely that they can provide the legal expertise that you need to win the case.

**CHOOSE AN
ATTORNEY
SPECIALIZING
IN TEXAS DWI
LAW**

Seventy percent of my firm’s dealings are solely in DWI cases. In the past 14 years, I have fought more than 1,000 DWI cases. We are highly positioned in Houston and operate throughout the state of Texas.

2 “Do you have any experience in state prosecution?”

A DWI attorney with state prosecution experience can look at your case from the other side. Recognizing and predicting potential pitfalls in the eyes of the state, he is more adept at gaining favorable results than attorneys with no prosecution experience. Also, remember that a lawyer who tries to pass off an internship in a county office as prosecution experience didn't probably go beyond proofreading briefings for cases.

AN ATTORNEY WITH PROSECUTION EXPERIENCE IS MORE ADEPT AT GAINING FAVORABLE RESULTS IN A DWI CASE.



I served as a Chief Prosecutor for the Harris County District Attorney's Offices for three years, from 1997-99. Since 2009, I have been involved with Harris County's unique DIVERT (Direct Intervention using Voluntary Education, Restitution and treatment) program. It is a unique pre-trial diversion program for eligible first time DWI offenders in Harris County with no prior criminal arrest history.

3 “Have you ever taken a case to jury trial?”

Not all DWI cases, especially in the state of Texas, end amiably. They can often result in a tumultuous jury hearing. If you chose a lawyer fresh out law school, basking in the glory of a few sans Jury wins, you may as well forget all about winning your case. A jury trial demands courtroom tactics which can only be expected of an experienced lawyer. Also, beware of attorneys who dodge your questions about their jury experience by giving the explanation that they won't let your case come to a jury trial.



While The Martinez Law Firm strives to resolve cases without a jury trial, there have been times when a jury trial became inevitable. I have led my clients through many jury trials very successfully.

**MOST YOUNG DWI
ATTORNEYS
DON'T HAVE ANY
JURY TRIAL
EXPERIENCE.**

4 “Who will actually handle my case?”

Perhaps the most important question on this list is- who will actually handle your case. Modern law firms have a great number of lawyers, assistants and interns. It doesn't make sense to trust your case to an attorney fresh out of law school. Have this question clearly answered before committing to a law firm because once you hire a law firm, you are the mercy of whoever is assigned to you.

At the Martinez Law Firm, I personally handle all cases. Other chosen lawyers and interns may assist on certain cases. Their opinions are taken into account but no case is solely entrusted to them.

NEVER CHOOSE DWI ATTORNEYS ON THE

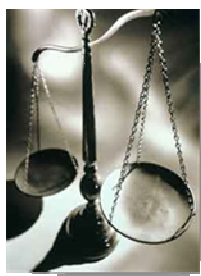
5 “What will it cost?”

An attorney who sells his service with taglines such as ‘lowest attorney costs’ and similar phrases centered on the cost to the client is better off being a businessman. While looking for a credible Texas DWI attorney, never choose on the basis of their price. Attorney fees that are astonishingly high or low may spell trouble.

ALWAYS ASK WHO IN THE FIRM WILL ‘ACTUALLY’ HANDLE YOUR CASE.

I take pride in total transparency in the legal fees that I charge.

6 “What do you think of my case?”



When you ask an attorney that question, he/she should outline the pitfalls and the strong defense points of your DWI case. Experienced attorneys know that it is impossible to predict the final result of the case by just looking at it and will never commit to winning or losing a case. As no good publishers ask for reading fee for evaluating a manuscript, no respectable attorney asks for a consultation fee. If a law firm charges you for looking at your case, they are just trying to earn a quick buck.

I offer 60 minutes of free consultation for all DWI cases. You can use my website to make an appointment. I shall then objectively evaluate your DWI case.

7 “How will my case end?”

Attorneys, unlike politicians can't make promises based in future. An attorney who claims of 'quickly settling' the case or 'assured acquittal' is inevitably dangerous. If a law firm that you

are considering for your DWI case gives you the above mentioned phrases, you should better steer clear of them.

8 “Have you ever been disciplined by the state bar?”

Don't be fooled into hiring an attorney who has been disciplined by the State bar in the past. We at The Martinez Law Firm have never been disciplined.

9 “Have you ever successfully handled multiple DWI cases?”

Punishment increases severely with the increase in number of DWI convictions. If you have been charged with a felony DWI or are charged with your third or fourth DWI, ensure that your lawyer has successfully handled these types of cases in the past.

I have extensive experience in handling felony and multiple DWI cases. My firm has tackled a fourth DWI conviction (felony) and were able to reduce the charges to that of a first time offender.

10 Is he really that good?

The Doctor and Lawyer directory, Avvo is a credible source of doing your fact checking.

My career record is outstanding. I have a 10/10 'Superb' rating on Avvo with over 22 favorable client reviews.

REVIEWS

I think that you would agree with me when I say that customer reviews are the most accurate indicator of the quality of an organization including a law firm. In this chapter, I put together some of the reviews and that my clients left me at www.Avvo.com.

Ms. Borderline says,

“I am an individual who has emotional dys-regulation and got slammed with a DWI in March of 2009. Prior to Mr. Martinez, I hired a lawyer who was recommended to me by my boss. This lawyer and my boss both laughed non-stop when they saw my video. Besides, I have no idea why on earth would that lawyer

even allow my boss to be present and watch my video. Fortunately, I decided to no longer bite my tongue and decided to pick up the phone and make some calls. I came across Mr. Martinez. He is very professional and treated me like a human being. We all make mistakes in life and hands down lesson learned but when it came to an honest and earnest advice, Mr. Martinez recommended the DIVERT program. My interlock is getting removed this week and 6 months have gone by. He was right....it was my best option at that time. I don't regret getting my DWI, it has taught me an excellent lesson and changed my life 180 degrees. The program is made for people to fail but if you are serious and recognize you have a problem and are willing to put in the effort then you have a chance to get this off your record. I remember being in his office with my family. I was very emotional and began crying thinking I did not have an option. His words echo in my ears and I recall him saying: "You do have an option.....Divert is the safest option" At that point, I thought my life was going to end... well it has in a certain way.....I've just learned to make better choices and to stay out of trouble. Honestly, a \$14.50 glass and a half of wine was not worth the trouble I got into. If you decide not to do the DIVERT program, Mr. Martinez will fight for you until the end. He saved my DL, it was not suspended.....If you want someone who will sugar coat things for you and feed you with nonsense then this is not the lawyer to go to. If you want someone who has a great reputation and is above all HUMANE then you just found one of the best in town.”

Lisa says,

“After spending a lot of time researching criminal defense attorneys in Harris County I knew instantly that Herman Martinez was the right person for the job when I consulted with him for the first time. He has an incredible knowledge of the law surrounding DWI. He was very patient with me, and talked me through the process and next steps. He made me feel incredibly comfortable about the case and that he was the best person to represent me. His reputation really speaks for itself. In the end he managed to secure a dismissal! Thanks Mr. Martinez!”

Alberto says,

“Mr. Martinez did a great job in handling my DWI case. He and Mr. Madrid answered every question I had and explained everything to me so that I was able to understand the situation with my case. He kept me very well informed of what was going on with my case and what the next step would be. I was always able to get in contact with him whenever I needed to ask questions or if I didn't understand something about my case. Overall, he did an outstanding job in representing me. I just want to say Thank you to Mr. Martinez and his staff for the great job they did in handling my DWI case. I would definitely recommend Mr. Martinez to my family and friends.”

Ed says,

“Herman represented my dad for his DWI cases. He is very knowledgeable and energetic. He is very honest with his opinion about the case and gave us good advices. I called 3-4 lawyers before I picked Herman because he didn't sound like a "salesman" on the phone and his fee is very reasonable. Thank you Herman!”

Daniele says,

“Mr. Martinez is the most trustworthy attorney I have ever worked with. He understood the particulars involved with my case, and he never stopped fighting for me to get positive results. I know that no legal case is ever the same, and no verdict is guaranteed. However, the legal advice, counsel and assistance I received from Mr. Martinez and his firm are second to none. I whole-heartedly recommend him for anyone requiring legal help, no matter the charges.”

John says,

“It is very apparent to me that Mr. Martinez conducts himself with the highest degree of integrity and it is easy to see why he is highly respected among his clients and peers in the court room.”

Stephen says,

“Herman truly exceeded my expectations in every aspect of defending my case. Initially referred to him by a friend I wasn't entirely sure of his ability at our first meeting, but he proved again and again that he was experienced, knowledgeable and extremely hardworking. He defended my case very aggressively and with amazing energy. His counsel was indispensable since my case involved making some tough decisions. Most of all he was able to give the best information, ultimately allowing me to decide what we should do. He's got over 15 yrs experience coupled with the energy of a younger lawyer. And he's a great value since in comparison with a lot of other lawyers that I talked to, he charges far less. My case was eventually dismissed and I'm 100% positive that result would have been different with any other lawyer.”

Derek says,

“Mr. Martinez saved my driver's license and got my DWI case dismissed. I could not ask for a better outcome.”

These are a few of client reviews that I have received over the years. You can read more of them at-

<http://www.avvo.com/attorneys/77056-tx-herman-martinez-40598/reviews.html>.

CONTACT ME

In a DWI case, the attorney that you choose seals your fate. I hope that my book leaves you better informed about Texas DWI law than before. I am offer free consultation on DWI Texas cases. You may call my offices to fix an appointment.

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