

# **Bodiford Law**

## **CRIMINAL DEFENSE FIRM**

**Criminal Case Information**

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# About the Firm

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## Joe Bodiford

Board Certified Criminal Trial Lawyer

Joe Bodiford is a Florida Bar Board Certified Criminal Trial Lawyer, and also certified in Criminal Trial Advocacy by the National Board of Trial Advocacy. He holds J.D. and LL.M. degrees from the Stetson University College of Law.



@BodiLaw



@joebodiford



## Gannon Coens

Criminal Trial Lawyer

Gannon Coens holds J.D. degrees from the Florida State University College of Law. He practices in the areas of criminal trials and appeals.



# Bodiford Law

**The most experienced and credentialed attorney in Tallahassee.**

No other attorney in Tallahassee, or North Florida for that matter, as Joe's experience and credentials. Use the comparison chart below to see for yourself.

## COMPARE LAWYERS – Who has the most experience and expertise?

Attorney	Years of criminal practice	Number of Criminal Jury Trials	Florida counties practiced in	Florida Bar Board Certified?	NBTA Nationally Certified? <sup>1</sup>	LL.M. in Advocacy? <sup>3</sup>	Author?	Law School Professor?
 Joe Bodiford	23	Over 100	37 out of 67, plus 2 out of 3 Federal courts and 4 of 5 appellate courts, and the Florida Supreme Court	Yes, since 2003	Yes, since 2013	Yes, <i>with distinction</i> , 2014 (from Stetson Law, the top-ranked advocacy school in the country <sup>4</sup> )	Yes, numerous books – DUI, White Collar Crime, Florida Criminal cases, Cross Examination.	Yes. At 2: Stetson (Florida Criminal Procedure; Trial Advocacy); FSU (Cross Examination; Trial Team Director)
					No <sup>2</sup>	No		
					No	No		
					No	No		
					No	No		
					No	No		
					No	No		
					No	No		
					No	No		

<sup>1</sup> NBTA is the National Board of Trial Advocacy, recognized by the American and Florida Bar Associations

<sup>2</sup> NBTA and LL.M. columns pre-filled, as no other lawyers you will interview hold these distinctions

<sup>3</sup> The LL.M. degree is a higher degree, after the initial J.D. law degree

<sup>4</sup> U.S. News and World Reports, <https://www.usnews.com/best-graduate-schools/top-law-schools/trial-advocacy-rankings>

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BODIFORD LAW  
CRIMINAL CASE INFORMATION

# Welcome to Bodiford Law

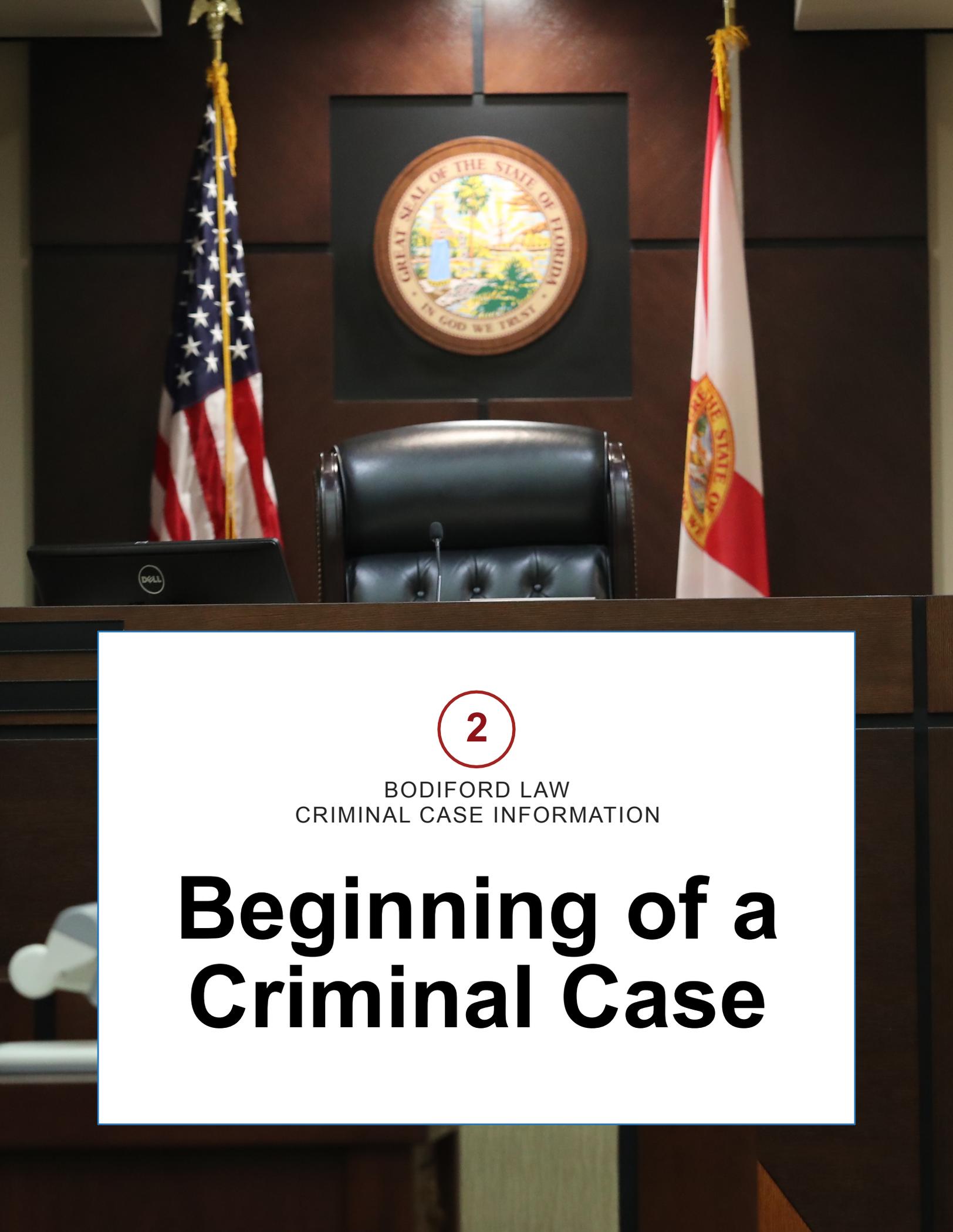
# General Statement

Please be advised that the information below is stated in general terms without regard to the specifics of your case. This information is being provided to you to give you a general overview of how a criminal case progresses, and what to expect along the way.

If you have a consultation with Bodiford Law, please know that even as a potential client, your information is confidential. If you have consulted with the firm, please understand that the firm does not represent you in any matter until you have executed a formal retainer agreement with the firm. Until that time, Bodiford Law cannot take any action on your behalf.

If you become a client of Bodiford Law – or of any attorney – please understand that no guarantees can be made by the firm regarding the outcome of your case, or about issues that may be decided by a court prior to final ruling. Statements that the firm or its attorneys and/or representatives make regarding the likely outcome or the range of possible outcomes are only opinions, not guarantees of results.





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# Beginning of a Criminal Case



## Bodiford Law Criminal Case Information

# Beginning of a Criminal Case

By the time you receive this Criminal Case Information brochure, more than likely one of the following events will have occurred.

You or your friend or family member may have been physically arrested and taken to the county jail.

Or, you may have had what is called a "Notice to Appear" issued, ordering you to appear in court sometime soon.

Finally, you may have received a citation (traffic ticket).

These are the ways cases get into the criminal courts and criminal traffic courts in Florida.

This brochure was written to help you understand the proceedings and work that will happen as your case moves along to conclusion.

If you have any specific questions, be sure to ask your attorney to explain to you what is happening, and why. Information is a powerful tool!

# Beginning a criminal case

## **BAIL/BOND, PRETRIAL RELEASE**

Generally when one is arrested and taken to jail and booked, they are released in one of three ways:

1. **Release on one's recognizance (ROR)** is utilized by jail administration and the court for pretrial release, and generally means that you give your personally guarantee to appear for all future court proceedings in your case.

2. **Pretrial Release (PTR)** is a form of release on your own recognizance not requiring any monetary obligation but does require calling or reporting in person to the office on a regular basis and may have some travel restrictions.

3. **Release on bond.** If you have been required to post a bond, that can be accomplished in two ways. You have the option of posting your entire bond in cash, which will be returned to you at the end of the case if you appear for all scheduled court hearings (minus any court costs). The other alternative is to pay a bondsman and bond premium, usually ten percent in state cases and fifteen percent in federal cases, and the bondsman will post a bond with the court, assuring the payment of the total bond should you fail to appear for any scheduled court appearance.

Unless otherwise directed by a court order through a requirement of the PTR or ROR programs or your bond contract, your ability to travel about and go about your daily

business is not restricted while you are on bond. This is a manifestation of our long-held principle that all people charged with a crime or a traffic infraction are presumed innocent until proven guilty. The only requirement of a bond and the only purpose of a bond, in general, is to require your appearance at all scheduled court appearances.

Should a person fail to appear at a scheduled court hearing when their presence is necessary, the court often times will revoke a bond and issue an arrest warrant for that individual. Bodiford Law will send you confirmation of every court date you are required to attend.

You are always welcome to attend every court date, but most times the judges will waive your appearance and Bodiford Law will appear on your behalf.

## **FIRST APPEARANCE**

The first appearance is a hearing before a judge, generally within twenty-four hours of the time of arrest, while still in custody. At this hearing charges are read to the individual, he or she is informed of his or her Constitutional right to a lawyer, and he or she is given an opportunity to make a telephone call beforehand. Some people arrested for crimes will not receive a first appearance hearing because they will have been released from jail or bonded out prior to the next scheduled first appearance hearing.

## **PREFILING OF CHARGES**

Many times, we are able to get involved in the case early enough to intervene and get the State Attorney to not file charges, or file lesser charges. The time between arrest and the actual filing of formal charge is a golden window of opportunity to educate the prosecutor on all the facts of the case that may not be in the police reports. In some cases, we can also get the case diverted from prosecution and into a program that can result in charges being dropped and potentially your record sealed or expunged.

Not all cases can be resolved before charges are filed. In the event charges are filed by the State Attorney, the case will proceed to arraignment. Negotiations with the state usually continue as the case progressed.

## **ARRAIGNMENT**

After an individual is arrested and released from the jail on ROR or on bond, they are notified of their arraignment date in various ways. Misdemeanor or traffic cases may receive their arraignment date from jail authorities upon their release. On criminal traffic infraction tickets, there may also be a date indicated upon the ticket - which is a court appearance date, and this will be an arraignment date. The ticket may also require you to set a hearing within a certain number of days. Felony defendants who are on pretrial release are generally advised of their arraignment date by mail with copies to their attorneys.

The purpose of an arraignment is to formally have the judge read to you the charges and request from you how you would like to plead. In the State of Florida, there are three possible pleas at the time of arraignment. These pleas are (1) not guilty, (2) no contest, or (3) guilty.

Generally if an individual at arraignment pleads no contest or guilty at the time of arraignment, the judge will proceed to sentence that individual at arraignment and the case will proceed no further, i.e., there will be no trial, etc. Often, sentencing at arraignment may include prison time, jail time, probation, community control, fines, community service, attendance at alcohol or drug rehabilitative courses and other appropriate sanctions.

If an individual pleads not guilty at arraignment, the matter will be set for a pretrial conference or trial at a future date. At anytime after arraignment, one can usually change their not guilty plea to guilty if they so desire but one usually cannot change a guilty plea, once accepted, to not guilty.

Generally, it is not a wise idea to enter a plea at first appearance without consulting with an attorney first. A plea at first appearance could result in serious long-lasting consequences.

## **APPEARANCE AT ARRAIGNMENT**

If an individual retains private counsel prior to the time of arraignment, it is often times possible for the attorney to make an appearance in this matter for the client, and thereby save the client the necessity of appearing in court for their scheduled arraignment. It is Bodiford Law's normal procedure to enter a written plea of not guilty on behalf of all clients at arraignment. We do not normally allow any other pleas until a complete investigation has been completed by our office.



*Based on our firm philosophy that careful preparation is the key to success, the attorneys at Bodiford Law, P.A., work with our client to craft a theory of how to litigate the case based on a detailed review of the other side's case and their own investigative findings. With a logical theory of offense or defense in mind, our attorneys then set out a litigation plan to accomplish both short-term and overall goals in our client's case.*

*To develop these theories of offense or defense and a litigation plan, in each case, our lawyers work extensively in interviewing witnesses, reviewing documentation, and deposing witnesses. Our litigation team also enlists investigators and forensic specialists who assist in the preparation of the client's claims or defenses, cross examination of witnesses, and presentation of exculpatory or favorable evidence.*

*- Joe Bodiford*

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# The Court Process

# The Court Process

## **NOTICE OF APPEARANCE, REQUEST FOR DISCOVERY**

When you retain Bodiford Law to represent you, our firm immediately files our Notice of Appearance, informing the court, the state attorney and any other interested parties that we represent you in your matter and for them to direct all future correspondence with regard to this matter to the firm's attention.

Our firm also files a written Waiver of Arraignment, if appropriate, and enters a Plea of Not Guilty on your behalf. In order to secure your right to a jury trial, our firm requests a hearing date at the earliest possible time so that this right is not waived. This does not necessarily mean that your case will go to trial, but our firm must ask for this at this point if we plead not guilty. We can arrange a plea at any time.

Additionally, our firm requests discovery materials from the state attorney as early as possible. This request is a written demand for them to produce to us all tangible evidence, and witness names that they are aware of in the investigation of your case.

## **DISCOVERY PROCESS**

Upon our Demand for Discovery, the state attorney is generally obligated to respond to our demand within fifteen days after charges are filed. As a

practical matter, it often takes longer than fifteen days for the state attorney to respond to our discovery request.

Once discovery is received, we immediately evaluate the enclosed materials and, from the witness list, schedule the depositions of the people the state has listed as witnesses in your case.

## **DEPOSITIONS**

Depositions in felony cases are the taking of a sworn statement, under oath of the witnesses in your case. In criminal matters, the state will not be allowed to take your deposition as you have the right to remain silent throughout the entire proceeding. However, any witnesses that we may choose to list on your behalf may be deposed by the state attorney. Generally, your attendance at depositions is not allowed. You will be informed of the date and time of the scheduled deposition and, unless otherwise notified, do not need to make arrangements to attend.

## **MOTIONS**

There may be motions to file in your case, and there may not be. Motion practice is driven by several factors. The facts of your case may not call for any particular motion, and the issues may only be resolved with a trial or plea.

There are times when a particular law may apply to your case, and necessitate the filing of a motion to deal with a legal issue.

It is almost certain that the filing of a motion will cause the state attorney to either contest the motion and/or withdraw any offers to resolve the case with a favorable plea. Thus, the filing of any motions has to be done after great research and discussion.

## **NEGOTIATIONS**

From the moment that our firm becomes involved in your case, our firm will thoroughly investigate and prepare your case for trial. Towards the end of the pretrial period we may attempt to negotiate with the prosecution for a solution short of going to trial. It has been our experience as both prosecutors and defense attorneys that negotiations are successful if you are negotiating from a position of strength. Normally this does not occur until our investigative efforts have substantially weakened the prosecutor's case. Because we enjoy reputations as excellent trial lawyers, that gives us some leverage in getting to a resolution. You will be kept completely informed of all plea negotiations, and no resolution of your case will be consummated without your complete understanding and agreement. We understand that it is your life, and your decision. We will work to get you the best possible options.

## **PRETRIAL AND TRIAL**

Every case is, at one point, set for a non-jury trial or jury trial. Some misdemeanor criminal offenses are only triable to a judge as the trier of fact. The state will

be represented by a representative of the State Attorney's Office (prosecutor).

Most cases are triable by a jury. The judge generally rules on questions of law only and the jury decides the facts.

A representative of the State Attorney's Office represents the state (prosecution). Usually a notice for trial is sent several weeks before the scheduled trial period. Just prior to the trial period, there is usually scheduled a pre-trial conference.

A pretrial conference is used by the judge to determine if discovery has been completed, if a case is ready to go to trial, if it should be continued, or if there will be a change of plea, as represented to the judge by the lawyer for each defendant.

*Most judges require your presence at the pretrial conference. We will inform you by whether your presence will be necessary.*

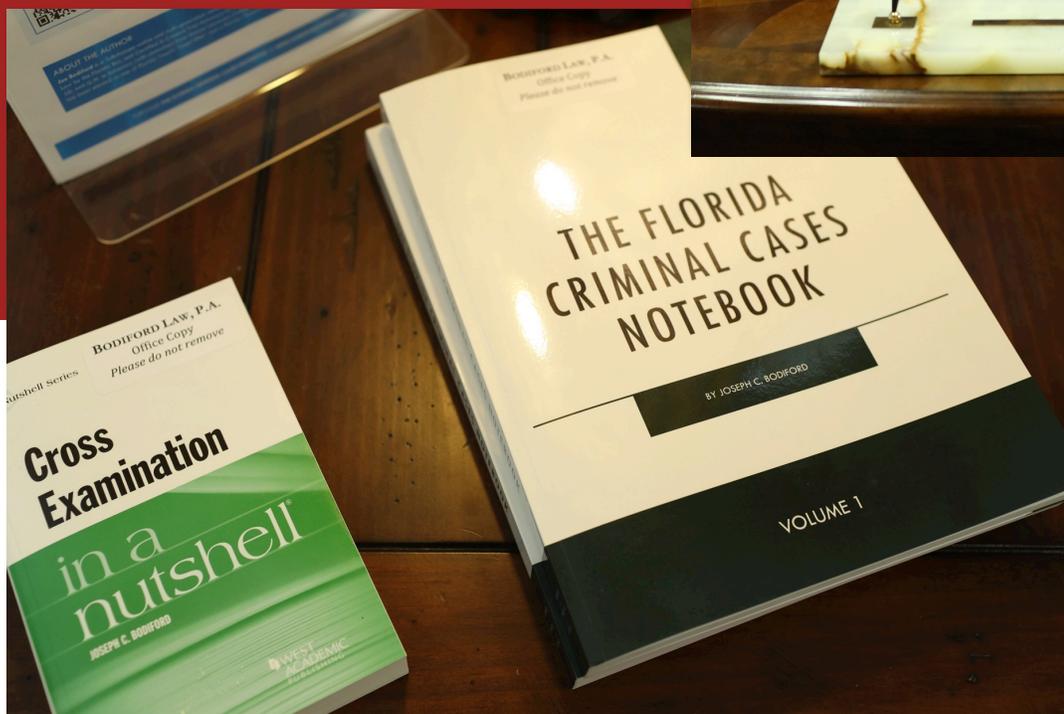
In the event your case is set to go to trial, it will generally be scheduled during a particular trial week. Your case could actually begin at any time during that week depending on how the other cases before that judge resolve themselves.

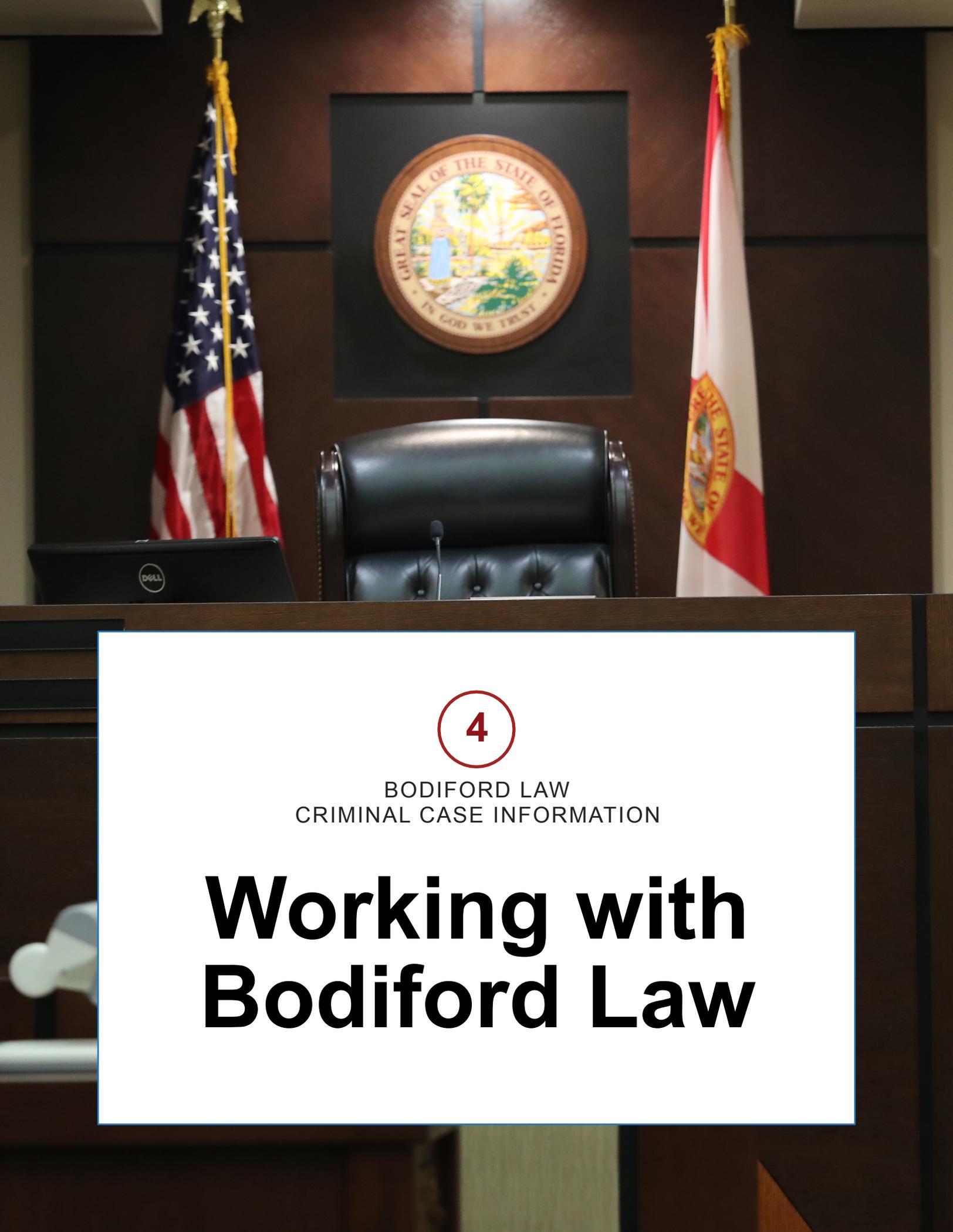
Should it become necessary, your matter may proceed to trial. In that regard, substantial pretrial preparation will be required prior to the time of trial, including the review of testimony and other preparation.

However, a significant percentage of cases do not actually proceed to jury trial. They are resolved without the necessity of trial through negotiations.

*Joe Bodiford is truly an expert in criminal law and trial advocacy. He has written books on Florida criminal law and on Cross Examination. He has also written chapters in books about white-collar crime, DUI, and discovery in criminal cases.*

*Joe is a law professor and lecturer at attorney legal education seminars. He is a long-time adjunct professor at the Stetson University College of Law, and he also taught at the Florida State University College of Law.*





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# Working with Bodiford Law

# Working with Bodiford Law

## **TELEPHONE CALLS, TEXTS, AND EMAILS**

You have retained our firm because of our reputation and because the focus of our practice is in criminal defense matters. The nature of our practice requires that our attorneys appear in court frequently, most times more than once each day, and in different locations. As a result, we are in and out of the office for most of the day.

The nature of this work means that we will not always be available to talk with you when you call. Our firm employs an excellent staff of attorneys, paralegals and legal assistants. If you leave a message, a telephone number, and a time when you may be reached, we will make every effort to return the call as soon as possible. It will help us to prepare your case more efficiently if you will leave a message as to the reason for your call.

If you need a quick response to a short question, you can send a text message to the main firm number, 850-222-4529. The text service is monitored by all of the Bodiford Law staff, so someone will see it and be able to respond.

Email is a great form of confidential

communication. You can email us at any time, and we are generally able to respond to emails no matter where we are.

## **COPIES OF DOCUMENTS**

Generally, you will receive copies of all pleadings and notices prepared by our firm in your case or received from the Clerk of the Court or state attorney in your case. The copies of these pleadings will be provided to you for your information. We will either email them, or make them available in your Clio Case Management client portal.

## **OFFICE APPOINTMENTS**

Again, the nature of our practice requires that we be out of office for substantial periods of time daily. In the event that we have contacted you to schedule an office appointment or if you would like to come to the office to visit with us, please call our office to setup a definite appointment.

## **ATTORNEY/ CLIENT PRIVILEGE**

Any private communications we have are protected by the attorney client privilege, which means that we will not and cannot be forced to discuss our communications.

Anything you tell us will be held in strict confidence unless and until you authorize disclosure of that information. Please be advised that if you would like us to discuss your case with any third party (i.e. family and friends), you must sign an authorization with our office to allow us to communicate with them about your case.

### **DRESS CODE FOR COURT**

Please remember that appearances count. Not only that, but some judges have dress codes and will not allow you in the courtroom if you are not properly dressed.

#### *Ladies*

- Wear conservative dress, nothing tight, short or revealing.
- Hair should be styled, clean and neat.
- Makeup and perfume should be light.
- Closed shoes, no sneakers or sandals.

#### *Gentlemen*

- Wear a suit if possible, or dress shirt and pants with tie and sport coat
- Be clean shaven, mustaches and beard must be neatly groomed
- Hair should be short, styled and neat.
- Shoes should be clean and polished, no sneakers or sandals

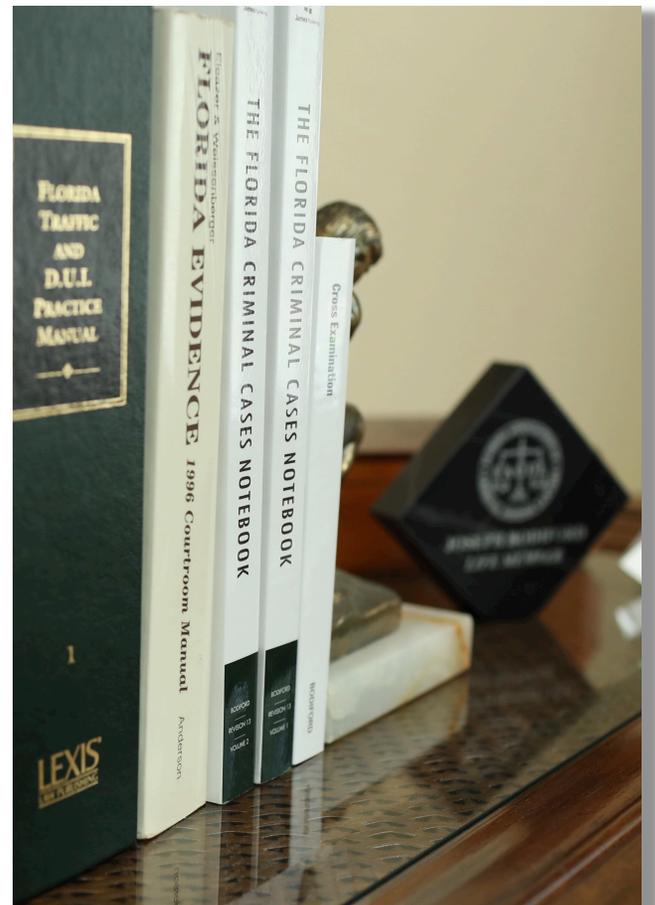
### **NARRATIVE OF EVENTS AND AUTOBIOGRAPHY**

As you will recall, our firm has requested that you complete the autobiography and a narrative of the events which led to this matter. The client intake will be held in the strictest of confidence in your file and will only be referred to in the course of viewing the file in preparation for plea negotiations with the state attorney. We will not reveal secrets to anyone without your specific knowledge and consent.

A narrative of the events in your case is necessary to facilitate the preparation of your case. This narrative of the events is also a privileged, confidential communication and will not be disclosed outside of the office.

Your story is important to us for several reasons. One, we have to know what happened during the incident that led to the criminal charges. Two, we need to know about *you*, so we can help you in the best way possible set and achieve goals in this case that will positively impact your life.

It is very important that this particular task be accomplished within 10 days of you retaining our firm.



## Notes

# **Bodiford Law, P.A.**

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Driving Under the Influence (DUI)

Felony Charges

Misdemeanor Charges

Federal Charges

Appeals and Post Conviction

