

CASHMAN



LEGAL

CRIMINAL DEFENSE • STRATEGY • RESULTS

Michael G. Cashman

— ATTORNEY AT LAW —

Your Case, Your Rights

A Client's Guide to a Massachusetts Criminal Case

WHAT TO EXPECT • WHAT TO DO • WHAT NOT TO DO

For clients of Cashman Law Office • Not legal advice

READ THIS FIRST

You have hired me. That means two things start today.

First, you stop handling this case yourself. Every conversation you have about this case with anyone other than me can be used against you. That includes police, prosecutors, probation officers, friends, family, co-defendants, and the person who called the police. It includes text messages, social media, and every phone call you make from a jail.

Second, you have a job in this case, and it is not a small one. Show up. Follow every condition the judge imposed. Tell me the truth, including the parts you do not want to say out loud. Bring me documents. Call me when something changes.

This guide explains what your rights actually are, what you should and should not do while your case is open, and what is going to happen between now and the day your case ends. Every legal statement in it is sourced. The citations are in the back so you can look anything up yourself.

Nothing in this guide is a promise about the outcome of your case. Every case is different. What is in here is the framework. The specific strategy in your case is what you and I discuss in my office.

THE FIVE RULES

- 1 **Say nothing.** Not to police, not to probation, not to anyone but me.
- 2 **Consent to nothing.** No searches. Of anything. Ever.
- 3 **Contact no one connected to the case.** No complainant, no witness, no co-defendant — directly or through anybody else.
- 4 **Post nothing.** Assume every post, text, and jail call is read by a prosecutor, because it is.
- 5 **Show up, comply, and call me first.** Every court date, every condition, every time.

IF POLICE CONTACT YOU, SAY THIS AND NOTHING ELSE

“I have a lawyer. I am not answering questions.”

“I do not consent to a search.”

Then stop talking and call Cashman Law Office. You do not have to be rude. You do have to be finished.

WHO THIS BOOKLET IS FOR

This booklet was written for **clients of Cashman Law Office** and no one else. It is general information about how criminal cases work in Massachusetts. It is **not legal advice** — not to the general public, not to a friend or relative you hand it to, and not to anyone who is not a client of this office. Reading it does not make you my client, and nothing in it creates an attorney-client relationship. If you are not my client, talk to your own lawyer.

PART ONE: YOUR RIGHTS

Most people believe they know their rights. Most people are wrong about how those rights actually work in practice, and that gap is where cases get lost.

1. You have the right to remain silent.

The Fifth Amendment to the United States Constitution and Article 12 of the Massachusetts Declaration of Rights both protect you from being forced to incriminate yourself. In some situations, Article 12 protects you more than the federal Constitution does.

Three things you need to understand about that right:

Miranda warnings only apply to custodial interrogation.

Police have to read you your rights only when you are both in custody and being questioned. Roadside questioning during a traffic stop is often not custodial. A “voluntary” interview at the station where you are told you can leave is often not custodial. People assume anything said without Miranda warnings is thrown out. That is not the law. Statements made before you are in custody come into evidence routinely.

You have to invoke the right clearly. “Maybe I should talk to a lawyer” is not an invocation. “I don’t really want to say anything, but...” is not an invocation. Courts have held that ambiguous statements like these do not require police to stop. What works is plain and short: *I want a lawyer. I am not answering questions.* Then stop talking, and stay stopped.

Your silence generally cannot be used against you. Once you invoke, the prosecution cannot argue to a jury that your silence shows guilt. Sitting in an interview room saying nothing feels awkward. It is not evidence.

If you remember one thing: When you do not know what to say, say nothing.

2. You have the right to a lawyer — me — at every stage that matters.

The Sixth Amendment and Article 12 guarantee counsel at every critical stage of a criminal case. If you could not afford a lawyer, you would be entitled to one through the Committee for Public Counsel Services.

Two practical points:

You can ask for a lawyer at any time, including in the middle of questioning that has already started. Once you ask, questioning is supposed to stop. If it does not stop, that becomes an issue I raise later — but the important thing in that moment is that **you** stop.

You can ask for a lawyer before answering questions even if you are not under arrest and even if nobody has read you anything. If a detective wants to “just clear something up,” you can decline. Politely. *I'd like to talk to my lawyer first.* That is enough. Then call me.

3. You have the right to refuse a search.

The Fourth Amendment and Article 14 of the Massachusetts Declaration of Rights protect you against unreasonable searches and seizures. Police generally need a warrant or a recognized exception to search you, your car, your home, or your phone.

That protection has one enormous weak point: **consent**.

If there is nothing to find, consenting gains you nothing. If there is something to find, consenting gives it away and destroys my ability to challenge the search later. A search you agreed to is generally not a search I can suppress.

The sentence is: *I do not consent to a search.* You say it once, calmly. You do not argue. You do not physically resist if they search anyway. You write down what happened as soon as you can and you tell me.

This applies to your phone especially. Modern cell phone searches generally require a warrant. Your phone contains every text, photo, location point, and contact you have. Consent throws all of it away in one sentence.

4. You are presumed innocent, and the Commonwealth carries the entire burden.

You do not have to prove anything. You do not have to testify. You do not have to call a single witness. The Commonwealth must prove every element of every charge beyond a reasonable doubt — the highest standard in American law.

If the Commonwealth fails to meet that burden, you are not guilty. That is not a technicality. That is the rule.

5. You have the right to see the evidence against you.

Massachusetts has broad, largely automatic criminal discovery. The Commonwealth must turn over police reports, witness statements, expert reports, records of promises or inducements to witnesses, and more. Separately, prosecutors have a constitutional duty to disclose exculpatory evidence — anything favorable to you — whether or not I ask for it.

Part of my job is making sure discovery is complete, and litigating when it is not.

6. You have the right to confront the witnesses against you.

Witnesses have to come to court, take the stand, and be cross-examined. In most circumstances the Commonwealth cannot prove its case with out-of-court statements from a witness who never appears.

7. You have the right to a trial — by jury or by judge.

You choose. A jury trial in District Court is decided by six jurors. In Superior Court it is twelve. Either way the verdict must be unanimous. You also have the right to a bench trial, where a judge decides. Which one makes sense in your case is a strategic decision we make together, and it is ultimately yours.

8. You have the right to a reasonably prompt trial.

Under Massachusetts Rule of Criminal Procedure 36, you are presumptively entitled to be tried within twelve months of the return

day in the court where your case is pending, and to move to dismiss if you are not. The Sixth Amendment provides a separate constitutional speedy-trial right.

Two things to understand about that clock. Large categories of time do not count — including delay you requested, delay you agreed to, and in many circumstances delay you simply did not object to. And the dismissal is not automatic; I have to move for it. If your case is indicted and moves to Superior Court, a new clock starts there.

This is one of several reasons I will sometimes advise against agreeing to a continuance that sounds harmless.

9. You have the right to be present.

You have the right to be in the courtroom at every stage of your case. In most instances you are also *required* to be there. Missing court is one of the fastest ways to make your situation worse — see Part Two.

10. You have the right to reasonable bail.

Massachusetts presumes pretrial release. Bail exists to make sure you come back to court, not to punish you and not, by itself, to detain you. The Supreme Judicial Court has held that a judge cannot set bail at an amount you plainly cannot afford for the purpose of keeping you locked up, without additional findings. Article 26 of the Declaration of Rights and the Eighth Amendment both prohibit excessive bail.

If you were arrested without a warrant, you are entitled to a judicial determination of probable cause — presumptively within twenty-four hours.

11. You have the right to appeal.

If you are convicted after trial, you have the right to appeal. If you plead guilty or admit to sufficient facts, you give up most appellate rights. That is one of many reasons we talk carefully before any plea.

PART TWO: WHAT TO DO AND WHAT NOT TO DO

Most cases in Massachusetts are not lost in courtrooms. They are lost in the back of cruisers, on kitchen porches, in five-minute conversations with a sympathetic detective, on recorded jail phone calls, and in social media posts written at one in the morning.

DO THIS

Show up. Early. Every time. Be at the courthouse thirty minutes before your scheduled time. Courthouses have security lines and parking problems. Failing to appear generates a default warrant, can lead to your arrest, and damages your position on bail and at every future stage.

Follow every single condition of release. Every condition is a court order. Violating one is grounds for revoking your release and holding you — separate and apart from whatever happens on the underlying charge. Picking up a new charge while released can cost you sixty days in custody under G.L. c. 276, § 58; violating another condition can cost you up to ninety days under § 58B.

Call me first, before you do anything about this case. Before you talk to police. Before you respond to a subpoena. Before you talk to an insurance adjuster, a probation officer, a school, an employer, or a licensing board. Before you agree to anything. That is what you are paying for.

Tell me the whole truth, including the bad facts. Our conversations are privileged. I cannot fix a problem I do not know about, and the bad fact I learn from you in my office is manageable. The bad fact I learn from a prosecutor in a courtroom is not.

Write down what you remember, now, and give it to me. Names, times, addresses, what was said, who was present, what you were wearing, where your phone was. Memory decays

fast. Label it “Prepared at the request of my attorney” and give it only to me.

Preserve evidence. Photos, videos, texts, receipts, GPS records, medical records, work schedules, phone records. Do not edit them. Do not clean them up. Give me the originals.

Keep your address and phone number current with me and with the court. Notices go to the address on file. Missing a notice does not excuse missing a date.

Show up looking like you take it seriously. Clean, conservative clothing. No hats, no sunglasses, no phones out, no gum. Stand when the judge enters. Address the judge as “Your Honor.” Say nothing in court unless I or the judge asks you a direct question.

Bring documentation of the good things you are doing. Employment, school, treatment, counseling, community service, sobriety records, letters of support. These matter at bail, at disposition, and at sentencing.

Get ahead of the problem. If substance use, mental health, or anger is part of what brought you here, starting treatment voluntarily before you are ordered to is one of the few things that reliably improves outcomes. Tell me before you enroll so we handle disclosure correctly.

Tell me immediately if you are not a U.S. citizen. See Part Five. This changes the entire analysis of your case.

Tell me immediately if you hold a professional license, a firearms license, a CDL, or a security clearance. These have their own consequences and their own reporting deadlines.

DO NOT DO THIS

Do not talk to the police. Not to explain. Not to clear it up. Not to give your side. “Let me explain what really happened” is

the single most dangerous sentence a defendant can say to a police officer. If police contact you, say: *I have a lawyer. I am not answering questions. Call Cashman Law Office. Then call me.*

Do not consent to any search. Of your phone, car, home, bag, locker, or anything else. *I do not consent to a search.*

Do not contact the complaining witness. Ever. In any way. Not directly. Not through a friend, a relative, a mutual acquaintance, a shared account, or a child. Not to apologize. Not to ask them to drop it. In Massachusetts the Commonwealth prosecutes the case, not the complainant — they cannot drop it. What contact *can* do is generate new charges for witness intimidation and get your release revoked. This is the most common way I watch a defensible case become an indefensible one.

Do not contact witnesses or co-defendants. Their lawyer talks to me. You talk to no one.

Do not post about your case. Do not post at all, if you can manage it. No posts, comments, memes, stories, live videos, or messages about the case, the police, the prosecutor, the complainant, the judge, or the underlying events. Prosecutors look. Screenshots are evidence. Do not delete old posts either without asking me first — deleting can be charged as destruction of evidence.

Do not discuss your case on a jail phone or a jail tablet. Every one of those calls is recorded and routinely reviewed by prosecutors. The only exception is a properly placed call to my office. Assume everything else is being listened to, because it is.

Do not discuss your case with anyone but me. Not your best friend, not your cellmate, not your spouse. Only communications with me are privileged. Anyone else can be subpoenaed and made to repeat what you said.

Do not lie to anyone connected to this case. Not to police, not to probation, not to a pretrial services officer, not to me. Lying to police is a separate crime in many circumstances.

Lying to probation can sink you long after the case ends. The truth is hard. The cover-up is worse.

Do not miss a court date, a probation check-in, a drug test, or a class. If you have an emergency, call me *before* the appointment, not after.

Do not pick up a new charge. A new arrest while your case is open changes everything: your bail, your negotiating position, and your exposure.

Do not use drugs or alcohol if you are being tested. A dilute or missed test counts against you the same as a positive one.

Do not possess a firearm. If you have licensed firearms and any condition or order requires surrender, tell me immediately so we handle it correctly.

Do not talk to a private investigator, insurance adjuster, or reporter. Refer them to me.

Do not assume a “minor” case is minor. Consequences for immigration, employment, housing, and licensing often outlast the sentence by decades.

PART THREE: THE PROCESS, FROM ARRAIGNMENT TO TRIAL

Massachusetts criminal cases are handled in two trial-court departments. Which one your case lands in shapes the entire timeline.

District Court and Boston Municipal Court handle misdemeanors and a very large share of felonies — the ones where the potential sentence falls within District Court jurisdiction. Most cases in the Commonwealth start and end here.

Superior Court handles the most serious felonies, including murder, and any case the district attorney chooses to present to a grand jury. A case can start in District Court and move to Superior Court by indictment.

Before charges: the clerk-magistrate hearing

In some cases — typically misdemeanors where there was no arrest — you get a hearing before a clerk-magistrate *before* any charge issues. This is an enormous opportunity. The standard is only probable cause, but a clerk-magistrate has discretion not to issue the complaint at all. If the complaint does not issue, there is no case, no arraignment, and no entry on your record.

If you get a notice for one of these hearings, call me immediately. Do not go alone.

Step 1 — Arrest, booking, and the first 24 hours

You are booked. Photographs, fingerprints, personal property inventoried. In many cases a bail commissioner can set bail at the station so you are released before court, usually for a fee.

If you were arrested without a warrant, you are entitled to a judicial determination of probable cause presumptively within twenty-four hours.

Say nothing during this period beyond identifying information. Ask for your lawyer.

Step 2 — Arraignment

Your first court appearance, usually the next business day if you were held.

What happens: the charges are formally read, you are advised of the right to counsel, a plea of not guilty is entered on your behalf, the prosecutor asks for bail and conditions, I respond, and the judge rules. The whole thing takes a few minutes.

What arraignment is **not**: it is not a trial, it is not a chance to explain, and it is not the day anything gets decided about guilt. Say nothing except answering direct questions from the judge.

Arraignment is also the moment the case enters your CORI record — which is why the clerk-magistrate hearing above matters so much.

The judge sets your next date and, critically, the **conditions of release** that will govern your daily life until this case ends.

Step 3 — Bail and conditions of release

Bail is governed by G.L. c. 276 — § 57 (who may admit a person to bail), § 58 (the general bail statute, including release by a bail commissioner before court), and § 58A (the dangerousness statute). See Part Four for the full explanation of what these conditions mean and what happens if you violate one.

Step 4 — Discovery and the pretrial conference

Between arraignment and trial, the case runs on discovery.

The Commonwealth produces police reports, witness statements, booking video, cruiser and body-worn camera footage, 911 recordings, lab reports, and expert disclosures. I review all of it against what actually happened, and I litigate what is missing.

At the **pretrial conference**, I meet with the prosecutor, we exchange discovery, we identify what remains outstanding, and we file a written report with the court. Plea discussions frequently begin

here. Cases often have several pretrial conference or compliance dates before anything is resolved.

Your job during this stage is to keep showing up, keep complying, and keep me informed. Most of the real work happens outside the courtroom.

Step 5 — Motions

This is where cases are won.

Common motions include: motions to suppress evidence obtained through an unlawful stop, search, or interrogation; motions to suppress an identification; motions to dismiss for lack of probable cause or a defect in the charging documents; motions to compel discovery; and motions in limine to keep damaging material away from the jury.

A motion to suppress often involves an evidentiary hearing where officers testify and I cross-examine them under oath. Winning a suppression motion can end a case outright.

Step 6 — For serious felonies: grand jury and indictment

If the district attorney takes the case to a grand jury, the grand jury hears evidence presented by the prosecutor. There is no judge, no defense lawyer, and no cross-examination. If the grand jury returns an indictment, the case moves to Superior Court and you are arraigned again there.

An indictment is not a finding of guilt. It is a finding that there was enough evidence to proceed. In Superior Court the pretrial schedule is more formal, discovery is more extensive, and the timelines are longer.

Step 7 — Resolution short of trial

Most Massachusetts cases end without a trial. The realistic outcomes:

Dismissal. The case ends. Sometimes outright, sometimes on conditions such as court costs, restitution, or completing a program.

Pretrial probation (G.L. c. 276, § 87). A period of supervised good behavior — often six months to a year — with **no admission and no conviction**. Complete it, and the case is dismissed. Where it fits, this is frequently the best available outcome, and it generally requires the prosecutor’s agreement.

Continuance without a finding (CWOFF) (G.L. c. 278, § 18). You admit that the Commonwealth has facts sufficient to find you guilty, the judge does not enter a guilty finding, and the case is continued on probation. Complete probation, and the case is dismissed. A CWOFF avoids a conviction, but **read the warnings in Part Five** — for immigration purposes and for repeat-offense counting in OUI cases, a CWOFF is frequently treated as a conviction.

Guilty plea. A formal admission of guilt and a sentence. Pleas come in several forms — an agreed sentence, a capped recommendation, or an open plea where the judge decides. Each carries different risk. We will not resolve your case this way without walking through every consequence first.

Diversion. Drug court, mental health court, veterans’ court, and restorative justice programs exist in some counties. Conditions are demanding and run a year or more, but successful completion generally ends in dismissal.

Whether to accept an offer or go to trial is **your decision**, not mine. My job is to lay out the strengths, the weaknesses, the realistic exposure, and my honest assessment — including the parts you will not want to hear.

Step 8 — Trial

If we do not resolve the case, we try it.

1. **Empanelment (jury selection).** Six jurors in District Court, twelve in Superior Court, plus alternates. Both sides question and challenge potential jurors.
2. **Opening statements.** The prosecutor goes first. I may open then or reserve.
3. **The Commonwealth’s case.** Prosecution witnesses testify; I cross-examine each one.

4. **Motion for a required finding of not guilty.** At the close of the Commonwealth's case I move for a required finding — arguing the evidence is legally insufficient. If it is granted at that stage, the case is over and the Commonwealth generally cannot appeal.
5. **The defense case, if we present one.** We are not required to. Sometimes the strongest defense is that the Commonwealth failed to prove its case.
6. **Your decision whether to testify.** This is yours alone. If you do not testify, the jury is instructed that they cannot hold it against you.
7. **Closing arguments.**
8. **Jury instructions.** The judge instructs the jury on the law, including the presumption of innocence and proof beyond a reasonable doubt.
9. **Deliberation and verdict.** The verdict must be unanimous. If the jury cannot agree, the judge may declare a mistrial, and the case can be retried.

Step 9 — Sentencing, if there is a conviction

Sentencing may happen immediately or be scheduled for a later date. Both sides argue. The judge considers the offense, your record, and mitigating factors — employment, family, treatment, restitution, and the letters of support you gave me. Some offenses carry mandatory minimum sentences the judge cannot go below.

Step 10 — Appeal

If you are convicted after trial, you have the right to appeal. Deadlines are short and unforgiving. We will discuss this immediately if it becomes relevant.

How long does this take?

Honestly: longer than you want. A straightforward District Court case commonly runs several months to a year. A Superior Court case commonly runs a year or more. Rule 36 gives you a presumptive right to trial within twelve months, but a great deal of time is excluded

from that count — including delay you request, agree to, or fail to object to.

Delay is sometimes strategy and sometimes just the docket. I will tell you which one it is.

PART FOUR: BAIL, CONDITIONS, AND GPS

What bail is actually for

Bail exists to make sure you come back to court. It is not punishment, and it is not supposed to be preventive detention. The Supreme Judicial Court has held that a judge may not set bail at an amount you cannot possibly pay for the purpose of holding you, without making additional findings and considering your ability to pay.

What moves a bail argument: long-term residence, steady employment, family in the courtroom, no history of failing to appear, and a proposal of specific non-monetary conditions that address whatever the prosecutor says they are worried about.

This is why I want your employment records, your lease, and your family present at arraignment. That preparation is not visible from the bench, but it shows up in the argument.

Dangerousness hearings — G.L. c. 276, § 58A

In a defined set of cases — felonies involving physical force or a substantial risk of it, certain firearms offenses, certain offenses against family or household members, third-offense OUI, and several specific offenses named in the statute — the Commonwealth can move to detain you **without bail**.

If the Commonwealth moves under § 58A, the hearing is held quickly. A continuance you request generally cannot exceed seven days; one the Commonwealth requests generally cannot exceed three business days.

At the hearing, the Commonwealth must prove by **clear and convincing evidence** that no conditions of release will reasonably assure the safety of any other person or the community. This is functionally a small trial: officers testify, exhibits are introduced, and I cross-examine.

If the Commonwealth wins, you can be held without bail — up to 120 days in District Court, up to 180 days in Superior Court.

A § 58A hearing is one of the most important events in a criminal case. Whether you fight this case from inside a house of correction or from your own home changes everything about how it goes.

The conditions that will run your life

Whatever conditions the judge sets at arraignment govern you until the case ends. The common ones:

Stay away / no contact. No contact with the complaining witness, directly or indirectly. “Indirectly” includes messages passed through friends, relatives, social media, and shared accounts. A mutual friend saying “he’s sorry” on your behalf is a violation, no matter who started it.

GPS monitoring. An ankle monitor fitted at probation. There is usually a daily fee unless waived for indigency. It reports your location continuously and alarms if you enter an exclusion zone, leave an inclusion zone, or let the battery die. **Charge it. Every day. On schedule.** False alarms happen — bad cell coverage, a failing charging cable — and when they do, you need to be able to document exactly where you were. Call me the same day, not the next week.

Drug and alcohol testing. Random or scheduled screens. Positive, missed, dilute, and adulterated tests all count against you.

Treatment or program requirements. Substance use programs, batterer intervention, mental health counseling. Attendance is not enough — you have to actually participate.

Surrender of firearms. Automatic in abuse-prevention cases and common in others. Your license will usually be suspended for the duration.

Curfew and travel restrictions. Home by a certain hour; no leaving Massachusetts without court approval.

Reporting to probation even though you have not been sentenced to anything.

What happens if you violate a condition

There are two separate revocation tracks, and the numbers are different.

If you are charged with a new crime while released, the court can revoke your release under G.L. c. 276, § 58 on a finding of probable cause plus a finding that your release will seriously endanger a person or the community. That detention runs **sixty days**.

If you violate any other condition — a missed test, a curfew, a stay-away order — the court can revoke under G.L. c. 276, § 58B. The Commonwealth must show the violation by clear and convincing evidence (probable cause where the violation is a new crime), and the court must find that no conditions will reasonably assure safety or your compliance. That detention can run **up to ninety days**.

Spend ten minutes with me in the hallway after arraignment going through every condition, one at a time. Write them down. Make sure the people you live with understand the ones that affect them.

Bail is not permanent

Bail and conditions can be revisited. Changed circumstances — new employment, stable housing, completed treatment, sustained compliance, or long delays in the case — can support a motion to reduce bail or modify conditions. In many cases a District Court bail decision can also be reviewed by a Superior Court judge.

None of this happens automatically. It has to be moved for and argued. If your circumstances change, tell me.

PART FIVE: THE CONSEQUENCES BEYOND THE COURTROOM

For most clients, the sentence is not the worst part. The record is.

If you are not a United States citizen, read this twice.

Tell me your immigration status immediately. Green card holder, visa holder, DACA recipient, asylee, undocumented — all of it. This information is privileged and it changes how I handle your entire case.

Here is what people get wrong:

A CWOFF is treated as a conviction under federal immigration law. “No conviction” in Massachusetts does not mean “no conviction” for immigration purposes. A person can complete a CWOFF, get the case dismissed, and still face removal proceedings years later based on that same disposition. I have seen it happen to people who were never warned.

The specific statute you resolve under matters more than the sentence. Certain categories — crimes involving moral turpitude, aggravated felonies, controlled substance offenses, domestic violence offenses — carry consequences including deportation, being barred from re-entry, denial of naturalization, and loss of eligibility for relief.

A plea to a different statute, or a reduction in the offense level, can sometimes eliminate the immigration consequence entirely. That analysis has to happen *before* we resolve the case, not after.

Under *Padilla v. Kentucky*, I have a constitutional obligation to advise you about immigration consequences. Massachusetts law also requires the judge to give you a warning about immigration consequences before accepting a plea. Where the analysis is complex, I will bring in immigration counsel before we agree to anything.

Your criminal record (CORI)

Massachusetts keeps Criminal Offender Record Information — CORI — through the Department of Criminal Justice Information Services. Your CORI includes arrests, court appearances, dispositions, convictions, non-conviction dispositions including CWOs, probation information, and pending cases.

Different requesters see different amounts. Employers doing standard checks see less than schools, daycares, and agencies serving children or vulnerable adults, which are required by law to run broader checks.

Your CORI is not the only record. There is also the FBI database, the Registry of Motor Vehicles record, professional licensing board records, the sex offender registry where applicable, and publicly accessible civil court records including restraining orders.

Where a record actually hurts

Employment. Massachusetts “ban the box” rules keep most employers from asking about convictions on an initial application, but the question comes later. Some positions — schools, childcare, elder care, many healthcare and financial roles — have flat statutory disqualifications.

Housing. Many landlords run checks. Public and federally assisted housing have their own disqualification rules.

Firearms. Massachusetts licensing under G.L. c. 140, §§ 129B and 131 was substantially rewritten by the 2024 firearms act, with provisions phasing in through 2026. Licensing authorities can still deny or revoke on a finding that you are unsuitable — that you may pose a risk to public safety — which leaves them real discretion. Federal law layers additional lifetime disqualifications on top, including for misdemeanor crimes of domestic violence. If firearms eligibility matters to you, tell me before we discuss any disposition.

Professional licensing. Bar, medical, nursing, teaching, real estate, insurance, accounting, CDL, POST-certified law enforcement, and trade licenses all have their own reporting obligations and their own standards. A CWO can trigger a board investigation even

though it is not a conviction. Tell me on day one so we get the sequencing and the language of the disposition right.

Driver's license. OUI dispositions and certain drug offenses carry RMV consequences on their own timeline, separate from the criminal case.

Clearing your record later

Massachusetts gives you two tools.

Sealing closes a record to most public access. The record still exists and law enforcement can still see it, but to employers, landlords, and the public it is invisible.

- *Administrative sealing* (G.L. c. 276, § 100A): a petition to the Commissioner of Probation after a waiting period — currently three years for misdemeanors and seven years for felonies, measured from disposition or release from custody.
- *Judicial sealing* (G.L. c. 276, § 100C): a petition to the court that handled the case, with no waiting period. Findings of not guilty, no bills, and no-probable-cause findings are sealed on request. Dismissals and nolle prosequis require the judge to find good cause.

Expungement (G.L. c. 276, §§ 100E–100U) destroys the record entirely. Eligibility is narrower, but the remedy is more complete.

People carry old Massachusetts records for decades that they could legally have cleared. If you are past the waiting period on anything, call me. This is fixable work.

PART SIX: WORKING WITH ME

What I will do

Read everything. Every report, every recording, every frame of video. Investigate independently rather than accepting the Commonwealth's version. Litigate the search, the stop, the statement, and the identification where there is a basis to. Tell you the truth about your case, including when the truth is bad. Explain every offer and every consequence before you decide anything. Prepare your case as if it is going to trial, because that is the only preparation that produces good outcomes either way.

What I will not do

Guarantee an outcome. Any lawyer who promises you a result is telling you what you want to hear. Make your decisions for you — whether to accept an offer, whether to testify, and whether to have a jury are yours. Tell you only what you want to hear.

What I need from you

Honesty, attendance, compliance, communication, and patience.

How to reach me

Cashman Law Office

PHONE (508) 450-5545

EMAIL cashmanlawoffice@gmail.com

AFTER HOURS Leave a message or send an email. I return calls the next business morning.

If you are arrested or contacted by police: say *"I have a lawyer. I am not answering questions."* Then call this office.

Everything you tell me is protected by the attorney-client privilege.
Bring me the hard facts first.

MY CASE AT A GLANCE

Fill this in with me at our first meeting and keep it with the booklet. If you are ever unsure what is happening in your case, this page and my phone number are the two things you need.

MY CHARGES

COURT

DOCKET NUMBER

NEXT COURT DATE · TIME

WHAT THAT DATE IS FOR

MY CONDITIONS OF RELEASE

PROBATION OFFICER · PHONE

NOTES

CITATIONS AND SOURCES

Every legal statement in this guide is drawn from the following authorities. This list is provided so you can verify anything here yourself.

Constitutional provisions

- U.S. Const. amend. IV (searches and seizures); amend. V (self-incrimination, due process); amend. VI (counsel, jury trial, confrontation, speedy trial); amend. VIII (excessive bail); amend. XIV (due process)
- Mass. Const. Decl. of Rights art. 12 (self-incrimination, right to counsel, right to be informed of the charge, grand jury presentment); art. 14 (searches and seizures); art. 26 (excessive bail and cruel or unusual punishment)

Massachusetts General Laws

- G.L. c. 6, §§ 167–178B — Criminal Offender Record Information (CORI)
- G.L. c. 6, §§ 178C–178Q — Sex Offender Registry
- G.L. c. 140, §§ 129B, 131 — firearms licensing (FID and License to Carry)
- G.L. c. 209A — abuse prevention orders; G.L. c. 258E — harassment prevention orders
- G.L. c. 211D — Committee for Public Counsel Services
- G.L. c. 218, § 26 — District Court criminal jurisdiction
- G.L. c. 218, § 27A — District Court six-person juries
- G.L. c. 218, § 35A — clerk-magistrate (show cause) hearings
- G.L. c. 276, § 57 — officials authorized to admit to bail
- G.L. c. 276, § 58 — general bail statute; bail commissioners and after-hours release; bail revocation
- G.L. c. 276, § 58A — pretrial detention on grounds of dangerousness
- G.L. c. 276, § 58B — revocation of release for violation of conditions; detention up to 90 days
- G.L. c. 276, § 87 — pretrial probation
- G.L. c. 276, §§ 100A, 100B, 100C — sealing of criminal records
- G.L. c. 276, §§ 100E–100U — expungement of criminal records
- G.L. c. 277 — indictments and grand jury proceedings
- G.L. c. 278, § 18 — continuance without a finding; admission to sufficient facts
- G.L. c. 278, §§ 28–28E — criminal appeals; see also G.L. c. 211A, § 10 and the Massachusetts Rules of Appellate Procedure
- G.L. c. 278, § 29D — required immigration warning before a plea or admission

Massachusetts Rules of Criminal Procedure

- Rule 3.1 — judicial determination of probable cause after warrantless arrest
- Rule 7 — arraignment and pretrial release
- Rule 8 — assignment of counsel; S.J.C. Rule 3:10 (indigency and appointment)
- Rule 11 — pretrial conference and pretrial hearing
- Rule 12 — pleas and plea agreements
- Rule 13 — pretrial motions
- Rule 14 — mandatory and automatic pretrial discovery from the prosecution; Rules 14.1–14.4 — reciprocal discovery from the defense, discovery procedures, affirmative-defense notice, and mental-health disclosures
- Rule 18 — defendant’s presence
- Rule 19 — trial by jury or by the court
- Rule 20 — trial jurors
- Rule 25 — motion for a required finding of not guilty
- Rule 27 — verdict
- Rule 31 — stay of execution and relief pending review
- Rule 36 — case management; presumptive dismissal if not tried within twelve months of arraignment, excluding excludable delay

Federal statutes

- 18 U.S.C. § 922(g) — federal firearms disqualifications
- 8 U.S.C. §§ 1101, 1182, 1227 — immigration definitions, inadmissibility, and deportability

Cases

- *Gideon v. Wainwright*, 372 U.S. 335 (1963) — right to appointed counsel
- *Brady v. Maryland*, 373 U.S. 83 (1963) — prosecution’s duty to disclose exculpatory evidence
- *Miranda v. Arizona*, 384 U.S. 436 (1966) — warnings required for custodial interrogation
- *In re Winship*, 397 U.S. 358 (1970) — proof beyond a reasonable doubt
- *Barker v. Wingo*, 407 U.S. 514 (1972) — constitutional speedy trial analysis
- *County of Riverside v. McLaughlin*, 500 U.S. 44 (1991) — prompt probable cause determination
- *Crawford v. Washington*, 541 U.S. 36 (2004) — confrontation and testimonial hearsay
- *Padilla v. Kentucky*, 559 U.S. 356 (2010) — counsel’s duty to advise on immigration consequences
- *Riley v. California*, 573 U.S. 373 (2014) — warrant generally required to search a cell phone

- *Commonwealth v. Webster*, 59 Mass. (5 Cush.) 295 (1850) — the Massachusetts reasonable doubt standard
 - *Commonwealth v. Russell*, 470 Mass. 464 (2015) — model reasonable doubt instruction
 - *Jenkins v. Chief Justice of the Dist. Court Dep't*, 416 Mass. 221 (1993) — probable cause determination presumptively within 24 hours of warrantless arrest
 - *Commonwealth v. Augustine*, 467 Mass. 230 (2014) — art. 14 protection for cell site location information
 - *Commonwealth v. Crayton*, 470 Mass. 228 (2014) — in-court identifications
 - *Brangan v. Commonwealth*, 477 Mass. 691 (2017) — a judge must consider ability to pay and may not set unaffordable bail for the purpose of detention without additional findings
-

DISCLAIMER

This booklet is prepared solely for clients of Cashman Law Office.

It is general information about Massachusetts criminal procedure. **It is not legal advice.** It is not legal advice to the general public, and it is not legal advice to any person who is not a client of this office. If you are not a client of Cashman Law Office, do not rely on anything in this booklet — consult your own attorney about your own situation.

Reading this booklet, receiving it from someone else, or contacting this office does not create an attorney-client relationship. An attorney-client relationship with Cashman Law Office is created only by a signed written fee agreement.

This booklet does not cover every rule, exception, or recent change in the law. The law changes. Statutes are amended, courts issue new decisions, and deadlines and local procedures vary by court and by county. Nothing here is a prediction or guarantee about the outcome of any case, including yours.

For advice about your case, talk to me directly.

© 2026 Cashman Law Office. All rights reserved. Not for redistribution.



CRIMINAL DEFENSE • STRATEGY • RESULTS

Michael G. Cashman
— ATTORNEY AT LAW —

CASHMAN LAW OFFICE

(508) 450-5545

cashmanlawoffice@gmail.com

“I have a lawyer. I am not answering questions.”

“I do not consent to a search.”

SAY THESE. THEN CALL ME.

Prepared solely for clients of Cashman Law Office. General information about Massachusetts criminal procedure — not legal advice, and not legal advice to the general public or to anyone who is not a client of this office. ©

Cashman Law Office.