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Why the Fifth Amendment Is So Important

The Truth Behind the 99.6% Conviction Rate Understand the Fifth Amendment — And Use It

It's the job of the criminal defense legal system to ensure that those accused of crimes get fair treatment — so it may or may not shock you to learn that 99.6% of federal criminal cases have convictions, as of 2019. An important factor to remember is that a great majority of cases are handled or dismissed in lower courts.

But what happens if you're innocent and your case gets to the federal level? Should a 99.6% conviction rate worry you? Perhaps.

Why Conviction Rates Matter

A high conviction rate might seem like a source of comfort to an ordinary person. That means criminals are being put away for what they've done, right? Not always. Innocent people can be convicted, and it happens more often than you think. According to the Innocence Project, about 4% of federal convictions imprison innocent people. In state prisons, the percentage varies widely from 1%–10%.

If you're ever at the wrong place at the wrong time, you'd want to know you had a chance to prove your innocence. But proving innocence is complicated, too.

The Fifth Amendment: An Innocent (and Guilty) Person's Best Friend

Over the past few decades, the Fifth Amendment — or the accused's right to stay silent and never testify against themselves — has been slightly politicized by politicians and even judges speaking against it. However, as a constitutional right borne from an era of war and political misjudgment, it exists for a good reason.

The truth is simple: Most people don't understand that speaking to a law enforcement officer will usually result in their being accused of a crime, regardless of their innocence. Even if you tell the truth, the most well-intentioned police officer can still easily construe your words to point toward your guilt.

Whether you're guilty or innocent, you deserve fair treatment. To ensure the best results in your case, always direct police officers to your attorney. This puts a heavier burden on the government to make a case against you. This year, take on another resolution to never feel guilty for using your Fifth Amendment right! It's one of the best things you can do as an American citizen. Not every country allows it!



Getting Your Affairs in Order

Estate Planning in the New Year

At the beginning of the year, we all like to take some time to tidy up different areas of our lives. We make resolutions and get our affairs in order, hoping to streamline the upcoming year. One of the things many people address in the new year is their estate plan.

Here at Bolton Law Firm, estate planning is one of the few things we do that has a flat fee. Estate planning can help to make personal crises go more smoothly, and there are many components of it that are frequently even more necessary than having a will in place.

The first of those is a power of attorney, which is a powerful document that acts as written authorization for someone to represent or act on behalf of another in the event that they are not physically or mentally able to. I advise people not to fill it out unless they have a high level of trust in that designated person. Some may have great difficulty keeping up with the minutiae of life such as bills and payments — this happens most often with the elderly — and they'll put their children or some other trusted person on their accounts with them to help handle those tasks in the event that they are not feeling well enough to do so.

There are two different types of power of attorney: the general power of attorney, which we just discussed, and the medical power of attorney. The medical power of attorney is always a separate document than the standard power of attorney and gives a designated individual the option to make medical decisions on behalf of another.

A few years ago, my father wanted to refinance his home; my mother had Alzheimer's and was no longer competent. The mortgage company advised him that if he wanted to go through with the refinance, he would need a guardianship. Even though he does not live in Texas, he called me for advice.

Obtaining a guardianship would have taken a lot of time and stress to obtain, but I was pretty certain that he had a power of attorney, which he looked around for and was able to locate! Well before my mother lost competence, my parents had had their estate planning documents prepared. That preparation saved them from having to go to court to obtain a guardianship.



Just like in my father's case, having a power of attorney in place just in case often makes an *incredible* difference and saves a lot of money, time, and personal embarrassment. Without a power of attorney, my father would not have been able to take advantage of the refinance option.

Oftentimes, people feel superstitious about putting their affairs in order. No one wants to think about their own death or incapacity. But those events occur if we prepare for them or not, and they frequently happen without warning. In emergencies, I visit clients in the hospital to complete their will when they become terminally ill. Once, I was visiting a couple, helping out the husband before he passed away. While I was there, I recommended to the wife that we work on hers as well, but she was feeling too overwhelmed at the moment — her health was good and she told me she would address her own affairs after her husband passed. But she ended up passing away before he did, and her lack of a will caused her children a lot of money and trouble.

The truth is that you never know what tomorrow will bring, and if you're thinking that you can put it on the backburner, especially if you have children, significant property, or other assets, taking the time to plan your estate will never be a waste of time. January is always a great time to take inventory of your life, and we are here to help you along the way with estate planning, wills, and all of the other documents that come with it! We've got your back!

-Ruby Bolton



How Much Are Your Favorite Pants Worth?

One Man Estimated His at \$54 Million

Everyone knows that the perfect pair of pants can be hard to come by, but are they worth \$54 million? Administrative Judge Roy L. Pearson had a favorite pair of pants, but in 2007, he claimed that Custom Cleaners lost them and returned a completely different pair instead.

It all began when Pearson took his pants to the Washington, D.C., dry cleaners for alterations worth \$10.50. The pants were sent in error to the incorrect dry cleaner, so Pearson's pickup was delayed by several days. Once the pants were returned, despite bearing all the correct tags and matching his receipt, Pearson declared that the pants were not his. When the dry cleaner refused his demand for \$1,000 compensation, he decided it was time for legal action.

Pearson originally sued the cleaner's owners, Soo Chung, Jin Nam Chung, and Ki Y. Chung, for a whopping \$67 million in damages but later reduced the claim to a far more reasonable \$54 million. In his suit, Pearson requested \$3 million for mental distress, \$90,000 for a rental car to visit another dry cleaner, and \$500,000 in attorney's fees (Pearson represented himself). At the heart of his claim,

though, was the company's failure to live up to their "Satisfaction Guaranteed" and "Same Day Service" signs in the window.

The media had a field day, joking about the case as a "pantsuit" and inspiring a "Law & Order" episode called "Bottomless." Pearson seemed to relish the spectacle, calling his lawsuit "an awesome responsibility" in court and breaking down into tears on the stand. He also called a witness who compared the Chungs to Nazis. Even though the Chungs offered him a \$12,000 settlement to make the case go away, Pearson persevered.

He ultimately lost his case. At the end of the trial, the judge declared that no reasonable person would consider the signs at Custom Cleaners to be an unconditional promise — and also that Pearson had failed to prove the returned pants weren't his.

The Chungs ultimately recovered their court costs via a fundraiser, and Pearson lost his judicial appointment. Unsurprisingly, this prompted another lawsuit, which he also lost. In 2020, Pearson was suspended from practicing law for 90 days as a result of his actions in *Pearson v. Chung*. But for bringing new meaning to the phrase "I'll sue the pants off of you," his place in legal history is secure.

You're Not a Snowman

So Don't Feel Frosty

Winter is here, and the cold has settled in. You've gotten out your fuzzy slippers and put on an extra sweater, but maybe you still can't shake that chill. Before you crank up the heat again, is there anything else you can do to keep warm? Here are a few ideas you can try!

Use the sun. While winter brings plenty of cloudy days, the sun is still known to make an appearance. When it does, open your curtains wide and let the natural heat fill the room. Just be sure to keep that warmth inside by pulling the curtains closed when the sun goes down.

Bonus tip: Park your car facing the sun! It will be warmer when you get in, and you'll have less snow and ice on your windshield.

Stay hydrated (the right way). Did you know that your body is able to retain heat better when you're hydrated? That's just one more good reason to ensure you're drinking enough water. But you should be wary of hot beverages like coffee and tea. Though they make for a great hand warmer and temporarily leave you feeling toasty, caffeine restricts your blood vessels and makes it harder for your body to stay warm. Similarly, alcohol feels warm going down, but it both increases perspiration and lowers your core body temperature.

Keep your bed cozy. No one wants to go to sleep shivering, so your bed should ideally be the warmest place in the house. You can achieve this by layering your blankets properly: Fluffy layers go right over the sheet, and dense layers go on top to provide a thermal barrier. To up your game further, get a hot water bottle and leave it under the sheets for 20 minutes before you climb into bed. No hot water bottle available? Spend a couple minutes running a blow-dryer over the sheets instead.

With these tips, you're ready to have your warmest winter ever — without racking up your highest energy bill. Catch some rays, snuggle up, drink some water, and remember that spring will be here soon enough.



TAKE A *BREAK*



DEEP-FRIED NEW YEAR'S 'COOKIES'

What do you get when you mix a cookie and a doughnut? A portzelky! This traditional Mennonite "New Year's cookie" is perfect for sharing.

Ingredients

- 2 tbsp yeast
- 1/2 cup water, warmed
- 1/2 cup and 1 tsp sugar, divided
- 5 eggs, beaten
- 1/4 cup butter, softened
- 2 1/2 cups milk, warmed
- 1 1/2 tsp salt
- 4 cups raisins
- 7 cups flour
- 4 cups canola oil

Directions

1. In a large bowl, combine yeast, water, and 1 tsp sugar. Wait 10 minutes.
2. Stir in remaining sugar, eggs, butter, milk, and salt.
3. Fold in the raisins and flour. Cover the bowl with plastic wrap. Let the dough rise for an hour.
4. In a high-sided pot or deep fryer, heat canola oil to 340 F. Line a plate with paper towels.
5. Drop a rounded tablespoon of dough into the oil. Fry until golden brown, then set aside on the plate. Poke the cookie with a toothpick. If the toothpick comes out clean, it's cooked through!
6. Repeat until the batter is gone.

Inspired by MennoniteGirlsCanCook.ca

A CRASH COURSE ON OFFSHORE FINANCE

Like the Panama Papers released in 2016, the Pandora Papers published in October 2021 expose the financial secrets of some of the world's wealthiest people. In particular, they detail how the very rich use offshore finance to hide the extent of their wealth.

But what exactly is offshore finance? Why do people use it? Is it even legal to use?



Offshore finance gets its name from the island and coastal locations where the practice of creating foreign tax havens originated. Today, offshore finance refers to any financial instruments or assets kept in countries that are not the owner's country of residence.

When an offshore account is created, it follows the financial regulations of the nation in which it is held. Countries commonly used for offshore finance often have stricter privacy laws and allow the creation of shell companies. Shell companies are organizations that exist on paper only, without employees or offices, but act as a legal "shield" against taxation and creditors. (At least 19,000 shell companies exist in the Cayman Islands alone.)

Simply having an offshore bank account or shell company is not illegal or even necessarily a sign of nefarious activity. Lawyers and accountants who deal in offshore finance often know exactly how to use the law to their clients' advantage. They can also propose solutions that are technically legal. But concerns arise since the countries chosen to hold wealth offshore tend to prevent foreign governments from inspecting their accounts; this makes legal vetting next to impossible.

A lack of transparency is the main point of contention, and it's the reason why many people look at offshore finance negatively. Because the U.S. government cannot determine which assets are being held offshore, it cannot impose any taxes on them. Some parties also view hiding wealth offshore as a way of protecting a person's assets from civil lawsuits, creditors, or investigations in the owner's home country.

It's estimated that over \$1 trillion is held in offshore accounts, and studies indicate that the bulk of this money is owned by the ultra-wealthy. Further, experts believe that the tax revenue lost to offshore finance equals about \$800 billion per year worldwide. As to whether or not the Pandora Papers will inspire changes to the law, we'll just have to wait and see.