



(Excerpts from Ian Nathan Friedman, Criminal Defense Attorney, Cleveland, OH)

Discussion Conducted by Brother Carl Lomax, Galveston Police Department (20 minutes)

What Not To Do (Actions)

If approached by a police officer, do not attempt to flee, discard any items, make any fast gestures, or hinder their ability to approach you. This content is directed at all individuals regardless of whether or not they are in violation of law at the time they are approached. If a person attempts to flee, this will likely result in additional charges, will cause the officer and prosecutor to look unfavorably on any plea negotiations, and may result in injury to you or the officer. Discarding items which will likely be located anyway, eliminates most arguments a lawyer can make pertaining to unlawful searches and seizures. Fast gestures or movements increase a person's chances of being seriously hurt. Remember, a police officer approaches every scene cautiously and anticipates danger. There is no benefit to any unnecessary action particularly when the officer has deadly weapons in his possession. Obstruction in any manner will only result in a more aggressive prosecution.

What Not To Do (Words)

One of the most common questions asked of a criminal defense lawyer is whether a person should make a statement when questioned by the police. To begin, an ethical lawyer cannot unequivocally advise readers not to make a statement but all readers should consider their Fifth Amendment right against self-incrimination. (You have the right to remain silent. Anything you say can and will be used against you in a court of law. . . .) With that said, I advise my clients to exercise their right to remain silent when approached by police officers for investigatory purposes. When a person is approached by officers, certain variables may be present including heightened adrenalin, fear, exhaustion, mistaken or dishonest witnesses, mistaken or dishonest officers, or one's own mistake. A person's silence cannot be used against them in a court of law. As such, there can be no harm done by remaining silent. The lawyer will be relieved in most instances that a statement was not obtained.

What To Do (Actions and Words)

When approached by police officers, stay calm. These moments are crucial to your future case. Make mental notes of what is occurring around you. (i.e. How many officers? What are their names? What are they doing? What are they saying?) This information will greatly assist your lawyer. Be courteous regardless of your opinion or the officer's conduct. Again, this is a potentially dangerous situation but just as important, don't give the police officer a reason to want to make your case more difficult. If asked to make a statement, politely state that you would be more than happy to provide a statement if you could just have the opportunity to have your lawyer present. Chances are this request will be rejected but it looks good in the police report. Do not talk to anyone else about the facts including co-suspects, co-defendants, or co-cellmates. Assume that anything you say will be used against you. Just remember, there is no benefit to being aggressive.



What To Do (Final Thoughts)

If taken into custody, stay patient. Don't talk about the facts of the case with anyone, especially over the jail phones as these are usually recorded. Once released from custody, secure legal counsel right away and don't wait until an actual charge or indictment is issued. The reason for this is that memories fade fast. Your lawyer needs to hear your version of the facts right away as this is when one is most accurate. Moreover, if the situation so warrants, your lawyer may have to take immediate steps toward preserving evidence, locating witnesses, or seeking relevant information. Delay will only be detrimental to your case. Finally, by starting earlier to seek counsel, a person will have adequate time to interview different lawyers to determine who they are most comfortable with.