

Q: If the police question me, should I answer them?

A: Probably not.

An individual being questioned by the police may feel pressure to cooperate with them. The police often encourage a suspect to unburden himself by holding out the possibility that by cooperating, the suspect can untangle himself from the potential criminal charges. This is a common technique used by the police. The police have no intention of helping suspects. Often times, the police – lacking evidence with which to secure a conviction, can only obtain a conviction by compelling a suspect to incriminate himself. Many individuals, desperate to improve their situation, talk to the police, thereby drastically reducing their chances of an acquittal at trial. The police are not interrogating you in an effort to improve your position, they are trying to solve the crime – and at your expense. Resist the temptation to speak with the police without first having contacted a criminal defense attorney. Instead, inform the police of the following:

- that you are exercising your right to remain silent;
- that you are exercising your right to speak with an attorney before submitting to questioning;
- that you want to exercise your right to make a telephone call. (The police will not normally limit you to only one telephone call).

If the police continue to question you, say nothing. I have had clients inform me that when they insisted that they wanted to speak with a lawyer before further questioning, the police pressed the client to waive that right. Some detectives have told suspects that a lawyer would only make matters worse and that they, the detectives, were the only ones empowered to help the suspect. Detectives have often lied to suspects about the evidence that they have gathered. In an effort to brake a suspect's silence, detectives have been known to tell him that they have recovered his fingerprint from the crime scene. These tactics are not uncommon. The fact that you refused to speak with the police cannot be used against you at trial. Do not panic and do not allow the police to bait you into breaking your silence.

Q: If the police want to search me, my home or my car, should I give them permission.

A: Not unless they show you a search warrant.

The 4th Amendment to the United States Constitution guarantees you, as a citizen of this great nation, the right to be free of unreasonable searches and seizures. If the police violate your rights under the 4th Amendment, all the evidence that they have obtained as a result of this illegal search and seizure is not admissible against you at trial.

If the police ask to search you, your home or your car, say loudly and clearly that you do not give them permission to conduct the search. They may search anyway. But at least you have not given your consent to the search. If you consent to the search and the police

find evidence of a crime, it is unlikely that any court will find that the police violated your rights.

Cooperate with the police at your peril.

Q: When should I contact a lawyer?

A: At the first possible moment.

The earlier you contact a lawyer the better your prospects are for avoiding a conviction. Most criminal defense lawyers use answering services during their off hours that will contact them at home in the event that a client needs emergency assistance. The first few hours of an investigation or following an arrest can be critical. During their initial investigation, the police may have settled on an individual that they believe committed the crime. However, in an effort to postpone giving that individual his rights – possibly prompting him to call a lawyer – the police will claim that they had not yet reached a decision to arrest the individual. Believing that he can still talk his way out of this jam and feeling that by contacting a lawyer he will only heighten the suspicion he's under, the individual refrains from retaining a lawyer and just keeps on talking. Only when he has securely fitted the noose about his own neck and can do himself no further harm, will the police inform the suspect that they are placing him under arrest.

Q: The police never gave me my Miranda rights, is this grounds for dismissal of the charges?

A: No, but it may provide a legal basis for your attorney to file a motion to suppress any statement you might have made while in custody.

Before questioning or interrogating a citizen that is "in custody," the police are required to advise him of his rights. If the police question a citizen that they have arrested or detained without first giving that person the Miranda warnings, the defense lawyer should file a motion to suppress any statement given by the suspect. If the suspect gave no statement, there really is no available remedy.