

How to Deal With the Police

It is important to remember that the reason the police are dealing with you may end up being explained to a judge or jury in a courtroom. Police officers are trained to write down what people say and to repeat what they have heard later from their notes and reports. Most people do not write down what goes on between them and the police and they are at a disadvantage when it comes time to recall who said what several months or even years later.

So how do you deal with the officer who comes up to you on the street and says "Hold on, I want to talk with you?"

Your first response might be:

- **"How can I help you?"**
- or it might be **"What do you want?"**

The first example sets a better tone with the officer and lets her know that you are willing to talk, at least at first. The second example is more hostile and will be taken as a challenge to the officer's authority. The first response might very well lead the officer to say, "We're investigating a break and enter that just happened down the street and want to know if you saw anything." The second response may make the officer say, "Turn around and put your hands on the wall," followed by a pat down search where the officer searches your clothing for weapons which may be used to harm her or others. That will be followed by, "What's your name and let's see some identification?"

How you respond will often determine what happens next.

The basic rules

The basic rules after your first contact with an officer depend on what you might have done (which you know about) and what the officer thinks you have done (which you may not know about).

If you get the sense that the officer wants to talk with you because he thinks you might be involved in criminal activity, and then it is important to remember that the officer does not have to warn you of your constitutional rights unless they arrest you and intend to ask you questions.

The famous *Police* warnings go something like this, **"You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to a lawyer. If you cannot afford a lawyer, one will be appointed for you."**

Officers do not have to give these warnings unless you have been detained or arrested and they intend to ask you questions. This means that anything you might say or write, before you are arrested, can be

DON MORRISON, B.A., M.S.W., M.Sc., L.L.B.

Barrister

Call 24 hours: 604.688-8331
Toll Free: 888-244-9995
Email: don@donmorrisonlaw.com
http://www.donmorrisonlaw.com

5th Floor 195 Alexander St.
Vancouver, British Columbia
V6A 1B8, Canada

used against you in court. Many people have received lengthy prison terms because of what they said or wrote before their arrest. Many people have talked with police and admitted to criminal activity while on the street and paid the price for their ignorance of the law with a long stay in prison.

The advice contained in the warnings applies to all police-citizen contacts. If approached by an officer, you do not have to answer any questions they may ask you, even if you are not arrested. You are perfectly within your rights to say to the officer who asks to speak with you, "**Officer, I do not want speak with you. Good bye.**" At this point you should be free to leave the officer's presence. The officer may not like this and may challenge you with words like, "**If you have nothing to hide, why won't you speak to me?**" Just like the first question, you do not have to answer this one either.

If you refuse to answer the officer's questions, they might take the next step by saying, "**You will have to stay here and answer my questions**" or "**You're not leaving until I find out what I want.**" If the officer restrains you by words or actions, such as putting you in a squad car or in handcuffs, then they must give you the *Police* warnings, if they intend to ask you questions. If they just want you to sweat, they may not give you the warnings at all and just take you to the station, just to show you who is the boss.

If you are not free to leave, you have been arrested, whether or not you are taken to a police station. If the police have arrested you, that means that they have enough information to believe that you are at least a suspect in criminal activity. Under these circumstances, you should follow the advice of the warnings and refuse to tell the officers anything unless you are provided with a lawyer. After telling the officer your name and date of birth, you should say, "**I will not answer any more questions until I have a lawyer present.**" This may mean that you will spend a little bit longer time in jail until you can call a lawyer, but it will be worth the wait. You will not be able to successfully talk your way out of police custody, once you are arrested, without a lawyer's help.

Sometimes the police arrest people on suspicion, hoping that they will confess or make a statement which can be used against the person. Often, the police will tell the arrested person that cooperation with them is best and it will go better for them if they cooperate by talking. Remember, talking and writing are the same and you do not have to sign a written statement before it can be used against you.

Officers may promise shorter sentences and other deals for statements or confessions. The police cannot legally make deals with people they arrest. The only person who can make a deal that can be enforced is the prosecutor, and he should not talk with you without a lawyer present who represents you.

It is legal for the police to lie to you about what they know or suspect or what other people have said about you. The police might try these or other tricks to get you to talk. Police often do not tape record or videotape interviews with those they arrest. If you talk with them, it will be your word against the officer's word about what you said. You should refuse to talk without a lawyer present to represent you,

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no matter what the police say. A weekend spent in jail waiting for a lawyer is better than a lengthy prison sentence spent because you talked to the police without a lawyer to help you. Trying to talk your way out of the police station by telling the police what they want to hear or by telling a lie will always do much more harm than good to your case.

The only exception to this rule is if you are arrested for drunk driving. Then, you will need to figure out if you want to take a breath test, as required by law. If you refuse to take such a test, after being arrested for drunk driving, you will have committed another criminal offence.

If you have been arrested for just drunk driving, it may be advisable to take the test. If you were involved in an accident where people were killed or seriously injured, it may be advisable not to take the test and suffer the consequences rather than give the police evidence of your possible intoxication. In either event, the police do have to let you speak with a lawyer before taking the test. If you tell them that you will not take the test without a lawyer present, they will treat your comment as a refusal and so will the court.

Important

Remember, in most situations you are under no obligation to talk with the police. If you are arrested, then you should immediately ask to have a lawyer present and you should not say anything to the police until a lawyer who represents you is present.

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