

FIVE BIGGEST MISTAKES IN CRIMINAL MATTERS

If you are ever contacted by the police (or any other law enforcement), or ever suspected, investigated, arrested or charged with a crime, you should NEVER do any of the following. These are **the five biggest mistakes** people often make.

1) *They make a statement.*

The **single biggest mistake** people make when they are suspected, arrested, or charged with a crime is that they make a statement without a lawyer present. If you are suspected, arrested, or charged with a crime, often the most damaging thing you can do is waive your rights and make a statement to police. It is YOUR RIGHT not to make any statements. You can give them your name, address and date of birth. But Nothing more. You should NOT make any statements especially if you are innocent. Innocent people say the wrong things to the police all the time, which will make it far more difficult to prove their innocence later on.

Many times people make a statement thinking that it will help them in some way when it amounts to being a confession or damaging in some respect. Further, there is no guarantee that a statement will even be accurate. When you make a statement to police you are relying on them to take your words down accurately and truthfully. You should never take this for granted. Having an attorney present makes it much more likely that the statement will be accurately recorded. If, after speaking with an attorney, it is truly in your best interest to make a statement, you can almost always make that statement later.

2) *They consent to searches.*

If police want to search through your house, your car, or your possessions, they will typically need a **search warrant** to do so. One exception to this rule is when suspects consent to searches. Police may or may not have enough evidence to potentially seek a warrant to conduct the search, but they will almost always indicate a warrant is just a formality. For example, police may say that it is “just a matter of time” before they obtain the warrant. In some cases this is true, in others it is not. The problem with consenting to searches is: 1) If the police really don’t have probable cause to search your house, car, or belongings, you have just waived an important right; 2) you have just guaranteed that police will in fact conduct the search as opposed to following the warrant process where they may or may not adhere to the requirements for a warrant; 3) There is no discernable benefit to be obtained from consenting to a search. If police obtain a warrant, you are no worse off than if you consented to a search.

3) *They don't speak with a lawyer until serious, irreversible damage has been done to their case.*

People typically wait too long to speak with an attorney. Good advice from an attorney at the investigation stage can result in a much better outcome for your case. An attorney can: 1) shut down communication attempts with the police or negotiate protections for their clients; 2) explain the jeopardy the client is in in concrete terms of the actual crime and associated punishment; 3) negotiate with the prosecutor prior to the filing of the case; 4) negotiate terms of a surrender where applicable, and 5) find out more about the circumstances of the investigation itself, including locating and preserving evidence that shows innocence that is at risk of destruction with time

Every attorney has a story of a case where, if only the client hadn't blundered through the investigation phase of the case, charges likely would not have been filed. If an attorney is able to give you good advice that avoids charges, the cost of that representation will likely be far less than it would after charges are filed. Many times initial consultations are free of charge.

4) *They talk about the case with people other than lawyers.*

Everything that you tell your lawyer is typically a privileged, confidential communication the lawyer cannot share with others. Communications during a consultation with your lawyer cannot be used against you in a criminal prosecution. The same is not true with virtually anyone else. Communications with loved ones, employers, friends, or other people are not privileged and can, in most circumstances, be used against you. This is especially true if you are held in custody where all phone calls are recorded. None of those statements are confidential and, if discovered, the prosecutor will not hesitate to use them against you.

5) *They send text messages, emails, and post damaging things on social media.*

These days, the first place police will often turn for evidence is a suspect's social media accounts. Nothing is confidential on social media. You should always that law enforcement will be reviewing your social media accounts for incriminating evidence. Many times, people will post what they believed to be an "innocent" account of what they are being investigated about, only to find out that the information posted on social media can be twisted and be used against them later.

Changing privacy settings can help to a degree—but damage can still be done on social media accounts if you have damaging information that is published.

Remember also, the act of sending a text message, an email, or even leaving a voicemail can be extremely damaging to your case if admissions are made. In some circumstances (such as a violation of a no-contact order case) even a phone call can be damaging if the recipient of the phone call has caller ID.

If you are ever investigated, accused, or suspected of any illegal behavior, please remember:

1. Do NOT make any statements to the police (Instead, say “I want to speak to a lawyer.”)
2. Do NOT consent to searches. Tell them to go get a warrant.
3. Find yourself a reliable lawyer right away
4. Do NOT talk to anyone about the subject, unless they are your lawyers.
5. Do NOT text, message, or post about the subject matter.