

# Encounters with Law Enforcement

What to do if you are arrested?

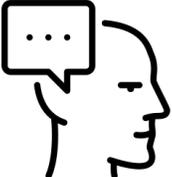
By: Robert Adams, Esq.

Date: January 15, 2019

As counsellors, it is our duty to get people in the habit of thinking about the security and well-being of their own interests. Like the old saying goes “hope for the best but plan for the worst.” That is what lawyers do – we help clients plan for the worst and one of the worst things that can happen to a person is to have their freedom taken away. Having any type of encounter with law enforcement can be a traumatic experience; however, if during that encounter, you find yourself being placed under arrest, it is easy to blank out and forget how to conduct yourself. Sometimes, the flight-or-fight primal response kicks in, but that will only make things worse.

We offer these eight (8) things to remember if you are ever arrested because it is important to understand what to do if your freedom is ever taken away by a Law Enforcement Officer (“LEO”).

1.		<p><b>Do not resist, fight, argue, complain, or degrade a LEO.</b></p>	<p>Fighting or arguing with a LEO is not going to change their mind about arresting you and if you are not careful, it could lead to additional evading charges against you.</p>
2.		<p><b>Do not attempt to escape or elude arrest.</b></p>	<p>Escaping or eluding arrest is its own separate crime even if you should have never been arrested in the beginning. If you are later acquitted or have the original charges against you dismissed, you may still be jailed for escaping, eluding, or attempting to escape or elude arrest. Do not become a fugitive to prove your innocence.</p>

3.		<p><b>Comply with all LEO instructions.</b></p>	<p>Once you are under arrest, even if you should not have been arrested, your best option to get through this process as painlessly as possible is to comply. Resisting or refusing to cooperate will not help you and may make the situation worse.</p>
4.		<p><b>Do not consent to any searches or questioning.</b></p>	<p>A LEO may search you at the time you are placed under arrest, but if asked, never consent to a search. This makes the LEO have to justify their search to the courts. If something is found during the search and they ask you about it, refrain from answering. Do not lie and say “it’s not mine.” Lying will not help you nor are they going to magically release you. You can decline to answer questions, but do not be disrespectful.</p>
5.		<p><b>Make mental notes of the circumstances of your arrest and if/when, where, how, and by whom your rights were read to you.</b></p>	<p>A person under arrest is still entitled to have their rights protected. The courts require a LEO to read your rights to you even if you already know them. All of this information needs to be provided to your attorney as soon as possible. Try to remember as many details as possible until your attorney can write it down.</p>
6.		<p><b>If requested, you may provide your legal name and date of birth but answer no other questions.</b></p>	<p>In California, you are not required to carry government-issued identification as long as you are not driving a motor vehicle or in a secure location, like an airport. A LEO may request to see your ID and hold you for a reasonable amount of time if you do not have any on you. A LEO may also ask you to identify yourself. If asked, and only after being asked, you may provide your full legal name and your date of birth. Do not answer any other questions.</p>
7.		<p><b>Request your attorney and do not speak until your attorney instructs you otherwise.</b></p>	<p>You should only speak with a LEO if advised to do so by your attorney and then, only in their presence. Never speak without your attorney’s permission. Remember, anything you say can <b>and</b> will be used against you.</p>

8.		<p><b>If you are tricked into answering questions or you foolishly choose to answer questions anyway, you can stop talking at any time and request your attorney.</b></p>	<p>Without realizing it, you may begin speaking with a LEO. They may lull you into a false sense of helpfulness by making empty promises. Never speak to a LEO without your attorney's permission and then only in their presence. Request your attorney as soon and as early as possible.</p>
----	---	---	--