

## Legal Advice

This is not legal advice. That's the first thing I need to tell you, okay? I'm not a lawyer, and I'm required by state law to tell you that, and to tell you that I can't give legal advice, and that if you need legal advice, you should seek the counsel of an attorney.

Give me a second, I want to close the door to my office.

Okay. I know you called today hoping to talk to an attorney, maybe get some legal advice, maybe find out just how much trouble you're in, maybe find out what's going to happen next. I don't know what's going to happen next. I don't know how much trouble you're in, but I don't think it's as much as you may think it is. You're certainly not in as much trouble as you could have been. You probably won't end up in as much trouble as you could. It depends on what you do. But you don't need to hire an attorney. Not yet. When you need to hire an attorney, then you're in trouble.

This is how we do this here. The calls come in from people who maybe or maybe don't need an attorney. They're wondering, Do I need an attorney?, so they get our number out of the phone book, like you did, and they phone up. The calls come to me, and I get the basic information. I write it up and give it to the attorneys I work for. They decide what to do next. But you haven't been charged with a crime, and the cops let you go, so right now, you don't need an attorney. But we can talk. I understand you have a few questions and concerns. We can talk about those. But I have to make it clear—this is not legal advice. You can call it friendly advice, or neighborly advice. Neighborly advice is better, since we're not friends.

You cannot sue the police for sticking a gun to your head. Sorry. If they'd blown you away, then your survivors—for instance, your little girl, or actually, her guardian, acting on her behalf—they could sue. They could maybe even win, depending on circumstances, like what actually happened, what witnesses there were, what they say, who the judge is and what he or she thinks about things, what the jury thinks if there's a jury—all sorts of things. If the only witnesses were the cops and your little girl, then the cops would probably say that you had threatened them or resisted arrest or something and they had to shoot you, and that would have been

that. Since your little girl is only five, nothing she said would really have much weight in a court of law, if it came to her version of the story versus a police version of the story, and if the story was that you got killed by the police.

But that didn't happen. Thank God that didn't happen. That really would have traumatized your little girl. And I can understand it was pretty scary as it was. I mean, there you were, it was late at night, you had just pulled up to your dealer's house and got out of your truck, and all the sudden here's this plainclothes cop sticking a gun against your head and screaming, "Police! Freeze!" That would have scared the bejesus out of anybody. But you can't sue the police for scaring you. Sorry. Scaring people is part of their job. It's not nice, it's not what we would want in a perfect world, but it's the way it works. It's just part of their job.

Now let's go over again what you told me. I want to make sure I got this straight. You used to smoke crack but you don't do it anymore. It's been about a year since you last smoked crack. But you have a friend who wanted you to score some crack for him, so you took him to your dealer's house. Your old dealer's house, from back in the days when you smoked. And lo and behold, a year later, this person is almost certainly still dealing, from what happened when you got there.

You took your daughter along, even though it was late at night, because your girlfriend, who is the mother of your daughter and with whom you live, was at work. This was not the best move, to take your daughter with you, but we'll get back to that. I want to make sure I got the story straight first. You got to your dealer's house, you got out of your truck, and that's when, all the sudden, there's an undercover cop screaming in your ear and holding a gun to your head, and another undercover cop on the other side of the truck screaming into your friend's ear and holding a gun to his head, and in between, on the seat of the truck, there's your little girl, who probably started crying pretty quickly.

Then the story gets interesting. The undercovers had uniformed backup, who showed up and took you and your friend downtown for about three hours' questioning, while one of the undercovers gave your daughter a teddy bear and drove her around in his car for a couple hours while you were busy, then took her home to your girlfriend after she got home from work. After they were done talking to you, they took you and your friend back to the truck and let the two of you go and told you to go away from that place and never be seen around there again. They didn't bust you, and you're wondering why they didn't bust you. I'll tell you why they didn't bust you—you're not who they were after. You just happened to show up in the wrong

place at the wrong time. As far as that goes, showing up at a crack dealer's house at any time is being in the wrong place at the wrong time, but I'll get back to that. You and your friend and your little girl stumbled into a stakeout. The cops were there waiting for someone else. Who else, we don't know and we don't care. If you know, I don't want to know and neither do you, so if you do know, forget that you do and forget that you know about that place.

Also, you weren't carrying. They didn't bust you because you didn't have any crack or pot or concealed weapons or anything like that. So far, so good. And you didn't have any warrants out. Even better. And you weren't intoxicated, you weren't drunk or high or strung out. You weren't endangering your child, too much, though you were a little. I'll want to talk more about that in a minute. And then, after the cops had scared the holy living hell out of you, you didn't bullshit them. They took you downtown and you told them exactly what you were doing there at the dealer's house and you were obviously scared as hell and they knew you weren't who they were waiting for, whoever that might be. They knew exactly who you were—a low-level user who was in the wrong place at the wrong time. They may even have believed your story, that you hadn't used in a year and you were just there to help out a friend.

But that leads to the matter of friends and how to help them. Now here, this is going to sound like advice, and maybe it is, but I have to repeat, this is not legal advice, and I am not a lawyer, and I have to tell you that. I'm required under the Rules of the State Supreme Court to tell you that. But ask yourself, is it a good thing to help a friend score crack? You know what it's like. You told me you used to use. I know you know what it's like to need that stuff and not be able to stay away from it. You got real lucky. You got off it and got away from it, and for a year you and your girlfriend and your little girl were building a life and living it, where nobody was strung out on crack. So don't go back. Don't go anywhere near there. Remember, you know what it's like. You know what it's like when you're crying right down to the bottom of your soul, when you're crying right down in your heart of hearts, because you know you don't want that stuff and it's killing you and hurting the people closest to you but you let it hook you and now you can't get it to let you go. But you're not there anymore. You got away. It's great. But when you've got a friend who hasn't got away, and comes to you to ask you to help him score, you've got to tell him no. You don't have to try to get him into rehab or anything like that, but you've just got to tell him you can't help him score. You don't want to be near that stuff because of your own history, and you don't want to put anyone who is really a friend through that. You know this. I know you know this. I can tell just from your voice that you're a good person.

Also, you don't want to be in a position where you could get busted for possession or for possession with intent or for conspiracy. Your girlfriend is practically your wife, and your daughter—well, what can I tell you about how important your daughter is. You know how important she is. And you know what a boneheaded move it was to take her with you that night. My God, what if you had been shot? Right there in front of your little girl, your head blown open, stuff spattered all over. I know you've thought of it, and I know this sounds harsh. It's supposed to. I want it to.

So we agree. It was foolish and you won't do it again. You were not who the cops were after. You were sort of a bonus prize. A small-points bonus. They got to scare some sensible behavior into you. I don't expect you to hear from them again, though you may. There is a greater danger we haven't talked about yet, and I saved it for last. It's the matter of your little girl. The cops could have charged you with child endangerment, or child abuse, or contributing to the delinquency, but they didn't. For whatever reason, they didn't. I can only guess as to why they didn't. They probably didn't want to be bothered by it, given the circumstances. Also, there was the undercover who drove your daughter around. She probably fell asleep in his car after a while, but before she fell asleep, he probably asked her a few things about mommy and daddy and what living with them was like. Whatever answers she gave were the right ones, because if he had thought she was in any danger, he wouldn't have turned her over to her mother.

Still, there's a police report about all this now. Social Services or Children Youth and Families could have their attention drawn to this report, and they could come around knocking on your door to make sure your little girl is in a safe environment. So this is what you need to do, and you need to do it right away. And remember, this is not legal advice. It's neighborly advice. But if you've got anything in your house that, from the point of view of Social Services or Children Youth and Families, should not be there, you need to remove it right away. Those people are real hard asses about protecting kids. They won't hesitate a moment to take a kid out of a home if they think the kid is in danger. Better safe than sorry, you know? So if you've got any marijuana, any paraphernalia, any souvenir crack pipes from the bad old days, any syringes, cooking spoons—anything like that, you need to get it out of there right away. And don't stash it in your truck. Those people are not stupid, and they could show up with cops and a warrant. They probably won't, but you want to be on the safe side. Even if you have any beer or wine or hard liquor, you want to get rid of it. And I don't know how you live, but if the place is a mess, you want to clean it up. No dirty dishes in the sink. No trash laying around. Clean it up. Vacuum, dust, wash the

windows, clean the bathroom. I'm not kidding. Make that place shine. You can figure that for the next several months, you're going to need to toe the line. It can take months for the bureaucratic wheels to go around and for the police report to come to the attention of the appropriate state social workers, if it's going to, given that there's no apparent clear and present danger to your daughter.

You don't need a lawyer right now, and good that you don't. Lawyers are expensive. Wherever they are, there's trouble. Don't get me wrong, I enjoy working for them, it's interesting, but people who need lawyers are in trouble, and people who hire lawyers when they don't need them are looking for trouble. If the police show up at your door wanting to talk more about what happened, then you need a lawyer. If they call you to come in and talk to them some more, then you need a lawyer. You're perfectly within your rights to tell them you don't want to talk to them without a lawyer, but I should let you know that, when you tell that to the police, they automatically assume you are guilty of whatever they think you are guilty of, and worse besides. People even get indicted for refusing to talk to the police without a lawyer. It never shows up in the grand jury transcripts quite that way, but that's the way the cops and the DAs spin it, and that's the way a lot of grand jurors think of it. They can't help it. That's just the way they are.

If Social Services or Children Youth and Families shows up at your door or wants you to come in and talk, then you need a lawyer. But with them, if they show up at your door and they want to come in and see how you're living, it's best just to let them in. They're going to be just like cops, prosecutors, and grand jurors. They're going to think you're trying to hide something if you stand on the ceremony of your right to counsel. That's why you should make sure your place is clean and shiny and drug-free. Hell, there shouldn't even be cigarettes there. Then if the state shows up, you can let them in—Come in, Ms. Social Worker, and see my beautiful, clean, and safe home. We're all happy here, and we're taking care of each other. Sure, we've made some mistakes, but we've put all that behind us. No, we don't have a lawyer. Please, have a seat. Coffee?