

The Police Have Left Word That They Want to Speak With You...

What Does it Mean and What Should You Do?

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The Police Have Left Word or are at the Door Because They Want to *Talk* to You. What Should You Do?

The ultimate and easiest answer is of course to contact a **criminal defense lawyer immediately**. Easy for me to say, especially when I happen to BE a criminal defense lawyer. In this pamphlet, however, I hope to begin to explain why it is true that you ought to seek out a criminal defense lawyer, even (especially) if you believe you are innocent of any crime.

The first and most important thing you need to come to grips with when the police have left word that they are looking for you to *speak* about something is that in all likelihood, they are not interested in coming to tea.

The odds are they want to arrest you. In most cases, by the time law enforcement makes it personally known to you that they want to *speak* with you, **the decision to arrest you has already been made.**

This bears repeating.

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I repeat myself because so many people have needlessly caused themselves so much misery because they could not accept that **the decision to arrest them had already been made.**

Nobody wants to be arrested. People are afraid of being arrested (and justifiably so). Therefore, people will bend over backwards in their own minds to convince themselves that if only they can sit down and calmly discuss things with the police that everything could be straightened out.

The police know this and so will go out of their way to take advantage of this. They will always use nice phrases like "straighten everything out", "get it out in the open", "cooperate" and a dozen other meaningless buzzwords when contacting people they already intend to arrest.

They **won't** say, "Could you have your son contact us so that we can get him to admit to a B violent robbery for which he faces a mandatory minimum of 5 years in prison. They **will** say, "We would like to straighten out a little problem involving your son and another kid's lunch money."

The desire to believe that you are not going to be arrested is so great, and the belief that if you are innocent you couldn't possibly get arrested is so great, that some people who read this very article, when personally faced with the prospect of police wanting to *talk* to them, will choose not to believe what I have written.

Instead they will choose to *cooperate* with the investigation -- and most of them will

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severely damage their own situations and create a higher than necessary likelihood of bad things happening (including potential prison time).

This should obviously not be taken to mean that anyone should ever flee when the police start leaving messages to contact them. Running from an investigation is never a real answer and inevitably causes untold greater difficulty. There is a difference, however, between running from an investigation and making uncounseled statements to the police in a matter in which you or a loved

one could end up being wrongly accused of a crime.

The most sensible course of action when you are being sought by the police is to contact a criminal defense lawyer immediately, if possible, so that the criminal defense lawyer can act as an intermediary between you and the police.

A criminal defense lawyer can in many cases find out definitively whether or not you are the target of a criminal investigation or whether you are simply being sought as a potential witness to some criminal activity.

Are You a Witness or an Accomplice?

The determination of whether you are being sought as a witness or as a target is nowhere near as clear and easy a determination as you might think. If you agree to speak to police officers on the theory that you are a *witness* you had better be extremely sure of yourself. Keep in mind that your idea of a *witness* as a non-lawyer may be different from the police's idea of a *witness*. Non-lawyers tend to imagine that everyone is a potential witness who didn't actually do the obvious criminal act.

For example, non-lawyers perceive that those who are watching two people fight are *witnesses*. The police may (and frequently do) treat those who watch two people fight as *accomplices* to whoever wins the fight. If the police treat you as an accomplice and not a witness, then you can be arrested as if you threw the punches yourself under a theory called *acting in concert*.

People are often amazed to find themselves arrested under such circumstances when they thought (and may even were told) that they were talking to the police about the fight they *witnessed*. To be sure they may have defenses to the charges, but that doesn't stop the police from arresting them and that doesn't stop the prosecution from prosecuting them and forcing a jury trial if necessary.

Furthermore, once you have a criminal defense lawyer involved on your behalf, you save yourself the trouble of having to listen

the enormous amount of complete nonsense you will likely have to listen to from the investigating officer or detective. Nothing the police say to you as a potential target in a criminal investigation can be trusted.

Lies, deception, and trickery are all time tested, legal, classic methods employed by police when attempting to get suspects to make statements or otherwise incriminate themselves. Many of the techniques employed by the police are quite powerful and tempting to believe. Therefore, the less you are subjected to it the better for you.

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In those rare cases in which you are contacted before the decision to arrest has been made, they are usually attempting to see if they can do or say something to you that will convince you to make their case for them. If there is a criminal defense attorney involved, then you will be insulated from such conversations. The police will not get any damaging information from you and you may actually never be arrested.

One of the biggest dangers of speaking to the police is that you cannot know what they know already. They may know far less than you think going into the interview.

Therefore, you may tell them things they didn't actually know and may never have known but for your own words.

A classic example of this is when someone "cooperates" with the police, gives a statement that denies guilt, but still nevertheless ends up providing damaging information to the police. The "I was there and saw the whole thing, but I didn't do it" statement is seemingly harmless because the upshot of it is that the defendant denies guilt.

So what's the big deal? What if the identification evidence that the defendant was the person was very weak? What if the police had some doubt in their minds about whether or not the suspect was actually present? That doubt has been removed by the defendant himself who conceded that he "was there". Now the only thing that remains to be determined is the defendant's role.

They may also know far more than you think they do.

They may also lie to you about what they know or about what other people said. By the way this is considered perfectly legal and even encouraged as good police work. For example, a police officer may tell a suspect that the person he stabbed pulled through the surgery and is going to be all right. The suspect, worried about a murder case, may feel it "ok" then to admit to having actually stabbed the person. If in fact the victim had actually died in surgery, the police have a nice confession on a homicide case.

The bottom line is that as a suspect in a criminal case, you have no idea whether any little thing you say will end up connecting you by some bizarre coincidence to a piece of evidence that just might get you wrongly convicted of a hideous crime.

One thing not to worry about excessively is that your request for a lawyer or insistence on having a lawyer pre-arrest will somehow tip the scales and cause the police to "know" that you are guilty, and therefore cause them to arrest you when they might not have arrested you otherwise.

Remember the first assumption when you are contacted by the police (or have you forgotten already?) -- THE DECISION TO ARREST YOU HAS ALREADY BEEN MADE. They already think you are guilty.

You are far less likely to be harmed by the assumption that the police want to arrest you because if you accept that assumption then you will immediately contact a criminal defense lawyer who will help you determine

whether or not it is true. If it is not true, then great. You overreacted but you protected yourself.

Finally, you need to contact a criminal defense lawyer. You don't need a real estate lawyer. You don't need the lawyer who wrote your will or the lawyer who sued your neighbor for denting his car. You need somebody who really knows what he is doing in the criminal justice system.

The police officer who contacted you does nothing but operate in the world of the criminal justice system. The prosecutor who will prosecute you if you are arrested does nothing but operate in the world of criminal defense. The judge who will rule on your case as it makes its way through the criminal justice likely does almost nothing but criminal cases.

So then why on Earth would you want your one advocate in the criminal justice system, the one person who will defend you against an army of professional police and prosecutors to be anyone other than someone with significant criminal defense experience? Aunt Martha's brother-in-law who does "a little bit of everything" is going to have to play catch-up against people who do nothing else but criminal law.

I have been a criminal defense lawyer for nearly 13 years now. When I bought a house, I hired a real estate lawyer who does a lot of house closings. In theory, I could have handled it myself and saved some money. After all, I am a lawyer. According to the bar association I am capable and licensed to handle just about any legal matter in New York State, certainly a house closing.

But I would have been a fool. Criminal defense in New York is what I know - not house closings. In the rapid-fire unforgiving fury of a criminal trial in New York City where my client's freedom is at stake I am as confident and comfortable as if I were in my own living room. But I would be lost at a house closing.

I say these things not solely to convince you to contact me if you are faced with police

contact (although I certainly would not object if you did), because there are a great many wonderful criminal defense lawyers in New York City any one of whom would be in a position to help you through the difficult times associated with police contact. But do make sure that you find someone who actually practices criminal defense.

Criminal defense is not a hobby.

At Shalley & Murray, criminal defense is what we do. We can be reached during regular business hours at **718-268-2171** or **516-656-3154** or in emergency/off hour situations we can be reached at **347-866-3195**.

Please do not hesitate to contact us at our emergency number at any time at the first sign of police contact. The emergency number is a cell phone that will always be in the hands of a real live criminal defense lawyer from Shalley & Murray.

About the Author

Don Murray is a partner in the law firm Shalley & Murray. Mr. Murray has been practicing criminal defense in New York for thirteen years. He has a wealth of experience handling a wide variety of criminal matters. Mr. Murray served as an expert in New York Criminal Law in an international extradition matter centered in London, England. Mr. Murray has written a chapter in the Matthew Bender series of books *Criminal Defense Techniques* and has been a faculty member in the Cardozo Law School trial advocacy program.

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