"**Don't Talk to The Police**"

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Lecture

https://youtu.be/d-7o9xYp7eE

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GOVT. 302: *The American Judicial System*

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"*Any **lawyer worth his salt** will tell [a] suspect in **no** uncertain terms to make **no** statement to police under any circumstances." So said Supreme Court **Justice Robert Jackson** fifty years ago. Strong words from a man who had served as the **Attorney** General of the United States and as the Chief Prosecutor at Nuremburg.*"

"*Every kid who has watched a re-run of TV cop shows knows that "you have the right to remain silent" when the police come knocking*." (Jackson, 2004)

<u>Hiibel v. Sixth Judicial District of Nevada</u>:

In one stroke, turned Justice Jackson's advice on its head, and turned generations of TV cop shows into so much false advertising. Silence, said the Court, is not only not privileged: it can get you thrown in jail.

<u>Hearts Problem:</u>

There is an issue contemplating which set of words can be used against you now or later no matter the complexity or even simplicity of the events revolving around different cases.

Example:

16 U.S.C. 3370

The federal government has lost count of its own statues and [or] regulations. ABA speculates there are around 10,000.

<u>Eight Reasons why you should NEVER talk to the police:</u>

(1) <u>Talking to the police will not in any, way, shape, or form HELP you.</u>

-Cannot talk yourself out of arrest

-Cannot give them information that will help you at trial

-What you tell the police – even if exculpatory cannot help you at trial. In other words what you say and or do can only be USED AGAINST YOU!

(2) <u>If your client is guilty – even if he is innocent --- he may admit his guilt without any benefit in return.</u>

-What is the rush?

-In federal court 86% of all defendants plead guilty some point before trial.

-What you do tell police may become admissible evidence by the time of trial.

<u>The Innocents Project:</u>

"*In more than 25% of DNA exoneration cases, innocent defendants made incriminating statements, delivered outright confessions or plead guilty."*

Example:

Eddie Joe Lloyd --- Mentally Ill Person Who Was Coerced by Police into Confessing guilt. The judge stated he would hang Mr. Lloyd but could not by law. Later (20 years later) DNA proved him innocent.

(3) <u>Even if your client is innocent and denies his guilt and mostly tells the truth, he can easily be carried away and tell some little lie or make some little mistake that will hang him.</u>

Ex. Exaggerations and going over the top on innocence. ---→"~~*Yeah, I didn't like the guy, but who did*~~?" Prosecutors will use that statement as motive and jury will believe it.

(4) <u>Even if your client is innocent and only tells the truth, he will ALWAYS give information that can help convict him.</u>

Ex. As follows,

Ohio v Reiner, 532 U.S. 17, 20 (2001)

Facts of the case

“Matthew Reiner was charged with involuntary manslaughter in connection with the death of his 2-month-old son Alex. The defense planned to argue that Susan Batt, the family's babysitter, was the culpable party. The trial court granted Batt transactional immunity from prosecution, at the state's request, after she informed the court she intended to assert her Fifth Amendment privilege against self-incrimination. Ultimately, Batt denied any involvement in the death. Reiner was convicted. The Court of Appeals of Ohio reversed. In affirming, the Supreme Court of Ohio held that "Susan Batt's [trial] testimony did not incriminate her because she denied any involvement in the abuse. Thus, she did not have a valid Fifth Amendment privilege." The court noted that the defense's theory of Batt's guilt was not grounds for a grant of immunity, "when the witness continues to deny any self-incriminating conduct." The court also found that the wrongful grant of immunity prejudiced Reiner, because it effectively told the jury that Batt did not cause Alex's injuries.”

Question

“May a witness who claims no involvement in a crime assert a Fifth Amendment right against self-incrimination?”

Conclusion

“*Yes*. In a per curium opinion, the Court held that, while the self-incrimination privilege's protection only extended to witnesses who had reasonable cause to apprehend danger from a direct answer, the baby sitter's expression of innocence did not by itself eliminate the babysitter's privilege and that the grant of immunity was thus not an error. The opinion stated that the "defense's theory of the case was that Batt, not [Reiner], was responsible for Alex's death.... In this setting, it was reasonable for Batt to fear that answers to possible questions might tend to incriminate her. Batt therefore had a valid Fifth Amendment privilege against self-incrimination."

[Ohio v. Reiner." Oyez, www.oyez.org/cases/2000/00-1028. Accessed 27 Oct. 2020]

(5) Even if your client is innocent, only tells the truth, and does not tell the police anything incriminating there is still a graves chance that his answers can be used to crucify him if the police don't recall his testimony with 100% accuracy.

(6) Even if your client is innocent, only tells the truth, does not tell the police anything incriminating and his statement is video taped HIS ANSWERS can be used to crucify him if the police don't recall the answers with 100% accuracy.

Problem can be found in information you believe to either alibi you or even its consistency to the case at hand.

(7) Even if your client is innocent, only tells the truth, does not tell the police anything incriminating and his whole statement is video taped your ANSWERS can be used to crucify you if the police come into any evidence, even mistaken or unreliable evidence that any of the defendants statements were false.