

Demonstration: How to Demand a Lawyer in New York



Before police question you, it might be useful to imagine how you will demand a lawyer during interrogation.

Your interrogator will apply a lot of psychological pressure to try to get you to speak. The dynamics of interrogation – being questioned by an authority figure – are designed to make you feel like remaining silent is wrong.

During police questioning, you'll experience a lot of stress. You might feel disoriented, ill, overwhelmed.

Instead of pleasing your interrogator by answering questions, you should defy any expectation that you will speak, by clearly demanding a lawyer – stating “I need a lawyer”, repeatedly if necessary, while otherwise remaining completely silent.

Below is a fictional depiction of an interrogation, to give you a sense of what repeatedly demanding a lawyer might look like.¹

Although this demonstration occurs during a formal interrogation at a police station, you should demand a lawyer whenever police speak with you – even when they speak with you on the phone.

Background

Dan is suspected of assaulting his sister's husband. Police arrest him at home and bring him down to the local police station.

The interrogation takes place in a small room, inside the detective squad of the police station, where Dan is isolated from family and friends. The interrogation occurs after Dan has finished work, when Dan is tired.

At first the detective tries to build rapport with Dan, to gain his trust. Then the detective minimizes the seriousness of the offense. When he sees that Dan won't talk, he tries to physically intimidate Dan. Next, he fabricates evidence about a bloody shirt. The detective then offers not to charge Dan's girlfriend with a crime in exchange for Dan's confession. Finally, the detective tries to leverage a confession by threatening to inform Dan's wife that Dan is cheating on her.

Note that, by law, the detective must stop all questioning when Dan first demands a lawyer, which Dan does the first time he speaks. However,

¹ An actual interrogation can last many hours. It is far more grueling than what occurs in the 60 seconds it takes to read this fictional depiction.

in this example, the detective repeatedly violates the law by ignoring Dan's assertion of his constitutional right to counsel.

Dan Demands a Lawyer

DETECTIVE: Thanks so much for coming in. I appreciate it.

DAN: I need a lawyer.

DETECTIVE: I brought you in after you got home from work, so I wouldn't cause a problem at your job.

DAN: I need a lawyer.

DETECTIVE: You want something to drink? Bottle of water? If you're hungry, I can run out and get you a sandwich.

DAN: I need a lawyer.

DETECTIVE: You know, this thing that happened with your brother-in-law Thursday night. I have to tell you, I ran his rap sheet. He's done some bad things. A lot of really bad things over the years. So I guess he had it coming.

DAN: I need a lawyer.

DETECTIVE: *{The detective steps close to where Dan is seated, within Dan's space, the detective's empty shoulder holster visible beneath his left arm.}* Anyway, I have to ask, where were you Thursday night?

DAN: I need a lawyer.

DETECTIVE: We know you hit him with a baseball bat. He told us. I don't see any reason for him to lie.

DAN: I need a lawyer

DETECTIVE: So this is it? You're not going to talk to me?

DAN: I need a lawyer.

DETECTIVE: You don't have to say anything. We talked to your girlfriend Eva after we picked you up. She told us that you came to her house that night. She said you had blood on your shirt.

DAN: I need a lawyer.

DETECTIVE: We got your girl in a room down the hall. You know she did a factory reset on her phone, to destroy your text messages? We're going to charge her with evidence tampering. Unless you take responsibility. Then we'll let her go.

DAN: I need a lawyer.

DETECTIVE: I'll be right back. I'm going to call your wife and ask her if there's any information she can give us about your girlfriend.

DAN: I need a lawyer.

Discussion

This is what demanding a lawyer should look like: remaining completely silent, except to repeatedly demand a lawyer.

Dan doesn't engage in small talk. He doesn't ask why he's been arrested. He doesn't thank the detective for not arresting him at work. He doesn't acknowledge that his brother-in-law was assaulted. Dan doesn't admit or deny that he knows Eva, that he went to her house, that he had blood on his shirt. Dan doesn't respond to the detective's offer not to arrest

Eva in exchange for Dan's confession. Dan doesn't agree to speak to avoid the detective informing Dan's wife that Dan has a girlfriend.

Repeatedly asserting the right to counsel in real life is a lot more difficult than fictionally describing it, but it's necessary.

During any police questioning, focus on saying "I need a lawyer", repeatedly – and not saying anything else – in response to everything that police say or do.