

Silence is Golden

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(GunReports.com) — In this newsletter, we are going to rejoice in "silence" and right to remain the same. Why do you invoke the right to remain silent? Why invoke your right not to be questioned without your lawyer present? In a nutshell, the answer to this question is: What you say and do is evidence, what your attorney says is not, writes attorney T. Edwin Walker, Vice-President/Attorney, Walker, Rice & Wisdom, P.C.

I just used my gun...What do I do...

If I have done nothing wrong, why would I not just want to tell the officers what happened? Only criminals remain silent and talk through their attorneys, right? Lawyers only want my money and do nothing for me, and I was the victim. These are all perfectly normal human reactions, especially from those who are personally unacquainted with the criminal justice system. However, anytime someone is under scrutiny from the criminal justice system, by very definition their freedom and fortune may be at risk. Their right to remain silent could be an integral part of their legal well being.

You must first realize that anytime a firearm is involved in an incident, whether it is fired or not, the police very likely will start with the assumption that a crime has been committed and proceed to process the evidence as such. The police will secure the area, interview witnesses, and look for physical evidence. If your actions are the focus of the investigation, any statement you make will either corroborate what the witnesses and physical evidence show or it will not. There may be shell casings, ballistics trajectories and/or possibly even video or photographic evidence. If your statement does not perfectly match the evidence, even to the slightest degree, your version of the facts could be viewed differently than you would like and will be used against you. If you make no statements concerning the facts of the incident until you speak to your attorney, you eliminate the possibility of allowing an inconsistency, no matter how innocent, to be used against you.

Okay folks, I know some of you are reading this article and thinking, "That is all very good advice, but this won't happen to me." Well unfortunately, it can. In one recent case under our program, a client who had never been in any trouble with the law was forced to use his gun. Unfortunately, our client, even though he was under massive stress and pressure because he had to fire his gun, gave a statement to the police without consulting us first. The statement included several very specific facts that could not be immediately corroborated by the officer. The result was that this inconsistency resulted in a criminal charge. The lesson here is, speak to your attorneys before giving a statement to law enforcement after a shooting. This is the same advice we give to our law enforcement clients and it is good advice for civilians as well.

There is a very simple reason for this, talking cannot help when you are under police investigation. Very few people ever talk themselves out of being arrested. However, many people have talked themselves into jail. Your statements may be completely innocent, but if they conflict in any way with other evidence in the case, even if that evidence is mistaken, mischaracterized, or just plain wrong, you have a legal issue.

We are not being alarmists. We are being lawyers. It is as your lawyers, that we want to zealously represent our clients without having to account for and work around problems that the client has inadvertently created for themselves. Remember, that if you are involved in a situation where you were forced to use your firearm, you will not be in a proper state of mind to accurately give the police all the facts and only the facts. You may forget an important detail, overstate the situation, say something that cannot be corroborated, or in a worst case scenario, say something that can be proven to be false. There is a reason lawyers are referred to as "mouth pieces", so remember to remain silent and let us be yours.