

# Talking to the Feds: Do's and Don'ts

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When the FBI—or any other law enforcement agency—wants to question you, it won't make an appointment. Instead, agents arrive unannounced, knowing that the element of surprise works in their favor. People who are unprepared talk and often make unhelpful admissions. And, because you are not in custody during these conversations, which are known as “knock and talks,” law enforcement need not advise you of your right to remain silent under *Miranda*. Without hearing *Miranda*, it's easy to think that your conversation with law enforcement is just that – a conversation. In reality, it's an interview and what you tell them can be used against you later. Typically, this will be your first interaction with law enforcement regarding their investigation. It might arise when they are fact-finding and conducting interviews; serving you with a complaint, trial subpoena, or grand jury subpoena; or seeking fingerprints, handwriting samples, or voice exemplars. In any case, follow these steps provided by shareholder [Edward J. Page](#) to help ensure you protect your rights. **1. Request identification—politely.**

It's important to know the identity of the agent with whom you interacted. Your lawyer will want to check out the agent's reputation. **2. Say as little as possible.**

Be an extremely cautious minimalist. Limit your responses to basics like your name, date of birth, and address. Beyond that, say only that you will get back to the agent after either speaking with your lawyer, or giving the matter some thought. Anything you say, even small talk, may be misquoted and used against you. At least two factors contribute to this reality. First, you will normally be visited by two law enforcement agents. It's never one-on-one. With two witnesses against one, their version of events will trump yours. Second, these sessions are not recorded. Rather, it's up to the two law enforcement agents to write a summary. They might write it later that day after conducting several other interviews. Facts get jumbled, and the reports generally don't include the questions asked, just the answers, which can be taken out of context. **3. Remain diplomatic during the exchange.**

Don't curse, get angry, or be rude. Don't do anything that can cause an agent to later say, “Why did he get so upset? We were just asking questions.” If you feel yourself getting angry, take a time out and excuse yourself for a few moments while you collect yourself. **4. Don't invite the agents into your home.**

Avoid the temptation to try to explain yourself. While you may be a persuasive “Type A” person, this is not the time to be your own advocate. You will not win this one. It is always a bad move to try. **5.**

## Don't lie or be misleading.

Whatever you say, even if it's just name, rank, and serial number must be truthful, and not misleading. Otherwise, you will run afoul of federal and/or state false statement statutes, and can be charged with obstruction of justice. If what you want to say may be characterized as inaccurate or misleading, don't say it. Follow the rule: when in doubt, don't. **6. Write it down.**

As soon as the interaction ends, write or type a summary of what was said. Do this immediately—even before calling your lawyer. Be sure to include the questions asked. What's asked is as important as the answer. In police work, the questions are clues. It's important to keep track of the clues as they indicate the level of interest in you as a witness or as a target.

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