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Tampering With Evidence...

Don't touch or move anything in the aftermath of a defensive shooting.



Evidence: Hands Off! Don't Move It, Or Touch It...

If you are involved in a deadly force incident, don't touch the evidence! No matter what you have heard from jailhouse lawyers and barstool commandos, tampering with evidence is the quickest way to move yourself from victim to suspect. I can't even begin to describe how incredibly bad an idea it is to touch anything at a crime scene. Keep your hands off the evidence. Keep your eye on it. Point it out to arriving officers, but don't touch it.

Tampering with evidence is a crime.

If you're forced to defend yourself with a gun, do not touch ANYTHING before the police arrive.



If you are involved in a deadly force incident, don't touch anything after the shooting. Focus on your safety and be prepared to make a statement after your attorney arrives. If you move anything, your intentions quickly become suspect as you have tampered with evidence, and once that happens, what was clearly a self defense scenario now becomes a full blown investigation based on your intent to change the perception of what occurred.

Tampering With Evidence

Remember that scene in "Up In Smoke" where Cheech gulps down the joint he's smoking in Chong's car when he hears the police siren behind them? Very funny scene but the two stoners may not have known that Cheech committed two crimes. Possession of any amount of marijuana in Los Angeles in 1978 was illegal, so that's the first one. And, by swallowing the "evidence" of the first crime, Cheech committed a second crime—tampering with evidence. Under federal and state law, tampering with evidence is illegal. Tampering with witnesses is also a crime.

What is Tampering with Evidence?

A person commits the crime of tampering with evidence when he or she knowingly:

- alters, conceals, moves, falsifies, or destroys
- any record, document, or tangible object
- with the intent to interfere with an investigation, possible investigation, or other proceeding by the federal government. (18 U.S.C. § 1519.)

Tampering with evidence also includes destroying or altering documents or things "in contemplation of" an investigation or other proceeding that may occur in the future.

"Knowingly"

In order to convict a person of tampering with evidence, a prosecutor must prove that the person knew that the item with which they allegedly tampered was evidence (or could be evidence) in an on-going or future investigation or proceeding. For example, if a janitor feeds a stack of documents into the shredder, she probably has not knowingly tampered with evidence, even if the stack included a document that showed the business for which she worked was a money-laundering operation for a criminal syndicate. However, if the boss shredded that same document, it is far more likely that he knew he was destroying evidence.

"Intent"

A prosecutor must also prove that the individual charged with tampering with evidence intended to interfere with an investigation or other governmental proceeding when they altered or destroyed the evidence. So, a person who inadvertently or accidentally alters or destroys a document or thing that he knows to be incriminating probably has not tampered with evidence. If the syndicate boss unintentionally knocks over a cappuccino onto incriminating accounting records, making them illegible, he has not knowingly altered the evidence (although he may not be sincerely sorry for his clumsiness).

Evidence tampering "in contemplation of" future proceeding

A person who destroys evidence out of fear of an investigation, or before a crime has been committed, intending to hide a later crime, has tampered with evidence. For example, the man who gets his wife drunk before leading her to the pool to kill her in a staged accident, but stops on the way to the diving board to wipe clean her lipstick from the whiskey glass, has tampered with evidence (in addition to committing murder). And, the inside stock trader who deletes emails to his source in order to leave no trail of illegal stock tips has destroyed evidence even though he is not under investigation at the time. (He is also guilty of being incredibly naive if he thinks a deleted email can't be found!)

How is Tampering with Evidence Punished?

The U.S. government takes tampering with evidence very seriously. A person who is convicted of the crime under federal law may face a prison sentence of not more than 20 years, a fine, or both. (18 U.S.C. § 1519.)

Consult With an Attorney

As that potential penalty indicates, tampering with evidence is a serious charge and can arise in many situations. As with all serious legal problems, be sure to consult a lawyer experienced in criminal law if you have questions about tampering with evidence, are under investigation for the crime, or are charged with it.