

## Entrapment

**Entrapment** is a legal defense that can, in very rare cases, eliminate or reduce criminal liability, even when a person has clearly committed a crime.

Entrapment most often comes up in so-called “sting operations,” where an undercover police officer presents a person, or persons, with an opportunity to commit a crime, such as buying or selling illegal drugs, stealing a car, patronizing a prostitute, or hiring someone to commit an illegal act.

Entrapment can become an issue when the police, or other legal authorities, take steps to induce a person to commit a crime that go far beyond simply presenting them with an opportunity to do so.

The key test to determining if a valid entrapment defense exists is whether or not the defendant formed the **intent** to commit a criminal act on their own (or already had pre-existing criminal intent). If this is the case, there is no entrapment defense.

However, if the intent to commit a criminal act could not have arisen without the actions of the police, an entrapment defense may exist.

First, to dispel a common misconception about entrapment: many people seem to believe that, if you ask an undercover police officer if they're a cop, they have to tell you the truth. This is absolutely untrue. Entrapment does not arise simply because the police officer makes an effort to protect his or her own safety, they are not entrapping the suspect.

In fact, asking this question strongly suggests that the defendant knew that whatever he or she was about to do was illegal, showing that they already had criminal intent, thereby making it even easier to prosecute them.

However, there are things police officers sometimes do, which can end up creating an entrapment defense.

For example, threatening a person into committing a crime usually amounts to entrapment. This is because the defendant will probably have little trouble showing that they would not have committed whatever crime they're accused of unless the police had threatened them.

Basically, anything that would make the commission of a crime more attractive than normal to a reasonable, law-abiding citizen, can amount to entrapment. This includes offering an exorbitant sum of money for the commission of a crime, assuring the defendant that the criminal act is actually legal, or lies about what the defendant will actually be doing.

There's another type of entrapment known as "**entrapment by estoppel.**" This occurs when someone who is in a position to offer an official interpretation of the relevant law ensures the defendant that the activity they're contemplating is legal.

In general, ignorance of the law is not an excuse for criminal conduct. However, the doctrine of entrapment by estoppel provides an extremely narrow exception to this rule. It's based on the notion that a person who reasonably relied on legal advice from a government official authorized to provide official interpretations of the law, who assured them that whatever they were doing was legal.

This includes advice from a county sheriff, state prosecutor, or state attorney general. However, the reliance on the advice must be reasonable. This means that if the advice, even if it's from someone in a position of legal authority, won't serve as a basis for entrapment by estoppel if it is so outlandish that a reasonable person wouldn't believe it.

Also, it's important to note that the advice of a private attorney can never serve as a basis for entrapment by estoppel.

It doesn't matter how reputable the attorney is. While attorneys almost always give competent legal advice, you still act on that advice at your own peril, and it's therefore never a bad idea to seek a second opinion.