



CRIMINAL DEFENSE ATTORNEY

Don't Let Prosecutors Or Law Enforcement Officers Cheat You: Fighting Their Bad Behavior (Part II)

Criminal Defense | Suppression Motions

Update: The Yatyu Yam Case

This past spring I wrote about the case of NYPD detective Yatyu **Yam**, accused by prosecutors of bribery and official misconduct charges relating to allegations he tipped off the owners of karaoke bars in Queens in exchange for cash bribes. NYPL § 200.11, NYPL § 105.10(1), NYPL § 200.25, NYPL § 195.00(1), NYPL § 195.05 and NYPL § 105.00. What was particularly odious about this case was what occurred upon Detective **Yam's** arrest: instead of being processed and brought before a judge to be arraigned, Detective **Yam** was taken to a secret hotel room where he was interrogated for hours without counsel present, in violation of Miranda v. Arizona, 384 U.S. 436, 444 (1966). When he did ask for an attorney – his union lawyer – he was told to instead hire a private lawyer out of the Yellow Pages, as an NYPD sergeant and captain told him that they were concerned **Yam's** union lawyer would steer him away from cooperating in the case. This order came, as tapes of the interrogation revealed – from the very Assistant District Attorney who was prosecuting Detective **Yam**.

As I have written previously, and as the top criminal defense attorneys in New York know, there are many ways to win a case: sometimes by taking the case to trial and getting an acquittal – or in other instances, fighting the case through investigation and **motion work in order to get the government to give you an acceptable plea offer** which they previously had refused. And that is exactly what occurred here: for months we had been attempting to get a misdemeanor plea offer in this case with a conditional discharge – i.e. no probation, no jail time. The prosecutors refused our demand and the case trudged towards what appeared to be an inevitable trial which came with some major risk: **my client was facing 15 years in prison should he be convicted**. By the time the smoke cleared yesterday, Detective **Yam** was permitted to plead guilty to a misdemeanor charge and received the conditional discharge we had requested. How did it occur? By putting the prosecution in a position where they had no realistic choice but to give in to our demands.

A Motion for a Dismissal of All Charges Due to the Interference With Right to Counsel Was the Catalyst

We **moved to dismiss all charges** against Detective **Yam** due to the severe due process violation committed by the arresting officers and the Queens County District Attorney's Office. In his decision, the judge granted us a hearing to determine the extent of the damage of the alleged due process violation, the violation of the defendant's right to counsel of his choice. This was crucial as it allowed us the opportunity to examine every law enforcement officer present at Detective **Yam's** interrogation – as well as the prosecutor who was in charge of his case. Immediately we made a motion to disqualify the prosecutor from representing the state at the hearing, arguing that he was a necessary witness and, therefore, could not be both an advocate and a witness at the hearing pursuant to Rule 3.7 of the New York Rules of Professional Conduct. Not only would such a hearing be hugely embarrassing to the District Attorney's Office and NYPD as the extent of their illegal interrogation would be revealed for all to see, but just days before the hearing we were informed that the prosecutor would be disqualified from conducting the hearing on behalf of the state. At that point the writing was on

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District Attorney's Office not abused the detective's rights upon his arrest, we may never have had a chance at such a favorable disposition in this case.

In the end, hard work and the refusal to give in paved the way to a favorable result.

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The Attorneys at the Law Offices of Jeffrey Lichtman Will Enforce Your Rights in a Bribery, Official Misconduct or Any Type of Criminal C

With decades of experience at the highest levels of criminal defense, the attorneys at the Law Offices of Jeffrey Lichtman will fight for you as well. **Call us** at (212) 581-1001 to discuss your case today.

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