

DROP THAT GUN AND WALK AWAY QUICKLY

I met a handsome young man the other day. First I met his handsome parents. He was locked up at the Gulag, (Federal Detention Center) so his parents came to see me. The story was simple – he went out to sell – or was it to buy? – doesn't matter since the story is repeated hundreds of times each way. He went out to buy a fairly significant amount of uncontrolled substance --pot or coke or meth or whatever. Just to be sure that all that money he was carrying to make the big-score-that-was-too-good-to-be-true wouldn't get ripped off, he brought along his pretty little silver-plated pistol. It was under the seat of his car when the Federal agents he was trying to buy from took him down about 100 yards away.

The amount of dope he sought to buy carries a mandatory 10 years, but that could be avoided by the "safety valve," an exception to the mandatory minimums that is available for those with little or no criminal history. But for the gun. Under federal law, the gun not only makes safety valve unavailable, it adds a mandatory consecutive five years. Mandatory. Consecutive. And when you're just an amateur with no connections to rat out, you just do all the time. What makes my stomach hurt is simple: absent the gun this kid might have been out in 2 or 3 years. Now he'll be 40 when he gets out. What's the value of those years between 25 and 40?

He was scuttled by the gun. There was a way out. Even if Johnny Cochrane couldn't win the case, there are ways short of snitching to minimize the consequences of getting busted -- if you didn't have a gun. The same is true in most state courts. If you possess a gun while committing a crime, not only are you screwed, you have also screwed your lawyer (unless you get a lawyer who'd rather snitch than attack the search or the snitch).

Did the handsome young man know just how serious the consequences would be when he shoved his shiny piece under the seat? I could tell by his bloodless face and trembling lips that I was the first to tell him the numbers. When the real facts sunk in his stomach turned on him and he doubled over in pain like Ali had delivered the invisible punch to his gut. He had probably secretly imagined that because he came from a white privileged background, he would escape the fate that awaits thousands of young minority men and women each year. Although it's true that the war on drugs incarcerates almost entirely poor minorities, when you add a gun to the equation even the privileged get screwed.

Did he really think a pistol under his seat might make him safer? In my 37 years of defending drug offenders, I've never even heard of a case where the dealer was able to protect himself with his firearm. But I've lost track of the number of court cases that were turned into tragedies by the presence of a firearm.

Or maybe he was too far into the dummy dust? Sooner or later, everyone who abuses coke or meth buys a gun. It's part of the syndrome for those drugs. There's treatment for dummy dust and the consequences of its abuse, but I don't see how he's going to get back those years.

So, enough war stories. Here are some harsh realities about guns:

1. The American citizen has a right to possess them.

2. Any person committing any drug crime – even "being a user of marijuana" -- substantially increases his or her risk of punishment, and substantially reduces his/her lawyer's ability to successfully defend the case by legally possessing a firearm.

3. "Possession" doesn't mean what you think it might. The firearm can be "possessed" either at the scene of or near the crime, or far away from the crime, locked up in a gun safe along with the documents showing that the firearm was acquired and is possessed and used in accordance with all firearms laws.

These rules are simple and unbelievable. Yes, it's true that a lawfully possessed firearm can ruin your life and destroy all your defenses when you are charged with ANY drug crime. It's that simple. If you want details, and you can't find them on the Internet or at www.potbust.com and its links, call me and I will explain these rules to you at an outrageously inflated price. If you can figure out how to contact me at my Seattle office.