

## Transcript for Episode 671 - Corbin Payne | How to Interact with the Police

Full show notes found here: <https://theartofcharm.com/671/>

CORBIN: I think it is a good thing that we've got officers who are stopping murders, stopping crimes, and punishing people, and that we live in a relatively just society, but they are looking for anything to support their story that you're guilty.

JORDAN: Welcome to The Art of Charm, I'm Jordan Harbinger. I'm here with producer Jason DeFillippo. On this episode, we're talking to my friend Corbin Payne. This guy is pretty funny. He's a -- we call him the Sue Chef -- S-U-E chef. He posts funny stuff from his court cases and funny and insightful posts [on Facebook](#). He's a defense attorney, of course he has some crazy clients -- literally, some of them. We're going to talk about probably cause, search and seizure, how to interact with the police, and we'll explore should you be helpful, and if so, how helpful? We'll discover how to get the police to see your side of the story, and we'll teach you how we're using soft skills, like what we teach here at AoC and on the show, to make sure you stay on the right side of the law. Pretty interesting episode, a little bit of legal stuff going on here.

A lot of people think, "Oh, I don't really need this," or, "I'm not sure when I'll need this." This is good stuff to have under your belt and just to make sure that you know it when the time comes, because it's going to be pretty tough in the moment to remember some of this. So, the takeaways here should be funny, interesting, and definitely useful for the one or two times in your life. And if you have kids, they should listen to this as well because we've chopped down some of these stories that Corbin has into some, hopefully, very useful practical takeaways. So, enjoy this episode with Corbin Payne.

Corbin, thanks for coming on the show, man.

CORBIN: I'm very glad to be here, thanks for having me.

JORDAN: I came across your -- well, I guess I could say your work, which was, you added me on [Facebook](#) and you've got that Law Life posts.

CORBIN: That is correct.

JORDAN: They're pretty funny. They get a lot of interactions. Some are a little bit sad maybe, but the rest of them are pretty funny. Is it fair to say that it's funny stuff that happens in court or just funny stuff your clients do? It's like America's Funniest Home Videos but no videos and it's all people going to jail, or not going to jail.

CORBIN: Man, you have people hauled in there on the worst day of their lives or on a tragic day of their lives. You see some really amazing moments happen right in front of you. And because they're all so stressed and they're nervous, they can be overwhelmed by what they're in front of. There are some really funny things that come out of people's mouths. I like talking about the human aspect of what happens in our court system. It can be very easy to get lost in talk of justice or punishment or what have you, but at the end of the day, a courtroom is packed full of human beings interacting with each other. One of the bailiffs walked in the room and he was dressed up nice -- just really, really nice. And I said, "Sir, you look fine today," and he just kind of looked at me and said, "Mr. Payne, I'm dressed fancy so that if I do something heroic, I'm going to look good for the papers, not because I can't kick your ass."

Probably my favorite one is where there's a woman on the stand -- I don't remember all the details what was going on, but the prosecutor asked her, "Did you stab your sister?" and I believe the defendant probably had some mental or intellectual disabilities because she looked at the prosecutor and said, "What sister? The one I live with? No, I didn't stab her," and there's this kind of long moment in the courtroom where everyone is looking at each other going, "Wait, what? Did that really just happen?" And the prosecutor looks at her, blinks heavily, and says, "Have you stabbed any of your other sisters?"

and she just kind of looks shocked and put on the spot and finally says, "Well, yeah, maybe a little bit."

JORDAN: Wow. "I mean, maybe, a little bit, yeah. But, look, it wasn't a bad stab, you know? She's alive."

CORBIN: Yeah, "I stabbed her 13 times. I didn't go Lizzie Borden on her or anything."

JORDAN: There was one that really caught my eye that was, I guess, this neo-Nazi guy or something is getting sentenced to jail and he walks by the African American bailiff and says, "Stay white," and the bailiff says something like, "Don't drop the soap," and the judge is like, "I didn't hear that."

CORBIN: The judge, I think, looked up sharply and was like, "Oh, boy, I'm going to really go after this guy." But, the bailiff, who's a pretty cool guy, just goes, "Scoreboard, dude. You're going to jail, I'm not."

JORDAN: "Yeah, I'm going to Carl's Jr. for lunch. What are you going to have?"

CORBIN: The best part was the bailiff is this big, hulking dude, and that defendant was just a really small kind of shrimpy white supremacist.

JORDAN: Yeah, he'll do fine in jail, I'm sure -- small scrawny guy.

CORBIN: With major swastika tattoos.

JORDAN: Right, yeah. So, I had messaged you and asked something about what search and seizure or -- I can't even remember.

CORBIN: I think your Uber driver maybe got hit and the person who hit them was obviously drunk and drove off?

JORDAN: Right. That's right. She got slammed into. She walked up to him to see if he was okay, and he said, "Get away from me or I'll kill

you." I think during the crash his wife or girlfriend had been thrown from the car and he left her there at the scene and she wouldn't cooperate and say who the driver was and they never caught him.

CORBIN: I find that a little bit surprising in the sense that, yeah, she probably could have gotten up and pled the fifth, meaning they can't force her to testify against her self interests. Defendants have a wide latitude there. Everyone in the courtroom may know and be pretty convinced that the fifth amendment doesn't apply. It's hard for a prosecutor to sit there and really hammer down on someone on the stand or whatever, to try to force that out of them, without actually violating the fifth amendment. So, it's got to be pretty obvious that we're not talking about something they could get accused of, and in that case, she probably stood a pretty good chance of getting roped in on that DUI charge along with her boyfriend, husband, or whoever. But at the same time, if the police had put a little elbow grease into the case, they probably could have figured out who her husband or boyfriend was, confirm that was the make and the model of the car, and had a decent argument at court to at least charge him with a crime. So, not sure what happened there.

JORDAN: Yeah, hard to say. This was in Texas. I know they have some tough laws about that kind of thing, so, really hard to say. And also, look, I hate to say this but it was a bunch of poor people on a country road in Texas. I don't know how much elbow grease the state patrolman decided to throw into this kind of case. "Oh, this is a huge pain. Everybody is alive. There's insurance. We're done here."

CORBIN: And if your driver had pitched a fit or Uber had pitched a fit or the insurance company had pitched a fit, they may have put a little more elbow grease into it. But, you're right. If he's got to run and go break up some domestic violence fights or bar fights, he's not going to prioritize this particular case if no one is really pitching a fit and no one was seriously hurt by it. So unfortunately, you see that happen a lot. Our system is very overtaxed, to say the least.

JORDAN:

The reason I wanted to have you on the show is not just because of your funny slash heartwarming slash interesting Facebook posts, but because your role -- your role in life -- your job here, is to help people interact better with the legal system, and you do it in a very expert way that I think conveys a lot of personality and I wanted to see what we could learn from you about dealing with things like traffic stops, search and seizure -- and I want to frame this in the right way. We are very pro law enforcement at AoC, or just I am, I should say. So, I want to frame this in a way that isn't like, "When the evil police try to do something to you, here's how you can make their life harder." I want this to be more like, "Hey look, the police are," like you said, "overtaxed. We want to be able to work with them in the right way, but we also don't want them to go, 'Well it's really easy for me to just lock this guy up overnight and let's assume he's guilty.'"

And I don't think most cops do that but I also can't ignore the reality that there's a lot of people listening right now who are young, there's a lot of people listening right now who are living in areas where the police are not working with the population as well as they should be, and there's a lot of people of color who are just scared. Rightfully, wrongfully, whatever you want to do with that, and we don't have to get into the politics here, but they don't know what to do and they're freaking out. And your African American tense up when I start chatting with a cop at a diner and that should not happen, right? So there's a lot in sort of the -- I hate to overuse this word and I'm going to get called out on Twitter -- the zeitgeist with the police being in the news, for good and bad reasons.

And I would love to just figure out some ways in which we can be more aware of what is appropriate when dealing with the police. And so, let's do some instructional stuff here with stops, searches, interacting with the police, and different scenarios in which we can apply this kind of thing.

CORBIN: Some of the best advice I got in law school about trials is one of my professors telling our class that a trial is a competition between two stories -- what story is more believable and more likely to have happened, more compelling, that sort of thing. If I were to tell you a story that started off with these two people who look like they're poor, walk into a store, they mill about, one goes to pay for their stuff, walks out, the friend doesn't buy anything, and then they find out that the friend actually stuck something in her purse and they left. From the way you're framing that story, it sounds like these two people went in there to rob the store and if you see a lot of these things happen all the time, you hear the story a lot, it's going to sound like the friend who paid for her stuff was there as a lookout.

When that's how the story is presented to you, that's what you're going to think. So, if you told the story in a slightly different way of these two friends walk into the store, one of them goes and she is actually there to pick up a -- I'm going to say a Hello Kitty lunchbox for her daughter who's about to start kindergarten and the other friend walked over to the other side of the store and was browsing and they left together. The person getting the Hello Kitty purse -- excuse me, lunchbox -- paid for it and they left, that's a slightly different story.

In this case that I'm talking about, I actually witnessed this play out in a courtroom. The two people got pulled over, the cops were sitting there, they were talking to both of them, and they had seen the video of what had happened, they knew which one stole the item and which one had paid for her own item. They had separated the two and they're talking to the defendant with the Hello Kitty lunchbox and that person just kind of recognized from the way the officer was asking questions and saying things, that she was pretty familiar with Hello Kitty. I don't know about you, Jordan, but I don't have daughters, so therefore I'm not too familiar with Hello Kitty.

JORDAN: I'm familiar. It's been around since I was a little kid. It's a cat that is a Japanese cartoon character that is on -- you can't find

a product that has been made that does not have Hello Kitty. There's even a jet that has Hello Kitty on it.

CORBIN:

Yes, somewhere flying around. But the defendant in this situation realizes that they're talking about Hello Kitty, that the two of them had daughters about the same age -- they ended up having a friendly chat about that and they got to the point the officer said, "Look, we know your friend stole whatever it was," and the Hello Kitty mom said, "I didn't know about that," and the conversation proceeds along. And the Hello Kitty mom ends up asking the police officer, "Where was I standing when she stuffed it into her purse?" and the officer kind of had to think about it and then realized you know, they were actually three or four aisles separated from one another. Just based on that, realized, well, maybe it's not so obvious that she was there to act as the lookout as it appeared at the very beginning when they first saw the video.

As a result, the officer wrote up that warrant. The Hello Kitty mom was charged along with her friend. The warrant was written in such a way that when the defense attorney looked at it, the defense attorney went, "Eh, I don't think there's a great case here," and it ended up the district attorney looked at the warrant and ended up dismissing it. Basically what that defendant did, not even sure she was doing anything intentionally, was just very respectfully and very genuinely saying, "Where was I standing when this went down? Because, I mean, this is news to me," and as a result, the officer kind of realized, "Well maybe I'm looking at this story a little bit wrong." And as a result, when that officer wrote up the warrant, the story it told didn't look like it could support a shoplifting conviction.

It was a way that helped the officer look at it and if this defendant had said, "Well, screw you, I was standing five aisles," or, "She was on the other side of the store," or whatever, that sounds defensive. And when you've got the story that the officer started with and you add on, "Oh, and by the way, the person we think looks like a lookout is acting defensive," that

makes you look even more like a look out slash accomplice in this. And as a result, that warrant would have looked different, not so helpful towards the Hello Kitty mom. Personally, and you might agree with me on this, I don't think if the officer had sat down and been cussed out by someone who looked like they'd done something wrong and written up the warrant that factually laid things out and that made Hello Kitty mom look like she might have been an accomplice, I don't think anybody could have faulted the officer there, especially if she had no way of knowing to the contrary.

So I remember kind of watching this play out and hearing the story and just kind of realizing and remembering some old training I got -- some old advice I got in regards to sales and negotiations and to being persuasive, which is to ask questions instead of sitting there and trying to bludgeon somebody with absolute statements that backed up your own position.

JORDAN:

So, this almost sounds like the Socratic method that we had in law school, where instead of saying, "This is the way this is, this is the way that is, that's the way this is, and blah, blah, blah," you say, "So what do you think would happen in this scenario? What do you think happened in this particular instance? What other things could happen? Okay, that might be one reason, what's another reason that could happen?"

So, you make it that person's idea, right? So, it's the officers saying, "Oh, you were too far away," not you going, "I was so far away! I wouldn't have been able to be a lookout, you dumbass," it's, "Well, okay where was I?" "Okay, valid question. Yeah, you were four aisles away. Okay yeah, that's a terrible place for somebody who's going to be a lookout. They're very far away, they can't see any of the employees, you're clearly looking at an item right now that you ended up buying while your friend is looking around and shoving things in her coat. Yeah, that's a good point. You probably weren't there."

So, you're allowing this other person -- the officer in this case -- to come to the conclusion themselves based on your very calm,



polite style of questioning, which is a great way to do this if you can stay calm. Because for me I would be like, "Are you kidding me this? This is ridiculous." and then that's why I would end up in jail here, probably, instead.

CORBIN:

That's exactly what the Socratic method is and Socrates is famous for basically being the founding philosopher for Western philosophy. Speaking of philosophy, recently in one of the counties where I practice law, there was a party -- a bunch of kids being excited about college getting back. They met up at one of the lakes and they're drinking, they're partying, and they got the cops called on them. One of the reasons they were called is the caller owned the land right next to where they were having a party and said they're trespassing.

So, these kids were at this public beach, they didn't think they were trespassing, and then one of the officers is sitting there. He enjoys the beach, he enjoys partying, he enjoys loud music, so he doesn't have a problem with what they're doing, but when he's talking to them, he said, "You guys realize you can not be on someone else's land without permission?" and you got blank stares and crickets in response to him. And one of the guys looked at him and said, "With all due respect, we're at the beach, we're not on someone's property. This is public land." He goes, "No, it isn't." Someone says to the officer, "Okay, well we're sorry. We didn't mean to trespass but where's the property line and where are the no trespassing signs?"

The officer says, "Well, it's right..." -- looks around, he spends 15 minutes looking for the boundary line -- he can't find anything. And he comes back and he goes, "Well shoot, I thought it was kind of obvious," and he shares a good laugh with everybody and he just tells them to move over and to keep it down. And I think a few people got charged with public intoxication and that's a really low misdemeanor. That's basically a small fine. Imagine any party you have ever been to where people have gotten a little rowdy, they're having a lot of fun, and nobody is doing anything illegal. I didn't hear anything about underage

drinking, there was nothing sound about drugs -- anything like that.

But, officer walks into this situation and starts yelling at them for doing something wrong and they didn't do that thing wrong. These young men and women could have gotten angry, they could have pushed back on him, told him to go screw himself or whatever, and instead they just respectfully said, "Okay wait a minute, we're not saying you're wrong, just where is the boundary line?"

And all of a sudden, the officer goes from the story in his head of a bunch of disrespectful young millennial kids who are getting their drink on and being loud and disturbing the peace of these God-fearing tax paying people in this area to, "Eh, it's just a bunch of kids having fun who were trying to be responsible and it's not obvious that they were in the wrong place." And as a result, he backs off and these kids are allowed to go and do their own thing or whatever instead of maybe getting arrested or having to come in and appear in court for trespassing charges.

(COMMERCIAL BREAK)

JORDAN: It seems like a really good idea to remember to stay calm wherever possible, ask questions, and I know the counterpoint to this is, "Yeah, as long as they don't shoot you first," or something, right? And I'm trying to stay away from that because there's really not much that I can contribute to that conversation most likely at this point. But, speaking of stopping people and interfering with people who are doing something in public, where does probable cause come into play here? Because the police have to have a good reason or reasonable suspicion to stop someone. What does that mean? What does that look like? Maybe we can do this with a traffic stop just because it may be an easier, more common scenario.

CORBIN: Yes. With a traffic stop, they've got probable cause to pull you over if you're doing something illegal, for starters. So, if you're speeding, they absolutely have a right to pull you over. If your

license plate isn't mounted correctly, if a light is out, stuff like that. They may also be able to pull you over if it looks like you're up front beating your girlfriend or something or you resemble a fugitive they're looking for. They can't just pull you over. They can't just decide that they don't like your skin color, your religion, your gender, your orientation -- anything like that -- and just pull you over to harass you.

They have to have a good reason. One of those reasons can be that you're doing something illegal, one of those can be that you're doing something suspicious. You see often where people are pulled over and there are drugs that are found in their car. Very often the warrant will start out with saying that they were speeding or they were weaving or they had a busted tail light out or something like that. And they were pulled over and they'll say something like, "It smelled like marijuana." Because even if they pull you over and they have the probable cause to do that, they've got to have probable cause to search a car.

So, if you've been speeding, they pull you over, and they smell marijuana, they have probable cause to pull you over, they have probable cause to search your car, and therefore if they find anything, they're good to go to prosecute you for that and that stuff will be entered in the evidence. If a cop is going to pull you over and they don't have probable cause, sometimes they will make it up. And again, not all cops do this, but sometimes a police officer will lie about this sort of thing.

I'm aware of a case where someone had a bunch of drugs found in their car, they were pulled over, the officer walked up, ended up conducting a search -- well, the driver said, "Why was I pulled over?" the officer said, "You had a busted tail light," the guy goes, "No, I don't," and the officer said, "Yeah, you do," and told him to step out and that it smelled like marijuana and conducted a search. When he wrote the warrant, the officer said that the guy was speeding. I actually watched this play out in a hearing. The defense attorney went and found the video, was able to subpoena the video, had the officer saying that, "You had a busted tail light," both working tail lights were very visible

from the video, and the officer saying, "You were speeding," and there was no speeding ticket, by the way, was also visible from that.

JORDAN: So basically he just made it up because he was like, "There's something else I don't want to say because I can't say, 'I pulled you over because you have a bunch of tattoos on your face,' so I'm going to make something up."

CORBIN: Yes, exactly. And to be fair, I remember looking over at this defendant and thinking, "Yeah, he looks like a stereotypical drug dealer," and for East Tennessee, that's a white dude with lots of gauges in his ear, piercings, tattoos, all that jazz. So, he looked like a drug dealer and that's probably why he was pulled over and searched. Turns out, he was a drug dealer. The defense attorney was able to really go after the officer on the stand.

I'll be honest, I don't know if this officer was being dishonest or if there was a simple mistake, but he made a false statement, he made a second false statement, he tried to back it up on the stand, and the defense attorney was able to attack that. And as a result, I believe the charges ended up being much reduced because it looked like, at trial, the defense attorney was going to be able to challenge the search. And it worked out pretty good for the defendant. And that may sound like a drug dealer and a bad person getting off on a technicality, and that is the case. But, at the same time, the reason we have this technicality that we have probable cause and why it's so important, is so that you're not getting constantly harassed for skin color, religion, gender, sexual orientation, and anything like that.

As a result of this guy asking that simple question, it ended up really working out in his favor. So, I see a lot in practice where somebody will be driving -- there will be four people in a car, let's say, just a normal sized car. They get pulled over, officer walks up, somebody has drugs on their person -- so, instead of confessing to, "Those are my drugs," they will take the drugs, put it on the center console, and as a result of that, the drugs are within reach of everybody in the car.

JORDAN: Ah.

CORBIN: Yeah, so they've got probable cause to charge everybody. I can't tell you how many times I've had these nice lovely kids with little to no criminal record, all of a sudden charged with a serious drug possession charge, and all they were doing was they were the designated driver for somebody. So, next thing you know, they've got these criminal charges pending against them. So, you see that happen a lot. And on a couple of occasions, I've seen the kids ask the right questions about the stop and those questions ended up giving me the information I needed to either challenge the stop or challenge the search. And that was a situation where the officer didn't necessarily do the wrong thing.

And then there was another occasion where the driver looked at the officer and said, "Look, did you see where my hands were the whole time?" and the officer goes, "Yeah, your hands didn't leave the steering wheel except to go for the glove compartment," because he was able to see everything. The driver said, "Okay so, would I have had time to put those drugs there?" and the officer said, "No," and the driver said, "If I had known those drugs were there, would I have let you search the vehicle?" and the officer said, "Probably not."

And that was another one where the officer walked in, told the district attorney, "I'm pretty sure the driver didn't know what was going on," and this was a case where they found marijuana and everybody in the car but the driver had marijuana in their system. So, let's do the math there. And she asked all the right questions and ended up getting herself out of a lot of trouble.

JORDAN: All right, so probable cause, just to sort of back up the truck, car, weaving, speeding, busted headlight, whatever -- some sort of suspicious behavior, you become a suspect through that and it can not be based on someone's appearance, like the face tattoos, dress, their race, gender, or religion -- I don't know, I guess they could look on a sticker on your car and see what

religion you are or look at something that you're wearing if you're of a religion that requires a dress code, so to speak. And, through asking these questions, we can figure out whether or not the police officer -- what they intend to do -- and of course you might also end up not being written up for something or least having a better chance in court of getting away with being near someone who's committing a crime.

It's really crappy and news to a lot of people, I think, that you could be driving some people around and they could have drugs or a weapon and you are with them and you are getting arrested and you are possibly going to jail with them. So, if you have dumb friends and you're hanging out with them and you think, "Well you know, if he gets caught with something, it's going to be a big problem," you are going to go with them, and that's important for people to know. I didn't think about that stuff in my twenties. I wasn't thinking about that stuff.

But certainly when I was a teenager I didn't care. I had friends who always had a bag of weed on them or something like that, and there are people listening to this right now, I guarantee you, who ride around with their brother or their cousin who sells crack or who has psychedelics, which are scheduled very harshly, regardless of what your opinion is on their use, or someone that has cocaine with them and we think, "Oh, well, you know, I'm just driving. I'm just in the car with them. I'm just going to say I didn't know anything about it because I didn't." The law enforcement organization and the court system are going to say, "Well we don't know that to be true. We don't know that you didn't know. You now have to prove it because you were close enough to it to be in possession," and suddenly, even if you get away with it, you're going to court and facing the prospect of jail and hiring an attorney.

CORBIN:

Let me ask you this. Take yourself away from a scenario like that and kind of narrate a story that that would look like. Imagine this showed up in the newspapers. "Two high school students pulled over and drugs found on the passenger." That's going to look, from the outside, like you're a drug courier. Your

friend might have had the drugs on him but if he had just texted somebody, "Hey, meet you at the Texaco," and you don't know that, you're just giving him a drive to the gas station to pick up cigarettes, or so you think, and you get pulled over and they find all this stuff, you look like you're helping somebody sell drugs. And you can change that story based on your situation.

Two young women from a local trailer parker, two young African American men, whatever the case may be. Run that through your head and you start to realize that from the outside, man you start to look guilty. And first off, make some better choices there. Your mom was a lot more right than you knew when she said not to run around with the wrong crowd. But yeah, if you find yourself in a situation like that where you just genuinely didn't know that you're riding with somebody who had drugs on them -- you just didn't know that about them -- think about how that story looks and then start thinking about how to change it a little bit.

Sit there and ask these questions of the officers, don't try to play games with them, don't try to be disrespectful, don't try to whine these questions at them, just look at them and say, "Okay, where were the drugs in the car? This text message that says we were on the way to deliver drugs, does it say we? Does it say I knew anything about it?" and that starts to change the story a little bit. And even if it doesn't change the story right there on the spot, it's something that can help your defense attorney down the road.

JORDAN:

What about searches? I think a lot of folks like me think, "Oh, well I'm just going to say yes because I don't have anything in the car. I don't have anything to hide," and then there's other people that always say no because they watch Youtube videos of those crusaders who are, you know, "I'm open carry because one day I'm going to be a hero," or something like that. There's a lot of people who think that it's just okay to let the police search anything, and I understand the logic behind that, right? I mean, "Sure, I don't have anything in my car. Go ahead and search it. I

don't want to be difficult," but I also learned in law school, and this is a bummer but look, this is from a law professor. You should never voluntarily allow the police to search your car, and also you should never talk to the police without a lawyer, even if you didn't do anything.

CORBIN: Right. As far as the search goes, if you're at a point where they're making you put your hands on the car and they're patting you down, that's a little bit out of your hands at that point. But no, I would never voluntarily allow a police officer to search my car. I rarely let people, other than my family members in my car. There's nothing illegal in my car. I still wouldn't let them search it. Your professors are exactly right on that front. But again, when a police officer is talking with you and they're saying, "Can I search your vehicle?" instead of saying, "No," and coming across as difficult, you can still have a conversation and say, "Why do you want to search my vehicle?" And all of a sudden, you're not the one being so difficult. Regardless of what they say, I would still say, "No." I'd still make them go get a warrant. And that's not going to make them happy and they're going to tell you that you're just making things worse and you might be, but you still shouldn't let them ever search you or your vehicle or your house without a warrant.

JORDAN: Why is that again? Because they just could find anything?

CORBIN: Yes. In high school, somebody had marijuana found in their locker. Well, he gets in trouble and they back up and they actually find that this kid, even though he had a lock, somebody was able to get into his locker and they put that stuff in there. If I recall correctly, they thought it was drugs and it actually turned out to be creatine or something.

The point is, you don't know it's in there. And here's the thing, if they get a warrant and they search your car and they find something and they later determine that the search was not legal, you can get that evidence suppressed and it's not admissible and at that point your case may very well fall apart



on you. But if you give them consent and they search and they find something, it's absolutely admissible. That's why I say never let them search.

The other side of it is, if they want a search warrant, they've got to sit there and they've got to make a call, talk to the judge, judge has to sign off on it, and then they get to search your car or your house or your person or whatever. And that could be anywhere from a five minute phone call to a couple hours and they want to sit there and wait on this as much as you do. As a matter of principle, you have a right under the constitution to be safe in your papers in your possessions, and I'm not going to give that right up, even if somebody is nicely asking me if they can search somewhere of mine, and even if I'm fairly confident there's nothing there. I'm just going to say, "No."

JASON: And I've actually got a story about that. When I was in my twenties, I got pulled over and a friend of mine was using my car every now and again and he was a karate instructor down the road. And sometimes he needed to use my car to take his dummies and stuff to class and back. And I let him do it because I was at work and he could take it. And I'd gotten pulled over for speeding one time and the cops asked if they could search the car and I'm like, "Sure, no problem," not knowing any better. And they found a pair of brass knuckles in my car that were his.

CORBIN: Awesome.

JASON: Here comes the ticket, here's me going to court pleading it out, and ended up getting probation for it. But I didn't have a record, I wasn't a violent criminal and I said, "Hey, these are my friend's." I couldn't get him to come -- he wouldn't come to court for them because they were illegal brass knuckles.

CORBIN: Oh, man.

JORDAN: That sucks.

CORBIN: That's rough.

JASON: Well, that's story number one.

CORBIN: Oh, there we go. What's story number two?

JASON: Second story was, I was at home in the suburbs here in Chicago and the house behind me, about three doors down -- That morning there was a home invasion. The guy waited for the woman to come home, crouched in, went in the garage door as it was closing, raped her for three hours, and then made her drive to the bank and take out all her money. Well, they were obviously canvassing the neighborhood and I'm like, "Oh, man, I wish I'd have had my webcams on," just trying to be helpful, being stupid.

I'd just gotten back from Los Angeles the day before for work, and my timelines didn't match up because I was looking at my watch, and I'm like, "Oh, yeah, I was up at this time," and they're like, "Well, that's when the crime was happening," and I'm like, "Uh, no. No, I was there. I know that my cameras were on at this time and there was nothing there." This was to a patrolman. And then the detectives come to my house and they're like, "Can we search your house?" I'm like, "Yeah, sure." Idiot.

They look around my house and at that time I was working in the movie poster business. We were doing motion picture marketing. And there are all these posters that never really made it. So, they were like the rejects of all these posters around my house for movies that looked like real posters because they were. So, then they get me and they think that I'm a counterfeiter, making fake posters. And they drag me down to the station, the fingerprint me, and on the way down there I figured out why the times didn't work out, because my watch was still in Los Angeles time.

JORDAN: Ah, right.

JASON: But at this point, I am fingerprinted and palm printed and the whole nine yards for a possible rape charge. And they finally let me go on it and I'm like, "So, did you have a description of the guy?" "Oh, yeah, he was 5'8" and 275 pounds." I'm like, "I'm 6 feet tall," and back then I was 210. So, not even close. But it put me on their radar just by letting them in my house and they were looking for other things.

CORBIN: If I got pulled over and they searched my car because they thought I committed a murder or something and they were looking for the weapon, but in the meantime the search yields a drug or something -- something else illegal -- that's totally admissible. And you don't know what people are going to track into your car, what they're carrying -- so you've got to protect yourself in that way. But, I also think it's very important that we as citizens, that we as members of our society, protect our rights to be secure in our homes and in our cars and in our possessions and it's not, "Let the police just roughshod over us." And again, I'm not anti-police. We saw them do some pretty heroic things recently in Las Vegas, but personally, my resolution is I'm not going to let that right be trampled and I'm not going to just let them walk away and get to do this.

JASON: And as a result of that, my doormat on my house, now says, "Come back with a warrant." Yep, that's my doormat.

JORDAN: Nice. That's such a Jason floormat to have.

CORBIN: Can we get a picture of that and put it in the show notes?

JASON: Absolutely.

(COMMERCIAL BREAK)

JORDAN: Speaking of not letting people run roughshod over you, the right to remain silent, another thing I was told to use in law school, no matter what. Why, if we have nothing to worry about, nothing to hide, should we exercise the right to remain silent? I

mean, shouldn't we say, "Look, this is a misunderstanding, here's what happened?"

CORBIN:

Yes. I mean, but the right to remain silent -- when you think about what an officer is looking for, what their role in an investigation is, to go back to Jason's story, they're looking at all these half finished posters and because they spend most of their day dealing with people who are doing illegal things, their mind goes to, "Oh, there must be some illegal interpretation there." So, there's that.

The other is they're actively looking for ways to trip you up and get you to confess. That's not necessarily wrong. I think it is a good thing that we've got officers who are stopping murders and stopping crimes and punishing people and that we live in a relatively just society. But, they are looking for anything that they can use to support their story that you're guilty. Or that someone's guilty.

They may be talking to you about somebody else. You're not going to be more clever than a police officer unless you're just really special. You're not going to be able to outsmart them in this or try to play games and win. That's a pretty good way to get yourself into trouble. If you're having a conversation with them, and you're past the point where you feel like they're listening to you or that anything you say is going to have any importance as far as input goes, I would clam up and I would invoke your right to silence and invoke your right to have an attorney present. And you need to verbalize that.

Recently in New Jersey I read about a defense attorney who got pulled over for speeding and she handed over her license, her insurance, and her registration to the officer, and refused to say anything -- just would not speak with him. So, he's sitting there talking with her, their normal questions they ask at a stop, and she wouldn't say anything. So, finally they arrested her. The only thing she said in this entire encounter was, "Are you arresting me because I'm not saying anything?" and they said, "Yes." And I think she ended up suing the department and

getting a multi million dollar settlement, which is a happy end to the story, but she still spent time in jail because of this.

JORDAN: Geez.

CORBIN: I think she knew what she was doing and this was the risk that she wanted to take. And these stories -- these examples I've given -- they're at -- the officer are at the point where they've just kind of stepped into the situation and they're trying to assess what's going on. And instead of sitting there and trying to explain something to them, oftentimes people don't know what the law is on any given subject -- any given topic -- and they're admitting to crimes that they didn't even realize they were committing. They're asking questions. "Okay, where was the property line? Why'd you pull me over? Where was I standing when she was supposedly stealing something?" It gives them a chance to kind of help crystalize what happened and what they're thinking.

But, when you're at the point where they're bossing you around and they're telling you about how you're guilty and that you just need to confess, shut up. They will tell you it will feel good, they will tell you that if you cooperate with them now, they'll talk to the D.A., things will go better for you -- things will go best for you, in terms of cooperation, when you've got a defense attorney who is talking with a district attorney and they're both able to work out something legally that a judge will approve, that gets you taken care of. I've got so many clients right now who spilled their guts to the officers interrogating them. The officers said, "We'll put a good word in for you with the D.A.," the officers told the D.A., "He cooperated with us," and I have zero negotiating leverage as a result.

JORDAN: One question I know that a lot of folks have is, "Is it going to be harder on me if I ask for a lawyer? Because look, if I didn't do anything, then do I need the lawyer? And if I do, what if they say, 'Oh, this is going to get a lot more complex?'" Isn't that a favorite thing or am I just imagining this? "Oh, this is going to get a lot more complex if we start bringing lawyers into it." I

mean, I've heard that before when I was younger dealing with police and authorities. And I've even seen it when I was doing the legal clinic. We'd have people walk into our clinic that say, "I'm on the fence about this because the police or the D.A. or whoever said that if we bring attorneys into this it's going to get a lot more complicated," trying to intimidate them into appearing without representation, which is not probably a great idea. Yeah.

CORBIN: When I talk to people about this, I compare it to buying a car. If you've ever sat down with an actual car salesman, they're sitting there telling you, "This is the offer. Normally it's this much, but I can give you this much. But if I get up here, if we leave from this table and we walk out of here, that deal is off the table." It's a high pressure negotiating tactic. I don't care if you're innocent or guilty, I would absolutely, hands down, demand to speak to an attorney.

You typically -- if the state is going to make you an offer for a good plea agreement, they are typically going to offer a good one, and I as a defense attorney, have a relationship with the district attorneys. The police officers do too. You don't have a relationship with that officer. You don't have a relationship with that district attorney. If you get a defense attorney involved, usually they're able to negotiate something better, and they're going to pick up on things that you're not going to see. I've seen instances where I've challenged the arrest or the search or the stop or whatever, and the client had no idea that there was anything wrong with what just went down. So, you absolutely want to ask for an attorney. My unqualified advice is if you've got a criminal charge against you, above let's say a traffic violation, you want to ask for an attorney.

JORDAN: So, essentially under any circumstances, other than even just a ticket for purely traffic reasons, not, "Hey, we're hauling you in for something we found in your car during a traffic stop." You should just always get an attorney, in order to avoid stepping on your own toes or having them trick you into something for some reason.

CORBIN: Yes. This is something that I remember hearing about as a law student, where in Knoxville they would bring people in, they'd basically make this pitch about, "You don't need an attorney. That will just make things worse. Blah, blah, blah." And the offer was, "You plead to this, you'll pay some money, you'll have to meet with a probation officer, no jail time," which sounds awesome. No jail time is always awesome. But at the same time, what they didn't realize was that they've now got some charge on them. They don't know if it's a serious one or not. They don't have an attorney to walk them through this.

So, as a result, these people would enter a plea, they'd go home, and if they were on public housing, in many instances they would find that they had an eviction notice mailed to their door because of that criminal conviction on them. You're sitting there thinking about not going to jail, about not going to jail, and just about not going to jail. They're not thinking about the fact that this will go on your criminal history and this will come up in a background search when you're interviewing for a job. Most attorneys are going to understand stuff like that.

JORDAN: Right, because you're thinking, "Oh, I don't want to go to jail. So, I'll just cop to this. Fine, probation, not a big deal," and then there's all these other ramifications that I wasn't thinking of because I was emotional, because I don't know how this stuff works, and it's not necessarily even that they're trying to -- the law enforcement is trying to trick you into that. They might not be paying attention to that either, they just want to get it off their desk, and they're not advocating for you because that's not their job.

CORBIN: Exactly, and they're pretty convinced you're guilty anyways, so they're not thinking about the consequences and whether it's fair or unfair, or right or wrong for you, they're thinking about, "You've done this criminal activity, you should plead to it." That's what they're thinking about and that's what we pay them to think about, let's be very honest here. What a criminal defendant needs to be thinking about is talking to an attorney.

They need to be thinking about making the decision that is best for them in the long term, and it might be to plead to something, it might be to fight something, but an attorney is going to be able to walk you through that. You're not necessarily going to know all this and Google is not going to help you out with this much, either.

JORDAN: What about something more serious like an assault or something that comes down to a, "He said, she said," type of accusation?

CORBIN: So, I could fly over to where you live now, Jordan, walk into a police department, and try to press charges against you for attacking me. And at that point, they may run with that, they may not, based on what they find, but at that point, it's not like they've got a police cruiser with a video camera up front, pulling over a car or showing you doing something. It's a matter of two people, one person making an accusation against another. What I've seen on several occasions is sometimes the person pressing charges is actually the person who started a fight or committed an assault or is doing it for some other revenge fueled purpose, but where the defendant is actually innocent.

One of the first assault cases that I actually worked on, the court knew the defendant, and this is what he even told the officer was the alleged victim assaulted him, he grabbed her wrists, and that was all he did. Now, she called the police and the police show up, and if you're a police officer and there's a woman who's screaming and crying and she's called dispatch saying, "He's going to kill me. He's hurt me real bad," you're going to walk into the situation and if two people are pretty bruised up and cut up and scraped up, you're going to probably assume that the man assaulted the woman in that situation.

Well, in one instance, the defendant said, "I didn't do it, she attacked me," and the officer is saying, "You're both pretty bruised up and you're a big guy and she's a little woman," those sorts of statements, and the defendant, "Well, where were the



bruises?" and he went and looked and I think the only bruises that she had were on her wrists, and he had said that he had grabbed her wrists to stop her from assaulting him. And she had a few bruises on her forehead. He had bruises all over but he had a really nice solid mass of bruises on his chest. So, basically what happened was, he grabbed her wrists after she hit him several times, and when he grabbed her wrists, she started headbutting him in the chest, and that's how she got her bruises.

Based on the department's policy, both of them were written up for fighting instead of a domestic assault. It was very obvious from the warrants that the officers thought my guy was just defending himself and that the woman in this case was the actual doer. We got the charges completely dismissed against him, and as far as she goes, she had another really good attorney, and they got -- instead of sending her to jail, I think they got her some mental and emotional help. And again, that was just an instance where his question pointed the officers in the right direction, and it really poked holes in the story that she told. I think she said he threw her down stairs or something and she only had a couple of bruises on her forehead and some on her wrists, and that's not bruises you'd expect from somebody who'd just been violently thrown down a flight of stairs.

JORDAN: There's no video, nobody knows what happened, there's maybe cultural stereotypes that go in this -- especially if you're a big guy and then some little person says, "He attacked me," you're just already starting at a disadvantage. There's no getting around it.

CORBIN: Yes, absolutely. There are ways to prove a story like that or disprove a story like that, and he just happened to sit there and think through it and go, "The only place that she's bruised are these two spots, the wrists and the forehead," and he pointed that out and it helped him out. But yeah, a, "He said, she said," once the cops are involved, it just continues to get messy.

That's one where you really need to either ask those questions or shut up and demand to speak to an attorney.

JORDAN: Corbin, there's a lot here. Thank you so much for your time. I think the moral of this story comes down to always ask for an attorney, but more importantly, ask clarifying questions. It's about the clarifying questions to get the officers to put a little bit of processing power behind it and ideally find that you are not a part of the situation. Even if they maybe already know it, at least they're starting to process this and go, "Look okay, maybe we don't need this person," or, "Maybe we should let this person go," or, "Maybe we should be easier on this person because I don't think he was involved." And I think that this can be really important.

Of course, the key is, during this whole time to stay calm and realize that if you are indeed innocent, these clarifying questions will help you as long as you're polite and calm, and you don't have to get excited, you don't have to get emotional, and you should also -- while asking those questions, we have to balance that with not being quote, unquote too helpful, and getting ourselves into a deeper pile of trouble.

CORBIN: Yes, I would keep the questions to a minimum. And if you're not feeling up to it, then just be quiet. And there's no pressure there because you don't have to think of the thing to say, you don't have to explain your way out of a situation, you've just got to keep your mouth shut until you get to talk to your attorney.

JORDAN: Corbin, thank you so much, man.

CORBIN: Yeah, thanks for having me on.

JORDAN: Great stuff, super useful. Hopefully not too useful. Hopefully nobody will ever have to use this, but you never know.

CORBIN: That's the dream, to be useless.

JORDAN:

Yeah, good stories. Well, maybe not good. I mean, domestic abuse, drug dealing, okay interesting stories with practical takeaways. Even me, I went to law school, I remember this stuff, but I would be all like, "Well, let me be helpful because I'm a white male who's innocent," right? You can still get bit in the butt on this and you really don't know that the police -- their job is to catch somebody doing something bad. If you accidentally get roped into something or they're talking to you and suddenly you're making yourself more interesting to them because you're trying to be helpful, this can really bite you in the ass. And you really do need to get representation, and I know it seems like something a guilty person would do but that's one of the reasons that this stuff is guaranteed.

We don't want to get roped into something when we are actually innocent, and it's very easy to do. It's not because everybody's out to get you but it's because sometimes we open our big, fat mouth, and we just don't know what we're doing. It can be really bad, especially with some of the possession laws. You're in proximity to it because you're driving the car. I'm wondering, there's got to be Uber drivers that are getting arrested with a drug dealer in the car and they're like, "I'm just driving for Uber, man." And they're, "Well, you're a private car, you're not a taxi. This other person had drugs. How do I know you're on duty?" That's got to be rising, left and right, given how many people are driving around with Uber these days, too.

So, you've got to be careful. You've got to know this stuff to protect yourself. You have your friend in the car and he's got a bag of weed, is it worth it? This could affect your college, if you're a young person. You could lose a scholarship because your dumb friend brought something in the car. You've just got to be very, very careful. And so, hopefully this is helpful for you. Shout out to Brandon, by the way, at Best Buy, Turkey Creek, Tennessee, who sold the microphone to Corbin. And when Corbin said, "Here's the microphone I need," and he showed him the email from Jason at The Art of Charm, he knew about the show.

So, Brandon, thank you. The microphone worked swimmingly. You're a microphone expert now, bonafide. And a great big thank you to Corbin for coming on, for taking the day off -- he said the judge knows why he's taking the day off today. That's good. So, hopefully there's a judge somewhere near Turkey Creek, Tennessee, listening to The Art of Charm now. If you all enjoyed this one, don't forget to [thank Corbin on Twitter](#). We'll have that linked [in the show notes](#).

And tweet at me your number one takeaway from Corbin Payne. I'm [@theartofcharm on Twitter](#). I'm also on Instagram now -- [@jordanharbinger on Instagram](#). You can find the show notes, as always, at [theartofcharm.com/podcast](#), and we've got our [AoC challenge](#), by the way.

So, if you want to learn how to apply the soft skills, the persuasion, influence, all that stuff that we're teaching here on the show, we've distilled a lot of these into drills and exercises for you. Those are at [theartofcharm.com/challenge](#), or you can text AoC to the number 38470. That's AoC to 38470. We're teaching you how to improve your networking and connection skills, the soft skills, persuasion, influence, inspiring those around you to develop a professional and a personal relationship with you, for that matter. It's free, it's designed to help you move forward. It's a fun way to get the ball rolling and apply the things you are learning on the show to your life here, every day.

We'll also send you our fundamentals Toolbox that I mentioned earlier on the show, which includes some great practical stuff, ready to apply, right out of the box, on reading body language, the science of attraction, negotiation techniques, networking and influence strategies, charismatic nonverbal communication, and everything that we teach here on the show, and at our life programs, here at The Art of Charm. It'll make you a better networker, a better connector, and a better thinker. That's [theartofcharm.com/challenge](#) or text AoC to the number 38470.

This episode of AoC was produced by Jason DeFillippo. Jason Sanderson is our audio engineer and editor. Show notes on the website are by Robert Fogarty, theme music by Little People, transcription by [TranscriptionOutsourcing.net](http://TranscriptionOutsourcing.net) -- I'm your host Jordan Harbinger. If you can think of anyone who might benefit from the episode you've just heard, and I bet you can, please pay AoC and myself the highest compliment and pay it forward, by sharing this episode with them. It only takes a moment and great ideas are meant to be shared. So, share the show with your friends and enemies, stay charming, and leave everything and everyone better than you found them.



