

POLICING & THE 5th AMENDMENT

In 1966, the Supreme Court ruled that a person being interrogated by the police (the accused) must be informed of their rights before being questioned. These rights are called the Miranda Warnings; they fall under the due process clause of the 5th Amendment.



Rules of Interrogation

- 1.
- 2.
- 3.
- 4.

Waiver

1. Do you understand each of these rights I have explained to you?
2. Do you wish to contact a lawyer?
3. Having these rights in mind, do you wish to talk to me/us now, without a lawyer?

MIRANDA RIGHTS

Ernesto Miranda was accused of kidnapping and raping an 18-year old girl near Phoenix, Arizona. The girl claimed she was on her way home from work when a man grabbed her, threw her into the back seat of a car, and raped her. Ten days later, Miranda was arrested, placed in a lineup, and identified by the girl as her attacker. The police then took Miranda into an interrogation room and questioned him for two hours. At the end of the two hours, the officers emerged with a written and signed confession. This confession was used as evidence at trial, and Miranda was found guilty.

Miranda later appealed his case to the U.S. Supreme Court, arguing that he had not been told of his right to counsel. Miranda did not suggest that his confession was false or brought about by coercion but rather that he would not have confessed if he had been advised of these rights.

In its decision, the Supreme Court ruled that Miranda's confession could not be used at trial, because officers had obtained it without informing Miranda of his constitutional rights. As a result of this case, police are now required to inform people accused of a crime of the so-called Miranda rights before questioning begins.

Questions:

1. Do you think *people who speak a language other than English* should be able to waive their rights and make a confession that can later be used against them? Discuss.
2. Do you think *minors* should be able to waive their rights and make a confession that can later be used against them? Discuss.
3. Do you think *drunken individuals* should be able to waive their rights and make a confession that can later be used against them? Discuss.

Miranda v. Arizona (1966)



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Ruling: The atmosphere and environment of incommunicado [isolation] interrogation as it exists today is inherently intimidating and works to undermine the privilege against self-incrimination. Unless adequate preventive measures are taken to dispel the compulsion inherent in custodial surroundings, no statement obtained from the defendant can truly be the product of his free choice.

Where an interrogation is conducted without the presence of an attorney and a statement is taken, a heavy burden rests on the government to demonstrate that the defendant knowingly and intelligently waived his right to counsel.

Amendment V:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment by a Grand Jury, . . . ; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life liberty, or property, without due process of law; . . .

1) What is one guarantee the 5th Amendment gives to people accused of a crime?

1) Protects against self-incrimination

2) Entitles you to due process.

1) The principle that the government must respect all of the legal rights that are owed to a person according to the law.

2) Protects against abuse of government authority in a legal procedure.

The Rules of Interrogation

1)

2)

3)

4)

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The Waiver:

as follows

- "Do you understand each of these rights I have explained to you?"
- "Do you wish to contact a lawyer?"
- "Having these rights in mind, do you wish to talk to me/us now, without a lawyer?"

What they don't want you to know...

1. Police are not required to advise the suspect that they can stop the interrogation at any time.
2. Decision to exercise rights cannot be used against the suspect.
3. You have the right to a lawyer before any questioning begins and may consult with a lawyer before being interrogated.
4. Police do not have to read you your rights until you are booked at the police station.

United States v. Garibay

1. Must be read/shown rights in person's native language.
2. Interpreters must be provided if necessary.