

Police Interrogation

- The rules of interrogations are based on the Fifth and Sixth Amendments:
- Fifth: “No person shall ... be compelled in any criminal case to be a witness against himself”
 - The Fifth Amendment affects the interrogation of suspects in custody of the police.
- Sixth: “In all criminal prosecutions, the accused shall enjoy the right... to have the assistance of counsel for his defense.”
 - The Sixth Amendment applies to the right to counsel at trial itself

Miranda v. Arizona - Principles

- A person cannot be coerced to give information against himself to the police
 - To protect this right, a person has the right to have counsel present when being interrogated by the police
 - A person must be adequately informed of these rights when being arrested to ensure that the defendant knows of the rights.

This last idea gave rise to the “Miranda warnings,” which were suggested by the Supreme Court itself:

”You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford one, one will be provided for you by the court.”

- **If police interrogate a suspect without giving proper warnings, any confession resulting of that interrogation is inadmissible against that suspect!**

Prerequisites for Miranda to Apply 1

- **1) Government Agent:**

Miranda applies if the person questioning the defendant is doing so on behalf of the government

Note: This can include private citizens, as long as they're acting on instructions from the government. But, it does not apply to citizens who take it upon themselves to act for the government without being asked to act as government agents.

Also: The suspect must have reason to know that the questioner is a government agent!

Prerequisites for Miranda to Apply 2

■ 2) Custody:

A person must be in “custody” for Miranda to apply.

- This does not necessarily mean physical custody. It is enough that “a reasonable person would believe that their freedom of movement is significantly restrained, given the totality of the circumstances”
- Routine Traffic Stops are not considered “custody”

■ 3) Interrogation:

The confession must have been given in response to an “interrogation”

- The police must be behaving in some way that is reasonably calculated and reasonably likely to elicit an incriminating response from the suspect.
- This includes placing a “confession form” before a suspect with a pen to sign the form etc.

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QUIZ TIME!

Exceptions to the Miranda Rules

■ Public Safety Exception

- The Fifth Amendment rights of the individual can be temporarily outweighed by the threat to public safety. In such a case, statements can be used against the defendant; e.g.,

“Where did you hide the bomb?”

■ Waiver:

A person can waive their Fifth Amendment right to counsel or to remain silent by talking or by signing a waiver.

Requirements:

- Waiver must be knowingly; any waiver that came before being read the Miranda rights does not count
- Waiver must be voluntary without any coercion
- Waiver cannot be a product of a “trick” or “cajolery”
- If the suspect requests an attorney, all questioning must cease immediately until the attorney gets there; but if the suspect keeps talking anyway, those statements can be used against him.