Miranda v. Arizona (1966)

'You Have the Right to Remain Silent . . . .'

In everyday encounters with people, police do not have to issue *Miranda* warnings. But if they take a suspect into custody, they must read the suspect *Miranda* warnings and obtain a waiver before questioning the suspect.

In the 1960s, two currently well-known government warnings first came into use. One appears on every pack of cigarettes and warns against smoking. The other is issued to criminal suspects before questioning by police:

> 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 an attorney, one will be provided for you.

This latter warning grew out of the highly controversial 1966 Supreme Court decision of *Miranda v. Arizona*. The court ruled that the Fifth Amendment to the U.S. Constitution required police to issue this warning before questioning suspects in custody.

The Fifth Amendment, in part, says that "(no) person . . . shall be compelled in any criminal case to be a witness against himself. . . ." The Supreme Court did not rule that the Fifth Amendment applied to the states until 1964. But even before this, it struck down cases where confessions were not made voluntarily. The court determined that these cases violated the due process clause of the 14th Amendment. This clause declares that no "State shall deprive any person of life, liberty, or property, without due process of law. . . ." Due process of law guarantees fair procedures and basic liberties.

A witness identified Ernesto Miranda, number 1, from this lineup after his arrest in 1963.

Over the years the Supreme Court struck down many state court cases as violating due process. The court ruled that confessions were coerced in the following situations:

- Deputies whipped the defendant and threatened not to stop until he confessed (*Brown v. Mississippi*, 1936).
- Police hid the defendant from his friends and attorney and questioned him continuously for three days (*Ward v. Texas*, 1942).
- Police questioned the suspect for 36 hours with only one five-minute break (*Ashcraft v. Tennessee*, 1944).
- Police took the defendant to a hotel room instead of jail, stripped him, and questioned him for three hours while he was naked (*Malinski v. New York*, 1945).
- Police questioned the defendant for days allowing him little sleep, brought in a doctor trained in hypnosis, wired the room so they could listen in, and had the doctor repeatedly suggest that the defendant confess (*Leyra v. Denno*, 1954).
- Police ignored the defendant's request for his lawyer and questioned him for eight straight hours, finally sending in a childhood friend, a policeman with four children, who falsely told the defendant he would be fired unless the defendant confessed (*Spano v. New York*, 1959).
- Police told the defendant that if she confessed, nothing would happen to her, but if she did not, her children would be taken away from her (*Lynum v. Illinois*, 1963).

Finally in 1964 in *Malloy v. Hogan*, the Supreme Court ruled that the Fifth Amendment protection against self-incrimination applied to the states. But courts still faced the difficult task of determining on a case-by-case basis whether confessions were coerced or voluntary. So in 1966 in the landmark case of *Miranda v. Arizona*, the Supreme Court laid down clearer guidelines for police and courts to follow.

Miranda v. Arizona (1966)

In this case, Ernesto Miranda was suspected of kidnapping and rape. Police arrested him at his home and took him to the police station. A witness identified him, and two detectives took him into a special room. After two hours of interrogation, the officers got Miranda to sign a written confession.

At his trial, Miranda was convicted of kidnaping and rape and was sentenced to 20 to 30 years in prison. But police had never told him of his Fifth Amendment right not to talk to them.

Writing for the five-member majority, Chief Justice Earl Warren stressed that the Fifth Amendment does not just apply to criminal trials. Its command that no person "shall be compelled in any criminal case to be a witness against himself" also applies to suspects in police custody. Any confession made to police must be voluntarily made. The court quoted from a unanimous 1924 Supreme Court decision that itself was citing an 1897 decision:

> . . . voluntariness is not satisfied by establishing merely that the confession was not induced by a promise or a threat. A confession is voluntary in law if, and only if, it was, in fact, voluntarily made. A confession may have been given voluntarily, although it was made to police officers, while in custody, and in answer to an examination conducted by them. But a confession obtained by compulsion must be excluded . . . .

Warren's opinion examined what made a confession coerced. One method of coercing a confession is through physical brutality. But, quoting another Supreme Court decision, the court stressed that:

> ". . . coercion can be mental as well as physical, and . . . the blood of the accused is not the only hallmark of an unconstitutional inquisition." . . . Interrogation still takes place in privacy. Privacy results in secrecy and this in turn results in a gap in our knowledge as to what in fact goes on in the interrogation rooms.

The court looked at interrogation techniques taught in police manuals. The techniques the court cited ranged from having false witnesses identify the defendant to police officers playing "good-cop, bad-cop." The court summed up the techniques as getting the suspect alone, depriving "him of any outside support. The aura of confidence in his guilt undermines his will to resist. . . . Patience and persistence, at times relentless questioning, are employed."

The court concluded "that without proper safeguards," police questioning of suspects in custody "contains inherently compelling pressures which work to undermine the individual's will to resist and to compel him to speak where he would not otherwise do so freely." The court decided that any interrogation of a suspect in custody is unconstitutional unless the police have clearly issued these warnings to the suspect:

- You have the right to remain silent.
- Anything you say may be used against you in court.
- You have a right to a lawyer.
- If you want a lawyer but can't afford one, the court will appoint one before any questioning.

Also, after giving a suspect these warnings, the police may not go on interrogating unless suspects "knowingly and intelligently" waive their rights. That is, suspects must completely understand their rights before they can give them up. This meant that if police did not give suspects in custody these warnings before questioning them, nothing that they said could be introduced as evidence against them at their trials.

The court left open the possibility that Congress or state legislatures could modify the procedures set forth in the opinion. But the new procedures must be "at least as effective in apprising accused persons of the right of silence and in assuring a continuous opportunity to exercise it. . . ."

The Dissenters

Four members of the court dissented and wrote three separate dissents. They saw no reason for adopting new rules on confessions. They believed the court should continue to review confessions individually to determine whether they were coerced.

> The new rules are not designed to guard against police brutality or other unmistakably banned forms of coercion. Those who use third-degree tactics and deny them in court are equally able and destined to lie as skillfully about warnings and waivers.

Historically, they argued, the Fifth Amendment did not apply to confessions. It was meant to protect against a defendant being forced to testify in court.

Finally, the dissenters believed the court was unwise in discouraging confessions.

> The obvious underpinning of the Court's decision is a deep-seated distrust of all confessions. . . . I see nothing wrong or immoral, and certainly nothing unconstitutional, in the police's asking a suspect whom they have reasonable cause to arrest whether or not he killed his wife or in confronting him with the evidence on which the arrest was based, at least where he has been plainly advised that he may remain completely silent . . . . Particularly when corroborated . . . such confessions have the highest reliability and significantly contribute to the certitude with which we may believe the accused is guilty. Moreover, it is by no means certain that the process of confessing is injurious to the accused. To the contrary it may provide psychological relief and enhance the prospects for rehabilitation.

Miranda's Aftermath

Ernesto Miranda's conviction was reversed. He was retried, without his confession being admitted into evidence, and convicted again.

The majority opinion indicated that defense attorneys would be more involved in custodial interrogations. The dissenters predicted that confessions would "markedly decrease." Neither prediction came to pass. Many suspects waive their rights and talk to police without attorneys. The number of confessions has not declined.

For Discussion

1. The Fifth Amendment's protection against self-incrimination did not always apply to the states. The article gives examples of seven cases (on page 62) where the Supreme Court ruled that the confessions obtained violated due process of law (guaranteed by the 14th Amendment). Do you agree that each of these cases violated due process? Explain.
2. What did the court decide in *Miranda*? What were the reasons for the decision? What reasons did the dissenters give against the decision? Do you agree with the majority opinion? Explain.
3. When do police have to give *Miranda* warnings? Do you think people should be considered in custody when police pull them over for a traffic stop? When they are briefly stopped and frisked for weapons? Explain.
4. When *Miranda* was decided, its critics claimed that suspects would stop making confessions. This claim has proved false. Do you think *Miranda* sufficiently protects suspects' Fifth Amendment rights? Do you think it goes too far? Explain.