

## ***MIRANDA v. ARIZONA***

March 3, 1963: The telephone at the Phoenix Police Department jangled — an urgent call like hundreds of others that day. This one, however, was the curtain-ringer for one of the most controversial cases in modern Supreme Court history. The call came from the angry family of an 18-year-old girl who claimed that she had just been raped.

According to the girl's story, she was on her way home from her job at a local movie theater when a car pulled up. A man got out, she said, grabbed her, threw her into the back seat, and tied her hands and feet. The man, whom she had never seen before, drove for about 20 minutes. When he stopped the car, she said, he untied her and forced her to have sexual intercourse. He then drove back to the area where he had picked her up and let her out of the car.

Ten days later, Phoenix police picked up Ernesto Miranda, a 23-year-old Mexican, at his home and took him to the police station. He was placed in a "line-up" with four other Mexican men — all about the same age and build. The 18-year-old girl identified him as the man who had attacked her.

Miranda was then taken to an interrogation room and questioned by two police officers. Two hours later, the officers emerged from the room with a written confession signed by Miranda.

At Miranda's trial, the two officers testified before a jury that during Miranda's interrogation he admitted that he forced the girl into his car, drove away with her, and raped her. The officers said they then asked him to prepare a written confession. At this time, the officers claimed that they read to Miranda a statement typed at the top of the confession form. The statement said that the confession was made voluntarily, without threats or promises of immunity, and "with full knowledge of my legal rights, understanding any statements I make may be used against me." The officer who had read this statement aloud to Miranda admitted, however, that it did not say that the person confessing was entitled to an attorney.

Miranda was found guilty of kidnaping and rape. He was sentenced to 20-30 years in prison.

Miranda appealed his case to the Arizona Supreme Court. The issue arose whether his written confession should have been admitted into evidence. Miranda did not have an attorney at the time the statement was made and signed. Therefore, had he been deprived of his right to remain silent under the Fifth Amendment and his right to counsel under the Sixth Amendment?

The state declared that Miranda had made his statement voluntarily; no threats or use of force or coercion, no promises of immunity made. Arizona claimed that the prisoner understood his legal rights and that the statement he made could be used against him. It was true that Miranda had no attorney at the time he made his statement. But, said the state, he did not specifically request counsel. The Arizona Supreme Court affirmed Miranda's conviction. It

held that his constitutional rights had not been violated in obtaining the confession and that it was proper to admit the statement in evidence.

“From representative samples of interrogation techniques, the setting described by the manuals and observed in practice becomes clear. In essence, it is this: To be alone with the subject is essential to prevent distraction and to deprive him of any outside support. The aura of confidence in his guilt undermines his will to resist. He merely confirms the preconceived story the police seek to have him describe. Patience and persistence, at times relentless questioning, are employed. . . . When normal procedures fail to produce the needed result, the police may resort to deceptive stratagems, such as giving false legal advice. It is important to keep the subject off balance, for example, by trading on his insecurity about himself or his surroundings. The police then persuade, trick, or cajole him out of exercising his constitutional rights.

Even without employing brutality, the ‘third degree’ or the specific stratagems described above, the very fact of custodial interrogation exacts a heavy toll on individual liberty and trades on the weakness of individuals. . . .

In the case before us today, given this background, we concern ourselves primarily with this interrogation atmosphere and the evils it can bring. . . .

In these cases, we might not find the defendant’s remarks to have been involuntary in traditional terms. Our concerns for adequate safeguards to protect precious Fifth Amendment rights is, of course, not lessened in the slightest. In each of the cases, the defendant was thrust into an unfamiliar atmosphere and run through menacing police interrogation procedures. The potentiality for compulsion is forcefully apparent, for example, in *Miranda*, where the indigent Mexican defendant was a seriously disturbed individual with pronounced sexual fantasies, and in *Stewart*, in which the defendant was an indigent Los Angeles Negro who had dropped out of school in the sixth grade. To be sure, the records do not evince overt physical coercion or patented psychological ploys. The fact remains that in none of these cases did the officers undertake to afford appropriate safeguards at the outset of the interrogation to insure that the statements were truly the product of free choice.

It is obvious that such an interrogation environment is created for no purpose other than to subjugate the individual to the will of his examiner. This atmosphere carries its own badge of intimidation. To be sure, this is not physical intimidation, but is equally destructive of human dignity. . . .

We have concluded that without proper safeguards the process of in-custody interrogation of persons suspected or accused of crime 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. . . .

Our decision in no way creates a constitutional straitjacket which will handicap sound efforts to reform, nor is it intended to have this effect. We encourage Congress and the States to continue their laudable search for increasingly effective ways of protecting the rights of the individual while promoting efficient enforcement of our criminal laws. However, unless we are

shown other procedures which are at least as effective in apprising accused persons of their right of silence and in assuring a continuous opportunity to exercise it, the following safeguards must be observed.

The warning of the right to remain silent must be accompanied by the explanation that anything said can and will be used against the individual in court. This warning is needed in order to make him aware not only of the privilege, but also of the consequences of forgoing it.

In order fully to apprise a person interrogated of the extent of his rights under this system then, it is necessary to warn him not only that he has the right to consult with an attorney, but also that if he is indigent a lawyer will be appointed to represent him. Without this additional warning the admonition of the right to consult with counsel would often be understood as meaning only that he can consult with a lawyer if he has one or has the funds to obtain one. . . .

Once warnings have been given, the subsequent procedure is clear. If the individual indicates in any manner, at any time prior to or during questioning, that he wishes to remain silent, the interrogation must cease. . . .

Our decision is not intended to hamper the traditional function of police officers in investigating crime . . . . When an individual is in custody on probable cause, the police may, of course, seek out evidence in the field to be used at trial against him. Such investigation may include quiry of persons not under restraint. General on-the-scene questioning as to facts surrounding a crime or other general questioning of citizens in the fact-finding process is not affected by our holding. It is an act of responsible citizenship for individuals to give whatever information they may have to aid in law enforcement. In such situations the compelling atmosphere inherent in the process of in-custody interrogations is not necessarily present.

In dealing with statements obtained through interrogation, we do not purport to find all confessions inadmissible. Confessions remain a proper element in law enforcement. Any statement given freely and voluntarily without any compelling influences is, of course, admissible in evidence. The fundamental import of the privilege while an individual is in custody is not whether he is allowed to talk to the police without the benefit of warnings and counsel, but whether he can be interrogated. There is no requirement that police stop a person who enters a police station and states that he wishes to confess to a crime, or a person who calls the police to offer a confession or any other statement he desires to make. Volunteered statements of any kind are not barred by the Fifth Amendment and their admissibility is not affected by our holding today. . . .”

### **The Dissenting Opinions**

Justice Clear dissented in part; Justices Harlan, Stewart, and White dissented completely. Justice Harlan argued in his dissent:

“. . . The Court’s opinion in my view reveals no adequate basis for extending the Fifth Amendment’s privilege against self-incrimination to the police station . . . . [T]he Court’s unspoken assumption that any pressure violates the privilege is not supported by the precedents..

While passing over the costs and risks of its experiment, the Court portrays the evils of normal police questioning in terms which I think are exaggerated. Albeit stringently confined by the due process standards interrogation is no doubt often inconvenient and unpleasant for the suspect. However, it is no less so for a man to be arrested and jailed, to have his house searched, or to stand trial in court, yet all this may properly happen to the most innocent given probable cause, a warrant, or an indictment. Society has always paid a stiff price for law and order and peaceful interrogation is not one of the dark moments of the law.

All four of the cases involved here present express claims that confessions were inadmissible; not because of coercion in the traditional due process sense, but solely because of lack of counsel or lack of warnings concerning counsel and silence. For the reasons stated in this opinion, I would adhere to the due process test and reject the new requirements inaugurated by the Court.”

Justice White’s dissent was based on the need to protect the individual and society against the criminal:

“More than the human dignity of the accused is involved; the human personality of others in the society must also be preserved. Thus, the values reflected by the privilege are not the sole desideratum; society’s interest in the general security is of equal weight . . .

There is the not so subtle overtone of the opinion — that it is inherently wrong for the police to gather evidence from the accused himself. And this is precisely the nub of this dissent. I see nothing wrong or immoral, and certainly nothing unconstitutional, with the police asking the suspect whom they have reasonable cause to arrest, whether or not he killed his wife or with 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. Until today, the ‘admissions or confessions of the prisoner, when voluntarily and freely made, have always ranked high in the scale of incriminating evidence.’

The most basic function of any Government is to provide for the security of the individual and of his property. These ends of society are served by the criminal laws which for the most part are aimed at the prevention of crime. Without the reasonably effective performance of the task of preventing private violence and retaliation, it is idle to talk about human dignity and civilized values.”

## SINCE MIRANDA

Though the *Miranda* decision was delivered in 1966, it remains a subject of controversy today with regard to the continuing debate about law and order. The requirement of the warnings still stands although the Court shows much less tendency to adhere to the libertarian philosophy that led the Warren Court to such a decision.

The debate over the Miranda warnings generally centers on a feeling, on the one side, that persons suspected of criminal activity should be able to take advantage of every possible safeguard to protect their liberties when dealing with a system as bureaucratically complicated as the criminal justice system. On the other side, arguments are made that such procedures hamper the police significantly in their efforts to apprehend criminals and bring them to justice. Since approximately 90% of all criminal convictions result from a guilty plea from persons who never have a trial at all, the importance of pre-trial procedures — interrogation and arrest — is clear.

The force of the Miranda decision (1966) was somewhat lessened by the Burger Court in subsequent years. *Harris v. New York* (1971) stated that a person who takes the stand in his own defense does not have the right to commit perjury, and in *Michigan v. Tucker* (1974), the Court held that a witness' testimony may be used at trial even if the witness had been questioned without being given full warning of his rights in the Miranda manner. Justice Douglas dissented in these decisions feeling that both would offer encouragement to police officers to be less mindful of the rights of suspects when conducting criminal investigations.

## **STUDENT HANDOUT**

### **MIRANDA WARNING**

1. You have the right to remain silent.
2. Anything you say can and will be used against you in a Court of law.
3. You have the right to talk to a lawyer and have him or her present while you are being questioned.
4. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish one.

### **WAIVER**

After the warning and in order to secure a waiver, the following questions should be asked and an affirmative reply secured to each question:

1. Do you understand each of these rights I have explained to you?
2. Having these rights in mind, do you wish to talk to us now?