

T



Mugshot of Miranda in 1963



ed

EXTS

10th Amendment

Bill of Rights

Article I, §8

Background

Mapp v. Ohio (1961)

Gideon v. Wainwright (1963) ("Gideon's Trumpet")

Escobedo v. Illinois (1964)

Convictions without "fundamentals of fairness" will be overturned

The *Miranda* decision distilled the several "fundamental fairness" standards into one succinct statement of the due process rights of the accused. Thanks to television police shows, the Miranda warning has become a statement of a citizen's rights familiar to many Americans.

Circumstances of the Case

A kidnapping and sexual assault occurred in Phoenix, Arizona, in March 1963. On March 13 Ernesto Miranda, 23, was arrested in his home, taken to the police station, identified by the victim, and taken into an interrogation room. Miranda was not told of his rights to counsel prior to questioning. Two hours later, investigators emerged from the room with a written confession signed by Miranda. It included a typed disclaimer, also signed by Miranda, stating that he had “full knowledge of my legal rights, understanding any statement I make may be used against me,” and that he had knowingly waived those rights.

Two weeks later at a preliminary hearing, Miranda again was denied counsel. At his trial he did have a lawyer, whose objections to the use of Miranda's signed confession as evidence were overruled. Miranda was convicted of kidnapping and rape, and received a 20-year sentence.

Constitutional Issues

Was a confession an admissible document in a court of law if it was obtained without warnings against self-incrimination and without legal counsel—rights guaranteed to all persons by the 5th and 6th amendments? With whom does the burden of proof rest for determining whether a defendant has legally “waived” his or her rights? What is the standard for judging whether “voluntary confessions” should be deemed admissible? When should an attorney be appointed for a person if he or she cannot afford one?

Arguments

For Miranda: The police clearly violated Miranda's 5th Amendment right to remain silent, and his 6th Amendment right to legal counsel. Arizona ignored both the *Escobedo* rule (evidence obtained from an illegally obtained confession is inadmissible in court) and the *Gideon* rule (all felony defendants have the right to an attorney) in prosecuting Miranda. His confession was illegally obtained and should be thrown out. His conviction was faulty, and he deserved a new trial.

For Arizona: Ernesto Miranda was no stranger to police procedures. He negotiated with police officers with intelligence and understanding. He signed the confession willingly. The prosecution was proper, his conviction was based on Arizona law, and his imprisonment was just. The Supreme Court should uphold his conviction and should not further cripple the work of police.

Decision and Rationale

By a 5-4 margin, the Court voted to overturn Miranda's conviction. Writing for the majority, Chief Justice Warren declared that the burden is upon the State to demonstrate that “procedural safeguards effective to secure the privilege against self-incrimination” are followed. “The current practice of ‘incommunicado’ [unable to communicate with the world] interrogation is at odds with one of our Nation's most cherished principles—that the individual may not be compelled to incriminate himself.”

Warren then summarized the case, measuring it against the “fundamental fairness” standards the Court had established. “[I]t is clear,” he wrote, “that Miranda was not in any way apprised of his right to consult with an attorney and to have one present during the interrogation, nor was his right not to be compelled to incriminate himself effectively protected in any other manner. Without these warnings [his] statements were inadmissible. The mere fact that he signed a statement which contained a typed-in clause stating that he had 'full knowledge' of his 'legal rights' does not approach the knowing and intelligent waiver required to relinquish constitutional rights.”

The young woman working at the concession stand at the Paramount Theater in downtown Phoenix watched as the last of the Saturday night crowd filtered out beneath the hundreds of lights on the theater's marquee into the cool March evening. The movie that was playing that night was the World War II epic, *The Longest Day*, and as a result of the show's extra long running time, she was forced to close down the movie theater and walk home along the darkened downtown thoroughfares much later than she was used to. It was shortly after 11 p.m. on March 2, 1963, and in a few moments the 18-year-old woman would become a central character in a criminal act that would have ramifications far beyond her small world.

Patricia Weir sat next to a male co-worker for much of her bus ride home, but when their bus reached northeast Phoenix, the two separated and Patty transferred to another route. She got off at her normal stop near Seventh and Marlette streets, on the edge of a commercial district and headed up Marlette toward home.

As she walked down the street, a car pulled out from a driveway, nearly hitting her, and headed in the same direction as Patty – east. The car stopped about a block in front of her and a man got out and started toward her. Even at 11 p.m. it wasn't unusual for people to be out on Marlette, but this night, just Patty and the tall, slim dark-haired man were on the street. She glanced at him as they got nearer, but paid little attention.

They drew abreast of each other, not making eye contact, and just as she was about to pass the nondescript man, he reached out and grabbed her. His other hand reached over her mouth and he warned her not to make any noise.

“Don't scream,” he said sternly. “Don't scream and I won't hurt you.”

Patty begged him to let her go, but the attacker dragged the 18-year-old to his car. He tied her hands behind her before pushing her into the backseat and forcing her to lie down on the floor. The terrified woman did as she was told, and once she was inside, her captor bound her ankles, as well.

As they drove away from Phoenix into the desert, Patty continued to plead for her freedom, and the man replied that he wasn't going to hurt her. He drove for about 20 minutes into the high desert, once he reached his chosen spot, he raped Patty Weir.

After the assault, the rapist asked Patty for money, and she gave him the four dollars she had in her purse. He then ordered the violated girl back into the car, threw his jacket over her head and drove back into Phoenix. About a half-mile from her home, he dropped Patty off and sped away into the night.

Rape was becoming an ever-increasing problem in Phoenix in the early 1960s. There were 152 rapes in the city the year Patty was attacked, up 20 percent from the year before and 33 percent from 1961, according to Liva Baker, the reporter who wrote the definitive book on the *Miranda* case. By 1970, Baker wrote, the number of rapes in Phoenix would nearly double from the 1963 figure.

Police interviewed Patty shortly after the assault when the hysterical young woman was brought to a local hospital by her distraught family. Physicians told police that Patty had traces of semen inside her, but disputed the girl's claim that prior to the assault she had been a virgin.

Based on her statements, police began looking for a 27 or 28-year-old Mexican man with a mustache, a little less than six feet tall, weighing 175 pounds. The rapist was further described as being of slender build, medium complexion, with black, short curly hair. He was wearing denim jeans and white shirt, and wore dark-rimmed glasses, Patty told police.

Her attacker had no accent, she said, and when police pressed her, Patty said he could have been Italian. She was unsure about his heritage, she said, but she would never forget his face and felt confident she would be able to identify him.

Patty gave conflicting stories about the course of the events following her abduction, such as whether or not her rapist had removed her clothes or if she had done it herself. She said she had fought her attacker, but her body showed no signs of bruising or cuts. She also was vague about how many times she had been penetrated. During further interviews, investigators found glaring impossibilities in her story, such as the route she said the man had taken to get out of town. Her evasive answers, reluctance to talk and conflicting accounts of the rape would eventually prompt authorities to give her a lie detector test, which was inconclusive. She may have taken a tranquilizer beforehand, and some of her answers were downright untruthful, the examiner told authorities.

Patty was unable to give many details about the car the man drove, but believed it was a Ford or Chevy. It was green, she told them, and the interior smelled like paint or turpentine. Oh yes, she added. There was a loop of rope hanging from the rear of the front seat like a handrail to give backseat passengers something to grab on to when exiting the car.

Even though Phoenix was above the norm in the number of reported rapes, police were about to file Patty's case away as a possible fraudulent report because of her vague descriptions and evasive answers, when her family approached police with several pieces of information, one of which would break the case wide open.

First, one brother-in-law told investigators, Patty was somewhat emotionally disabled, having a measured intelligence of a 12- or 13-year-old. Second, she was so painfully shy that in the three years he had been in the family, she had spoken maybe three dozen words to him. Police should take that into account when questioning her.

The third, and most important, revelation came from another brother-in-law who was picking her up from the bus stop because of her fear of walking home alone. They had noticed a green car frequenting the area of Marlette Street, and Patty had mentioned it looked like the one her attacker had driven. It was a Packard, the

brother-in-law said, and on the second time he had seen it in the area, he noted the license plate: DLF-312.

When police traced the license plate DLF-312, it turned out to be registered to an Oldsmobile that was nowhere near Phoenix on the night of the assault. But the owner of license plate DLF-317 was a woman in Phoenix, and the plate belonged on a green Packard. However, when police went to the address on the registration, they found out that the woman and her mustachioed Mexican boyfriend had moved out two days earlier. No one knew where they moved to, but neighbors did tell police that they had used a produce company truck to move their belongings.

With the help of the postal service, police managed to track down the woman at her new address and went to investigate. Approaching the house, one of the officers peered into the back of the green Packard parked in the driveway and noticed a rope strap attached to the rear of the front bench.

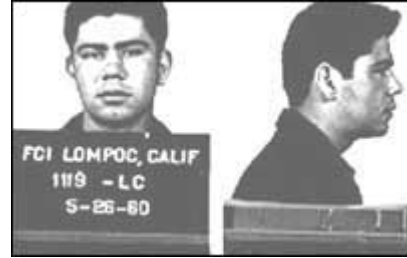
When Ernest Miranda went with police to their headquarters, it wasn't the first time he had been in police custody. He had been in trouble from the time he was in grade school in Mesa, Arizona, shortly after his mother died and his father remarried. Ernest and his father didn't get along very well, and the boy kept his distance from his brothers and step-mother, as well. He was a chronic truant, and had his first criminal conviction when he was in 8th grade. The following year, Miranda was arrested and convicted of burglary, and sentenced to a year in reform school.

In 1956, about a month after he was released from the Arizona State Industrial School for Boys, Ernest was walking home one night when he happened to glimpse a nude woman lying on a bed in her home. To Miranda, this was an invitation to enter the home, which he did through the unlocked front door. He got on the bed with the woman, attempted but failed at intercourse, and remained in bed with her until her husband came home and called police. Miranda was returned to reform school for an additional year.

Ernest felt that a change of scenery would do him some good, so after he was released from the reformatory, he headed west to Los Angeles. A geographic cure didn't work, and within months he had been arrested on suspicion of armed robbery – he was not convicted – as well as some minor sex offenses including being caught in the act of being a peeping Tom. After his arrest and two-and-a-half month detention on the armed robbery charges, authorities felt that the people of California would be better off without Ernest Miranda and deported the 18-year-old back to Arizona.

With an already lengthy criminal record, few job skills and no family support, Miranda did the only legitimate thing he could do in the face of such hardship – he joined the Army. Unfortunately, a second geographic cure, with the help of Uncle Sam, didn't change Ernest Miranda. His service record lists AWOL and voyeurism charges and Miranda spent six months in the Fort Campbell, Kentucky stockade at hard labor. After 15 months in the service, during which time he was ordered to consult a psychiatrist but only went to one session, Miranda was dishonorably discharged.

He drifted around the south for a few months, spending time in jail in Texas for vagrancy, and was arrested in Nashville driving a stolen car. Because he had taken the stolen vehicle across state lines, Miranda was sentenced to a year and a day in the federal prison system, serving time in Chillicothe, Ohio and later in Lompoc, California.



Mugshot of Ernest Miranda in 1960

Through no work on his part, Ernest kept a low profile for the next couple of years, moving from menial job to menial job before landing a position as a laborer on the night loading dock for the Phoenix produce company. He was still working at the produce firm, where his foreman told authorities he was one of the best workers there, when police showed up to question him about Patty Weir's rape.

Police officers Carroll Cooley and Wilfred Young were met at the front door of Miranda's home by his common-law wife; a 29-year-old mother of a boy and a girl by another man, from whom she could not afford a divorce. Miranda was sleeping in the bedroom, having returned about an hour before from his 12-hour shift at the produce company.

The woman, Twila Hoffman, owner of the Packard in the driveway, woke Ernest who pleasantly, if hesitantly, greeted the detectives.

Cooley asked Miranda to accompany them downtown for questioning about the rape and robbery of Patty Weir. "We didn't want to talk with him in front of his wife," Cooley said later.

The officers' concern for Miranda's domestic relations was not entirely altruistic. Criminal investigators rarely want to question a suspect in a place that is familiar and comfortable to the alleged offender. Interviewing a suspected felon is a battle of psychology and wits, and police, who almost invariably have more experience at interviewing than the accused, enjoy a tremendous advantage. "The principal psychological factor contributing to a successful interrogation is privacy – being alone with the person under investigation," wrote Fred Inbau and John E. Reid in their law enforcement text *Criminal Interrogations and Confessions*.

Inbau and Reid go on to say that "in his own home, (the suspect) may be confident, indignant, or recalcitrant. He is more keenly aware of his rights and more reluctant to tell of his indiscretions within the walls of his home. Moreover, his family and other friends are nearby, their presence lending moral support.

"In his own office, the investigator possesses all the advantages. The atmosphere suggests the invincibility of the forces of the law."

At this point, Miranda was unsure of his status with authorities. "I didn't know whether I had a choice," he said later. "I got in the car and asked them what it was about. They said they couldn't tell me anything." In fact, he was under arrest, and would have had to accompany the officers to the station whether he wanted to or not.

Almost immediately after arriving at the headquarters, Cooley and Young put Ernest Miranda into a line-up with three other Mexican-Americans from the city jail who approximately matched his physical appearance. Miranda was the only man who wore a shirt that

Miranda in the police line-up



allow ed viewers to see his tattooed arms. They brought in Patty Weir, who looked at the group through a two-way mirror. The first man in the group similar to her attacker, she said, but she couldn't be sure. She asked to hear the man – Ernest Miranda – speak. All-in-all, it was an unsuccessful line-up from the police perspective.

"How did I do?" Miranda asked Cooley when he was being taken to a sterile interrogation room.

"You flunked," Cooley lied.

The two officers and Miranda sat down in Interrogation Room 2, a small soundproofed room with three chairs – two on one side and one (for the suspect) on the other. At no point was Miranda advised of his Fifth Amendment right to not incriminate himself or his Sixth Amendment right to consult with a lawyer, but Cooley said later on the witness stand that he believed Miranda was familiar with his Constitutional rights.

"He was an ex-convict and had been through the routine before," Cooley testified.

It didn't take long before the officers had extracted a confession from Ernest about the rape of Patty Weir. The officers denied from the outset that they had coerced the confession, and also



Mugshot of Miranda in 1963

disputed Miranda's claim that if he admitted to the rape, they would drop the robbery charge. Miranda, in his own testimony, said the officers "threatened to throw the book at me. They would try to give me all the time they could." He also claimed that they promised to get him psychiatric counseling for his obvious sexual deviancy.

Cooley and Young brought Patty Weir into the doorway of the room so that she could hear Miranda's voice. Ernest, believing that Patty had already identified him from the line up, was asked if Patty was the girl he had raped.

"That's the girl," Miranda said.

After Patty left, the officers presented Miranda with a sheet of paper with a disclaimer at the top: the suspect, in making the written confession, acknowledged that the confession was voluntary and that he understood "his rights" even though those rights were not spelled out on the paper. Miranda wrote a confession that verified many of the same details Patty Weir had told police.

The entire process had taken a little under three hours, but by shortly after lunch, 10 days after the rape, Ernest Miranda had given a confession that would be subject to debate all the way up to the United States Supreme Court.

Miranda's court trial was a cut-and-dried affair; the witnesses for the prosecution were Patty Weir, her sister, officers Cooley and Young, and Miranda's own written confession was the sole item entered into evidence. No witnesses were presented on Ernest's behalf. The key to the trial, felt his lawyer, 73-year-old Alvin Moore, was that Miranda's confession was coerced and thereby inadmissible.

Moore was appointed by the court and reluctantly agreed to serve. He had extensive experience in criminal law, and had an outstanding record in defending rapists: in 35 trials, only one defendant had been convicted of rape. Moore had only the month before added his name to the list of attorneys who

CHAPTERS

1. A Rape in Phoenix
2. A Brief Life of Crime
3. "You Have the Right to Remain Silent"
4. **The Trial of Ernest Miranda**
5. Miranda's State Appeal

would accept the \$100 fee for defending the county's indigent clients; he had stopped practicing criminal law several years before out of self-preservation, he told Liva Baker.

"In close association with criminals, you begin to think like criminals," Moore said. "In self-protection, I gradually began to withdraw from the practice of criminal law."

After reviewing Miranda's record, Moore felt that an insanity defense would be appropriate, and filed notice of his strategy one day before the case was set for trial. Over the next several weeks, Miranda met with psychiatrists for the defense and the state, who eventually told the court that Miranda was at least fit to stand trial. Even though Ernest was found to be mentally "abnormal," he was able to understand the charges against him, the possible ramifications of a guilty verdict, as well as assist in his own defense. The reports forced Moore to abandon his insanity defense claim. The case was set for trial in mid-June 1963.

Patty Weir took the stand first for the prosecution and in quiet, halting tones, told the jury what had happened to her the previous March. She was a typical rape victim, traumatized by the assault, and several times she had to take breaks to recompose herself.

When Cooley took the stand and the prosecution attempted to have Miranda's confession entered as evidence, Moore objected. He felt Miranda's confession was in violation of the Fifth Amendment, and that it was inadmissible. He questioned Cooley about the procedure for getting the admission from Miranda.

"Did you warn him of his rights?" the former military prosecutor asked Cooley.

"Yes, sir. At the heading of the statement is a paragraph typed out, and I read this paragraph to him out loud," Cooley responded.

"It is not your practice to advise people you arrest that they are entitled to an attorney

6. The ACLU Steps In

7. Miranda at the Supreme Court

8. Decision and Aftermath

9. Miranda's Life After Jail

10. Bibliography

11. The Author

before they make a statement?”

“No, sir,” Cooley said.

Moore objected to the introduction of the confession because he believed the U.S. Supreme Court had ruled that a suspect is entitled to an attorney at the time of arrest. He was referring to the high court’s decision in *Gideon v. Wainwright*, where the court had not said a defendant is allowed to have an attorney during arrest, but that all defendants are allowed counsel during trial. Maricopa Superior Court Judge Yale McFate overruled the objection and allowed Miranda’s confession to be heard by the jury.

During his jury instructions, McFate reminded the jurors that he had allowed Miranda’s confession to be considered by them, but they were free to “overrule” his finding if they felt the confession was coerced.

Most importantly, however, he told the jury that while coercion of a confession would render it useless to the state, “the fact that a defendant was under arrest at the time he made the confession, or that he was not at the time represented by counsel or that he was not told that any statement he might make could or would be used against him, in and of themselves, will not render such confessions involuntary.”

It didn’t take the jury long to decide that Miranda was guilty of rape and kidnapping. Two weeks later, Ernest Miranda was sentenced to 20 to 30 years on both charges, sentences to be served concurrently.

Moore believed that McFate had erred when he allowed the confession to be entered, and he felt that without it Miranda would have beaten the charge. He believed, and other observers concurred, that he had shown reasonable doubt as to the elements of the crime – at the time, Arizona required rape victims to “resist to the utmost” and Weir had not been able to testify that she had done so.

Alvin Moore immediately appealed the case to the Arizona Supreme Court. “Was the

CHAPTERS

1. A Rape in Phoenix
2. A Brief Life of Crime
3. “You Have the Right to Remain Silent”

statement made voluntarily?" he asked in his brief. "and was appellant (a Mexican boy of limited education) afforded all the safeguards to his rights provided by the Constitution of the United States and the laws and the rules of the courts?"

By the time the Arizona high court got around to considering Miranda's appeal in 1965, the U.S. Supreme Court under the liberal Earl Warren had weighed-in on the side of defendants' rights. They had taken a half step toward Moore's trial claim that a suspect was entitled to have a lawyer when questioned by police in the case of *Escobedo v. Illinois* (the case was argued on behalf of Illinois by future governor James R. Thompson). In the *Escobedo* case, the court ruled when police are no longer conducting a general inquiry into an unsolved crime but are focusing on a particular suspect in custody, refusing to allow that suspect to consult with an attorney and failing to warn the suspect of his right to remain silent is denial of the assistance of counsel in violation of the Sixth Amendment.

It took the Arizona Supreme Court 18 months to get around to Miranda's case, but found that the U.S. Supreme Court's immensely unpopular *Escobedo* decision – which freed a confessed murderer – did not apply to Miranda. The Arizona court upheld his rape and kidnapping convictions.

The Arizona justices strictly interpreted the *Escobedo* decision's caveats:

1. An investigation focusing on a particular suspect;
2. the suspect is in custody;
3. the suspect has requested and been denied an opportunity to consult with a lawyer;
4. the suspect has not been effectively warned about his right to remain silent; and
5. an incriminating statement must have been given by the suspect.

The author of the Arizona court's decision, former U.S. Senator and Arizona governor

4. The Trial of Ernest Miranda

5. Miranda's State Appeal

6. The ACLU Steps In

7. Miranda at the Supreme Court

8. Decision and Aftermath

9. Miranda's Life After Jail

10. Bibliography

11. The Author

Ernest W. McFarland, centered his decision on the fact that Miranda had not requested a lawyer at the time of his detention and therefore was not entitled to the protections offered by *Escobedo*. They did not believe that Miranda's confession was involuntary, that the lower court did not err in allowing it and that McFate had correctly allowed it into evidence.

Police acted reasonably in assuming that a man with Miranda's criminal record would understand his due process rights, the court ruled. McFarland did go on to say that the right to counsel was one of the most important rights an accused person had, and that the necessity of protecting the general population from lawbreakers must not come at the expense of individual rights, no matter how heinous the crime.

Across the country, courts were struggling to interpret the Supreme Court's *Escobedo* decision. By the time state cases had exhausted their state appeals and landed in the U.S. Circuit Court of Appeals, differing interpretations of *Escobedo* abounded. The Seventh Circuit Court of Appeals had ruled in a manner similar to the Arizona Supreme Court, tailoring decisions narrowly to fit the U.S. Supreme Court's five-point test, while the Second Circuit interpreted the decision more broadly, finding in favor of defendants. Not only were there differing decisions on the federal level, but there was disagreement between the states and the federal courts on just what *Escobedo* meant. It was clear that the high court would have to revisit *Escobedo* and clarify the situation.

[<< Previous Chapter 1 - 2 - 3 - 4 - 6 - 7 -](#)

The ACLU Steps In

Ernest Miranda had spent the last two years sitting in the maximum security prison near Florence, Arizona, unaware of the role history would have for him. All he knew was that he wanted out of Florence and that the Arizona

justice system had done him wrong. Filing as a pauper, Miranda submitted his plea for a writ of *certiorari*, or request for review of his case to the U.S. Supreme Court in June, 1965.

Outside the stone walls of Arizona State Prison, Miranda's case had come to the notice of some pretty important allies: the American Civil Liberties Union. The ACLU was looking for the right case to take to the U.S. Supreme Court to get clarification on *Escobedo*, and the ACLU district office in Phoenix had read McFarland's decision in the *People v. Miranda* with interest. The ACLU had taken an active role in the *Escobedo* case and in the many appeals that were based on *Escobedo* which had caused the state and federal courts to issue conflicting rulings.

The state director contacted Alvin Moore to see if he was willing to take the case to the Supreme Court, with a little help from the ACLU. Moore, who felt strongly that Miranda was not being dealt a fair hand by the courts, was unable to take the case because of his physical health at the time. It took several more phone calls on the part of ACLU attorney Robert J. Corcoran before he could find a lawyer who would take on Miranda's case.

John J. Flynn, a reputable criminal defense attorney with one of Phoenix's largest law firms, agreed to take Miranda's case as one of two cases the firm of Lewis, Roca, Scoville, Beauchamps & Linton would accept pro bono for the ACLU that year. Knowing this was a Supreme Court case and that one attorney would be overwhelmed, Flynn asked a partner, John P. Frank, to assist.

Neither man was deluded about their client. Ernest Miranda was at best a very sick individual, and at worst a rapist and kidnapper. Frank did not regard him as an innocent man trapped by a crooked justice system, but instead concentrated on the Constitutional questions that the high court would be asked to resolve.

"To this day I don't know whether Miranda was guilty of the crime of rape or not," Frank would

say later. "He did something, but I don't know whether it was aggravated assault or rape."

When Flynn and Frank sat down to put together their request for writ of certiorari, they disagreed over which aspect of the Bill of Rights they should base their arguments upon. Miranda's case hinged on either his Fifth Amendment right to avoid being compelled to incriminate himself, or his Sixth Amendment right to the assistance of counsel. Frank argued the latter, while Flynn, who had spent time as a prosecutor, knew the tricks and techniques police used to extract confessions and believed Miranda's Fifth Amendment rights had been violated.

Eventually, Flynn and Frank would produce a 2,500 word brief – less than half the size of this article – that ultimately adopted Frank's argument in favor of the right to counsel tack.

"The Arizona Supreme Court has given *Escobedo* such a narrow construction that, for all practical purposes, the protections of the Sixth Amendment are not available to those persons so unaware of their rights or so intimidated that they do not request 'the guiding hand of counsel' at this crucial stage."

The question the court needed to decide, they wrote, was whether a suspect needed to know of his right to request counsel, or if police would have to advise the perp of this basic right.

Over the summer of 1965, the justices of the U.S. Supreme Court, who had fled the oppressive heat and humidity of the District of Columbia and were dispersed around the country, were inundated with requests for cert from appellants who had fallen under into the *Escobedo* morass. It was clear that something would have to be done quickly to address the legal questions that had arisen.

In November 1965, at the daylong intensely private deliberations that were attended only by the nine justices without benefit of their clerks, the decision was made to answer the pleas for help from the federal and state courts

who were struggling with just what *Escobedo* was directing them to do. The case the U.S. Supreme Court chose to hear was *Miranda v Arizona*. Four other cases with facts similar to Miranda's would be combined for arguments that day, as well.

Two months after the nation's highest court agreed to hear arguments in the case of *Miranda v. Arizona*, John Flynn and John Frank submitted their brief, or outline of the case and legal arguments in support of their position. They continued their argument that Ernest Miranda's Sixth Amendment right to counsel had been violated by the Phoenix Police Department: "The day is here to recognize the full meaning of the Sixth Amendment," they wrote. "We invoke the basic principles (that) 'he requires the guiding hand of counsel at every step in the proceedings against him.' When Miranda stepped into Interrogation Room 2, he had only the guiding hand of Officers Cooley and Young."

Two weeks after Flynn and Frank presented their arguments, the state of Arizona responded. "The cases of Ernest Miranda and Danny Escobedo are not equal and there is no Constitutional reason for this Court to equate them," wrote Gary Nelson, assistant attorney general for Arizona. Nelson went on to argue that confession should not be suppressed unless "police have undertaken a course of conduct *calculated* to deny the accused his right to counsel. Certainly nothing less will be tolerated, but the United States Constitution requires no more."

Amicus or "Friend of the Court" briefs were filed by several civil rights and law enforcement organizations on both sides of the issue. The ACLU filed an amicus brief, as did the National District Attorneys Association and the National Association of State Attorneys General.

Combined, the arguments on both sides of the Miranda case totaled more than 700 pages, quite a bit different from Frank and Flynn's original nine-page request for a hearing.

It was the last day of February 1966 when the nine black-robed justices heard the oral arguments in the case of *Miranda v Arizona*. The argument which proceeded Miranda's was that of Dr. Samuel Sheppard, the man whose murder of his wife was the basis for the television show and film "The Fugitive." Sheppard's attorney was F. Lee Bailey, the Boston lawyer who would later defend Patty Hearst (unsuccessfully) and O.J. Simpson (successfully). As a result of the Sheppard case's publicity, the courtroom was packed.

Arguing the position of the United States government, dressed in the traditional gray striped pants and morning coat, was Solicitor General Thurgood Marshall, the former NAACP attorney who successfully argued the *Brown v. Board of Education* case and who would later be the nation's first black justice. Marshall's job was to state the position of the U.S. Attorney General and the government of the United States on questions involving Constitutional matters.

Finally, it was time for docket item number 759, *Miranda v. Arizona*. The petitioner in this case, Miranda, would be heard first. Ernest Miranda, of course, was not present

when his fate was being decided; he was still awaiting the decision in the Arizona State Prison. Flynn argued the case for him.

John Flynn, in a deep resonant baritone, took the first few minutes to outline the background of the case against Ernest Miranda, recounting the assault, the arrest, trial and conviction, as well as claiming the Arizona Supreme Court had “imprisoned” the *Escobedo* decision by so severely limiting its application.

He pointed out that Ernest Miranda had not been advised of his right to remain silent when he had been arrested and questioned, adding the Fifth Amendment argument to his case. Justice Potter Stewart interrupted Flynn shortly after his introduction to begin the intense questioning that marks a Supreme Court session. Stewart wanted to know at what point Flynn thought a suspect had the right to counsel.

After receiving several unsatisfactory answers from Flynn, he asked if the entire judicial process should come to bear during interrogation. To take it to the extreme, he said, should the accused have the right to a jury in the examination room?

Flynn responded that no, a jury wasn’t necessary, but that at the time of questioning “if he knows...if he is rich enough and educated enough to assert his Fifth Amendment right, and if he recognizes that he has a Fifth Amendment right, to request counsel.” He went on to say a man like Miranda, who wasn’t rich, who was emotionally disturbed, who had a limited education, shouldn’t be expected to know his Fifth Amendment right not to incriminate himself.

Flynn spoke before the court for a half-hour, most of the time departing from his prepared remarks to answer the questions fired at him from the justices sitting high above him before a red velvet curtain. In the end, he called upon the court to move as fast as possible to set rules for questioning, because state legislatures would move slowly to protect the rights of people like Ernest Miranda.

Gary Nelson spoke for the people of Arizona, arguing that this was not a Fifth Amendment issue, but merely a vehicle for the court to expand its Sixth Amendment *Escobedo* decision. He urged the justices to clarify their position, but not to push the limits of *Escobedo* too far. Presciently, he told the court that forcing police to advise suspects of their rights would seriously hamper public safety. “I think if the extreme position is adopted that says he has to either have counsel at this stage or intelligently waive counsel, that a serious problem in the enforcement of our criminal law will occur.”

Because of the four other cases tied to Miranda and the large number of amicus briefs filed in the case, a second day of oral arguments followed on March 1. That day, the justices honed in on the Fifth Amendment aspects of the case, which pleased John Flynn to no end. The last man to present a position in the case before the court was Thurgood Marshall, whose personal opinions were diametrically opposed to the position of his employer, the U.S. government.

Once the arguments were done, there was nothing left to do but wait as the justices debated the issue among themselves and issued a written opinion, probably in four or five months. The traditional process called for the justices to listen to oral arguments on Monday through Thursday, then to take preliminary votes and assign opinion authorships during a private meeting – again attended only by the justices –

on Friday. Based on the political makeup of the Supreme Court in the spring of 1966, it was widely speculated that a majority would come down in some form on the side of Ernest Miranda.

Chief Justice Earl Warren wrote the opinion in *Miranda v. Arizona* himself in keeping with the court's tradition of assigning to the boss the most controversial matters. It took three full, distinct drafts before he was able to secure a majority position.

In the decision, Flynn, Frank and especially Ernest Miranda won hands-down.

"The prosecution may not use statements, whether exculpatory or inculpatory, stemming from questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way, unless it demonstrates the use of procedural safeguards effective to secure the Fifth Amendment's privilege against self-incrimination," Warren wrote, creating the now-famous "Miranda Warning."

From this point on, the court decision required, law enforcement officials would have to ensure that detainees have been briefed on and understand their Constitutional rights. Police departments around the country started to inform suspects they have the right to remain silent, anything they say can and will be used against them, that they have the right to an attorney and if they cannot afford an attorney, one will be provided free of charge.

The opinion was released on June 13, 1966, and Ernest Miranda learned that his conviction had been overturned while watching television. He thought, as did his family, that he would go free, and a celebration was planned. But the state of Arizona wasn't ready to let him get off that easy.

Once his conviction was overturned, he still had to serve the time for his robbery conviction, which was not affected by the *Miranda* decision, and shortly after the news reached Arizona, Maricopa prosecutors announced that they would seek to retry

CHAPTERS

1. A Rape in Phoenix
2. A Brief Life of Crime
3. "You Have the Right to Remain Silent"
4. The Trial of Ernest Miranda
5. Miranda's State Appeal
6. The ACLU Steps In
7. Miranda at the Supreme Court
8. Decision and Aftermath
9. Miranda's Life After Jail
10. Bibliography
11. The Author

Miranda without the confession as evidence.

Ernest Miranda was his own worst enemy. He was suing his common-law wife for custody of their daughter, and from prison, had confessed his role in Patty Weir's rape. He told his wife, Twila Hoffman, that she should tell Weir that Miranda would marry Patty if she agreed to drop the charges.

Hoffman, who wanted custody of their children herself, was angered by Miranda's request and told prosecutors about Miranda's prison confession. They used it during his retrial. There was a brief constitutional question about whether the testimony of a common law wife was admissible, and the issue went all the way back to the U.S. Supreme Court, which this time declined to hear what Ernest Miranda had to say. He was convicted a second time of raping Patty Weir and one year to the day after arguments in *Miranda v. Arizona* were heard in Washington, D.C., a Maricopa Superior Court judge re-sentenced Ernest Miranda to 20 to 30 years in prison for kidnapping and rape.

The questions of the right to counsel and the protection against compelled confessions did not go away with the *Miranda* decision. Congress, angered by the liberal Warren Court, took action by enacting Section 3501 of the federal criminal law code, which in a sense annulled the *Miranda* decision and required a case-by-case examination of whether a confession was compelled or legitimately received. That law, passed in 1968, was rarely, if ever, used by the federal government to avoid giving a Miranda warning. Its main champion in the U.S. House was then-minority leader Rep. Gerald Ford of Michigan, later President of the United States.

Eventually, a court case that relied on section 3501, reached the U.S. Supreme Court, which was decidedly more conservative than the Warren Court of 1966. In *U.S. v. Dickerson*, the 4th Circuit Court of Appeals found that *Miranda* was not a Constitutional guarantee, but could instead be altered by legislative action. In 2000, the U.S. Supreme Court heard arguments in *Dickerson v. United States* (the petitioner's name always precedes the

respondent) and declined to overturn *Miranda*.

“Relying on the fact that we have created several exceptions to *Miranda*'s warnings requirement and that we have repeatedly referred to the *Miranda* warnings as ‘prophylactic,’ ...and ‘not themselves rights protected by the Constitution,’ the Court of Appeals concluded that the protections announced in *Miranda* are not constitutionally required,” Chief Justice Rehnquist wrote for the Court. “We disagree with the Court of Appeals’ conclusion, although we concede that there is language in some of our opinions that supports the view taken by that court. But first and foremost of the factors on the other side--that *Miranda* is a constitutional decision--is that both *Miranda* and two of its companion cases applied the rule to proceedings in state courts... Since that time, we have consistently applied *Miranda*'s rule to prosecutions arising in state courts.”

Miranda's Life After Jail

Ernest Miranda served one-third of his sentence and had been turned down for parole four times before the Arizona Parole Board reluctantly agreed to release him in December 1972. He was something of a celebrity, and made a meager income by printing Miranda Warning cards, autographing them and selling them for \$1.50.

He wanted to make something of himself on the outside, Miranda told a friend. “I want to obtain an education and to elevate myself in society,” he wrote. “I know this will be hard for me, but only at first.”

But old habits die hard and Miranda soon went back to his previous lifestyle. Over the next few years, Miranda had numerous run-ins with police, mostly for minor driving offenses and eventually he lost his privilege to drive a car. He was arrested once in possession of a gun, but the charge was dropped after a court ruled the search was inadmissible. However, the arrest violated Miranda’s parole, and he was sent back to Arizona State Prison for another

year.

After his release, Miranda spent most of his time in the run-down bars and flophouses that dot the Deuce section of Phoenix. One night in January, 1976, Miranda spent the evening in a dive playing poker and gambling with other down-on-their-luck card players. A fight erupted over a handful of change lying on the bar and Miranda, then working as a delivery driver, was stabbed to death by an illegal Mexican immigrant. He was 36 years old.

Police managed to catch one of the murderer's accomplices, and taking him downtown, made sure that they advised the man that he had the right to remain silent, that anything he said could and would be used against him...

Bibliography

Baker, Liva. 1985. *Miranda: Crime, Law and Politics*. New York: Atheneum.

Dickerson v. United States. 000 U.S. 99-5525. (2000).

Escobedo v. Illinois. 378 U.S. 478 (1964).

Grona, Brooke B. 1999. "U.S. v. Dickerson: Leaving Miranda and Finding a Deserted Statute." *American Journal of Criminal Justice*, Vol. 26.

Inbau, Fred E. and John E. Reid. 1962. *Criminal Interrogations and Confessions*.

Miranda v. Arizona. 384 U.S. 436 (1966).

Thomas, George C. III. 2000. "The end of the road for *Miranda v. Arizona*?: On the history and future of rules for police interrogation." *The American Criminal Law Review*, Chicago

A footnote on Ernesto Miranda: Although Miranda's original conviction was overturned, he was retried on the same charges. His signed confession was not used in court since it had been ruled inadmissible. Still, he was convicted again -- this time based on the

testimony of a former girlfriend who testified that he had told her about the kidnapping and rape. Miranda was sent to prison, but was paroled in 1972. Two years later he was stabbed to death in a bar. No one has ever been charged with his murder.

The U.S. Supreme Court recently agreed to review whether issuing Miranda warnings to criminal suspects is constitutionally required--a review that could raise empirical questions of interest to research psychologists.

Before 1966, decisions regarding the admissibility of confessions were based on the due process voluntariness test: Judges examined the "totality of the circumstances" surrounding the confession to determine whether it was voluntary or coerced. Impermissible methods of police coercion might include threatening physical harm or harsher sentencing, deceiving the suspect or promising leniency.

That changed with *Miranda v. Arizona*, 384 U.S. 436 (1966), in which the U.S. Supreme Court ruled that to protect against the inherent coerciveness of custodial police interrogations, the police must inform suspects about their constitutional rights to avoid self-incrimination and to be appointed and consult an attorney. For self-incriminating statements to be admissible at trial, suspects must voluntarily, knowingly and intelligently waive these rights before they confess. In addition, the Miranda decision shifted the standard by which the admissibility of confession evidence is judged from a case-by-case analysis of voluntariness to the blanket exclusion of Miranda-violated confessions.

The Court based its ruling in *Miranda* on the assumption that all police interrogations are inherently coercive because police routinely use coercive methods, even if they do not rise to the level of deception and trickery. Indeed, researchers have established that a number of police techniques create a coercive environment such that even innocent persons may be compelled to confess to crimes they did not commit (Kassin & McNall, 1991; Wakefield & Underwager, 1998). Although *Miranda* was developed to correct for these coercive practices, psychologists have demonstrated that suspects may have difficulty comprehending the Miranda rights that are read to them (Grisso, 1981). If suspects do not understand Miranda warnings, how can these warnings protect suspects from the coerciveness of police interrogations?

Two years after the *Miranda* ruling, Congress passed Title 18 Statute 3501, which appeared to override *Miranda* and return to the voluntariness standard. The statute states that as long as the confession is voluntary under the due process voluntariness test, the confession is admissible even if it was obtained before the subject was given Miranda warnings. Courts have willfully ignored the statute for the past 30 years, using *Miranda* as the predominating rule for judging voluntariness.

A new case

The Supreme Court recently agreed to review the proper test for judging the voluntariness of a confession in *U.S. v. Dickerson, Charles T.*, 166 F.3d 667; 1999 U.S. App. LEXIS 1741. In this case, Dickerson confessed to committing an armed robbery of an Arlington, Va., bank. He later claimed that he had not been warned of his Miranda rights before his confession and moved to suppress his confession. The state argued that even if Dickerson had not been given his Miranda warnings until after his confession, the confession was still admissible under Statute 3501. The

district court disagreed and suppressed the confession on the grounds that it was in technical violation of Miranda. However, the appeals court ruled that 3501 should have been used when judging the admissibility of Dickerson's confession.

The Supreme Court now faces the task of delineating the boundaries of Miranda and deciding whether Miranda or Statute 3501 dictates the admissibility of confession evidence. If the court decides that Miranda rights are constitutionally protected, then Congress does not have the power to pass a law to override it absent a constitutional amendment. But, if Miranda is simply a prophylactic safeguard that augments the buffer between the people and coercive state action, Congress may pass laws that abridge or overrule judicial decisions involving matters of procedural law.

Implications for psychologists

Miranda and Dickerson raise a number of empirical questions that may be of interest to research psychologists. Can a confession obtained after the issuing of Miranda rights be considered any more voluntary than a confession obtained before the issuing of Miranda rights? If the Court decides that the issuing of Miranda rights is unnecessary, what other methods can be developed to minimize police coercion and to ensure that suspects offer voluntary confessions? Do all suspects respond to Miranda warnings in the same manner? Might guilty suspects or first-time offenders waive their Miranda rights more often than innocent persons or repeat offenders?

In addition to the number of research questions Dickerson generates, the upcoming decision may affect psychologists' roles in the courtroom. If the Court decides that Statute 3501 dictates the admissibility of confessions, the system presumably will return to a case-by-case analysis of voluntariness. Accordingly, psychologists may be asked to testify as expert witnesses on subjects such as the coerciveness of police interrogations and forced confessions or be asked to judge the voluntariness of individual confessions.

The *Miranda* ruling quickly became one of the most significant building blocks of our present-day system of criminal justice. Under *Miranda*, suspects who are subject to questioning must be told of their right to remain silent and of their right to an attorney, before questioning can begin.

Following the *Miranda* decision, many in the U.S. Congress thought that the Supreme Court had gone too far in helping criminal suspects avoid prosecution by placing the requirements for a rights advisement on police officers. Lawmakers feared that the *Miranda* decision would allow guilty parties to go free on "technicalities," and that those so freed might endanger the lives and well-being of innocent citizens.

In 1968, in direct response to the Court's *Miranda* ruling, Congress passed legislation ([18 U.S.C. 3501](#)) intended to allow the use of confessions obtained from suspects in criminal cases -- even if the requirements of a *Miranda*-style rights advisement were not met -- as long as those confessions were made voluntarily. The 1968 law, however, went unenforced, and remained largely unnoticed for three decades. Some believed that Congress did not have the authority to contravene *Miranda*. Moreover, presidential administrations -- especially those of the 1990s -- supported the spirit of the Court's 1966 *Miranda* ruling, neglecting to enforce the federal statute even when it might have allowed the in-court use of otherwise inadmissible confessions of criminal activity.

In April, 1999, however, in the case of *United States v. Dickerson* (166 F.3d 667, 4th Cir. 1999), the Fourth U.S. Circuit Court of Appeals ruled that the law passed by Congress in 1968 was valid, and that it should permit, at least in federal criminal cases, the in-court use of voluntary confessions taken in violation of *Miranda* requirements. This finding by the Fourth U.S. Circuit Court of Appeals was unacceptable to the Clinton Administration and to Attorney General Janet Reno who argued before the U.S. Supreme Court that it should be overturned.

The Justice Department urged the Court not to overrule its 1966 *Miranda* decision, partially on the grounds that doing so would undermine the public's confidence in the American criminal justice system.

A more crucial issue, from the legal standpoint, however, was whether the 1968 federal law is constitutional. The Justice Department claimed that it is not, and said that *Miranda* protections are essentially enshrined within the Fifth Amendment to the U.S. Constitution. Therefore, it argued, they cannot be overruled by Congressional action. Moreover, said Justice Department briefs filed in the matter, *Miranda* rules must in fact be constitutionally based since the Supreme Court has repeatedly enforced them in cases arising in state courts -- something that it can do only if state laws or state criminal procedures contravene the U.S. Constitution.

Not everyone, of course, agreed with the position taken by the Justice Department. A day after the Clinton administration filed its brief in support of *Miranda*, Senator Strom Thurmond of South Carolina denounced the action from the floor of the Senate saying that "the Justice Department has deliberately chosen to side with defense attorneys over prosecutors and law enforcement." "This is a serious error," said Thurmond. "The department should not make arguments in the courts on behalf of criminals."(1)

At least [one study](#) by the [National Center for Policy Analysis](#) suggests that *Miranda* rules have prevented law enforcement officers from successfully prosecuting thousands of known law-breakers.

The Supreme Court's [final decision](#) on the issue came on June 26, 2000. In a 7-to-2 vote, the Court upheld *Miranda*, declaring that the 1966 case established a "constitutional rule." Moreover, said the Court, [18 U.S.C. 3501](#) was itself unconstitutional since it contravened guarantees inherent in the Bill of Rights. Although the [majority opinion](#) was not seen as a ringing endorsement of *Miranda*, Chief Justice William H. Rehnquist, the opinion's author, noted: "Whether or not we agree with *Miranda's* reasoning and its resulting rule...the principles of *stare decisis* weigh heavily against overruling it now."

In a stinging [rebuttal](#), however, dissenting Justices Antonin Scalia and Clarence Thomas accused the Court's majority of playing intellectually dishonest "word games," and of misusing their authority by effectively creating a "extraconstitutional Constitution, binding on Congress and the states."

The [dissenting opinion](#) noted that even Justice Rehnquist, in a 1974 decision (*Michigan v. Tucker*) had said that the "procedural safeguards" adopted in *Miranda* "were not themselves rights protected by the Constitution..."

The *Miranda* decision was widely criticized when it came down, as many felt it was unfair to inform suspected criminals of their rights, as outlined in the decision. [Richard M. Nixon](#) and other conservatives denounced *Miranda* for undermining the efficiency of the police, and

argued the ruling would contribute to an increase in crime. Nixon, upon becoming President, promised to appoint judges who would be "strict constructionists" and who would exercise judicial restraint. Many supporters of law enforcement were angered by the decision's negative view of police officers. The federal Crime Control and Safe Streets Act of 1968 purported to overrule *Miranda* for federal criminal cases and restore the "totality of the circumstances" test that had prevailed previous to *Miranda*. The validity of this provision of the law, which is still codified at [18 U.S. Code 3501](#), was not ruled on for another 30 years because the Justice Department never attempted to rely on it to support the introduction of a confession into evidence at any criminal trial. *Miranda* was undermined by several subsequent decisions which seemed to grant several exceptions to the "Miranda warnings," undermining its claim to be a necessary corollary of the Fifth Amendment.

As the years wore on, however, *Miranda* grew to be familiar and widely accepted. Due to the prevalence of American television police dramas made since that decision in which the police read suspects their "Miranda rights", it has become an expected element of arrest procedure. Americans began to feel that the warnings contributed to the legitimacy of police interrogations. In the actual practice, it was found many suspects waived their Miranda rights and confessed anyway.

[edit] Subsequent developments

Since it is usually required the suspect be asked if he/she understands his/her rights, courts have also ruled that any subsequent waiver of Miranda rights must be knowing, intelligent, and voluntary. Many American police departments have pre-printed Miranda waiver forms which a suspect must sign and date (after hearing and reading the warnings again) if an interrogation is to occur.

But the words "knowing, intelligent, and voluntary" mean only that the suspect reasonably appears to understand what he/she is doing, and is not being coerced into signing the waiver; the Court ruled in [Colorado v. Connelly, 479 U.S. 157](#) (1986) that it is completely irrelevant whether the suspect may actually have been insane at the time.

A confession obtained in violation of the *Miranda* standards may nonetheless be used for purposes of impeaching the defendant's testimony: that is, if the defendant takes the stand at trial and the prosecution wishes to introduce his/her confession as a prior

inconsistent statement to attack his/her credibility, the *Miranda* holding will not prohibit this. [Harris v. New York](#), [401 U.S. 222](#) (1971).

A "spontaneous" statement made by a defendant while in custody, even though the defendant has not been given the *Miranda* warnings or has invoked the right to counsel and a lawyer is not yet present, is admissible in evidence, as long as the statement was not given in response to police questioning or other conduct by the police likely to produce an incriminating response. [Rhode Island v. Innis](#), [446 U.S. 291](#) (1980).

There is also a "public safety" exception to the requirement that *Miranda* warnings be given before questioning: for example, if the defendant is in possession of information regarding the location of an unattended gun or there are other similar exigent circumstances which require protection of the public, the defendant may be questioned without warning and his responses, though incriminating, will be admissible in evidence. [New York v. Quarles](#), [467 U.S. 649](#) (1984).

A number of empirical studies by both supporters and opponents of *Miranda* have concluded that the giving of *Miranda* warnings has little effect on whether a suspect agrees to speak to the police without an attorney. However, *Miranda*'s opponents, notably law professor [Paul Cassell](#), argue that letting go 3 or 4% of criminal suspects (who would be prosecuted otherwise but for defective *Miranda* warnings or waivers) is still too high a price to pay.

Miranda survived a strong challenge in [Dickerson v. United States](#), [530 U.S. 428](#) (2000), where the validity of Congress's overruling of *Miranda* was tested. At issue was whether the *Miranda* warnings were actually compelled by the [U.S. Constitution](#), or were rather merely measures enacted as a matter of judicial policy.

In *Dickerson*, the Court held 7-2 that the "the warnings have become part of our national culture," speaking through [Chief Justice William H. Rehnquist](#). In dissent, Justice [Antonin Scalia](#) argued that the *Ellis Smith* warnings were not constitutionally required, citing a panoply of cases that demonstrated a majority of the then-current court, counting himself, Chief Justice Rehnquist, and Justices Kennedy, O'Connor, and Thomas, "[were] on record as believing that a violation of *Miranda* is not a violation of the Constitution."

Dickerson reached the Court under a bizarre set of circumstances. Although the [Justice Department](#) under President [Clinton](#) had treated

Miranda as valid, the Supreme Court was forced to grant [certiorari](#) to prevent a circuit split after the 4th Circuit (on its own initiative) took up Professor Cassell's suggestion and ruled that Congress had overruled *Miranda* with the [Crime Control and Safe Streets Act](#). The [Solicitor General](#) refused to defend the constitutionality of the Act, so the Court invited Professor Cassell to argue against the validity of *Miranda*.

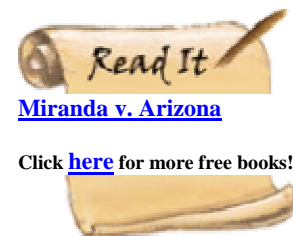
Over time, interrogators began to think of clever techniques to honor the "letter" but not the "spirit" of *Miranda*. In the case of [Missouri v. Seibert](#), [542 U.S. 600](#) (2004), the Supreme Court halted one of the most egregious practices. Missouri police were deliberately withholding *Miranda* warnings and questioning suspects until they obtained confessions, then giving the warnings, getting waivers, and getting confessions *again*. Justice Souter wrote for the plurality: "Strategists dedicated to draining the substance out of *Miranda* cannot accomplish by training instructions what *Dickerson* held Congress could not do by statute."

Even leaving aside deliberate circumvention, the issue of "[free will](#)" in waiving *Miranda* rights has been raised, with the suggestion that a suspect, simply by being in custody, is already sufficiently coerced as to call "free will" into question.

[US Supreme Court:](#)

Miranda v. Arizona

Sponsored Links



Miranda Rights

Simple answers to your complex questions about Miranda Warnings.

www.quizlaw.com

384 U.S. 436 (1966), argued 28 Feb. 1966, decided 13 June 1966 by vote of 5 to 4; Warren for the Court, Clark, Harlan, White, and [Stewart](#) in dissent. The Warren Court's revolution in American criminal

procedure reached its high point (or, depending on one's perspective, its low point) on 13 June 1966. That day the Court handed down its opinion in *Miranda*, the most famous, and most bitterly criticized, confession case in the nation's history. To some, *Miranda* symbolized the legal system's determination to treat even the lowliest and most despicable criminal suspect with dignity and respect. But to others, especially those who attributed rising crime rates to the softness of judges, the case became a target of abuse.

Background

Prior to the decision in *Miranda*, the admissibility of a confession in a state criminal case was governed by the due process "voluntariness" or "totality of the circumstances" test. Under this approach, the courts decided on a case-by-case basis whether the will of the person who confessed had been "broken" or "over-borne" or whether the confession had been voluntary. But it soon became clear that these terms were not being used as tools of analysis, but as mere conclusions. When a court concluded that the "totality" of a suspect's treatment had not been too bad (e.g., although the police had exerted considerable pressure and used some trickery, they had given the suspect a sandwich and permitted him to have a normal night's sleep), it called the resulting confession "voluntary." On the other hand, when a court concluded that police methods were too offensive or too heavy-handed (in consideration of such factors as the suspect's youth, poor education, or low intelligence), it labeled the resulting confession "involuntary" or "coerced" (see [Coerced Confessions](#)).

The vagueness and unpredictability of the voluntariness test, its application (or manipulation) by lower courts so as to validate confessions of doubtful constitutionality, and the inability of the Supreme Court, because of its heavy workload, to review more than one or two state confession cases a year, led a growing number of the justices to search for a more meaningful and more manageable alternative approach. *Miranda* was the culmination of these efforts.