

Questioning a witness by the police vs. Miranda Rights

WARM-UP

1. Have you ever heard a phrase, *You have the right to remain silent. Anything you say can and will be used against you in the court of law. You have a right to an attorney. If you cannot afford an attorney, one will be appointed for you?*
2. What rights or freedoms included in the US Constitution do you think it quarantees?

PREDICTING

What could have been the circumstances behind it? Watch the videos on Miranda Rights and check if you or your partner were right about it.

<https://www.youtube.com/watch?v=5B34TDZtHXA>

<https://www.youtube.com/watch?v=ICifhjRnDvg>

LISTENING COMPREHENSION

Watch the videos again and discuss the questions provided below.

1. What is the other name for Miranda Rights?
2. What case does it concern?
3. What was Ernesto Miranda accused of? Was he found guilty or not?
4. What were the long-term implications of this case?

YOU ARE THE JUDGE

Make yourself familiar with the legal grounds on which the appeal was based on. Do you think that they were sufficient in order to make this kind of decision?

5th Amendment

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

source: [https://constitution.congress.gov/constitution/amendment-](https://constitution.congress.gov/constitution/amendment-5/#:~:text=No%20person%20shall%20be%20held,the%20same%20offence%20to%20be)

[5/#:~:text=No%20person%20shall%20be%20held,the%20same%20offence%20to%20be](https://constitution.congress.gov/constitution/amendment-5/#:~:text=No%20person%20shall%20be%20held,the%20same%20offence%20to%20be)

(access 17/02/23)

6th Amendment

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

source: <https://constitution.congress.gov/constitution/amendment-6/#:~:text=In%20all%20criminal%20prosecutions%2C%20the,of%20the%20accusation%3B%20to%20be> (access 17/02/23)

Gideon v. Wainwright (1963)

Gideon v. Wainwright, case in which the U.S. Supreme Court on March 18, 1963, ruled (9–0) that states are required to provide legal counsel to indigent defendants charged with a felony.

source: <https://www.britannica.com/event/Gideon-v-Wainwright> (access 17/02/23)

The Sixth Amendment's guarantee of a right to assistance of counsel applies to criminal defendants in state court by way of the Fourteenth Amendment.

source: <https://www.oyez.org/cases/1962/155> (access 17/02/23)

CRITICAL THINKING

We know that in 1966 the Supreme Court overturned the Miranda's conviction by a five to four majority. Did the judges have any reservations concerning the verdict? If so, what were they about? Are there any circumstances which might exclude informing someone about his or her rights? Give examples.

CHALLENGE YOURSELF

Have you ever heard about the minority report? What is the equivalent of this term in your language? Does it have any legal consequences? Do you know any other case in which the verdict of the Supreme Court was not unanimous? What may have been the reasons?

CHECK YOUR PROGRESS

Translate the words provided below and then, complete the text on Miranda's case:

appeal	attorney (x2)	case	complaint
convicted	consult	court	custody
inadmissible	interrogation	judge	knowledge
officer	question	rape	right
statement	suspect	trial	

FACTS OF THE CASE

On March 13, 1963, Ernesto miranda was arrested at his home in Arizona. The police took him into _____(1) and transported him to a Phoenix police station. The witness who had filed the _____(2) identified him. Miranda was then led to the _____(3) room. Then, the police officers proceeded to question him. Miranda had not been informed of his rights prior to the questioning. He was never told he had the right to a/an _____(4) to be present during the questioning. After two hours, the officers had succeeded in getting a written confession signed by Miranda. At the top of the confession there was a typed paragraph stating that the confession was voluntary, without any promises of immunity or threats. The statement also said that Miranda signed the confession *with full _____ (5) of my legal rights, understanding any statement I make may be used against me.*

When Miranda's case went to _____(6), the prosecution used the written confession as evidence against him. The defence objected, asking for the evidence to be suppressed. However, the _____(7) allowed the confession to be admitted. Miranda was _____(8) of all counts, which consisted of kidnapping and _____(9). On each count he was sentenced to 20 plus 30 years, with the setences running concurrently. On Miranda's first _____(10), the Supreme Court of Arizona ruled that his rights had not been violated by the admission of the confession, and therefore affirmed the conviction. The basis for the decision was connected to the fact that Miranda never specifically requested counsel.

Miranda eventually appealed his _____(11) at the Supreme Court. The supreme Court ruled that based on the testimony given by the police officers, and the admission of Miranda, it was obvious that he had never been told in any form of his right to counsel, or of his right to one during the questioning. The _____ (12) also stated that Miranda was never informed of his right not to be compelled to incriminate himself. The Court also stated that without these warnings, all statements from Miranda were _____(13). They went on to rule that, just because the confession had a typed statement saying Miranda had full knowledge of his rights, this never reached the level needed for one to intelligently waive's one's constitutional rights. Based on this information, the Supreme Court reversed the decision.

The Supreme Court went on to say that the process of interrogation is intimidating by its very nature, and that a suspect must be read his or her rights to counteract this intimidation. The Court continued by specifically outlining how a suspect must be informed of his or her rights. First, a suspect needs to be read his rights before he is interrogated. A/an _____(14) may arrest a suspect without reading him his rights, as long as he/she does not _____(15) or interrogate the suspect in any way.

When questioning begins, the first statement to be made is *You have the right to remain silent and refuse to answer questions. Do you understand?* The officer must receive a verbal or written confirmation that the _____(16) understands his right to remain silent. The officer is then to say *Anything you do say can and will be used against you in the court of law. Do you understand?* Once again, as with all the miranda Rights, the officer must have a verbal or written acknowledgement of this right. The next _____ (17) is *You have the right to _____(18) an attorney before speaking to the police and to have an attorney present during questioning now or in the future. Do you understand?* That statement is followed by *If you cannot afford an _____(19) , one will be appointed for you before any questioning if you wish. Do you understand?* The last Miranda _____(20) specifically asks *Knowing and understanding your rights as I have explained them to you, are you willing to answer my questions without an attorney present?*

adapted from Sierocka, H. *Legal English* (2014), p. 205-206

OVER TO YOU

1. Do you share the opinion that Miranda Rights provide sufficient amount of protection against being intimidated during the questioning? Why/Why not?
2. Does a suspect in your country enjoy Miranda Rights? If not, should it be introduced? Discuss.
3. Some people say that Miranda Rights can be abused. Do you agree?
4. Are there any other ways to make a suspect feel treated fairly in the presence of a police?
5. Have you or someone you know heard or read about a situation when the police behaved inappropriately? To what extent can it be connected, for instance, to the colour of someone's skin or his or her political views? Can you think of any other reasons why it might happen?



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