

## The Public Safety Exception to *Miranda*

When police take someone into custody, an officer reads that person a list of rights from a standard form:

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 with you while you are questioned.
4. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish.
5. You can decide at any time to exercise these rights and not answer any questions or make any statements.



These items are usually referred to as the *Miranda* rights, after an Arizona murder defendant named Ernest O. Miranda. Miranda's attorneys persuaded the Supreme Court to overturn his conviction because the police had obtained a confession from him without informing him of his right, under the Fifth Amendment to the Constitution, not to incriminate himself. Detectives had interrogated him for four hours while he stood handcuffed. They also refused to allow him to talk to his lawyer. They only stopped their interrogation when he confessed to the crime.

The court overturned Miranda's conviction in 1966. In its decision, 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 the warnings to the suspect.

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.

Since the *Miranda* decision, convictions can be reversed if they were based on information that the defendants supplied during interrogation without having been notified of their rights. The defendants may receive a new trial, but the illegally obtained information or confession cannot be used as evidence.

### ***New York v. Quarles (1984)***

Since the *Miranda* decision in 1966, the police in various states have argued that there are situations in which they must obtain information from suspects without explaining the suspect’s rights. In 1984, the court ruled that such a situation exists when the “public safety” is at stake.

In the case, *New York v. Quarles*, the Court considered the situation of a rape suspect (Quarles) who ducked into a grocery store while the police were chasing him. Before the officers followed him into the store, Quarles threw his gun into a packing box. The police caught and handcuffed him. Without reading him his *Miranda* rights, one of them asked where he had put the gun. He answered, “The gun is over there.” The gun itself was used as evidence against him at trial and he was convicted.

Quarles appealed his conviction to the New York Court of Appeals, the highest court in New York State. That court ruled that the police should have read Quarles his *Miranda* rights before asking him about the gun. Under that ruling, Quarles was entitled to a new trial. Neither the gun nor his admission of having thrown it into the box could be heard by the jury. The State of New York, on behalf of the prosecution, appealed to the Supreme Court.

Though the police did not claim that “public safety” was a concern when they failed to read Quarles his rights, Justice Rehnquist (who later became chief justice) based his decision on that factor. A majority of the justices agreed. They held that the danger to the public of having someone other than the police find Quarles’ gun was “paramount,” and that this danger overrode Quarles’ constitutional rights under *Miranda*.

In such a situation, if the police are required to recite the familiar *Miranda* warnings before asking the whereabouts of the gun, suspects in Quarles’ position might well be deterred from responding. Procedural safeguards which deter a suspect from responding were deemed acceptable in *Miranda* in order to protect the Fifth Amendment privilege; when the primary social cost of those added

protections is the possibility of fewer convictions, the *Miranda* majority was willing to bear that cost. Here, had *Miranda* warnings deterred Quarles from responding to Officer Kraft's question about the whereabouts of the gun, the cost would have been something more than merely the failure to obtain evidence useful in convicting Quarles. Officer Kraft needed an answer to his question not simply to make his case against Quarles but to insure that further danger to the public did not result from the concealment of the gun in a public area.

The dissenters on the court made three arguments. First, they disagreed that the public was in danger. Second, they argued that the exception made the *Miranda* rule less clear. Third, they argued that the exception failed to address the reason for the *Miranda* rule:

As a result of the Court's decision in *Miranda*, a statement made during a custodial interrogation may be introduced as proof of a defendant's guilt only if the prosecution demonstrates that the defendant knowingly and intelligently waived his constitutional rights before making the statement. The now-familiar *Miranda* warnings offer law enforcement authorities a clear, easily administered device for ensuring that criminal suspects understand their constitutional rights well enough to waive them and to engage in consensual custodial interrogation.

In fashioning its "public-safety" exception to *Miranda*, the majority makes no attempt to deal with the constitutional presumption established by that case.

### **For Discussion and Writing**

1. Do you think "public safety" was really at stake in the *Quarles* case? Why or why not?
2. What are some examples of "public safety" situations which (in your opinion) are serious enough to justify failure to read the *Miranda* warning?