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Miranda v. Arizona (1966): Its Impact on Interrogations

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Miranda v. Arizona (1966): Its Impact on Interrogations.

A Research Project
submitted to the Faculty of the
Graduate School of Criminal Justice and Sociology
of Kennesaw State University in
partial fulfillment of the requirements for the
degree of Masters of Science
in Criminal Justice

By
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Abstract

The purpose of this study is to explain the importance of the Miranda warnings on law enforcement conducting interrogations and the impact they have made on the criminal justice system. Interrogations conducted by law enforcement are a valuable tool to obtain confessions to crimes. The Miranda warnings were established to protect individuals suspected of committing a crime by safeguarding and cautioning them to remain silent and have an attorney present if requested during custodial interrogation. An extensive literature review on United States Supreme Court decisions involving the Miranda warnings, the “Reid Technique” on interrogations, and law journal articles related to the impact of Miranda and The Reid Technique was conducted to shed a light on the significant case of *Miranda v. Arizona (1966)*. The Reid Technique is the leading approach to training law enforcement on effective techniques to obtain admissible confessions.

Key words: Miranda warnings, “Reid Technique,” criminal justice system

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Introduction

Miranda warnings, “The Reid Technique,” interrogations, and confessions all contribute to the investigative process within criminal justice system. A fair criminal justice system is the goal for its citizens. The Miranda warnings purpose was to provide fairness for both the suspect and the police by establishing rules. The Miranda warnings provided the right to remain silent and the right to have an attorney present during custodial interrogation. The Miranda warnings were created because procedures were unfair and, through case law, gradually over time the treatment of suspects became more fair. The “Reid Technique” has provided police with ethical and reliable means of interrogation to obtain confessions. In order for a confession to be admissible in court the Miranda warnings are stated to the suspect in custody prior to interrogation. This is important when implementing the “Reid Technique.”

The decision in the *Miranda v. Arizona (1966)* case has significantly impacted the criminal justice system. The Miranda warnings were primarily established because of involuntary confessions sometimes obtained by dishonest law enforcement agents. Prior to the decision in 1966, police may have abused their power during interrogations to derive information they needed in the form of a confession. Some law enforcement officers used scare tactics and unethical judgment to obtain suspects’ confessions, possibly admitting to a crime they did not commit (*Brown v. Mississippi, 1936*). For example, striking suspects with a phone book is not the correct way to encourage a suspect to discuss their involvement in a crime.

The warnings were also established to help individuals understand their rights so they can make an intelligent, knowing, and voluntary decision on whether to waive those rights. After understanding their rights, individuals are able to make an educated decision when questioned by police. All suspects have rights which have been established over the past several decades.

In light of the Supreme Court decision regarding the Miranda case, police departments' strategies on speaking to suspects has been impacted. Law enforcement has changed their ways of approaching suspects. Case law has influenced law enforcement to change their ways to establish lawful tactics towards suspects. The conflict of how to justly and fairly extract information has not been completely resolved but has significantly improved since the period leading up to the 1960's.

Today, Miranda Warnings have significantly impacted this type of police work by helping to avoid coercion and involuntary statements by suspects during custodial interrogations. Improvements in police departments have established a more ethical and policy focused approach to improve the criminal justice system. Most police departments have established a "no tolerance" policy for unethical behavior, which aids the police on how to properly address interrogations (Georgia POST, 2013). Law enforcement consistently seeks effective strategies to aid them in the pursuit of justice.

The Wickersham Commission Report (1931) publicized police interrogation techniques of abuse by coercing confessions through physical means (Wice, 1996, p.45). The Wickersham Commission Report was the first systematic study of police misconduct (Hall, 1997, p.4), conducted on a national level (Hall, 1997, p.7). The study found that police misconduct during the 1930's had been an ongoing problem for decades (Hall, 1997, p.8), concluding that police used physical brutality towards suspects to obtain involuntary confessions, commonly using threats and intimidation. The report identified these issues, influencing police staff to reform (Hall, 1997, p.10).

Over time, suspects' rights and protections have been impacted through case law, which has set a precedent for future cases that will be decided. Police maintain order through these laws every day at work. Suspects' incriminating statements in the past have been used against them unfairly, and the Miranda warnings have established a safeguard to now protect those statements. The Miranda warnings have become a critical component of police interrogation policies; officers must read them word for word, in case the suspect in custody should make any incriminating statements. Once the warnings have been stated, the suspect's statement will not be excluded on a technicality in court. Police interview and interrogate many suspects over the span of their careers. If police want a confession to be admissible at trial, they must prove it was voluntary, knowingly, and intelligently stated.

Interrogations are a vital step in obtaining a confession from a suspect who committed a crime. Many criminal cases are not easily solved because the evidence may be unsubstantiated, and the confession is needed to proceed with the case. The purpose of police interrogations is to find the perpetrator who committed the crime and bring him or her to justice. Cases have been compromised at trial because police officers did not state the Miranda warnings prior to interrogation and thereby jeopardized the admissibility of the confession.

The Fifth, Sixth, and Fourteenth Amendments clarify the primary rights suspects have during a police interview or interrogation. For the purposes of this study, the Fifth Amendment is the primary area to be researched. The Fifth Amendment ensures that the government may not compel individuals to testify against themselves, thereby protecting them from self-incrimination (Bill of Rights Institute, 2010). The Supreme Court *Miranda v. Arizona* (1966, determined that law enforcement agents must inform the suspect, among other rights, of their Fifth Amendment right to remain silent and that he or she is allowed to refuse to answer questions. If this right is

violated, the confession will generally be deemed inadmissible at trial, at least in the prosecutor's case (Bill of Rights Institute, 2010).

Training is critical for law enforcement officers to properly conduct interviews and interrogations to obtain information on a case that can lead to an arrest and a conviction. The primary goal of detectives and police officers is to identify the correct perpetrator and obtain a voluntary confession and to seek justice for the victim by putting the criminal behind bars. Officers must be trained to properly conduct interrogations to elicit confessions to a crime. Time and experience can help improve the interrogation process, and the officers must also learn effective techniques on proper interrogation of a suspect.

During the mid 1900's, two men, John E. Reid and Fred E. Inbau, collaborated in forming "The Reid Technique," now widely used. Inbau, a professor of criminal law, began working for the Chicago Police Department, where he met Reid, an officer working on polygraphs. The two men created strategies to be utilized by law enforcement agents to obtain confessions during interrogations. The technique is based on a psychological approach that minimizes the seriousness of the criminal act and rationalizes the reasons for the act to make the suspect feel more comfortable in talking about the crime (Reid, Inbau, Buckley, Jayne, 2004, p. preface 1).

The Reid Technique is only to be used after a suspect is read their Miranda warnings. Reid and his associates during their seminars for law enforcement teach the attendees to read the Miranda warnings prior to interrogation. During the interview stage the Miranda warnings are not needed. Once the questioning becomes accusatory or when the suspect might possibly make

incriminating statements the interrogator needs to already of Mirandized the suspect to ensure that any incriminating statements made will be admissible in trial (Reid & Associates, 2013).

While Reid and his associates believe they have mastered the art of interrogations, many scholarly authors criticize the technique and have spoken their opinions. These authors claim the methods Reid implements causes false confessions (Gallini, 2010 & Godsey, 2009). Reid Techniques success is often criticized.

The three main questions will be addressed in this research paper:

- (1) Why did the Miranda warnings start?
- (2) Have the Miranda warnings made the justice system more fair? If so, for whom?
- (3) Is the “Reid Technique” valid in light of the law?

All these questions are important to research to better understand our justice system. The Miranda decision has provided noteworthy outcomes in criminal cases over the years, such as, *Dickerson v. United States (2000)* and *Maryland v. Shatzer (2010)*. The Miranda decision has made law enforcement officers alter their approaches to obtaining confessions (Gallini, 2010). The significance of this study is to show how the Miranda warnings have improved police work while still keeping the same confession rate. The safeguards established by the Miranda warnings to suspects help ensure statements made to police can be used in court, and the “Reid Technique” has led to many confessions. The research questions, once answered, will reveal the significance of the *Miranda v. Arizona (1966)* case and its impact on future cases.

Chapter 1 of the research project is the introduction of the landmark decision of *Miranda v. Arizona (1966)* and how it affected the criminal justice system. It also highlights the

techniques of interrogation created by John E. Reid. The chapter explores the Bill of Rights, mainly the Fifth Amendment, and how it intertwines with the Miranda warnings. This chapter also reflects the importance of the study, stating the research questions explored throughout the paper.

Chapter 2 is an extensive literature review of the material that pertains to the research questions. The review starts with cases that led up to the Miranda Decision: *Brown v. Mississippi (1936)*, *Gideon v. Wainwright (1963)*, and *Escobedo v. Illinois (1964)*. Next, Chapter 2 relates details of the Miranda case. It also identifies several significant Supreme Court cases in particular that have impacted the Miranda decision over time, including these areas: Fifth Amendment Cases Post Miranda: Effect of Invocation of Rights & Waiver, Remaining Silent, Exceptions to the Miranda Warnings, and Fruit of the Poisonous Tree and Its exceptions where police fail to provide the Miranda Warnings. These issues implicate how an interrogation is defined and whether or not the suspect was actually interrogated. In addition, Chapter 2 includes a detailed literature review of “The Reid Technique” created by John Reid and Fred Inbau and the validity it holds under the law. Lastly, in this chapter the impact of interrogations in light of the law is addressed, in particular any changes in the confession rate because of the Miranda warnings and the impact the law has had in this area of police interrogations.

Chapter 3 is the methodology section, which describes how the research questions are addressed by explaining how the information was collected and analyzed into the construction of the paper. Chapter 4 explains the findings derived from empirical studies of the impact of Miranda. Scholarly work has found no significant decrease in the confession rate following Miranda. This section will address the questions surrounding how Miranda came about, the

impact of Miranda on the justice system (i.e., the fairness question), and the legitimacy overall of Reid Technique in light of the law.

Chapter 5 presents the discussion and conclusions of the study. The discussion will analyze the information and other assessments made by scholars regarding the impact of the Miranda warnings and the legal implications of the “Reid Technique.” Policy implications will be discussed in light of their effect on current laws. Lastly, the conclusion will highlight the importance of this topic by explaining the results from the research questions. The impact and effect the Miranda warnings and the “Reid Technique” have on police, suspects, and the courts will be addressed, and ideas for future research to extend this area of study will be discussed.

Literature Review: Cases

Cases that led up to the Miranda Decision

Prior Supreme Court cases provided “steppingstones” to the Miranda decision. The main cases that were “steppingstones” include *Brown v. Mississippi (1936)*, *Gideon v. Wainwright (1963)*, and *Escobedo v. Illinois (1964)*. These three cases all led to the decision in the *Miranda v. Arizona (1966)* case, and if not for them, the Supreme Court may not have arrived at its conclusions in the Miranda case. These cases were chosen because of their significant impact on change in the legal system on law enforcement approach to suspects and the increase in individuals’ rights in court to properly provide a fair trial. Also, quite possibly police could still be using coercive tactics in obtaining confessions.

Brown v. Mississippi

In the *Brown v. Mississippi (1936)* case, lawyers and judges started to realize the unethical approaches law enforcement used for interrogations, which sometimes led to false confessions.¹ Law enforcement needed to make changes to their tactics for obtaining confessions. The *Brown v. Mississippi (1936)* case was significant because the police physically tortured suspects until they confessed to a murder they did not commit.

On March 30, 1934, Raymond Stewart, a white male, was murdered. Another man, Elington, a black male, was detained by the sheriff and taken to the victim's house, where several white men were waiting. They asked Elington if he had killed the victim, and after he denied involvement, the men seized him. They hanged him with a rope around his neck for a short period of time, and then released him. The white men asked Elington again if he had killed the victim, and Elington again denied the allegations. So they hanged him a second time for a short period, and Elington then yielded to their demands and confessed to killing Raymond Stewart. Ellington's Fourth Amendment right was violated because he had been seized by the sheriff without probable cause supported by an arrest warrant. This is a statute that the State Supreme Court based its holding on due process (*Brown v. Mississippi, 1936, p. 279, 281*).² The Eighth Amendment bans cruel and unusual punishment, which was also violated because the application of torture and physical force inflicted by the police (*Bill of Rights Institute, 2010*).

The sheriff arrested two other men, Ed Brown and Henry Shields (two black males), and escorted them to jail on suspicion of their involvement in Stewart's murder. While the two men were at the jail, the sheriff and several other white men forced them to strip and began whipping them repeatedly until they confessed to the murder of Raymond Stewart in significant detail, as

¹ 297 U.S. Reports 278 (1936)

² The findings of the lower courts mentioned in this paper, including those courts' holdings, judgments and/ or rationales, were retrieved from the United States Supreme Court cases. Therefore, citations to this material appear in the format used for United States Supreme Court cases.

coerced by the sheriff. The two men were warned that if they decided to change their story, the white men would be back to “finish what they started.” On April 4, 1934 the case was indicted by a grand jury ([Brown v. Mississippi, 1936, p. 279, 282](#)).

The only evidence against the suspects was their confessions. During the trial, the marks on the bodies of the accused that they endured from the hanging and whipping were visible to the jury. The sheriff admitted that the defendants were whipped, and he implied they endured a low level of pain. At trial, the suspects testified, telling the jury that the confessions were false and that the police tortured them until they confessed. The defendants were all found guilty and sentenced to death ([Brown v. Mississippi, 1936, p. 279, 284](#)).

The defendants submitted an appeal to the Supreme Court of Mississippi on the grounds of error regarding the inadmissibility of their confessions. The Supreme Court of Mississippi reviewed the case and agreed with the lower court’s decision. The defendants took their case to the United States Supreme Court, which granted the writ of certiorari. The United States Supreme Court reviewed the case, and in a unanimous decision the Court reversed the lower court’s decision. The defendants’ confessions were not made voluntarily and of their own free will but were coerced by the police through tortuous means. The sheriffs violated the defendants’ Fourteenth Amendment right of due process of the law. The United States Supreme Court based its holding on due process ([Brown v. Mississippi, 1936, p. 280-281](#)).

Gideon v. Wainwright

Clarence Gideon was charged with breaking and entering a poolroom with the intent of committing a misdemeanor crime. In the Florida State Trial Court he was charged with a felony and he requested counsel but was denied due to his not having been charged with a capital offense. After being denied counsel, he fought his case to the best of his knowledge, by questioning witnesses and invoking his Fifth Amendment right. During trial, Gideon protested his innocence, but the jury found him guilty, and he was sentenced to five years in prison (Gideon v. Wainwright, 1963, p. 337).

Gideon filed a habeas corpus petition to Florida's Supreme Court on the grounds that he had been denied his Sixth Amendment right to counsel to aid him at trial. The Florida Supreme Court denied his petition, so he appealed to the United States Supreme Court, who granted certiorari and reversed and remanded the lower trial court decision. The United States Supreme Court held that the Fourteenth Amendment due process clause requires the states to provide defendants in all criminal felony proceedings their Sixth Amendment right to counsel unless intelligently waived by the defendant. The United States Court reversed the decision and sent it back to the state trial court to continue proceedings in accordance with its decision (Gideon v. Wainwright, 1963, p. 338).

Escobedo v. Illinois

Danny Escobedo, along with his sister, were primary suspects in the fatal shooting of Danny's brother-in-law on January 19, 1960. The police conducted a warrantless arrest of Escobedo and started to interrogate him. During interrogation, Escobedo requested a lawyer to be present but was denied several times, and soon after he was released. The police subsequently indicted another man in relation to the murder, and he confessed to firing the shots that killed the

victim. The police again arrested Escobedo, and on the way to the police station they told him that another man named Escobedo was the one who shot the victim. While in the police car on the way to the station, Escobedo requested a lawyer (*Escobedo v. Illinois, 1964, p. 479*).

At the station, the suspect's lawyer was waiting and repeatedly asked to speak with his client but was denied. The defendant was told that his lawyer did not want to see him, which was a lie. The police continued their interrogation, disregarding the suspect's request for a lawyer and intentionally denying the lawyer, who was present at the police station, access to his client. The police during interrogation also never mentioned Escobedo's right to remain silent. The police were trying to use the other man's fictitious role in the murder against Escobedo to obtain a confession, emphasizing that the blame would be on the other man and not, in fact, on the defendant. Escobedo made incriminating statements about his role in the murder of his brother-in-law, and those statements were admitted into evidence at trial. During the trial, his lawyer tried to suppress the incriminating statements made by his defendant, but his motion was denied and the defendant was found guilty of murder (*Escobedo v. Illinois, 1964, p. 480*).

Escobedo appealed his case to the Illinois Supreme Court, who concurred with the lower court's decision. The next step was a writ of certiorari to the United States Supreme Court, which they granted, and they reviewed the case. On February 1, 1963, the United States Supreme Court found that the accused was denied his right to counsel, which was in violation of his Sixth Amendment right; therefore, any statements he made should have been excluded at trial. The defendant's conviction was reversed by the United States Supreme Court. An overall "test" was created by *Escobedo v. Illinois (1964)*: the attorney is provided if the suspect "becomes the focus of the interrogation by police" (*Escobedo v. Illinois, 1964, p. 483*).

Conclusion

Brown v. Mississippi (1936), *Gideon v. Wainwright (1963)*, and *Escobedo v. Illinois (1964)* were all pre-Miranda cases that were “steppingstones” to the main decision. The 1930’s to the 1960’s was a tremendous period for suspects to earn their rights and to receive aid at trial. All of these cases improved the criminal justice system, assuring suspects fair treatment and their rights under the law.

The *Mississippi v. Brown (1936)* case clearly arose from racial prejudices by law enforcement towards suspects.³ In the South during these times (1930’s), racial conflict was common, and law enforcement often made decisions based on race. This period provided the beginning of the Civil Rights Movement, when the South was not a safe place for people of color. This case shows that law enforcement must not use physical or verbal coercion to obtain confessions, especially false confessions. The Courts will not tolerate such behavior from law enforcement.

The case of *Gideon v. Wainwright (1963)* brought the Sixth Amendment right to counsel to the states during the 1960’s. Through the Fourteenth Amendment, due process now includes the right to have an attorney for state felony cases, not only federal.⁴ The *Argersinger v. Hamlin (1972)* case extended attorney rights to State misdemeanor trials where defendants faces jail time. The *Brown v. Mississippi (1936)* and *Gideon v. Wainwright (1963)* cases have established more rights and protections for individuals so law enforcement conducts cases in an ethical manner to ensure all the evidence can be used at trial.

³ 297 U.S. Reports 278 (1936)

⁴ 372 U.S. Reports 335 (1963)

The *Escobedo v. Illinois* (1964) case provided additional rights for defendants as it established that state police need to notify suspects of their right to remain silent and to have an attorney present if requested by the time the suspects becomes the focus of investigation by police. This significant case occurred immediately prior to the landmark decision in *Miranda v. Arizona* (1966). The Escobedo case gave the right to counsel during pre-indictment police interrogations, but until *Gideon v. Wainwright* (1963), this right was not provided in state court litigations (i.e., trials).

Miranda v. Arizona

One of the most significantly historical Supreme Court cases was *Miranda v. Arizona* (1966). This case provides a landmark decision that still is used in every law enforcement agency today when dealing with suspects during arrests and interrogations. All the prior cases mentioned led to this decision. The Miranda warnings were established so suspects would understand their rights; in addition, they exist for police to be able to establish that any confessions obtained after providing the warnings were knowingly, intelligently, and voluntarily made, and therefore are admissible in court. Following Miranda, the police could no longer ignore a suspect's request for attorney or coerce suspects into making involuntary statements and expect those statements to be admissible at trial ([Miranda v. Arizona, 1966](#)).

The facts of the Miranda case are as follows: On March 3, 1963, in Phoenix, Arizona, an eighteen-year-old female, after walking home from work, was tied and kidnapped. The suspect drove the female to a deserted area and raped her, after which he drove her back to the place he kidnapped her and released her. The female called the police and told them what had happened; the statements she made were inconsistent. A car that had frequently been seen being driven

around the neighborhood was noticed by the victim's brother, and he reported the sighting to the police, who traced the car back to a woman and her boyfriend, Ernest Miranda (Wice, 1996, p. 9-10 & *Miranda v. Arizona*, 1966, p.518).

A week later, Miranda, a 23-year-old man of Mexican descent, was arrested in his home and taken into custody. The female victim positively identified Miranda as her attacker. The police escorted Miranda to the police station at 8:30 AM; he had just left work and therefore did not have much sleep (Wice, 1996, p. 11). The Phoenix police interrogated Miranda for approximately two hours, at which time Miranda did not have counsel. During the interrogation, Miranda at first denied any involvement in a crime. After a two hour interrogation, Miranda yielded to police questioning and provided a verbal confession. Police typed a statement of confession that night and asked Miranda to sign the paper, which he did (*Miranda v. Arizona*, 1966, p.518).

At trial, Miranda obtained a court appointed attorney, whose prior practice was civil litigation; therefore, the attorney had little criminal law experience. Miranda's confession was admitted even though the defense counsel objected. The defense attorney did mention, however, that the victim's statements to the police were inconsistent (Wice, 1996, p. 18-19). Miranda was found guilty of the rape and kidnapping; he was convicted and sentenced to twenty to thirty years of incarceration (*Miranda v. Arizona*, 1966, p.493).

The issues in the original Miranda trial include: (1) whether the defendant was under arrest at the time he made a confession; (2) whether he should have been represented by counsel; and (3) whether he had been told that any statement he made could be used against him in a court of law. The lower court allowed these issues to be admissible in court because at the time they

were not identified as issues. Because of these issues, Miranda appealed his case to the Arizona Supreme Court on December 10, 1963. The confession was reviewed to see whether it had been voluntary. The Escobedo case was also examined regarding legal counsel. A significant way the *Escobedo* case differs from *Miranda* is that Miranda did not request a lawyer, but Escobedo had requested one. The Arizona Supreme Court concluded that Miranda's confession was made voluntarily; no threats or promises were made, and he understood his rights because of prior encounters with law enforcement. The Arizona Supreme Court affirmed the lower court's decision (Wice, 1996, p. 20-24 & *Miranda v. Arizona*, 1966, p.518).

Miranda, while incarcerated, heard about the Gideon court decision, which established that poor defendants had a constitutional right to legal counsel for felony charges at trial in state courts (Wice, 1996, p. 25). Miranda, who sought new counsel, appealed his case to the United States Supreme Court, and they granted the writ of certiorari on November 22, 1965 (Wice, 1996, p. 34). The Supreme Court reviewed the confession in light of the Fifth Amendment; it also looked at the Sixth Amendment right to counsel as it related to the states. Finally, the Fourteenth Amendment was examined because it may have been violated as a result of all citizens having a right to due process through a fair trial (Wice, 1996, p. 49).

The United States Supreme Court decision in the Miranda case was a consolidated verdict based on four cases (three state and one federal) involving custodial interrogations. The U.S. Supreme Court reversed three cases and affirmed one (*Miranda v. Arizona*, 1966, p.525).⁵ In the Miranda case, a five to four majority judgment was issued by the Court, setting forth a milestone for defendant's rights during interrogations. The decision was based on the fact that

⁵ The three other cases are: (1) *Vignera v. New York*, (2) *Westover v. United States*, and (3) *California v. Stewart*

the defendant was not told about his right to counsel nor did police warn him of his right to remain silent ([Miranda v. Arizona, 1966, p.493](#)).

While this case provides a major turn in events, it was also a very close decision (five to four). The Miranda case set a precedent for all police officers that for a confession to be admissible in court, they need to state the Miranda warnings to the suspect prior to custodial interrogation to safeguard the suspect's rights. This landmark case established the requirement to read the suspects their rights, but after the Miranda warnings are read, if counsel is requested, the police must stop the interrogation. One significant addition from the Miranda decision introduced a defendant's Fifth Amendment rights during a custodial interrogation ([Miranda v. Arizona, 1966, p.527](#)). The case is prior to charges being filed against the defendant, so it falls within Fifth Amendment and not Sixth Amendment rights.

The Miranda warnings, or "rights," state:

"You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford an attorney, one will be provided for you. Do you understand the rights I have just read to you? With these rights in mind, do you wish to speak to me?"⁶

This warning is stated to all suspects before custodial interrogation to ensure that the suspect understands his or her rights and to ascertain whether the suspect wishes to waive them. Verification of having informed the suspect of his rights is the only means whereby statements may now be admissible in trial. This decision has made law enforcement more mindful when

⁶ [MirandaWarning.org \(n.d.\)](#)

trying to obtain confessions and has helped verify that suspects understand their rights, which in turn, has made the criminal justice system into a more fair playing field in the battle for justice.

Ironically, Miranda was granted a new trial in which the confession was inadmissible, but he was found guilty none-the-less. After the litigation process to improve the criminal justice system, his case ended with the same result: Guilty as charged. The case inevitably provided headway for every person interrogated by police in custody to understand his or her rights. After Miranda had been imprisoned for many years, he was released. Soon after his release, he engaged in a bar fight and was stabbed with a knife and killed. The person who killed him was read his Miranda warnings (Wice, 1996, p. 113).

Fifth Amendment Cases Post Miranda: Effect of Invocation of Rights & Waiver

The Fifth Amendment is significant when it comes to Miranda warnings. All suspects have the right to not incriminate themselves under the Amendment. Once the Miranda warnings have been stated to a suspect, he or she now has the choice to waive the warnings or to remain silent (i.e., not incriminate his or her self). The Miranda rights also include the right to an attorney to ascertain the questioning is proper and to aid the suspect answering questions. If a suspect does not waive his rights, when can the police again question him? The cases of *Michigan v. Mosley* (1975), *Edwards v. Arizona* (1981), *Colorado v. Connelly* (1986), and *Maryland v. Shatzer* (2010) answer these questions.

Michigan v. Mosley

On April 8, 1971, in Detroit, Michigan, Richard Mosley was arrested for his involvement in several robberies. At the police station, Mosley was advised of his Miranda warnings and soon after a law enforcement officer began to interview Mosley. He declined to talk stating, “I

don't want to answer any questions." The interrogation ended, but at no time did Mosley request a lawyer ([Michigan v. Mosley, 1975, p. 97](#)).

Later, a different law enforcement agent asked Mosley about a fatal shooting incident, a separate incident from the arrest incident. The agent advised Mosley again of his Miranda rights. During the interrogation, Mosley at first denied any involvement until the agent mentioned an accomplice who confessed and incriminated Mosley as the main shooter. Mosley then made self-incriminating statements about his own involvement in the homicide. During the entire interrogation, Mosley never asked for counsel, nor did he ask to terminate the conversation ([Michigan v. Mosley, 1975, p. 98](#)).

During trial, Mosley's attorney attempted to have the confession thrown out, which was denied, and Mosley was found guilty of murder in the first degree. Mosley's attorney appealed to the Michigan Supreme Court, and they concurred with the lower court's decision. Mosley then appealed to the United States Supreme Court, who granted a writ of certiorari ([Michigan v. Mosley, 1975, p. 99](#)).

The Court noted that Mosley was questioned on two occasions for two different crimes and by two different law enforcement agents in two different locations over an extended period of time. Because at the first encounter Mosley decided to remain silent and not answer any questions and the police honored the request and ceased the questioning, police could re-approach Mosley a second time and interrogate him about a different crime. The court of appeals verdict was vacated on the case and remanded ([Michigan v. Mosley, 1975, p. 107](#)).

Edwards v. Arizona

In the *Edwards v. Arizona (1976)* case, on January 19, 1976, Edwards was arrested in his home for robbery, burglary, and murder. Edwards was escorted to the police station, where he was advised of his Miranda warnings, and at the time he agreed to speak to the police. The defendant asked to plea-bargain with the police, but he wanted a lawyer present before any additional questioning. At this point the police ended the interrogation and took Edwards back to his holding cell ([Edwards v. Arizona, 1981, p.479](#)).

The next day detectives approached Edwards and told him that he was required to speak with them, and a second interrogation was conducted during which he was given his Miranda warnings again, and Edwards confessed to the crime. Prior to going to trial, Edwards attempted to suppress his initial confession from the second interrogation because the police questioned him after he requested an attorney be present during the first interrogation. The second interrogation therefore violated his Fifth Amendment rights stemming from the Miranda warnings. The judge at the trial court denied the motion to exclude his confession. Edwards was found guilty and convicted because the judge determined that Edwards' confession was voluntary ([Edwards v. Arizona, 1981, p.480](#)).

Edwards appealed his conviction to the Arizona Supreme Court, who concurred with the lower court's decision. The United States Supreme Court granted the writ of certiorari and unanimously reversed the Supreme Court of Arizona's decision, finding that because Edwards requested his right to counsel during the first interrogation, the police should not have subsequently reinitiated the interrogation without a lawyer present. The Supreme Court concluded that Edwards' confession violated his Fifth and Fourteenth Amendment rights because

the police questioned him without legal representation after his initial request for an attorney.

The Supreme Court also concluded that the police had no grounds to tell Edwards that he had to talk to them, thereby making his confession inadmissible ([Edwards v. Arizona, 1981, p.480-481](#)).

Colorado v. Connelly

On August 18, 1983, Francis Connelly approached an officer and stated that he murdered someone and wanted to clear his conscience. The officer immediately read the suspect his Miranda warnings, and Connelly said he understood and still wanted to speak to the police. Connelly proceeded to confess to a murder. A detective was called, and Connelly was transported to the police station. The detective re-Mirandized the suspect, and Connelly waived his rights once again. Connelly gave a detailed story of the murder and offered to take the officers to the location where the murder took place. Throughout the entire encounter the suspect did not seem to be suffering from a mental disorder. The suspect was placed in a jail cell, and the next day he told the public defender that voices in his head compelled him to go to the police and confess. After providing this statement, Connelly was evaluated and found incompetent, but at a later time he was found to be competent to stand trial ([Colorado v. Connelly, 1986, p.161-162](#)).

At trial the defendant moved to suppress his confession to the murder because he was suffering from schizophrenia. The psychiatrist from the state believed the defendant understood his rights when the police Mirandized him. The judge agreed to suppress the confession based on the fact that it was involuntary. The Colorado Supreme Court affirmed the lower court's decision. The blame is not placed on the police for how they obtained the confession, but rather the mental capacity of the suspect constituted involuntariness ([Colorado v. Connelly, 1986, p.163](#)).

The United States Supreme Court heard the case and came to a different conclusion, reversing the State Court's decision based on the fact that the confession should not have been suppressed. The basis that the confession was involuntary under the due process clause was not accurate. The lower courts erred by concluding the confession was involuntary because the defendant had voluntarily, knowingly, and intelligently waived the Miranda warnings. Police did not abuse or otherwise take advantage of Connelly's vulnerabilities ([Colorado v. Connelly, 1986, p.164](#)).

Maryland v. Shatzer

At what point can the police re-interrogate the defendant after the defendant requests a lawyer? *Maryland v. Shatzer (2010)* addresses this question because it established a 14 day expiration to the invocation of the Miranda right to an attorney. Prior to this case, the court was ambivalent regarding when police could safely begin a second interrogation of suspects without the confession being in violation of their Fifth Amendment rights.

In 2003, Shatzer, a prison inmate, was questioned by a detective about allegations in relation to sexually abusing his son (he was sentenced on other crimes not related to sexual abuse), and at that point, Shatzer refused to speak to the detective without counsel present, so the detective ceased the interrogation ([Maryland v. Shatzer, 2010, p.99-100](#)).

Approximately two and half years later, in 2006, the allegations of sexual abuse towards Shatzer's son were revisited with additional evidence. Shatzer was questioned by different investigators and advised of his Miranda rights, but this time he decided to waive them and speak to the investigators, and he submitted to a polygraph. Shatzer failed the polygraph and verbally

admitted to sexual misconduct in the presence of his son; soon thereafter, he requested an attorney ([Maryland v. Shatzer, 2010, p.99-100](#)).

The defendant was charged with the sexual crimes to which he had confessed and at trial, Shatzer waived his right to a jury and tried to suppress his confession by claiming the protections established in *Edwards v. Arizona (1966)*. The judge denied the defendant's motion and convicted him of sexual abuse. The judge stated that the Edwards case does not apply because the defendant had two and half years between the two interrogations and that the first set of Miranda warnings and ascertain of Miranda right to counsel had expired ([Maryland v. Shatzer, 2010, p.99-100](#)).

The case was granted certiorari by the United States Supreme Court in 2010 to determinate the legality of "the break" between the two interrogations. The justices agreed that a time limit should apply in the Edwards case, and they conducted a "cost and benefit analysis." The length of the break, two and half years, renders Shatzer's waiver at the second interrogation voluntary, and this case established how much time must elapse before an initial invocation of the right to on attorney expires under Miranda ([Maryland v. Shatzer, 2010, p.101](#)).

The Court established a 14 day rule for a "break" in custody for a law enforcement officer to re-interrogate a suspect who initially requested an attorney and for any waiver at a subsequent interrogation to be deemed voluntary. The Supreme Court rationalized that the defendant returned to his typical lifestyle and he could easily have consulted with an attorney if he chose to do so. The court defined "normal" as the basic return to life prior to the interrogation, including prison life. In a nine-zero decision, the United States Supreme Court reversed the

appeal court's decision and remanded the Shazter case based on the newly established 14 day limitation for a suspect in custody ([Maryland v. Shatzer, 2010, p.111](#)).

Conclusion

The *Michigan v. Mosley (1975)*, *Edwards v. Arizona (1981)*, *Colorado v. Connelly (1986)*, and *Maryland v. Shatzer (2010)* cases establish when a suspect may be re-interrogated by providing rules and / or time limits on the Miranda warnings and the accompanying assertion of Miranda rights. Police now have a time frame and / or guidelines for subsequent questioning of a suspect without violating their rights of remaining silent or their request for a lawyer as provided in the Fifth Amendment. These cases have made the criminal justice system more fair by clearly defining a time frame and establishing principles for police to follow if a suspect invokes his or her Miranda rights. The criminal justice system has finally addressed the “when” question related to Miranda right of suspected criminal involvement. For example, under *Maryland v. Shatzer (2010)*, after 14 days have lapsed, one's Miranda rights for binding a previous interrogation and assertion of the attorney right have also lapsed.

The *Edwards v. Arizona (1981)* case has made the criminal justice system more fair for individuals by creating safeguards to protect their rights against a second interrogation after request of counsel has been made initially. The police also used coercion when stating that Edwards had to talk to them, which made the defendant believe he had no choice; his incriminating statement was therefore involuntary and not of free will.

In *Miranda v. Arizona (1966)* and *Edwards v. Arizona (1981)*, the cases basically attempted to prevent suspects from unintentionally waiving their Fifth Amendment rights, and their objective was to prevent self incrimination in addition to guaranteeing that any custodial

statements made are voluntary. Generally, regarding Fifth Amendment rights under the Miranda warnings, if a suspect requests legal counsel most interrogations must come to a halt until a lawyer is present. Substantive exceptions do exist, which may include public safety, but this exception was not present here (i.e., in Edwards Miranda)([Edwards v. Arizona, 1981, p.482](#)).

In the *Colorado v. Connelly (1986)* case the police acted within the law, and the suspect did on his own free will, voluntarily, and without coercion confess to the murder that he committed. The issue of what constitutes a valid waiver of the Miranda rights. His mental capacity on whether or not Connelly could waive his Miranda rights. The Courts established that in this particular case he was mentally capable to waive his Miranda rights. The courts now have a better understanding because of case law like Connelly regarding the mental capacity of a person and the way police may conduct the interrogation. This process leads to making the courts more fair in their judgments in similar situations. The Shatzer case established a 14 day rule for law enforcement to wait before they can re-Mirandaize a suspect and to re-interrogate a suspect.

Remaining Silent

As part of the Miranda warnings, suspects are told they can remain silent because if they waive their rights, any statements made can be used against them in a court of law. The cases of *Griffin v. California (1965)* and *Doyle v. Ohio (1976)* have increased fairness under law in regards to the right of remaining silent.

Griffin v. California

A basis for violation of due process of law under the Fourteenth Amendment occurs in *Griffin v. California (1965)*. In this case, Griffin was convicted of first degree murder in a Los Angeles, CA courtroom. Griffin exercised his Fifth Amendment right against self incrimination

and chose not to testify at trial. The prosecutor commented to the jury that the defendant had refused to testify on his own behalf (*Griffin v. California, 1965, p.609*). Before the jury pool began deliberation, the judge mentioned that Griffin's silence could be held against him. The jury pool is supposed to receive directions from the judge prior to deliberation, but they should not be told an opinion from the judge on the defendant's innocence or guilt. The jury found Griffin guilty, and he was convicted. Griffin and his attorneys appealed to the California Supreme Court, who agreed with the lower court decision (*Griffin v. California, 1965, p.610*).

The United States Supreme Court granted the writ of certiorari and reversed the decision of the State Supreme Court on the grounds that the Fourteenth Amendment prohibits statements made by the prosecution concerning the defendants' silence and the instructions from the judge that silence is evidence of guilt. The comment made to the jury pool violated Griffin's Fifth Amendment rights (*Griffin v. California, 1965, p.614*). This case gave more rights to defendants by placing more restrictions on prosecutors and judges.

Doyle v. Ohio

Doyle v. Ohio (1976) also addresses the issue of the right to remain silent. In this case two males, Doyle and Wood, made arrangements with a narcotics confidential informant to buy 10 pounds of marijuana. The police collected money to proceed with the purchase. The police watched nearby where the transaction occurred, and afterwards the police approached Doyle and Wood and arrested them. When they were arrested and taken into custody, they were advised of their Miranda warnings. They decided not to invoke their rights, and remained silent (*Doyle v. Ohio, 1976, p.612*).

At their separate trials, the attorneys of both Doyle and Wood during cross examination pointed out that the police could not have visually been able to see the transaction occur, claiming that the confidential informant was framing their defendants. The prosecutor, during cross examination, asked why the defendants, during arrest, did not mention that the entire situation was a “set up,” hoping to show impeachment. The defense objected to the questioning, which was overruled, so the defendants’ silence was admissible at both trials. The juries found them both guilty (Doyle v. Ohio, 1976, p.613).

Doyle and Wood appealed to the Ohio Supreme Court on the grounds of the trial courts’ error in allowing the prosecution to cross examine the defendants about their post-arrest silence. The court concluded that the prosecution may bring up the issue of why these accusations were not mentioned during arrest, and agreed with the lower court’s decision. The court reviewed whether the impeachment of the defendants’ post-arrest silence violated their rights, and the court found no such violation (Doyle v. Ohio, 1976, p.616).

The United States Supreme Court granted certiorari and reviewed the case. The judges reversed the lower court convictions and remanded to the state courts. The Court found that the defendants’ post-arrest silence mentioned by the prosecutor violated their due process rights, and the convictions for selling drugs were reversed. The prosecutor should not have impeached the exculpatory evidence through cross examination of the suspects, mentioning that they remained silent once informed of their Miranda rights. Their silence upon arrest could have simply been that they exercised their rights and decided not to make any statements, whether incriminating or not. The defendants were exercising their Miranda rights by not speaking, a choice which should not have been used against them (Doyle v. Ohio, 1976, p.617).

Conclusion

In *Griffin v. California (1965)*, the United States Supreme Court made the criminal justice system more fair by determining that the right to remain silent is not an indication of guilt. Also, the court condemned inputting certain thoughts in the jury's minds during deliberation, and how such behavior reflects bias. The *Doyle v. Ohio (1976)* case contributed to establishing safeguards for suspects who choose to use their Miranda right of remaining silent; in particular, they do not have to worry that their decision can later be used against them at trial. Remaining silent is a right and therefore may not later be held against a defendant at trial.

In the case of *Doyle v. Ohio (1976)*, it was considered whether a defendant's silence can be used to show guilt. The Supreme Court found the use of silence for impeachment purposes to be unfair simply because the defendants were exercising their Fifth Amendment right by not speaking after being given the Miranda warnings. In the case of *Doyle v. Ohio (1976)*, it was also considered whether the defendant's silence can be used to show guilt. The Supreme Court also found this to be unfair simply because the defendant was just exercising their Fifth Amendment right by not speaking after the Miranda warnings were administered.

Exceptions to the Miranda Warnings

Exceptions to the Miranda warnings are needed because of exigent circumstances. Utilitarianism is defined as what applies to the greater good of most people. Certain emergencies or situations such as public safety will outweigh the need for the Miranda warnings. Exceptions can also be made if the setting is not an interrogation, such as certain conversations by an inmate in a jail cell with an undercover agent. Exceptions to the Miranda rule should be based on the totality of the circumstances.

Rhode Island v. Innis – Defining “Interrogation”

In the case of *Rhode Island v. Innis* (1980), on January 12, 1975, a taxi cab driver was murdered with a shotgun blast to the head. Five days later, the police received a phone call from another taxi driver who claimed he was robbed by a man who had a shotgun. The taxi cab driver went to the police station, and while there he noticed a picture of the man who robbed him. Police sent out a “BOLO” (Be On The Lookout) on the man who was identified as having committed the crimes. An officer recognized the suspect near a school for the handicapped and arrested him and advised him of his Miranda warnings. The suspect said he understood his rights and requested counsel (*Rhode Island v. Innis*, 1980, p.294).

Other police officers arrived and placed the suspect in the back of a police car and started to transport him with three other officers in the car. On the way to the police station, two of the officers talked among themselves about how tragic it would be if a handicapped child found the shotgun and inappropriately used it on other children. Defendant Innis overheard the conversation, whereupon he spoke up and said he would tell them the location of the weapon. The officers stopped the car and went to the location the suspect indicated. When police arrived, they re-stated the Miranda warnings and the suspect said he understood but wanted to point out where the gun was so no children would be harmed. The gun was located exactly where he specified (*Rhode Island v. Innis*, 1980, p.295-296).

On March 20, 1975, Defendant Innis was indicted on charges of kidnapping, robbery, and murder. The defendant tried to suppress the evidence of the shotgun obtained from the statements he made to police about the gun’s location. The judge allowed the evidence at trial, and Innis was found guilty on all three charges. On appeal, the Supreme Court of Rhode Island

agreed with the lower court's decision regarding the fact that the suspect was not under interrogation or even questioned when he decided to tell the police the location of the shot gun (Rhode Island v. Innis, 1980, p.297).

The United States Supreme Court granted certiorari and reviewed the case. The Court decided to vacate the decision of the lower courts. According to the Court, the police never interrogated Innis but simply spoke among themselves about what could happen, and the defendant on his own free will indicated the location of the weapon used to commit the murder (Rhode Island v. Innis, 1980, p.298).

Though Innis had invoked his Miranda right to counsel, there was no violation by police since they did not interrogate him in obtaining the incriminating statements (Rhode Island v. Innis, 1980, p.298). In addition, the Court vacated and remanded the lower courts' decisions because it established a new definition for interrogation under Miranda: explicit questioning and these questions by police reasonably likely to elicit an incriminating response from the suspect (Rhode Island v. Innis).

New York v. Quarles

Exceptions to Miranda warnings are required in certain cases, such as those involving public safety. If police do not have time to read someone his or her rights because the public is in serious danger, an exception may be made. In *New York v. Quarles (1984)*, two police officers on patrol encountered a female rape victim. She told the police that a man had just raped her, and she gave a detailed description of the suspect. She also told the police officers that he had just entered a store, and he was armed.

Entering the store, the police found a man, later identified as Quarles, who matched the woman's description. He attempted to elude the officers, who caught him and noticed he had a holster but no gun. The officer handcuffed the suspect and did not read him his Miranda warnings. One of the officers demanded to know the location of the weapon. The suspect indicated the location with a nod of his head, while saying it was over there. The police recovered the gun. The police then advised the suspect of his Miranda warnings, which he waived. He then proceeded to speak with the officers (*New York v. Quarles*, 1984, p.652-653).

At trial the judge excluded Quarles' unMirandized statement about the location of the gun based on the "Fruit of the Poisonous Tree Doctrine," and all evidence obtained by the statement, including the gun, was considered "tainted." The Court of Appeals concluded that the suspect was under arrest at the time, and the Miranda warnings should have been stated prior to questioning. The reasoning from the prosecution was exigent circumstances concerning public safety. At issue is whether the officer was justified in the decision not to Mirandize the suspect (*New York v. Quarles*, 1984, p.653).

The United States Supreme Court disagreed with the lower court. Based on the issue of "public safety," an exception to the Miranda warnings is necessary, so the evidence of the statement and the gun is admissible in trial. The police after making the arrest noticed the gun was missing; public safety was therefore at risk because someone may have found the weapon and caused further harm (*New York v. Quarles*, 1984, p.656).

Illinois v. Perkins

In the case of *Illinois v. Perkins* (1990), an inmate claimed that Perkins talked about a murder he committed in his past, so the police planted an undercover agent close to Perkins.

Perkins was arrested in Illinois, where an agent posed as another inmate in the same jail. The plan was to build rapport with the suspect while assisting Perkins in a jail breakout. During the discussion between the agent and Perkins regarding the plan to escape, Perkins mentioned that his girlfriend could sneak a gun into the jail. This conversation led to the agent asking Perkins if he had ever killed anyone. Perkins then confessed to the murder to the undercover agent. Since the agent was acting as an inmate, he does not need to state the Miranda warnings to the suspect because of the circumstances. Perkins believed he was talking to another inmate and not an agent of the law (Illinois v. Perkins, 1990, p.295).

At trial, the defense attempted to exclude the statements made to the undercover officer, claiming that Perkins should have been Mirandized. The judge agreed and excluded the confession to the murder, but the state appealed. The Appellate Court of Illinois agreed with the trial court because under *Miranda v. Arizona (1966)*, all undercover conversations with incarcerated suspects who are likely to make incriminating statements are excluded. The United States Supreme Court granted certiorari and reversed the trial court's decision (Illinois v. Perkins, 1990, p.296-297).

According to the Supreme Court, the Miranda case states that the warnings need to be stated prior to custodial interrogations; this stipulation does not necessarily include the confines of a jail cell. A conversation between an undercover agent and an inmate or suspect does not constitute an interrogation. The environment of a police agent questioning an inmate in a jail cell environment is not coercive (Illinois v. Perkins, 1990, p.297). Therefore, Perkins unMirandized statement to the undercover agent about the murder is admissible in court (Illinois v. Perkins).

Pennsylvania v. Muniz

Suspects can make incriminating statements when intoxicated and still have their statements excluded at trial if their Miranda warnings were not given. On November 30, 1986, Inocencio Muniz's car was parked on the side of the road and an officer stopped to investigate. Muniz, who said he had stopped to urinate. As Muniz spoke, the officer smelled alcohol on his breath; his eyes were bloodshot, and his face was flushed. The officer initiated a field sobriety test to evaluate Muniz's condition. The officer conducted the typical test of horizontal gaze, walk and turn, and one leg stand, all of which the suspect appeared to fail. Muniz claimed that he failed the sobriety test because he had been drinking. The officer made the decision to arrest Muniz and transported him to jail ([Pennsylvania v. Muniz, 1990, p.586](#)).

At this point, Muniz had not been read his Miranda warnings. During typical booking questions, such as name, address, and age, Muniz was having some difficulty. The officer then asked Muniz how old he was on his sixth birthday. Muniz responded with slurred speech, and then he was asked what the date was when he turned six years old. His response was, "No, I don't know." The officer made him repeat the sobriety test, which yielded the same results as previously, and Muniz was then asked to take a breathalyzer. The Implied Consent Law was read to him, and Muniz refused to take the test. He was then Mirandized. He understood his rights and signed the proper paperwork to waive the rights, and during interrogation he admitted to driving while intoxicated ([Pennsylvania v. Muniz, 1990, p.586-587](#)).

At trial, audio and video of these events were admitted into evidence, including the sobriety tests. Muniz was found guilty of driving under the influence of alcohol. He filed a motion for a new trial on the grounds that any statement or action made prior to the Miranda

warnings should have been excluded as “Fruits of the Poisonous Tree.” The motion was denied since it was found that the statements and actions did not constitute self-incrimination

(*Pennsylvania v. Muniz*, 1990, p.588).

Muniz appealed his case to the Superior Court of Pennsylvania, and it was reversed. The court found that the sobriety test evidence was not considered testimonial evidence but physical evidence. The Miranda warnings are for testimonial evidence, not physical; however, question about his sixth birthday was considered testimonial, and at the time he was not read his Miranda warnings. The United States Supreme Court agreed that the statement about his birthday should have been excluded, and then remanded the case for a new trial. The Court concluded that the birthday statements made prior to the Miranda warnings should be excluded as evidence because of the testimonial nature of the sixth birthday question; however, the physical evidence from the sobriety test and the other “routine” responses to the “booking” questions (i.e., age, name, height, etc.) was admissible (*Pennsylvania v. Muniz*, 1990, p.588).

Conclusion

Rhode Island v. Innis (1980) established parameters for interrogations by police. The environment influences whether or not a suspect is being interrogated. The test is whether or not there is explicit questioning by police or statements that they should know are reasonably likely to elicit an incriminating response from the suspect. The *New York v. Quarles* (1984) case help establish an exception for public safety. Quarles’ case made the criminal justice system more fair by establishing public safety as a higher priority and allowing the evidence to be used in trial. The *Illinois v. Perkins* (1990) case established the rules for a undercover interrogation. The Miranda warnings in this situation do not apply.

The jail and prison environment may not be the same as an interrogation room where the suspect knows he or she is dealing with law enforcement. The inmate did not feel intimidated by another inmate who was conspiring with him but who happened to be an “undercover” agent. In contrast, while in an interrogation room a suspect might feel intimidated, and therefore police need to address the suspects’ rights. In the former situation, the inmate does not know he is engaging in conversation with law enforcement. Since the officer is “undercover,” questioning is not coercive and therefore not custodial. This case made the criminal justice system more fair for law enforcement regarding new ways to obtain confessions. In addition, when a suspect believes he is talking with another inmate, his statements are not viewed as responses to interrogation.

The *Pennsylvania v. Muniz (1990)* case helped establish the point at which interrogation soliciting testimonial evidence starts and when the defendant should be read his Miranda warnings. It also provides guidance about how certain evidence, such as physical evidence, may not be excluded even if Miranda warnings are not provided. This, in turn, makes the criminal justice system more fair and police interrogation rules more clear (*Pennsylvania v. Muniz, 1990, p.588*).

Fruit of the Poisonous Tree and Its exceptions where police fail to provide the Miranda Warnings

Suspects in custody have made incriminating statements in response to police interrogation prior to being read the Miranda warnings; therefore, their statements have been excluded at trial. In addition to statements being excluded, all other evidence from those statements will be tainted. The statements (tree) that lead to other evidence (fruit) will all be excluded, unless an exception such as inevitable discovery is provided.

Harris v. New York

On January 4, 1966, defendant Harris sold an undercover officer heroin. Later Harris was indicted by a grand jury and was taken into police custody. He was questioned by police but was not told about his Miranda right to counsel during interrogation. Harris, during the interrogation, made incriminating statements, under his own free will and with no coercion or involuntariness ([Harris v. New York, 1971, p.223](#)).

At trial, the prosecution did not admit the incriminating statements to establish Harris' guilt but to impeach his statements. At trial, the defendant took the stand under his Fifth Amendment right and answered the defense questions. His answers were inconsistent to what he had admitted during the earlier police interrogation. The prosecution used Harris' previous statements to impeach his statements at trial. The judge told the jury that such statements could be used only towards the defendant's credibility and not as evidence of guilt. The jury deliberated and came back with a guilty verdict ([Harris v. New York, 1971, p.223](#)).

Harris appealed his case to the New York Supreme Court, who affirmed the lower court's decision. The case went to the United States Supreme Court, which granted certiorari. The United States Supreme Court reviewed the case in light of the Miranda decision and agreed with the lower courts. The Miranda decision was concerned with incriminating statements to show guilt prior to defendants being read their rights, such as the right to counsel ([Harris v. New York, 1971, p.224](#)).

This case relates to evidence of the defendants' inconsistent statements made to the police during custodial interrogation being used to impeach the defendants' credibility at trial. In criminal cases, the defendant is privileged to testify in his defense or to decline to testify; by

testifying he may subject himself to cross-examination during which previous statements may be revealed. However, that privilege cannot be interpreted to include the right to commit perjury under oath. The Supreme Court agreed with the lower courts regarding statements in response to custodial interrogation made prior to defendants being read their Miranda rights: these statements may be used at trial to prove inconsistency and are therefore admissible for impeachment purposes (Harris v. New York, 1971, p.226).

Brewer v. Williams

In the case of *Brewer v. Williams* (1977), in the month of December, a girl was at her brother's wrestling match and went to the restroom. When she did not return, her family became worried. At the same time a man named Robert Williams had escaped from a mental hospital. A witness saw Williams place items in his car and observed what appeared to be a girl's legs hanging out. Based on this information the police obtained a warrant for Williams' arrest for abduction (Brewer v. Williams, 1977, p.391).

Williams' lawyer advised him to turn himself in to the police, which he did. The police read Williams his Miranda warnings, and he contacted his lawyer, who told the police at this time not to question Williams until the lawyer was present. Williams was arraigned in front of the judge, who placed him in jail. The police the next day transported Williams back home where his lawyer was waiting.

During the drive the police questioned him regarding the girl's disappearance, but in prior conversation the officer talked about religion. The law enforcement officer attempted to use religion to elicit a confession by telling Williams that the victim deserved a proper Christian burial. Furthermore, they told him that heavy snow would soon cover the body, making the

search very difficult. Williams eventually told the police where they could find the body and led them to it ([Brewer v. Williams, 1977, p.391-394](#)).

At trial Williams was indicted for murder in the first degree. Prior to trial his lawyer moved to exclude the statements made during the transport to town, when he revealed the location of the body. The judge disagreed and allowed the evidence to be admissible. Williams was found guilty by the jury, which he appealed on the grounds that his statements were in violation of his Sixth Amendment right because his counsel was not present at this time of the questioning in the patrol car. The appeal was denied, and the Appeals Court for the Eighth Circuit agreed with the lower, trial court ([Brewer v. Williams, 1977, p.394-395](#)).

The United States Supreme Court granted certiorari and reviewed the case, determining that the “Christian burial speech” did constitute an interrogation, or “deliberate elicitation.” Since Williams was in custody, and had also obtained counsel, police should not have questioned him without his attorney present. His Sixth Amendment right to counsel was violated because he was in custody and had been arraigned at the time. The arraignment was a critical stage for the Sixth Amendment right to an attorney (i.e., to attach) ([Brewer v. Williams, 1977, p.400](#)).

In addition, a companion case of *Nix v. Williams (1984)* established that despite a police illegality (e.g., a Sixth Amendment right to attorney violation), if police would have inevitably discovered certain evidence through lawful means, that evidence is admissible. In *Nix*, the Supreme Court held that the evidence consisting of the dead girl's body (i.e., its location) was admissible despite such a police illegality because the girl's body would have inevitably been discovered through lawful means (i.e., a private search party would have uncovered the body) ([Nix v. Williams, 1984](#)).

Oregon v. Elstad

The case of *Oregon v. Elstad* (1985) was decided in December of 1981. A home was burglarized, and a witness identified the suspect as Michael Elstad, a neighbor to the victim. Police obtained a warrant for his arrest and went to his residence (*Oregon v. Elstad*, 1985, p.301). Upon arrival they spoke to the suspect in his living room, asking him about the burglary, whereupon Elstad mentioned he was present during the burglary. The police then decided to escort him to the patrol car after effecting the arrest. After arriving at the police station, Elstad was advised of his Miranda warnings. Elstad stated he understood his rights and was willing to speak to the police. During the interrogation, Elstad made incriminating statements about his involvement in the burglary, and the police charged him with first degree burglary (*Oregon v. Elstad*, 1985, p.302).

At trial, the defendant asked to waive a jury trial. The defense attorney initially attempted to suppress the evidence of the questioning that was conducted in the defendant's living room, which opened the door to the remainder of the incriminating information. The defense argued that under the "Fruit of the Poisonous Tree Doctrine," the un-Mirandized living room statements (the tree) were tainted; therefore, all subsequent statements (the fruit) taken at the station house were also tainted. The judge ruled that the statements from the living room should be excluded but not the statements made at the police station (*Oregon v. Elstad*, 1985, p.303).

The judge found Elstad guilty of first degree burglary, and he was convicted. Elstad appealed his case to the Oregon Court of Appeals, who reversed the conviction due to the exclusion to all statements under Fruit of the Poisonous Tree Doctrine (FOPT). The United

States Supreme Court granted certiorari and reversed the Oregon Court of Appeals, remanding the case to the lower court. The court found that even though the defendant made incriminating statements during custodial interrogation prior to the Miranda warnings being provided by police, the statements made by the defendant at the station house after the Miranda warnings were told to him were admissible. If a suspect who is provided the warnings on a second occasion decides to waive his rights and speak to the police and this waiver is voluntary and not coerced, the statements remain admissible. As long as the statements obtained in violation to Miranda from the first custodial police interrogation are not coerced, the statements obtained from the second custodial police interrogation in compliance with Miranda are admissible (Oregon v. Elstad, 1985, p.304-305).

Dickerson v. United States

One of the most frequently discussed cases since the *Miranda v. Arizona (1966)* is *Dickerson v. United States (2000)*. In this case the defendant was indicted for bank robbery, conspiracy to commit bank robbery, and possession of a firearm to commit violence. While Dickerson was talking to the FBI, he was not Mirandized, and he made incriminating statements. He told the FBI he was the getaway driver in many robberies. The FBI testified that Dickerson was told his Miranda warnings prior to the incriminating statements, but Dickerson said he was not Mirandized until after he made the incriminating statements (Dickerson v. United States, 2000, p. 433).

Prior to trial, Dickerson attempted to suppress the statements he made to the FBI on the basis that he was not given his Miranda warnings before interrogation. At the time, the courts followed the federal law of 18 U.S.C. Section 3501, which allowed statements made by a suspect

to be admissible if they were provided voluntarily. The District Court agreed with Dickerson on the ground that the statements should be suppressed, but the United States Court of Appeals disagreed and allowed the statements in court. The Court of Appeals decision was based on the fact that Congress may by statute have the final “say” on the issue, and had allowed incriminating statements obtained by police in violation of Miranda so long as they were voluntary ([Dickerson v. United States, 2000, p.432-433](#)).

The United States Supreme Court decided that Congress may not overrule the *Miranda v. Arizona (1966)* decision because it was mandated by the Constitution. This case established that the warnings police must provide under *Miranda v. Arizona (1966)* are a constitutional right and not just based on case law. Congress cannot overrule a Supreme Court decision that sets a precedent based on a constitutional right ([Dickerson v. United States, 2000, p.432-433](#)). Thus, since Dickerson was not read his Miranda warnings prior to the custodial interrogation by police, his incriminating statements remain inadmissible at trial ([Dickerson v. United States, 2000](#)).

United States v. Patane

In *United States v. Patane (2001)*, Samuel Patane was arrested for harassment towards his ex-girlfriend but was released on bond. Patane’s ex-girlfriend obtained a temporary restraining order (TRO) against him, which he violated. The police looked into Patane’s history and found out he was an ex-felon, and he in fact was in possession of a firearm. Police arrested the suspect for violating his TRO and the officer began reciting the Miranda warnings but was not able to recite it in its entirety because the suspect said he knew his rights. The police interrogated the suspect and asked him about his possession of firearms knowing he was a

convicted felon, whereupon he admitted to having a firearm in his bedroom and gave police consent to retrieve it ([United States v. Patane, 2004, p.635-636](#)).

At trial, Patane's defense attorney attempted to suppress the evidence related to the firearm based on the fact that police lacked probable cause to originally arrest him with, which the federal District Court agreed. The District Court declined to review the fact that the gun (fruit) was found by a statement (tree) that was not completely Mirandized. The Court of Appeals reversed the District Court decision regarding probable cause for arrest but agreed that the statements should be suppressed as "Fruit of the Poisonous Tree." The decision was reviewed based on examination of the "Fruit of the Poisonous Tree Doctrine" ([United States v. Patane, 2004, p. 636-637](#)).

The Court of Appeals viewed the Miranda warnings provided by police to be incomplete under the Dickerson case because Miranda has become part of Constitutional law. The United States Supreme Court reversed the decision and remanded for further proceedings. In theory, the "Fruit of the Poisonous Doctrine" should be applied because the self-incrimination clause did violate the Miranda Rule. But the United States Supreme Court held that the Fruit of the Poisonous Tree Doctrine in the Miranda context does not apply to subsequently obtained physical evidence; thus, the gun is admissible ([United States v. Patane, 2004, p. 636-637](#)).

Missouri v. Seibert

Crimes have been committed to hide other crimes; for example, in *Missouri v. Seibert* (2004), Seibert's son, who was suffering from cerebral palsy, died in his sleep. Seibert, out of fear of being arrested for possible neglect because of the bedsores all over her son's body,

decided to burn the residence based on her fear of being caught. She felt the need to conceal the crime of neglect and burn any evidence.

The fire was set by another of her sons and her friend. In addition, Seibert plotted to leave another boy suffering from mental problems at the home, and he died from the fire. Five days after the fire, she was arrested and was not read her Miranda warnings. At the police department, after thirty minutes of interrogation, she confessed to setting the fire. Police allowed the suspect to take a short break of approximately twenty minutes, and when she returned, the police finally read the Miranda warnings to her. Police also had her sign a waiver and questioned her again. Seibert repeated her confession to the police ([Missouri v. Seibert, 2004, p.605-607](#)).

At trial, the defendant moved to suppress both her statements prior to and following the Miranda warnings. The court decided to suppress the first confession but not the second because for the second confession the Miranda warnings had properly been stated. The jury found the defendant guilty of second degree murder (first victim) and first degree murder (second victim) ([Missouri v. Seibert, 2004, p. 607](#)).

Seibert appealed her case to the Missouri Court of Appeals, who reversed the lower court's decision. The Court relied upon the *Oregon v. Elstad (1985)* case, finding that the suspect was not warned of her Miranda rights initially; this police error made statements subsequently obtained inadmissible. The second interrogation continued immediately following the first, showing a continuous process. The second statement was clearly based on the invalid first statement and also should have been suppressed ([Missouri v. Seibert, 2004, p.608-609](#)).

The United States Supreme Court granted certiorari and reviewed the case. The Court found that the first set of questions were intended to overlook the Miranda warnings for their true intention (to explain to suspects their rights if they choose to speak). The subsequent interrogation placed the first confession at risk of coercion and rendered it inadmissible. In addition, in reviewing the facts, Supreme Court concluded that the warnings given did serve their purpose, and the statements were inadmissible ([Missouri v. Seibert, 2004, p.610](#)).

The Supreme Court agreed with the Missouri Supreme Court to suppress both statements based on not using the Miranda warnings for their true intentions of warning the suspect of her rights before she decided to confess. Mentioning them later and having the suspect repeat what she said previously is not admissible. If the first confession is in violation of Miranda that was obtained by the police coercively (i.e., due process violation) subsequent Mirandized confession is inadmissible ([Missouri v. Seibert, 2004, p.610](#)).

Conclusion

The *Harris v. New York (1971)* case provided the limits of Miranda violations used in favor of the defense. The defense cannot prevent a statement obtained in violation of Miranda from being admitted by the Prosecution for impeachment purposes. Previous decisions involving Miranda warnings have benefited the defendants but this case benefited the prosecution and the police, providing a fairer outcome in the criminal justice system. *Brewer v. Williams (1977)* protected the defendant by reassuring him of his Sixth Amendment right and showing the police that once counsel is established no questioning should be conducted without counsel present. This case made the legal system more fair for the defendants by not allowing police to violate their right to counsel.

Oregon v. Elstad (1985) helped establish when statements may be excluded based on the “Fruit of the Poisonous Tree Doctrine” and when it does not apply. The statements made before the Miranda warnings are provided are to be excluded, but police, provided that the original statements are voluntary given, may then mention the warnings to ensure that any subsequent statements made are allowed into evidence. The Dickerson case made the criminal justice system more fair by establishing that Congress cannot overturn constitutional law.

The case of *United States v. Patane (2004)* established that physical evidence may be used that is obtained from a confession even if the Miranda warnings were not stated, but the statement itself is not admissible. Statements that lead to the evidence must not be coerced but rather voluntary. The criminal justice system is made more fair for police and suspects based on this case because statements gathered prior to Miranda warnings cannot be used against the defendant at trial but the physical evidence obtained from the confession can. The Seibert case helped establish when the Miranda warnings need to be stated and the purpose as to why they should be stated at the start of an interrogation. This case helps keep law enforcement from misleading suspects and using the warnings to their advantage.

All the previous cases mentioned have a significant impact on the criminal justice system because they changed the law to provide for a more fair justice system. *Miranda v. Arizona (1966)* opened numerous doors to future cases. Even today the Miranda warnings are used and if police fail to mention them, except in certain situations, statements will be excluded at trial.

John Reid Literature Review

Due to the Wickersham Commission Report, police began implementing “psychological techniques to obtain confessions” (Wice, 1996, p.45). In their book “*Criminal Investigation and*

Confessions,” Reid and Inbau discuss the “Reid technique” as the most widely used interrogation tactic in police agencies. Reid and Inbau’s strategies are based on the idea that a majority of people have a conscience and know when they have done wrong. Our bodies, verbally and non-verbally, react when a lie is told.

John Reid graduated from law school and opened his own practice, which started slowly so he decided to expand his knowledge by working for the Chicago Police Department. Fred Inbau was a law professor at Northwestern Law School. Inbau also worked for the Chicago Police Department, where he met Reid. The two men collaborated on techniques to scientifically learn the truth about suspects’ crimes. The use of forensics had already began, but the two men’s main focus was detecting lies. Using polygraphs to detect if a suspect was lying started the technique. The technique focused on making the suspect feel open and relaxed enough to tell the truth. If the suspect decided to lie, the two men sought a way to make the lie obvious (Reid, Inbau, Buckley, Jayne, 2004, preface 1).

The two men over the years have developed certain questions to ask suspects and tested their techniques until they became almost perfect. The non-verbal clues guilty suspects display are quite different from those of innocent suspects. The polygraph would actually confirm Reid and Inbau’s understandings. They also studied behavioral analysis of the individuals they questioned. Over time and after several interrogations, the two men developed their technique, now properly known as the “Reid Technique.” Frightening a suspect is not an effective way to obtain a confession, but demonstrating sympathy towards the suspect has proven to be effective (Reid, Inbau, Buckley, Jayne, 2004, preface 1-2).

Over time polygraph use has declined and has become inadmissible in court. What once was a helpful tool for Reid and Inbau is now just a tool to mention. However, the polygraph helped them establish the technique on particular questions that led to confessions. Certain responses to questions do not need a polygraph to prove they are lies; the response alone reveals the demeanor of dishonesty (Reid, Inbau, Buckley, Jayne, 2004, preface 2-3).

The term “interview” and “interrogation” have been used interchangeably, but they actually are two different entities. “An interview is non-accusatory;” most interrogations start with an interview, which helps the examiner build rapport with the interviewee. The primary purpose of an interview is to gather information. Also, police may interview witnesses first to obtain more information and narrow the suspect pool. If the interviewer believes he is interviewing the suspect, the session can quickly turn into an interrogation (Reid, Inbau, Buckley, Jayne, 2004, p. 3-6).

The term “interrogation” differs from interview because it is accusatory. In addition, the interrogation involves active persuasion, basically using psychological influences to convince the suspect into openly talk about the crime. The purpose of interrogations is to learn the truth about the who, what, where, when, and, most importantly, the why of a crime. During an interview, the individual should feel free to leave, where as an interrogation he is not free to leave (i.e., there is “custody”). During questioning for an interview, there is no reason to read the Miranda warnings so long as the suspect is not in custody, but in an interrogation they must be read since custody is generally obtained (Reid, Inbau, Buckley, Jayne, 2004, p.3-6).

Interviews are conducted more often than interrogations because witnesses do not need to be interrogated, only the prime suspects. During an interview the interviewee should takes notes

but not in an interrogation. If an interrogator is taking notes during an interrogation, the suspect will notice and wonder why notes are being taken at certain points and not others (Reid, Inbau, Buckley, Jayne, 2004, p.5-6).

Using a psychological approach, an interrogator asks questions, and guilty suspects' responses may incriminate them, but the suspect may think his guilt is hidden. Another psychological approach involves providing justification for the crime to elicit a confession. Still another psychological approach involves minimizing the seriousness of the offense. The Innis case used a similar technique during interrogation. The seriousness of a crime can appear less offensive when compared to a more serious crime; for example, comparing a misdemeanor with a felony (Reid, Inbau, Buckley, Jayne, 2004).

The Reid technique involves nine steps to an interrogation based on the psychological approach. Overall, Reid and Inbau's experiences have improved techniques and made them successful. Reid and Inbau have critiqued all of the nine steps over time for improvement. In many interrogations, not all nine steps should be utilized, and no particular order is required. Every interrogation is different, and the interrogator needs to be able to change his or her tactic based on the suspect's responses. The art of interrogation is challenging, and the suspect's responses must be analyzed to know what question to ask next (Reid, Inbau, Buckley, Jayne, 2004, p.189).

- The purpose of the first step, "Positive Confrontation," is to directly accuse the suspect of committing the crime in order to establish behavioral norms. The suspect's response and non-verbal gestures can aid in detecting deception.

- The second step, “Theme Development,” minimizes the seriousness of the offense and establishes rationalizations of why the crime might have occurred or place the blame on someone else.
- The third step, “Handling Denials,” occurs because most suspects deny any involvement, so the interrogator needs to steer away from the suspect’s denials and gear them towards the truth. The investigator needs to be confident when revealing knowledge of the suspect’s guilt and moving him or her away from denial (Reid, Inbau, Buckley, Jayne, 2004, p.188).
- The fourth step, “Overcoming Objections,” addresses reasons the crime occurred, in other words establishing, excuses. For example, the question states, “You were planning to repay the money you took,” or “The items you took would not cause that much of a loss.”
- In the fifth step, “Retaining the Suspect’s Attention,” the suspect starts to be quiet and to understand in a sense that he has been caught; at this point the suspect is close to confession. For example, the suspect is usually sitting facing down, and his face expresses guilt.
- In the sixth step, “Handling the Suspect’s Passive Mood,” the interrogator sees the suspect’s vulnerability and realizes it is time for him or her to confess guilt. For example, the question states, “It is okay now just tell me what happened, make me understand” (Reid, Inbau, Buckley, Jayne, 2004, p.189).
- In the seventh step, “Presenting an Alternative Question,” a question is asked to the suspect for which the only answer can be incriminating. For example, the question asks, “How many times did you stab her?”

- In the eighth step, “Detailing the Offense,” the interrogator describes the offense using known details to make the suspect understand that it is clear what happened at the crime scene and to open the session for the confession.
- In the ninth step, “Elements of Oral and Written Statements,” the written confession, in the suspect’s own words, is collected (Reid, Inbau, Buckley, Jayne, 2004, p.189).

According to Reid and Associates (2013, p.48) the common questions that are asked have a hidden answer to make someone look innocent or guilty; a person, in order to tell the truth, feels the need to have an excuse, which allows him or her to save self respect. An excuse can be that life circumstances pushed the individual into making the decision; the interrogator may compare the wrong to a more severe wrong, or he may state that the individual made a fast, regrettable decision. The following are common questions asked during a interrogation:

- “How do you think the investigation will come out on you?” An innocent response would be, “It will clear me or show I’m telling the truth.” A guilty response would be, “I hope it clears me, or I have no idea” (Reid & Associates, 2013, p. 38 & 89).
- “What do you think should happen to the person who committed the crime?” An innocent response would be, “The person should be arrested or prosecuted.” A guilty person response would be, “It’s not really up to me to decide” (Reid & Associates, 2013, p. 89).
- “Who do you think would have had the best opportunity to do this?” A innocent individual response would be, “To name others, including themselves. A guilty response would be, “It could have been anyone, or maybe it was a mistake, and there was no crime committed” (Reid & Associates, 2013, p. 36).
- “What do you think should happen to the person who did this?” An innocent response would be, “They go to jail, prosecute them, or lose their job.” A guilty response would

be, “I don’t know, that’s not up to me, or depends on why” (Reid & Associates, 2013, p. 37).

- “Do you think the person who did this would deserve a second chance under any circumstances? An innocent suspect would reply, “No way, absolutely not, or, they will just do it again.” A guilty reply would be, “That’s not up to me, or “It depends on why” (Reid & Associates, 2013, p. 38).

All of the common questions can be applied for any type of crime. Suspects’ responses to questions make them feel as if they are not being identified as a suspect; they are trying to respond as if they were innocent. Reid and Inbau created questions to detect guilty suspects’ responses and established guilty responses as clearly distinct from innocent responses. Not all responses are obvious; therefore, several questions are asked.

During an interrogation, the interrogator wants to build rapport with the suspect and treat him or her equally and with respect. This is so the suspect is more willing to talk. The investigator should always call the suspect by name and thank him or her for coming in and speaking with the police, including taking time out of their day. This treatment of respect makes the interviewee feel important and not necessarily feel as a suspect. The questioning was merely a formality that needed to be done. Many suspects think they can remain undetected in an interview by just saying no and adhering to a lie, but the Reid techniques help police avoid deception and establish guilt or innocence.

Interviewing and interrogating suspects is a common duty of police officers, and many crimes have been resolved due to confessions, but all confessions must be free of force or coercion to be admissible in court. Prior to speaking and questioning a suspect, police must

provide Miranda warnings to the suspects so they know their rights and so any statements made can be admissible in court and not excluded because of technical issues. John E. Reid and Associates have developed techniques to ensure voluntary confessions that are admissible in court. Their techniques are frequently applied in the law enforcement field for successful and admissible interrogations (Reid & Associates, n.d.).

Impact of interrogations in light of the law: Literature Review

“Shining the Bright Light on Police Interrogations in America”

Countless criticisms of the “Reid Technique” regarding interrogation tactics have been published. Various scholars believe that the “Reid Technique” is unreliable and that police use psychological coercion to obtain confessions that might actually be false. Critics who have been controversial towards Reid believe the technique to be unreliable, non-trustworthy, and deceptive in its approach to interrogations.

Godsey (2009, p.711), mentions police are successful in obtaining confessions by convincing the suspect that he or she has no choice but to confess and that police normally rely on lies, including deception, to obtain confessions. Reid and associates completely disagree with Godsey’s opinion, claiming that suspects have a choice, and only guilty suspects eventually feel the need to tell the truth by confessing to the crime.

Police allegedly force a false confession from an individual because they want to have as many as resolved cases as possible. The Reid approach clears innocent suspects during the initial interview and narrows in on the possible guilty suspects for interrogations. Once the investigator has established possible guilty suspects during the interview, their answers typically point in one direction during an interrogation: either guilty or innocent (Godsey, 2009, p.711).

Godsey (2009, p.711) believes that the police automatically assume a suspect's guilt and manipulate statements to meet their investigation needs to solve a case. The "Reid technique" does not implement any of these tactics. However, it is possible that while police are utilizing the "Reid Technique" interrogators can also implement their own techniques, which may lead to false confessions and which deviate from Reid. Their technique may include a coercive technique or an unethical approach.

Godsey's (2009) article mentions that police rely on nonverbal and verbal indicators of deception taught by Reid. While Reid does propose analyzing the suspects' body language during an interrogation, body language alone does not lead to a final conclusion; it is one of many indicators. Reid has noticed while conducting thousands of interviews that certain types of body language reveals deception, but body language does not constitute a confession. Body language only gives the person conducting the interview indications of deception, such as dishonesty, and it leads to better follow-up questions (Godsey, 2009, p 711).

"Police Science in the Interrogation Room: Seventy Years of Pseudo-Psychological Interrogation Methods to Obtain Inadmissible Confessions"

By Gallini (2010), has a similar view to Godsey (2009) by positing that interrogations by police can lead to false confessions. Gallini (2010), in his article places the blame on the Reid technique for false confessions, claiming that Reid's ideas come from the 1940's and are outdated. The polygraph examinations during that time period were commonly used for interrogations, but Gallini (2010) claims that polygraphs are not applicable to this century.

Technically, the Reid technique does not highly rely on polygraphs as they did in the past, and his associates have improved their methods over the years as more effective techniques have been discovered. In fact, instead of administering a polygraph examination, police will simply ask the suspect, “How do you feel you would come out on a polygraph test?” Reid and associates have experienced that guilty people try to deflect the question saying, “I’m not sure how reliable those things are,” while innocent people tend to say “I have no doubt I’ll pass.” This is a common question used during interrogation based on the Reid technique (Gallini, 2010, p. 580).

Gallini (2010) in his article disapproves of minimizing the seriousness of the offense and blaming the victim to obtain confessions, which is a common Reid technique. Reid’s purpose is to try to build rapport with the suspect by empathizing with him or her so he or she will speak with the interrogator comfortably and honestly. This type of technique is also similar to the Innis case. In the conclusion of the article, Gallini (2010) states the time has come to eliminate the Reid method’s unsupported “presumed guilt” approach in favor of a newer, more collaborative approach to interrogation methods. Removing this method or its teachings, however, would hinder the law enforcement community, who widely depend on these methods to obtain confessions (Gallini, 2010, p.580). The law dictates what is allowed in interrogations because suspects do have their rights (i.e., Miranda and due process rights) and their confessions need to be voluntary.

Conclusion

Undoubtedly, false confessions can occur, possibly because the individual felt guilty because of other reasons. While false confessions occur, they are rare compared to truthful

confessions. Many guilty suspects that confess rescind only after being advised by counsel in order to win their case by excluding the statement from trial (Godsey, 2009 & Gallini, 2010).

Godsey (2009) and Gallini (2010), are both critical of the Reid methods, believing they lead to false confessions. Interrogations have become a very controversial topic regarding voluntary and involuntary confessions. The law under due process and Miranda requires voluntary confessions (Miranda v. Arizona, 1966). Reid methods have proven successful throughout many law enforcement interrogations and have been admissible in court. Reid is still improving the technique and firmly believes in his methods. The Miranda warning prior to interrogation relates the suspect's rights and clarifies understandings of those rights, so if he or she chooses to confess during interrogation, it was of his or her own free will. The authors in these articles are very anti-police regarding interrogations and confessions based on their research, with some valid points.

“Handcuffing the Cops”

How much have the Miranda warnings affected the confession rate for law enforcement? Since 1966 police must state the Miranda warnings prior to conducting an interrogation with suspects. Now suspects are given the option to remain silent or waive their rights and talk to the police. Confessions are a significant part of evidence at trial. With suspects educated about their rights, has the confession rate declined? (Cassell & Fowles, 1998, p.1064).

Statistics in the 1960's and 1990's were not collected on confession rates at police departments, so the clearance rate is the best way to analyze the data. After 1966, the UCR (Uniform Crime Reports) was used to evaluate the crime rate, which is measured by number of crimes solved (Cassell & Fowles, 1998, p.1059). According to Cassell and Fowles (1998,

p.1060-1061) two years post *Miranda v. Arizona (1966)* the confession rate dropped 16%, or at a rate of approximately one out of six. In criminal cases a confession is needed one out of four times (25%) to convict a defendant (Cassell & Fowles, 1998, p. 1061). Since 1966, however, the confession rate has declined to an even greater degree (Cassell & Fowles, 1998). While 16% may not seem significant, it nonetheless reveals an important fact: The Miranda warnings did have an impact. The overall conclusion of the confession rate has declined, but not at a noticeable level (Cassell & Fowles, 1998, p. 1063).

Cassell and Fowles (1998) conducted a survey of police departments to determine why clearance rates have dropped. The survey concludes that the Supreme Court decisions, especially *Miranda*, were the greatest contributor to the decline in clearance rates. Other factors such as, crime rate increase, socioeconomic issues, and various factors may also have contributed to the decline (Cassell & Fowles, 1998, p. 1109).

Conclusion

The *Miranda v. Arizona (1966)* decision might have hindered the cops on obtaining confessions. Is hindering the police from solving crimes fair? Solving crimes for victims is an ultimate goal in policing; and innocent suspects have nothing to confess, while guilty suspects have crimes to hide. The Miranda warnings were created to prevent the police from using coercion towards suspects to obtain confessions, but they can also hinder victims from receiving justice. If the defendant can show that his or her statements were not voluntary, coerced, or improperly obtained, the confession is excluded at trial.

Utilitarianism promotes the greatest good for most, but the Miranda warnings promote the greater good for the guilty suspects. However, they also protect innocent suspects from police

abusing their power and manipulating an individual into a false confession. While Miranda warnings have made the system more fair for suspects, they have also prevented cases to be resolved (Cassell & Fowles, 1998).

“The Impact of Miranda on Police Effectuality”

Due to *Miranda v. Arizona (1966)*, confession rates have been studied to show how much of an impact the Miranda decision has had on police interrogations. According to Witt (1974, p. 325) in 1964 to 1967 (pre and post Miranda) the arrest rate was almost the same; there was not a significant drop. Witt (1974) conducted his research on confessions rates for the crimes of murder, rape, robbery, and burglary. The research was conducted at the Seaside Police Department in California.

In Witt’s (1974, p. 325) research he found that the confession rate declined at approximately 2% (69% to 67%) from 1964 to 1967 (pre and post Miranda), although the detectives felt like the decline was much greater than it actually was. Also Witt (1974, p. 325) found oral admissions where a suspect confessed during interrogation declined 2% (43% to 41%). The percent of suspects that refused to speak to police pre-Miranda was 8% and post-Miranda was 7% (Witt, 1974, p. 325). These results show no significant impact of Miranda when it comes to suspects’ willingness to speak to the police. However, the conviction rate decreased from 92% pre-Miranda to 83% post-Miranda (Witt, 1974, p. 325). Lastly, the clearance rate went from 19% pre-Miranda to 16% post-Miranda (Witt, 1974, p. 325).

“Custodial Police Interrogation in our Nation’s Capital: The Attempt to Implement Miranda”

Another study on confession rates was conducted in Washington D.C. at the New Haven Police Department during 1965 and 1966 (pre-Miranda and post-Miranda) (Alexander, Medalie, & Zeitz, 1968, p. 138). The study found that the suspect’s confession rate pre-Miranda was 43% and declined to 40% post-Miranda, causing a 3% decrease after the *Miranda v. Arizona (1966)* decision (Alexander et al., 1968, p. 139).

Conclusion

The two years post-Miranda had the largest impact, but over time that percent became smaller (Witt, 1974 & Alexander et al., 1968). According to Witt (1974, p. 332), in his research on the Miranda warnings, the effects on interrogations have been a “slight” impact overall on the confession rate (2%). Other factors may contribute to the confession rate, such as a detective’s workload. While police do clear crimes from interrogations, the police now because of the Miranda decision may question fewer people because of the fear of having the confession thrown out at trial on a technicality (Witt, 1974, p. 331). With this idea, police have become more strict on their approach to interrogations to safeguard the suspects rights’ while still obtaining confessions on a more “as-needed” basis to be admissible at trial.

Methodology

For this content analysis, sources of data collection include a literature review on Supreme Court cases, the “Reid Technique” for interrogations, and law journal articles. The Literature Review provides the foundation for the answers to the research questions. Based on

the significance of the impact the *Miranda v. Arizona* (1966) on the criminal justice system, the following research questions were examined:

- (1) Why did the Miranda warnings start?
- (2) Have the Miranda warnings made the justice system more fair? If so, for whom?
- (3) Is the “Reid Technique” valid in light of the law?

The first set of data was collected from Supreme Court cases that were affected by the Miranda decision of 1966. The pre-Miranda Supreme Court cases range from 1936-1964 with a total of three cases. The post-Miranda Supreme Court cases range from 1966 – 2012 with a total of seventeen cases. The post-Miranda cases were obtained using a citator in Lexis Nexis, which is a standard legal research tool to find all of the interpretive cases regarding a particular case (here, Miranda) (Lexis Nexis, n.d.). The jurisdiction selected was United States Supreme Court and all years / dates were included since 1966 (Sloan, 2012, p. 116). These cases were then grouped into specific interpretive categories based on similarities. The categories are: (1) Fifth Amendment Cases Post Miranda: Effect of Invocation of Rights & Waiver, (2) Remaining Silent, (3) Exceptions to the Miranda Warnings, and (4) Fruit of the Poisonous Tree and Its Exceptions where police fail to provide the Miranda Warnings.

This important case law has contributed towards how the police addresses how they may interrogate suspects. The Supreme Court cases were retrieved from Lexis Nexis (Lexis Nexis, n.d.). Also included are the significant cases that led to the Miranda warnings. Prior Supreme Court cases were steppingstones to aid in the decision of *Miranda v. Arizona* (1966). The pre-Miranda Supreme Court cases range from 1936-1966. These cases were selected because of the impact on how the criminal justice system was improving to make the legal

system more fair. For guidance here, the following source was consulted: (Slobogin & Whitebread, 2007).

Miranda v. Arizona (1966) provides the foundation of this research, along with the significance it has made on the criminal justice system. The warnings are used constantly and are a major part of our justice system, particularly concerning arrests and interrogations. The pre-Miranda cases that were chosen (i.e., *Brown v. Mississippi (1936)*, *Gideon v. Wainwright (1963)*, and *Escobedo v. Illinois (1964)*) because these cases had such a significant impact on interrogations by police, and were a leeway to the Miranda case. The pre-Miranda cases have provided additional rights for suspects to make their criminal proceeding more fair and with Miranda continuing those efforts for the justice system.

The post Supreme Court cases are noteworthy outcomes reflecting back to the Miranda decision. The final outcomes of multiple Supreme Court cases have been impacted by Miranda. A review of many United States Supreme Court cases was conducted to find case law that dealt with interrogations that related to the Reid Technique and cases that had the most significant impact on the Miranda warnings. With the final decision in Miranda there were still gray areas remaining in the law (i.e., time limits between the warnings, exceptions, and etc) (Lexis Nexis, n.d.).

The second set of data for the Literature Review regarding the “Reid Technique” was collected from John Reid and Fred Inbau’s book, *Criminal Interrogation and Confessions* and their training manual, *The Reid Technique of Interviewing and Interrogation Manual*. These data sources were collected because the technique has become widely implemented by law enforcement to obtain confessions and because they establish how to properly conduct

interrogations. In fact, Reid is the most commonly used tool in law enforcement on conducting interrogations. The Reid Technique provides law enforcement tactics on ethically conducting interrogations and having the confessions admissible in court (Reid, Inbau, Buckley, & Jayne, 2004).

The third set of data from the Literature Review was collected from refereed law journals on criticism of the “Reid Technique.” The “natural language” search term parameters in Lexis Nexis included the phrase “psychological approach to interrogations.” This specific term search was utilized with a date range of 1998-2010. The date ranges are large parameters because the articles that occurred right after the Miranda decision were very valuable, and also the more recent articles can provide a history from the additional cases impact. All “law journals” was selected. The data collected from the journals that were used opposed the psychological approach that Reid and his associates use. The significance in these journals is the idea that using the psychological approach may lead to false confessions (Lexis Nexis, n.d. & Sloan, 2012, p. 27).

The impact the Miranda case has had on the confession rate is reflected in the last articles in the study. These three articles identified were refereed law journal articles retrieved from a general “natural language” search in Lexis Nexis. The “natural language” search term parameters in Lexis Nexis include the phrase “confession rate,” “pre-Miranda,” and “post-Miranda.” This specific term search was utilized with a date range of 1968-1998. All “law journals” was selected. All these articles also analyze the Reid technique and includes the views of its effectiveness. While there is no direct research on the confession rate and conviction rates, the clearance rates were studied to determine how much the Miranda warnings impacted police confessions during interrogations (Lexis Nexis, n.d.). Confessions are a principal way through which police obtain clearances (e.g., arrests).

Findings

The answer to the research questions are explained in this chapter. The case law and journal articles as well as Reid's publications are the sources used to answer the research questions.

(1) Why did the Miranda warnings start?

The Miranda warnings were established to deter the unethical behavior that law enforcement was utilizing to obtain confessions. For example, in *Brown v. Mississippi (1936)* the suspects were beaten until they confessed to a crime they did not execute. These behaviors violated a person's due process rights. This decision was a stepping-stone to the Miranda warnings by establishing more fairness in the way police obtain confessions. *Gideon v. Wainwright (1963)* and *Escobedo v. Illinois (1964)* were also all pre-Miranda cases that provided "stepping-stones" to the main decision by establishing additional measures of fairness for suspects and defendants in the criminal justice system. The period from 1930's through the 1960's was a significant time for suspects increasingly earning their rights and receiving aid at trial. All of these cases helped improve the criminal justice system, making it more fair for suspects.

The *Mississippi v. Brown (1936)* case was clearly focused on racial prejudices from law enforcement towards the suspects. In the South during the 1930's, racial conflict was common, and law enforcement frequently based decisions on race. This was a starting period for the Civil Rights Movement, when the South was not a safe place for people of color. *Brown v. Mississippi (1936)* determined that law enforcement must not use physical means or coercion to obtain confessions, especially false confessions. The Courts would no longer tolerate this type of

behavior from law enforcement.⁷ The case was significant based on the impact it would have on Miranda, in particular because of the violations the police used during interrogation.

The case of *Gideon v. Wainwright* (1963) established that the Sixth Amendment right to counsel in felony cases was a right defendants also had in state criminal courts. This case impacted the Miranda decision by improving the rights an individual has to a fair trial. Through the Fourteenth Amendment due process clause, states and not just the federal government, had to provide counsel to indigent defendants.⁸

Escobedo v. Illinois (1964) established guidelines for suspects to have counsel present during questioning to safeguard their rights. This right to counsel was also established in the Miranda warnings, that if a suspect desired an attorney, and could not afford one, that one would be provided, and all questioning would come to a halt until counsel is present. This significant case occurred immediately before the landmark decision in Miranda. Escobedo provided the right to counsel during pre-indictment police interrogations, if the suspect was deemed to be the “focus of the investigation” (*Escobedo v. Illinois*, 1964).

(2) Have the Miranda warnings made the justice system more fair? If so, for whom?

The *Miranda v. Arizona* (1966) decision made the criminal justice system more fair for individuals under suspicion of law enforcement; it safeguarded them by having their rights stated. The individual can now decide to exercise his or her right of remaining silent and request a lawyer or waive his or her rights by speaking to the police. The decision also has made the legal process more fair for law enforcement because, by stating the Miranda warnings, they are

⁷ 297 U.S. Reports 278 (1936)

⁸ 372 U.S. Reports 335 (1963)

covered by law, and any statements made by individuals can be held against them in a court of law.

Many post-*Miranda v. Arizona* (1966) Supreme Court decisions have eroded the decision over time. These decisions include such legal procedures as (1) establishing exceptions to Miranda, including the fourteen day rule, (2) what constitutes an interrogation, (3) ways of remaining silent, and (4) “Fruit of the Poisonous Tree Doctrine.” If not for the Miranda case, the outcome of many Supreme Court decisions could have been very different. The fourteen day rule established the time limits on when law enforcement may re-interrogate a suspect who previously requested an attorney during custodial interrogation, while still upholding the suspects’ rights. The fourteen days gives a suspect time to speak to an attorney if they so wish (i.e., *Maryland v. Shatzer*, 2010). The Fruit of the Poisonous Tree (“FOPT”) Doctrine prevents law enforcement from illegally obtaining a confession because if that is the route taken all evidence will be tainted and excluded from trial, provided no exceptions to FOPT exists (for example, *Brewer v. Williams* and *Nix v. Williams* addressing the “inevitable discovery” exception).

If not for the Miranda decision, police could more easily abuse their power. Police may at times make deliberate or non-deliberate mistakes obtaining confessions, which can lead to confessions being excluded. So the criminal justice system is not perfect, but since the Miranda case, suspects and law enforcement can anticipate more fair outcomes. Law enforcement is forced to take the legal channels if they want their evidence to be admissible in court.

Victims, on the other hand, who cannot have their cases resolved because the confession was excluded are quite a different matter. Victims have been impacted in the worst way because

they may not receive justice if a confession was obtained in an invalid manner by police and therefore excluded. Mistakes that are made in those cases are permanent and cannot be retried if the defendant is ultimately acquitted as a result of an excluded confession because of double jeopardy.

The scholarly articles established that the confession rate for the most part has stayed the same after the Miranda case, with the main reason being that law enforcement has applied a more ethical approach to interrogations (Cassell & Fowles, 1998, Witt, 1974, & Alexander et al., 1968). The more ethical approach is making sure a suspect is told their rights and no unlawful conduct is projected to them. Law enforcement no longer uses physical tactics to obtain confessions (which possibly lead to false confessions) but more of a reasonable tactic, such as the Reid Technique, or psychological approach.

(3) Is the “Reid Technique” valid in light of the law?

The “Reid Technique” has impacted police interrogations in light of the law by creating ethical pathways to lead to voluntary and non-coerced confessions (i.e., legal confessions). The Miranda warnings help protect the technique because the suspect has been informed of his or her rights prior to interrogation based on the technique.

Several journals that have critiqued the “Reid Technique” claim that it has led to false confessions. The psychological aspect of the technique is criticized regarding manipulations by police to obtain confessions. In addition, in terms of the confession rate, empirical research indicates that after the Miranda case, confessions obtained by law enforcement were first impacted in terms of a declining clearance rate, but after two years, the rate began to return back

to where it was prior to Miranda. In sum, the confession rate has not significantly changed following Miranda (Cassell & Fowles, 1998, Witt, 1974, & Alexander et al., 1968).

Over the years as laws have changed, the Reid technique has also changed to remain current with the law. Reid and associates have to alter their strategies to make sure they align with the law so law enforcement can utilize these techniques to have successful interrogations and that the confessions remain admissible in court. If police exceed the boundaries of the technique and use a different strategy to obtain a confession the admissibility of the confession is questionable. If the strategy is not upheld by the courts, the confession will have a higher chance of being excluded at trial.

In the Innis case it helped establish what an interrogation is in light of the law and also includes the idea of minimizing the seriousness of the offense to aid in the suspect replying with an incriminating response that leads to a confession. The Innis case defined interrogation as explicit questioning and questioning that is reasonably likely to elicit an incriminating response from the suspect, which was established by the United States Supreme Court. The Innis case included the idea that when police minimize the seriousness of the offense, this approach constitutes interrogation. Police employing the Reid technique, which also uses this approach, will be well-advised to continue the technique's practice of providing suspects with their Miranda warnings prior to being interrogated under the technique. In this particular regard, this practice indicates the technique's validity under the law.

Discussion

The criminal justice system has become more fair over time, but it still has room to improve. One recent Supreme Court plurality decision, *Salinas v. Texas (2012)*, has caused a

shocking turn in events regarding police interviews. Individuals who are being interviewed by the police (not in custody) have to specifically plead the Fifth Amendment if they do not want to answer a question because if they do not, their silence may be presented at trial. In the Salinas case, the interview did not constitute a custodial interrogation by police, but the questioning that occurred could be perceived as an interrogation. Salinas technically was free to leave, if he so choose to (i.e., since he had voluntarily accompanied police to the station-house).

Therefore, the Salinas decision and its implementation of the definition of a successful pleading / invocation of the right to silence is an area that needs improvement in the law. The decision seems to promote a “double standard” because the questioning appeared to resemble more of a custodial interrogation than a casual police interview, in which case his Miranda rights need to have been stated. If the Miranda warnings would have been stated his silence to questioning could not have been used against him in a court of law. See *Doyle v. Ohio (1993)*.

Salinas reflects the importance of needing to improve the law in the area of interviewing and the Fifth Amendment statement requirement under Miranda so that a suspect’s silence will not be used against him or her in court. The main purpose of Miranda is to inform a suspect of their rights and give them an opportunity to waive their rights. This case interview of the type used in Salinas should be constituted as a custodial interrogation requiring the Miranda warnings, causing it to appear as a double standard by having to plead the Fifth Amendment right to silence as a suspect during an interview with law enforcement.

Salinas v. Texas

On December 18, 1992, a double homicide was discovered by police in Houston, Texas. The police became suspicious of Genovevo Salinas, and he voluntarily accompanied the police

to the station for questioning. After an hour of questioning, Salinas had answered every question until he was asked whether the shotgun shells found at a crime scene would match a shotgun Salinas owned. In response to this specific question, Salinas remained silent. It was noticed that Salinas, in a nonverbal action, appeared deceptive. The police conducted a ballistics test against Salinas' gun and the bullet casings from the crime scene, and they matched. Further investigation by police found a witness claiming that Salinas admitted to murdering the two individuals ([Salinas v. Texas, 2010, p. 4](#)).⁹

Approximately 15 years later, the police finally located Salinas and arrested him. The first trial concluded as a mistrial, and at the second trial the state allowed Salinas' silence to be used as evidence against him regarding the question about whether the bullet casings at the crime scene would match any of his shot guns. The defense tried to have the evidence suppressed on grounds of his Fifth Amendment rights, regardless of not being in custody, but they failed. Salinas was found guilty and sentenced to 20 years in prison ([Salinas v. Texas, 2010, p. 4](#)).

The Fourteenth Court of Appeals in Texas looked over the case to decide whether in the non-custodial interview by police and prior to Miranda warnings, the defendant should have been allowed to declare his Fifth Amendment rights. Prior cases have been split in similar decisions, so the Court concurred with the side wherein a suspect's non-custodial silence can be used against him or her in court. This decision left many in shock because when we fail to mention our Fifth Amendment right during non-custodial questioning by police, our silence may be used against us.

⁹ The findings of the lower courts mentioned in this paper, including those courts' holdings, judgments and/ or rationales, were retrieved from the United States Supreme Court cases. Therefore, citations to this material appear in the format used for United States Supreme Court cases.

Using the John E. Reid technique in this instance an innocent person easily would have replied, “No,” and a guilty person’s non-verbal motions could indicate deception as they did here (Salinas v. Texas, 2010, p. 5). The Reid Technique provides certain questions to ask suspects, while answers the suspect believes will make them look innocent actually make them appear guilty (i.e., as analyzed under the Reid technique). When Salinas did not answer the specific question about the shell casings at all and has answered on every question prior, this shows an obvious sign of guilt, in addition to his non-verbal clues.

The Salinas case, while not a custodial interrogation case, is nonetheless an important case surrounding interrogations because it has made the point that when a suspect chooses to remain silent, that right in certain context can be held against him. The findings suggest that during non-custodial police questioning, that the suspect needs to plead the Fifth instead of demonstrating it by remaining silent. Instead of choosing not to incriminate himself or herself by remaining silent, one’s silence may be a sign of guilt, or at least that is the perception of the courts, the prosecution and law enforcement in this context (Salinas v. Texas, 2010).

The laws and rights of citizens in police interviews have changed from the implementation of the Miranda warnings to the *Salinas v. Texas (2010)* case. In general, law enforcement agents feel that the laws safeguard too much, while citizens feel they should have more rights to protect them from the police. The Salinas case, determined that only when non-custodial suspects state, “I plead the Fifth,” the silence should not be used against them at trial. According to this author, if at any point individuals questioned in police pre-custody, remain silent, which is their right, they should not have the silence used against them at trial. The outcome in this case seems to, in light of Miranda and what constitutes an interrogation, to be a double standard.

However, it is true that in pre-custodial questioning, individuals should feel less somewhat less threatened from police tactics than during custodial questioning, but they still should have similar rights, such as remaining silent. In pre-custodial questioning, having to plead the Fifth Amendment sounds unreasonable because most individuals are not aware that silence may be used against them. Since this is not a situation in which they are read the Miranda warnings, they should somehow be informed of the need to invoke the Fifth Amendment, or their silence should not be used against them at all in trial.

Improvement in the Law

Apparently a “double standard” exists that one has a right to remain silent to protect his or her rights, but if an individual chooses to do so in pre-custodial questioning, it can also be held against him or her in court. The Miranda rights were established to educate suspects of their rights. A majority of individuals would not have the legal knowledge to mention the Fifth Amendment during a pre-custodial interrogation by police, so exclusion for their silence at trial is suggested. Not allowing the suspect’s silence to be mentioned at trial seems fair. This addition to the law would benefit individual rights. The case of *Griffin v. California (1965)*, established that a suspect’s silence during custodial interrogation (which is a right provided by Miranda) shall not be used for the prosecution to presume guilt. See also *Doyle v. Ohio (1993)*.

The criminal justice system has been improving over time as case law implements new or alters current laws. The Miranda warnings are a vital part of policing, so training officers on the proper execution in situations where needed is important. Police need to know when to state the Miranda warnings or when it is not appropriate.

A majority, if not all, of police departments have in their standard operating procedure (policy) regarding when to utilize the Miranda warning when speaking to suspects. The policy dictates how the department is to implement the warnings. Police academies train new officers on the *Miranda v. Arizona (1966)* decision and the importance of properly administering the warnings (Georgia POST, 2013). The Miranda decision is one of the most widely known judicial cases because of the impact it has made on the criminal justice system.

Improvements to the law are constantly administered as new laws are passed or decided by judges. The aim of the criminal justice system is to be as fair as possible while society changes and norms change so that laws remain relevant to the needs of our society.

Conclusion

The Miranda warnings were created to protect individuals' rights and prevent the police from violating those rights. The police need to state the Miranda warnings to individuals in custody who may give incriminating statements in response to police interrogation, to assure that those statements will be admissible in court. Individual rights include remaining silent during police questioning and having an attorney present without expense during questioning if requested. These rights were established under the Fifth Amendment as interpreted by the Supreme Court in *Miranda*. Individuals may voluntarily and knowingly waive these rights and speak to the police but only after they are told these rights. The Reid Technique insists that the Miranda warnings be stated prior to interrogation to ensure admissibility of suspect statements, and strengthen the confession rate.

Prior to the *Miranda v. Arizona (1966)* decision police were unethically obtaining confessions, and suspects did not know their rights were being violated nor were they aware of

how to protect themselves from self-incrimination. This case has become significant in the criminal justice system because the Miranda warnings are used constantly when questioning custodial suspects. Testimonial evidence can help win a prosecutor's case, or, if the confession was obtained in violation of the individual's Fifth Amendment right, the confession will be excluded. This circumstance may cause the prosecution to lose their case by having the confession excluded. Having the Miranda warnings administered to suspects is vital to uphold statements as evidence of suspect guilt in the court room.

Police interrogation tactics have drastically changed over time, giving suspects more protection and fewer options for police. The landmark case of *Miranda v. Arizona (1966)* established procedures for handling suspects prior to and during custodial interrogation. The Miranda decision states that any statements made by suspects after being told these rights, if voluntarily and knowingly waived, can be held against the suspect.

While the Miranda warnings may have aided suspects by protecting them (e.g., making the criminal justice system more fair for them), it has also possibly hindered police from resolving cases. Cases that remain unresolved mainly impact the victims of the crime. The police who obtain confessions not in accordance with the Miranda warnings may also prevent a victim from receiving justice. The police should always conduct interrogations correctly so both the victims and suspects receive fair treatment. If the police read the Miranda warnings to the suspect and the suspect still chooses to make incriminating statements voluntarily, intelligently, and knowingly, the confession will be admissible.

The very rights established in the Miranda warnings are designed to protect individuals. The more recent case of *Salinas v. Texas (2012)* reflects how police questioning currently is

being conducted. A suspect's silence during pre-custodial questioning can also be held against him or her in court. Pre-custodial interviews by police is an area of law that needs improvement because the suspect's silence during a pre-custodial interview may currently be admissible in court. This is seemingly in contradiction to the "spirit" of the Miranda law.

In pre-custodial settings, police should inform the suspects of how their silence can be used against them, and how to invoke their right to silence. Having them plead the Fifth Amendment to make their silence inadmissible at trial is unfair in the justice system. It may also benefit police not to have to deal with a suspect's ignorance of the law, and questioning of the confessions' admissibility.

The case of *Salinas v. Texas (2012)* should not have been viewed as pre-custodial interview by police once certain questions began, such as Salinas' involvement in the shooting. The interview of Salinas appeared to transition into an interrogation under the definition used in the *Innis* case, and therefore his Miranda rights should have been stated by police. Also, Salinas was arguably in custody since he was accompanied by police to the location of an interview room at a police station-house. If the Miranda warnings had been provided, then Salinas would have had the opportunity to remain silent, request a lawyer, or waive his rights.

Many post Miranda cases brought about changes in the legal system regarding how police conduct interrogations and interviews. For example, the case of *Edwards v. Arizona (1981)*, stressed how the police need to cease questioning when a suspect implements their right to an attorney and not to force a suspect to speak with them. These cases have shown instances when police should have ended questioning of the suspect but instead decided to continue, coercing the suspect into disclosing incriminating information. In *Pennsylvania v. Muniz (1990)*,

the Supreme Court highlighted the importance of how incriminating statements or confessions can be excluded if suspects are not Mirandized prior to these statements, such as an incriminating statement by a drunk suspect to a question concerning the date of his sixth birthday. These cases have helped improve the criminal justice system for future cases by enforcing safeguards, such as the Miranda warnings. Many cases in the criminal justice system deal with the Miranda warnings, which is why the warnings are important to research.

Other cases following Miranda have established exceptions or “loopholes” to its basic premise. The case of *Maryland v. Shatzer (2010)*, established a 14 day rule for a “break” in custody for a law enforcement officer to re-interrogate a suspect who initially requested an attorney and for any waiver at a subsequent interrogation to be deemed voluntary. The *Illinois v. Perkins (1990)* case established the rules for a undercover interrogation, providing that the Miranda warnings in this situation do not apply because the prison environment is not an interrogation room but a conversation between inmates. The *New York v. Quarles (1984)* case established an exception to Miranda for public safety reasons based on the public’s safety as a higher priority and allowing the evidence to be used in trial. The various exceptions to Miranda created by subsequent case law may indicate that law enforcement has increasingly been gaining more control and power over the interrogation of criminal suspects.

The “Reid Technique” has become an essential resource for law enforcement to implement during interrogations to retrieve voluntary confessions in light of Miranda. The importance of the technique has been proven numerous times when it was used to obtain confessions through legal channels. The technique has proven successful by having confessions being admissible and not excluded at trial (Reid, Inbau, Buckley, Jayne, 2004, p.3-6).

Many scholarly articles (Godsey & Gallini) mention disagreement with the “Reid Technique,” and believing it has led to false confessions. The scholars believe the psychological approach causes false confessions. The scholars believe that the technique leads to false confessions because the type of questioning psychologically causes the individual to confess to a crime they did not commit. Reid claims the psychological approach does not elicit false confessions; instead, the person’s conscience leads to the confession of the truth (Reid, Inbau, Buckley, Jayne, 2004). Such psychological coercion to obtain a confession, if it exists, would be viewed as a violation of Miranda (e.g., an involuntary “wavier”). It must also be a due process violation.

Reid and associates have been in disagreement with scholars on their technique, but currently police are utilizing the “Reid Technique” to obtain confessions. Police, while implementing the technique during interrogation and obtaining confessions, are eliciting statements still admissible in court. The technique appears up to date with the law, demonstrating how confessions from police have been admissible. Once an interview by police starts to become accusatory, basically a custodial interrogation, the police need to halt and read the Miranda warnings to protect any further statement made by the suspect. The Reid technique accounts for this fact by providing suspects with the Miranda warnings prior to the application of the technique. This is appropriate because the technique may involve interview tactics such as minimizing the seriousness of the offense, which the Supreme Court in *Innis* stated constituted interrogation.

False confessions do occur, but they are rare. Police who are trained on the Reid Technique implement the tactics during interrogations. Police may at some point deviate from the Reid Technique and alter their approach, which could lead to false confessions.

However, these false confessions are not always based on police error. The people who falsely confess should be analyzed. Why would an innocent person confess to a crime he or she did not commit? Perhaps he or she feels guilty about something else, or he or she are protecting the real perpetrator to the crime. Also, the police might manipulate the suspect during interrogation. But not all false confessions lead back to the “Reid Technique.”

The confession rate was impacted for the first two years after the Miranda decision. After those two years the confession rate only decreased between 2-3%, which is not a significant difference. While suspects are being treated more fair and told their rights, law enforcement is still able to obtain an admissible confessions during interrogations. The Miranda case has created a more fair approach to interrogations for suspects and police to still benefit with a confession by ethical means (Alexander et al., 1968, Cassell and Fowles, 1998, & Witt, 1974).

For future research in this area, alternative approaches to interrogations other than the Reid Technique and the possible link to false confessions could be examined. An alternative method to the Reid Technique was created in England called Planning, Engage, Account, Closure, and Evaluate (“PEACE”). This technique is not psychological based, but more of a journalistic approach by gathering information. The focus on this approach is to revisit the same question that appeared to be a lie to see if the suspect changes his or her story; basically, the suspect will not be able to recite the lie verbatim. The questions are open-ended and re-asked a different way to confirm the same answer in regards to knowledge of the crime (Starr, 2013, Podcast).

Laws provide society with social norms; these norms imply what is right and what is wrong. When the answer is unclear, the courts are tasked with evaluating the circumstances and

making a decision for the greater good of humanity. Laws have been improving as society progresses and norms change. While laws change, so will police and their approaches to interrogations in order to make the criminal justice system more effective. The criminal justice system's goal is to achieve justice, which is the greater good for most (i.e., the belief in utilitarianism). Justice must be pursued to provide fairness for all.

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