

Miranda and Confessions

What You May Know

- Miranda must be read if:
 - The person questioned is in custody
 - The questions are about the person's involvement in a crime

What You May Know

- The Miranda decision was based on:
 - The 5th amendment right to remain silent
 - The 6th amendment right to counsel

Custody Issues

- The "A" word
- Prison/Jail issues
- Length of detention
- Use of temporary restraints
- Transportation
- Location of the interview
- Would a reasonable person under the same circumstances feel that they were in custody or free to leave?

Question Issues

- What is the nature of the offense generating the questions?
 - Public Safety Concerns
 - "Demographic" Information
 - Ordinance Violations
 - Criminal Violations
 - Booking Questions
 - A Charged Crime

Represented Suspects

- If a suspect in a case is already charged and represented by an attorney the police may not talk to him/her without going through that attorney.

Invoking Miranda

- I want a lawyer.
 - When can you re-try?
- I don't want to talk.
 - When can you re-try?
- What about questions?
- What about silence?
- What if the suspect calls us back?

Exceptions and Oddities

- Do you re-Mirandize between interviews?
- OWI cases and Field Sobriety
- What about telephone conversations?
- Can someone else invoke Miranda for a suspect?
- If someone wants a lawyer, do we rush out and find them one?
- What about an unsuspected confession?
- What about negotiations?

Juvenile Issues

- Age
- Education
- Intelligence and emotional characteristics
- Previous experience with the criminal justice system
- Time of day
- The presence of a parent or other adult concerned about the juvenile's welfare

Statements Must Be Voluntary

- Personal Characteristics
 - Age
 - Intelligence
 - Emotional State or Distress
 - The Presence of Mental Disease or Defect
 - Intoxicants
 - Physical Pain or Injury
 - Prior Experience with the Police and Knowledge of Law

Statements Must Be Voluntary

- Police Pressures
 - Length and Conditions of Interrogation
 - Psychological and Physical Pressures
 - Threats and/or Promises
 - Misrepresenting Evidence
 - Polygraph or CVSA Results
 - Deceit

Miranda Errors

- Information obtained during the statement will be excluded
- Any information obtained subsequent to and as a result of the “bad” statement will be excluded
- Inevitable Discovery Exception
