

The Miranda Warning

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Introduction

For even the most casual viewer of police television shows, the cry of “read me my rights” has been heard from the lips of accused criminals as frequently as anything else. Beyond this statement, however, lies a real life drama- The Miranda Warning. Where this warning came from, its true meaning and intent, as well as what the future should hold for The Miranda Warning are all pivotal questions which will be answered in the course of this research in order to better understand not only Miranda, but the overall American criminal justice system and its approach to the rights of those accused of crimes.

What is the Miranda Warning?

To begin, the origins of The Miranda Warning itself, as well as the actual verbiage of the warning, need to be understood. Originally, The Miranda Warning came forth from the legal case of Ernesto Miranda, the focus of the 1963 Supreme Court Case *Miranda v. Arizona* (Lyman, 2004). Essentially, the facts of the case are as follows: Ernesto Miranda was arrested, accused of the rape of a mildly mentally handicapped woman. At the time of his arrest, Miranda was not advised by the arresting officer that he had the Constitutional right to remain silent, to choose not to answer questions without an attorney present, and to not be forced to offer any information that would be used against him in any legal case. Eventually, Miranda’s attorney argued that Miranda’s confession to the crime should be thrown out of court, because it was obtained without Miranda being advised of his rights. The original judge in the case denied this motion, but eventually, the Supreme Court ruled that the statements that Miranda originally made to the police should be disregarded because he was not read his rights (Robertson, 1997). As a result of this pivotal ruling, a standardized warning, therein known as The Miranda Warning, was instituted by all police forces in the United States, and recited to anyone accused of a crime before being questioned. The full text of the warning is as follows:

*“You have the right to remain silent and refuse to answer questions. Do you understand?
 Anything you do say may be used against you in a court of law. Do you understand?
 You have the right to consult an attorney before speaking to the police and to have an attorney present during questioning now or in the future. Do you understand?
 If you cannot afford an attorney, one will be appointed for you before any questioning if you wish. Do you understand?
 If you decide to answer questions now without an attorney present you will still have the right to stop answering at any time until you talk to an attorney. Do you understand?
 Knowing and understanding your rights as I have explained them to you, are you willing to answer my questions without an attorney present?”* (Robertson, 1997, p. 161)

Ultimately, the warning was effectively made much shorter and easier for suspects to understand, presented as follows:

“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 speak to an attorney, and to have an attorney present during any questioning. If you cannot afford a lawyer, one will be provided for you at government expense.” (Robertson, 1997, p. 162).

With The Miranda Warning having been refined and put in place, one would make the assumption that the rights of individuals are protected, and the police are safeguarded against having key evidence dismissed on a technicality, but the opposite is actually the case. Further research has revealed pivotal issues surrounding The Miranda Warning.

Pivotal Issues Surrounding the Miranda Warning

The Miranda Warning faces heavy controversy both from the viewpoint of the criminal justice system and the accused criminal. For police and the courts, Miranda is sometimes argued against, as the claim is made that the Warning prevents the swift investigation of criminal matters due to the lack of divulgence of important information during questioning that could literally save lives or property; this has especially become true in the modern era of terrorism, when foreign suspects, many argue, need to

be compelled to give information immediately so that potential terror plots can be diffused before mass murder occurs. However, for the accused and the attorneys that represent them, Miranda is seen as something that is necessary in order to keep police from either misinterpreting the statements of suspects, coercing confessions out of suspects through psychological means, or by actually resorting to violence to literally beat a confession out of the suspect (Miranda's Enemies, 2000). Based on the two sides of the issue, the pivotal issue is clear: how can Miranda be used in a way that protects victims, aids law enforcement and promotes common order, while still giving accused criminals the entitlements of due process as guaranteed by the Constitution? There is no clear answer to how this can be achieved, but on both the federal and state levels, the issue has been explored.

States' Views of the Miranda Warning

Some states have taken a more generous view of the use of Miranda than others, resulting in cases being brought to appeal in the supreme courts of those states. The landmark case in this regard, cited over the past several years, is *Missouri v. Seibert*. The basic facts of this case were that police in the state of Missouri were reading Miranda to suspects only after they began questioning them, and they would then continue to question after the reading, in an effort to confuse a suspect. With this approach, the suspect, even if their statements made before the reading were dismissed, would still likely have some statements made after the reading that would be incriminating. Calling this a "two-step" around the Constitution, this practice was eventually ruled illegal by a Missouri court (Leo, 1996). This also brings up another important technicality- the need to provide Miranda to everyone being questioned by police, or only those who are officially placed under arrest. The net effect of all of this is to greatly muddy the legal waters and make the use of Miranda, or the lack of it, a hot legal topic on both sides of the courtroom bench, so to speak. Therefore, many states have looked to the federal government to issue universal decrees on Miranda.

Constitutional View of the Miranda Warning

Every accused criminal has classically been protected by the Constitution, specifically by the First and Fifth Amendments as an example. Essentially, all of the debates about Miranda have filtered down to a few Constitutional standards, which of course are not set in stone due to the dynamic nature of the American justice system, but are worthy of discussion in this research. Generally speaking, the Supreme Court of the United States, based on cases like *Missouri v. Seibert*, has ruled that neither the accused in a criminal case, nor those arrested in a criminal case need to be “Mirandized” as it has come to be called. However, there is a caution to be noted- if the individual is not made aware of their rights, there is the possibility that statements they make can be dismissed in a legal case against them since the information was technically obtained in an illegal manner by the law enforcement personnel who obtained it in the first place (Nooter, 2005). Again, there is a legal tightrope to be walked here, between what can be done to protect individual rights of accused and victim alike, while still serving the interests of justice and fulfilling the role of law enforcement in society. A key question leads to the conclusion of the research- what should be done about Miranda?

Conclusion - What Should be Done about the Miranda Warning?

In wondering what should be done about Miranda, there is something that needs to be laid out right off- there is no ideal criminal justice system, and the guilty will sometimes avoid punishment, and unfortunately, the innocent will be punished as well. However, this being said, there need to be safeguards in place to make sure that the police do not falsely generate evidence against accused criminals, and as well, that the truly guilty do not escape justice. Therefore, in closing, it is one humble opinion that Miranda should be kept in place, closely monitored as it has been. While it is flawed in some areas, to discard it wholesale would be much worse than the present situation.

References

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