

The Police Didn't Read My Rights When They Arrested Me

We've all seen it in the movies hundreds of times. When the police arrest someone they always tell him or her "You are under arrest. You have the right to remain silent. You have the right to an attorney . . ." Sometimes this actually does not happen in reality.

The "rights" that we have all heard so many times are frequently called **Miranda Rights**. When the police tell someone about these rights, they are "mirandizing." The name comes from a U.S. Supreme Court case, *Miranda v. Arizona* that was decided in 1966. In that case, after hours of police interrogation, the defendant, Ernesto Miranda, confessed to kidnapping and raping a young woman. Before his confession, the police did not tell him about his constitutional rights as a suspect. The Supreme Court found that because Mr. Miranda was informed of his rights, his confession was not voluntary and they said that the prosecutor should not be allowed to use that confession against him in a trial – the jury should never hear anything about the confession.

Since then the law has developed so that if you are interrogated while in police custody, they must inform you of your Fifth Amendment right to remain silent and not say anything incriminating about yourself and your Sixth Amendment right to be represented by a lawyer. If the police fail to "mirandize" you, any incriminating statements that you make in response to their questions may be excluded from evidence during your trial.

In many cases, the police ask very few questions – identification, what are you doing, where are you going. The courts have held that those kinds of preliminary questions are not interrogation and Miranda warnings are not necessary. Also, if the

police ask questions but you are not “in custody” they do not have to mirandize you. Although some things may seem rather incriminating - such as sobriety tests during a drunk driving stop – they may not be subject to Miranda warnings.

In the majority of arrests, the police either already have an arrest warrant and/or they believe they have sufficient evidence without a confession – so they do not read the Miranda Rights and it does not matter to the case.

Nearly every lawyer advises clients – if you have any reason at all to think the police suspect you committed a crime or if you think that maybe your answers to questions would be incriminating – do NOT answer police questions. Politely tell them that you want your lawyer present for any questioning. This right to remain silent and refuse to answer police questions is in the Fifth Amendment of the U.S. Constitution. The Founding Fathers of the United States knew it was fundamental, so do not be too quick to waive your rights.