

## ***Miranda v Arizona (1966)***

### **The Four Miranda Warnings:**

1. You have the right to remain silent,
2. Anything you say can and will be used against you in a court of law.
3. You have the right to the presence of an attorney, and
4. If you cannot afford an attorney one will be appointed for you prior to any questioning if you so desire.

### **The Case**

Ernesto Miranda was a poor Mexican immigrant living in Phoenix, Arizona in 1963. A Phoenix woman was kidnapped and raped. She identified Miranda in a police lineup. Miranda was arrested, charged with the crimes, and questioned by the police for two hours. The police officers questioning him did not inform him of his Fifth Amendment right against self-incrimination or of his Sixth Amendment right to the assistance of an attorney. The Fifth Amendment states that no person "shall be compelled in any criminal case to be a witness against himself. . . ." The Sixth Amendment states that, "In all criminal prosecutions, the accused shall enjoy the right . . . to have the assistance of counsel for his defense."

As a result of the questioning, Miranda confessed in writing to the crimes. His statement also said that he was aware of his right against self-incrimination. During his trial, the prosecution used his confession to obtain a conviction, and he was sentenced to 20 to 30 years in prison on each count.

Miranda appealed his case to the Arizona Supreme Court. His attorney argued that his confession should have been excluded from trial because he had not been informed of his rights, nor had an attorney been present during his interrogation. The police officers involved admitted that they had not given Miranda any explanation of his rights. The state argued, however, that because Miranda had been convicted of a crime in the past, he must have been aware of his rights. The Arizona Supreme Court denied Miranda's appeal and upheld his conviction.

The case came down to this fundamental question: What is the role of the police in protecting the rights of the accused, as guaranteed by the Fifth and Sixth Amendments to the Constitution? The Supreme Court of the United States had made previous attempts to deal with these issues. The Court had already ruled that the Fifth Amendment protected individuals from being forced to confess. They had also held that persons accused of serious crimes have a fundamental right to an attorney, even if they cannot afford one. In 1964, after Miranda's arrest, but before the Court heard his case, the Court ruled that when an accused person is denied the right to consult with his attorney, his or her Sixth Amendment right to the assistance of a lawyer is violated. But do the police have an obligation to ensure that the accused person is aware of these rights before they question that person?

In 1965, the Supreme Court of the United States agreed to hear Miranda's case. At the same time, the Court agreed to hear three similar cases. The Court combined all the cases into one case.

Since *Miranda* was listed first among the four cases considered by the Court, the decision came to be known by that name. The decision in *Miranda v. Arizona* was handed down in 1966.

In a 5-4 opinion, the Supreme Court ruled in favor of *Miranda*. The majority opinion, written by Chief Justice Earl Warren, concluded that defendants arrested under state law must be informed of their constitutional rights against self-incrimination and to representation by an attorney before being interrogated when in police custody.

The majority opinion explained that the Fifth Amendment right against self-incrimination is fundamental to our system of justice, and is “one of our Nation’s most cherished principles.” This guarantee requires that only statements freely made by a defendant may be used in court. The justices described some of the techniques used by police officers in interrogations. They observed that “the modern practice of in-custody interrogation is psychologically rather than physically oriented,” and cited the advantage police officers hold in custodial interrogations (interrogations that take place while the subject is in police custody). Because of these advantages, they concluded that “the very fact of custodial interrogation exacts a heavy toll on individual liberty, and trades on the weakness of individuals.”

The Court ruled that because of the pressures of custodial interrogations, the Fifth Amendment guarantee to be free from self-incrimination requires that police must ensure that defendants are aware of their rights before they are interrogated in custody. Because the right against self-incrimination is so important to our system of justice, a case by case determination made by police officers of whether each defendant understands his or her rights is not sufficient. Before interrogating defendants in police custody, they must be warned 1) that they have the right to remain silent, 2) that anything they say may be used against them in court, 3) that they have the right to an attorney, either retained by them or appointed by the court, and 4) that they may waive these rights, but they retain the right to ask for an attorney any time during the interrogation, at which point the interrogation can only continue in the presence of a lawyer.

The Court reasoned that because the right against self-incrimination is so fundamental, and because it is so simple to inform defendants of their rights, any statements made by defendants during a custodial interrogation in which the defendant has not been read his “*Miranda* rights” are inadmissible (cannot be used) in both state and federal courts.

Source: <http://www.streetlaw.org/en/Page.Landmark.Miranda.background.two.aspx>

**Fifth Amendment:** No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

**In my own words:**

**Sixth Amendment:** In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

**In my own words:**

## **Fifth and Sixth Amendments to the U.S. Constitution**

### **Fifth Amendment**

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## Exploring the Rights of the Accused

- A. What are the rights of the accused contained in these amendments? Do we need both sets of rights? Why or why not?
- B. Individual rights must be balanced against the values of society at large. For instance, the right to free speech must be balanced against our desire for an orderly society. This is why demonstrations, while protected by the First Amendment, can have certain restrictions placed on them. In *Miranda*, what constitutional rights and societal values must be balanced against each other?
- C. The Fifth Amendment freedom from self-incrimination applies when one is “in custody.” The Court has defined “in custody” as an objective test: Would a reasonable person in the suspect’s shoes believe that they are free to leave? Consider a student pulled into a principal’s office for police questioning. Do you think that minors should be treated the same as adults for the Fifth Amendment protections to apply? Why or why not?

## Questionable Constitutional Situations: Fifth and Sixth Amendments

### **Situation 1:**

Three police officers drive a robbery suspect to the police station. The officers have not yet found the gun used in the robbery. On the way to the station, one officer mentions to another officer that there is a school for handicapped children nearby. He says it would be terrible if one of the school children finds the gun and hurts themselves. Hearing this, the suspect tells the officers where the gun is. Were the suspect's constitutional rights violated? Why or why not?

### **Situation 2:**

A drug addict is arrested for robbery and murder. After being in police custody for several hours, he begins to have severe withdrawal symptoms. The police call a doctor, who gives the suspect medication. Nobody realizes that one of the medications has the effect of a "truth serum." The police continue to question the suspect after he takes the medication. Within a short time, the suspect confesses.

Were the suspect's constitutional rights violated? Why or why not?

### **Situation 3:**

While in jail awaiting trial, the defendant was being threatened by other prisoners because of a rumor that he killed a child. The defendant became friends with another prisoner. The new friend offered to protect the defendant from "tough treatment" in prison if the defendant told him whether the rumor was true. The defendant did not know that his new "friend" was really a paid informant for the FBI. The defendant admitted to the murder.

Were the defendant's constitutional rights violated? Why or why not?

### **Situation 4:**

Police were investigating certain robberies in which a robber used a handwritten note demanding that money be handed over to him. The police took a handwriting sample from the accused without the advice of counsel.

Were the accused's constitutional rights violated? Why or why not?

### **Situation 5:**

The defendant was arrested and charged with rape. At the initial hearing, he was identified by the accuser even though the defendant did not have counsel and was not offered counsel. The victim made the identification after being told that she was going to view a suspect, was given his name, and heard the evidence against him.

Were the defendant's constitutional rights violated? Why or why not?

### **Situation 6:**

An indigent (poor and could not afford an attorney) defendant was convicted of shoplifting (less than \$150.00), and no counsel was provided. Although the penalty could have been as much as a \$500 dollar fine and 1 year in jail, he was fined \$50.00.

Were the defendant's constitutional rights violated? Why or why not?

Source: [http://www.civicallyspeaking.org/case\\_studies\\_sixth.pdf](http://www.civicallyspeaking.org/case_studies_sixth.pdf);

## ***Mapp v. Ohio***

### **Facts of the Case**

Suspicious that Dollree Mapp might be hiding a person suspected in a bombing, the police went to her home in Cleveland, Ohio. They knocked on her door and demanded entrance. Mapp refused to let them in because they did not have a warrant. After observing her house for several hours, the police forced their way into Mapp's house. They held up a piece of paper when Mapp demanded to see their search warrant. As a result of their search, the police found a trunk containing pornographic materials. They arrested Mapp and charged her with violating an Ohio law against the possession of obscene materials. At the trial the police officers did not show Mapp and her attorney the alleged search warrant or explain why they refused to do so. Nevertheless, the court found Mapp guilty of possessing obscene materials after an admittedly illegal police search of her home for a fugitive. She was sentenced to jail. After losing an appeal to the Ohio Supreme Court, Mapp took her case to the U.S. Supreme Court.

### **Decision:**

The Court declared that "all evidence obtained by searches and seizures in violation of the Constitution is, by [the Fourth Amendment], inadmissible in a state court." Mapp had been convicted on the basis of illegally obtained evidence. The justices stated that the exclusionary rule was necessary to make state authorities abide by the requirements of the Fourth Amendment, for "nothing can destroy a government more quickly than its failure to observe its own laws." Thus, the Court decided that "the exclusionary rule is an essential part of both the Fourth and Fourteenth Amendments."

The justices ruled that since the guarantees of the Fourth Amendment applied to both the federal and state governments, they should be enforced the same way in both federal and state courts. Evidence obtained unlawfully is not admissible in federal court, so it should not be admissible in state courts either.

The justices reasoned that requiring states to obey to the exclusionary rule created "no war between the Constitution and common sense." They responded to the argument that the exclusionary rule would make it possible for criminals to go free due to police error by pointing out that "the criminal goes free, if he must, but it is the law that sets him free."

This was an historic -- and controversial -- decision. It placed the requirement of excluding illegally obtained evidence from court at all levels of the government. The decision launched the Court on a troubled course of determining how and when to apply the exclusionary rule.

Adapted from: [http://www.streetlaw.org/en/Page/357/Summary\\_of\\_the\\_Decision](http://www.streetlaw.org/en/Page/357/Summary_of_the_Decision); [http://www.oyez.org/cases/1960-1969/1960/1960\\_236](http://www.oyez.org/cases/1960-1969/1960/1960_236); [http://www.streetlaw.org/en/landmark/cases/mapp\\_v\\_ohio](http://www.streetlaw.org/en/landmark/cases/mapp_v_ohio)

## Eighth Amendment – Cruel and Unusual Punishment

*“Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”*

-- 8<sup>th</sup> Amendment, U.S. Constitution

### Brief Explanation

- The **Excessive Bail clause** restricts judges in setting bail for the release of persons accused of a criminal activity during the period following their arrest but before their trial.
- The **Excessive Fines clause** limits the amount that state and federal governments may fine a person for a particular crime.
- The **Cruel and Unusual clause** restricts the severity of punishments that state and federal governments may impose upon persons who have been convicted of a criminal offense.

### Authorized Methods for the Death Penalty

Method	# of executions by method since 1976	# of states authorizing method	Jurisdictions that Authorize
<b>Lethal Injection</b>	1086 (including 14 by one-drug protocol)	35 states + U.S. Military and U.S. Gov't	Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico*, North Carolina, Ohio**, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington**, Wyoming, U.S. Military, U.S. Government  *New Mexico abolished the death penalty in 2009. However, the law wasn't retroactive, leaving two people on the state's death row.  **Ohio adopted a single-drug lethal injection protocol in November 2009. Washington state adopted a single-drug protocol on Mar. 2, 2010, though inmates may still choose the 3-drug protocol.
<b>Electrocution</b>	157	9 states (all have lethal injection as primary method)	Alabama, Arkansas, Florida, Kentucky, Oklahoma, South Carolina, Tennessee, Virginia
<b>Gas Chamber</b>	11	4 states (all have lethal injection as primary method)	Arizona, California, Missouri, Wyoming
<b>Hanging</b>	3	2 states (all have lethal injection as primary method)	New Hampshire, Washington
<b>Firing Squad</b>	3	1 state (all have lethal injection as primary method)	Oklahoma, Utah <ul style="list-style-type: none"> <li>• Utah no longer offers the firing squad as an option, but would allow it only for inmates who chose this method prior to its elimination</li> <li>• Oklahoma offers firing squad only if lethal injection and electrocution are found unconstitutional.</li> </ul>

Source: Bureau of Justice Statistics, Capital Punishment 2006; updated by DPIC. Refer to <http://www.deathpenaltyinfo.org/methods-execution> for updated statistics. References: Eighth Amendment - Court, Punishments, Punishment, Cruel, Unusual, and Bail; <http://law.jrank.org/pages/6368/Eighth-Amendment.html#ixzz1G9pwHwgl>; <http://www.deathpenaltyinfo.org/methods-execution>;

## Forbidden Punishments

### 1. Group 1: Mentally Challenged: *Atkins v Virginia, 2002*

Daryl Renard Atkins was convicted of abduction, armed robbery, and capital murder. In the penalty phase of Atkins' trial, the defense relied on one witness, a forensic psychologist, who testified that Atkins was mildly mentally retarded. The jury sentenced Atkins to death. In a 6-3 opinion delivered by Justice John Paul Stevens, the Court held that executions of mentally retarded criminals are "cruel and unusual punishments" prohibited by the Eighth Amendment.

a. Pros of the decision on society:

b. Cons of the decision on society:

c. My opinion:

### 2. Group 2: Minors: *Roper v Simmons, 2005*

Christopher Simmons, in 1993 at the age of 17, concocted a plan to murder a woman. The plan was to commit burglary and murder by breaking and entering, tying up a victim, and tossing the victim off a bridge. He executed the plan, was caught and convicted. In a 5-4 opinion delivered by Justice Anthony Kennedy, the Court ruled that standards of decency have evolved so that executing minors is "cruel and unusual punishment" prohibited by the Eighth Amendment.

a. Pros of the decision on society:

b. Cons of the decision on society:

c. My opinion:

### **Forbidden Punishments (continued)**

#### **3. Group 3: Punishment for Rape: *Coker v Georgia 1977* and *Kennedy v. Louisiana, 2008***

In 1974, Erlich Anthony Coker, serving a number of sentences for murder, rape, kidnapping, and assault, escaped from prison. He broke into a Georgia couple's home, raped the woman and stole the family's car. The Georgia courts sentenced Coker to death on the rape charge. The Court held that the death penalty was a "grossly disproportionate" punishment for the crime of rape.

A Louisiana court found Kennedy guilty of raping his eight-year-old stepdaughter. Louisiana law allowed the district attorney to seek the death penalty for defendants found guilty of raping children under the age of twelve. The prosecutor sought, and the jury awarded such a sentence. In a 5-4 decision the Court held that the Eighth Amendment bars states from imposing the death penalty for the rape of a child where the crime did not result, and was not intended to result, in the child's death.

**a. Pros of the decision on society:**

**b. Cons of the decision on society:**

**c. My opinion:**

#### **4. Group 4: Life sentences for minors: *Graham v Florida, 2009***

Terrence Graham was 16 years old when he was convicted of armed burglary and attempted armed robbery. He served a 12 month sentence and was released. Six months later Graham was tried and convicted by a Florida state court of armed home robbery and sentenced to life in prison without parole. The Supreme Court held that the Eighth Amendment's Cruel and Unusual Punishments Clause does not permit a juvenile offender to be sentenced to life in prison without parole for a non-homicidal crime.

**a. Pros of the decision on society:**

**b. Cons of the decision on society:**

**c. My opinion:**

### **Forbidden Punishments (continued)**

#### **5. Group 5: Jail time for drug addiction: *Robinson v California, 1962***

A California statute made it a criminal offense for a person to "be addicted to the use of narcotics." Lawrence Robinson was convicted under the law, which required a sentence of at least ninety days in jail. In a 6-to-2 decision, the Court held that laws imprisoning persons afflicted with the "illness" of narcotic addiction inflicted cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments.

**a. Pros of the decision on society:**

**b. Cons of the decision on society:**

**c. My opinion:**

#### **6. Group 6: Mandatory death sentences: *Woodson v North Carolina, 1976***

The state of North Carolina enacted legislation that made the death penalty mandatory for all convicted first-degree murderers. Consequently, when James Woodson was found guilty of such an offense, he was automatically sentenced to death. In a 5-to-4 decision, the Court held that the North Carolina law was unconstitutional. The Court found three problems with the law: First, the law "depart[ed] markedly from contemporary standards" concerning death sentences. The historical record indicated that the public had rejected mandatory death sentences. Second, the law provided no standards to guide juries in their exercise of "the power to determine which first-degree murderers shall live and which shall die." Third, the statute failed to allow consideration of the character and record of individual defendants before inflicting the death penalty.

**a. Pros of the decision on society:**

**b. Cons of the decision on society:**

**c. My opinion:**

### **Forbidden Punishments (continued)**

#### **7. Group 7: Prison Conditions: *Brown v. Plata, 2011***

Prisoners in California claimed that the state prisons were in violation of the Eighth Amendment to the Constitution, which bans "cruel and unusual punishment." The trial court determined that serious overcrowding in California's 33 prisons was the "primary cause" for violations of the Eighth Amendment. The court ordered the release of enough prisoners so the inmate population would come within 137.5 percent of the prisons' total design capacity. That amounts to between 38,000 and 46,000 inmates being released. The California Governor challenged the lower court's decision. The U.S. Supreme Court found the prison conditions in violation of the Eighth Amendment's prohibition on cruel and unusual punishment. The Court reasoned that the court-mandated population limit was necessary to remedy the violation of prisoners' constitutional rights.

**a. Pros of the decision on society:**

**b. Cons of the decision on society:**

**c. My opinion:**

**8. What factors make it difficult to decide whether a punishment is "cruel and unusual?"**

Source: <http://www.oyez.org/>

## **Quote by Justice Arthur Goldberg in *Escobedo v. Illinois* (1964)**

**Our Constitution strikes the balance in favor of the rights of the accused to be advised by his lawyer of his privilege against self-incrimination. . . . No system worth preserving should have to *fear* that if an accused is permitted to consult with a lawyer, he will become aware of, and exercise, these rights. If the exercise of constitutional rights will thwart the effectiveness of a system of law enforcement, then there is something very wrong with that system.**

Source: Opinion of Justice Arthur Goldberg, *Illinois v. Escobedo* (1964)  
<<http://infousa.state.gov/government/overview/accused.html>>.