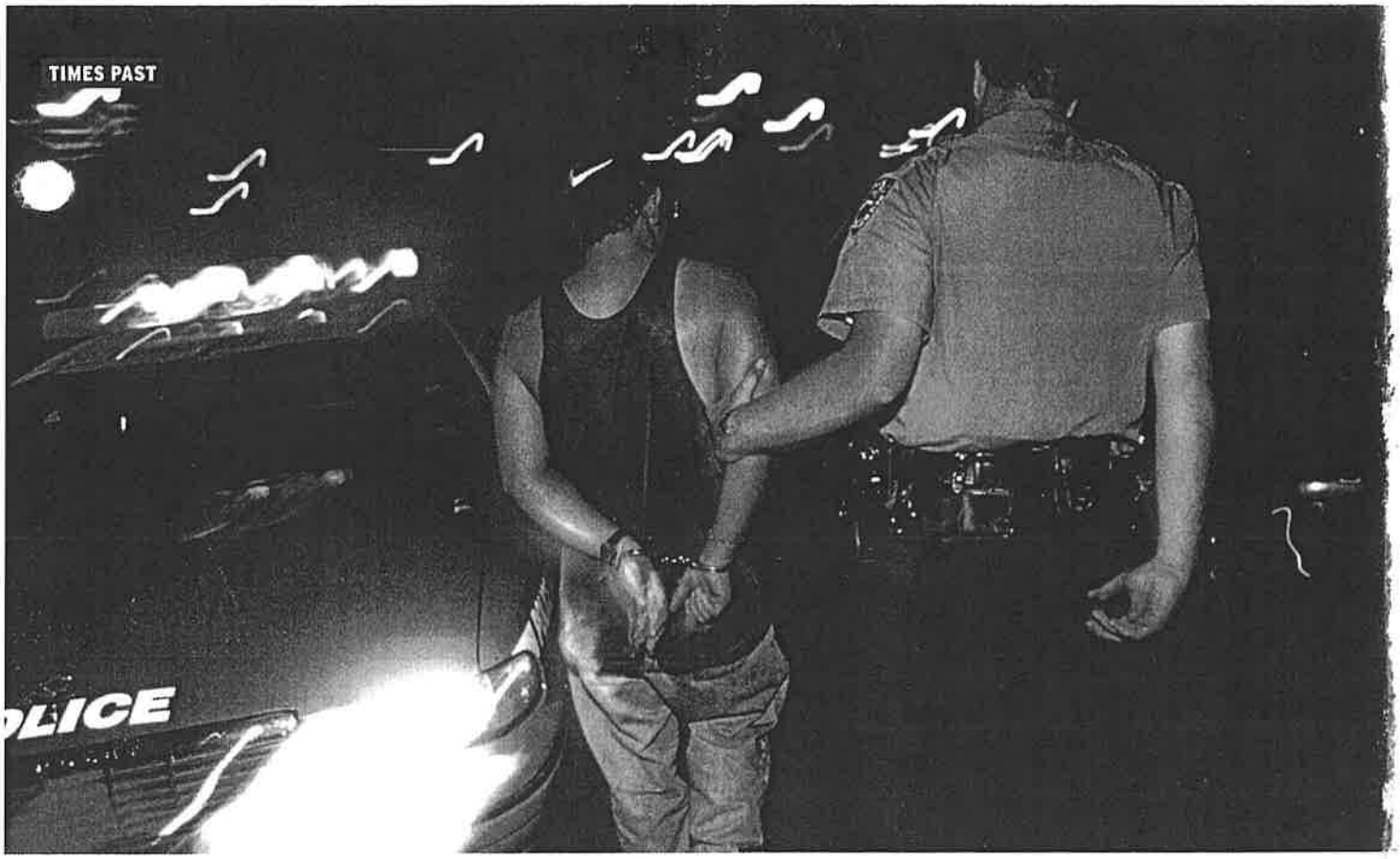

'YOU HAVE THE RIGHT TO REMAIN SILENT'

The Supreme Court's *Miranda* ruling 50 years ago established key rights for criminal suspects

BY VERONICA MAJEROL

When officers brought him to a Phoenix, Arizona, police station on March 13, 1963, 22-year-old Ernesto Miranda insisted he had nothing to do with the crime.

An 18-year-old girl had been kidnapped a week earlier and taken to the Arizona desert, where she was raped. Though the victim had provided descriptions that seemed to match Miranda and the car he drove, she was unable to definitively identify him in a lineup. With no lawyer present, the police interrogated Miranda for roughly two hours. After they falsely told him that the victim had in fact identified him, Miranda confessed.

Whether that confession was legal, however, became the subject of a lawsuit that made it all the way to the Supreme Court. The Court's ruling, in *Miranda* v. *Arizona* (1966), established some of the most important rights for criminal suspects in the United States, including that police must inform them of their right to remain silent and their right to an attorney *(see "The Miranda Warnings," facing page)*.

"The *Miranda* ruling is the most important criminal procedural case in the history of criminal process," says Gary Stuart, the author of *Miranda: The Story of America's Right to Remain Silent*. "It protects millions and millions of people."

Locked in a Room, No Food

Prior to *Miranda*, which was actually four related cases bundled together, most people understood the Fifth Amendment to mean that someone testifying in court has a right to refuse to answer questions from the prosecution or defense (often referred to as "taking the Fifth"). But the language of the Fifth Amendment, which was ratified in 1791 as part of the Bill of Rights, didn't make clear whether

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Download an annotated excerpt from the Supreme Court's 1966 ruling at upfrontmagazine.com

THE MIRANDA WARNINGS

Since the 1966 Supreme Court ruling, police must read suspects some version of these rights

Based on the Fifth Amendment, which says no person "shall be compelled . . . to be a witness against himself"

The Supreme Court ruled in *Gideon v. Wainright* (1963) that courts must provide legal counsel for suspects who can't afford it.

Before we ask you any questions, you must understand your rights.

You have the right to remain silent.

Anything you say can be used against you in court.

You have the right to talk to a lawyer for advice before we ask you any questions.

You have a right to have a lawyer with you during the questioning.

If you cannot afford a lawyer, one will be appointed for you before any questioning if you wish.

If you decide to answer questions now without a lawyer present, you have the right to stop answering at any time.

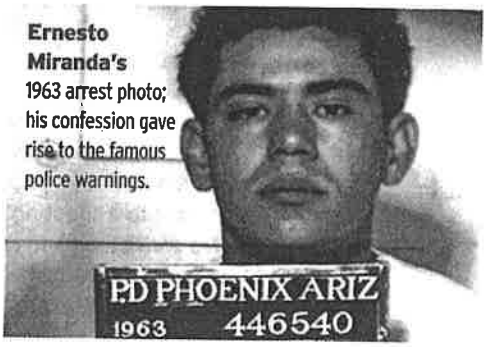
Do you understand these rights? With these rights in mind, do you wish to speak to me now?

The Sixth Amendment ensures you can be represented in court.

If you waive your rights, anything you say, including confessions, can be used against you in court.

people could also refuse to talk when they're in police custody, and officers often took advantage of that confusion.

"[Police] would bring defendants into a locked room, not give them food," says Shima Baradaran Baughman, a law professor at the University of Utah. "They didn't know they had a lawyer, and then they would confess to a crime" that they may or may not have committed. Such practices were widespread in the South, particularly with poor, uneducated minorities who often didn't understand their rights.



Ernesto Miranda's 1963 arrest photo; his confession gave rise to the famous police warnings.

MATT PIMAGES

Defense lawyers would later contest such confessions, and judges would be left to decide on a case-by-case basis whether to admit them into evidence during a trial. With the *Miranda* ruling—a tightly split 5-to-4 decision—the Court said for the first time that not only do suspects in police custody have the right to remain silent under the Fifth Amendment and the right to an attorney under the Sixth Amendment, but also that police had to inform suspects of those rights.

"What the Court said," says Baradaran Baughman, "was, 'Look, we're going to make a rule . . . that says that anybody arrested is read the exact same language so everybody knows that you have the right to remain silent, you have the right to an attorney, so that people don't speak in those situations' " if they don't want to. The Court also said that if police fail to "Mirandize" a suspect, any statement or confession that a suspect makes can't be used as evidence in court.

The majority of the Justices agreed that reading the Miranda warnings to suspects would create some degree of balance during police interrogations, which are inherently intimidating encounters.

From the start, however, the ruling had its critics. Many police officers and prosecutors thought that requiring police to read Miranda warnings would "handcuff" law enforcement, severely limiting their ability to solve crimes. In his dissenting opinion, Justice John Marshall Harlan wrote that "the decision of the Court represents poor constitutional law and entails harmful consequences for the country at large."

'Do You Understand These Rights?'

Fifty years after the landmark ruling, the Miranda warnings are such a standard part of police practice that it's rare to find instances in which police fail to read them to suspects. The warnings have also become such a cliché of TV and movie crime dramas that nearly every American is aware of the right to remain silent. And yet, experts say, roughly 80 percent of suspects waive their Miranda rights, often talking themselves into prison.

"In practice, *Miranda* doesn't kill a lot of cases," says Jack Chin, a law professor at the University of California, Davis. "Because if you're dealing with a really sophisticated individual, they already know about the Fifth Amendment with or without *Miranda*. . . . But unsophisticated people don't

understand that, and they still don't understand it after the Miranda warnings."

Today, at the heart of most contested confessions is the question of whether the person who waived his Miranda rights really understood them in the first place.

Andrew Guthrie Ferguson, a law professor at the University of the District of Columbia, thinks we need a better system to ensure that suspects actually know what the Miranda warnings mean, especially "vulnerable suspects," like juveniles *(see "J.D.B. v. North Carolina," facing page)*. He proposes a "dialogue approach" in which police would not only have to read

You have the right to a lawyer during a police interrogation.

the Miranda warnings to suspects but also have suspects restate the rights in their own words and confirm that they understand the principles behind them and what's at stake in waiving them.

As for Ernesto Miranda, the Supreme Court overturned his conviction, and his case was retried. This time, his confession could not be entered into evidence, but once again, a jury found him guilty. The clincher was testimony from Miranda's ex-girlfriend, who told the jury that he'd confessed to her. He was sentenced to 20 to 30 years in prison and was released on parole in 1972.

By then, Miranda's name had achieved notoriety. He profited from it slightly by selling autographed Miranda cards—which police use to read the warnings—for about $2 a piece. But his days were numbered. In January 1976, during a poker game at a Phoenix bar, Miranda got into a brawl, was stabbed in the neck and chest, and died.

Police identified two suspects in connection with his killing, according to Stuart, the author of the book about Miranda. Both were read their Miranda rights; both waived them and answered police questions. But by the time police got warrants for their arrest, they had fled town.

In the end, neither of the two suspects, nor anyone else, was ever brought to justice for Miranda's death. But his name lives on every time a criminal suspect is arrested, handcuffed, and informed that he has the right to remain silent. •

5 OTHER CASES TO KNOW

Here are some other important Supreme Court rulings that clarify Americans' rights with the police

2014 *Riley v. California*

▶ Police need your consent or a warrant from a judge to search your phone.

David Riley was pulled over by San Diego police in 2009 because he was driving a car with expired registration tags. At the traffic stop, police found two loaded guns. They also searched his smartphone and found gang-related texts and videos. They arrested Riley and seized his phone.

Later, police found information on Riley's phone linking him to a shooting. Riley was convicted of attempted murder and sentenced to 15 years to life in prison.

The Supreme Court overturned Riley's conviction. The Justices ruled that under the Fourth Amendment, police need a suspect's permission or a warrant from a judge to search the suspect's phone—just as they do to search someone's home.

Smartphones contain sensitive information, from bank records to private photos. "The fact that technology now allows an individual to carry such information in his hand," Chief Justice John G. Roberts Jr. wrote in his opinion, "does not make the information any less worthy of the protection for which the Founders fought."

2012 *United States v. Jones*

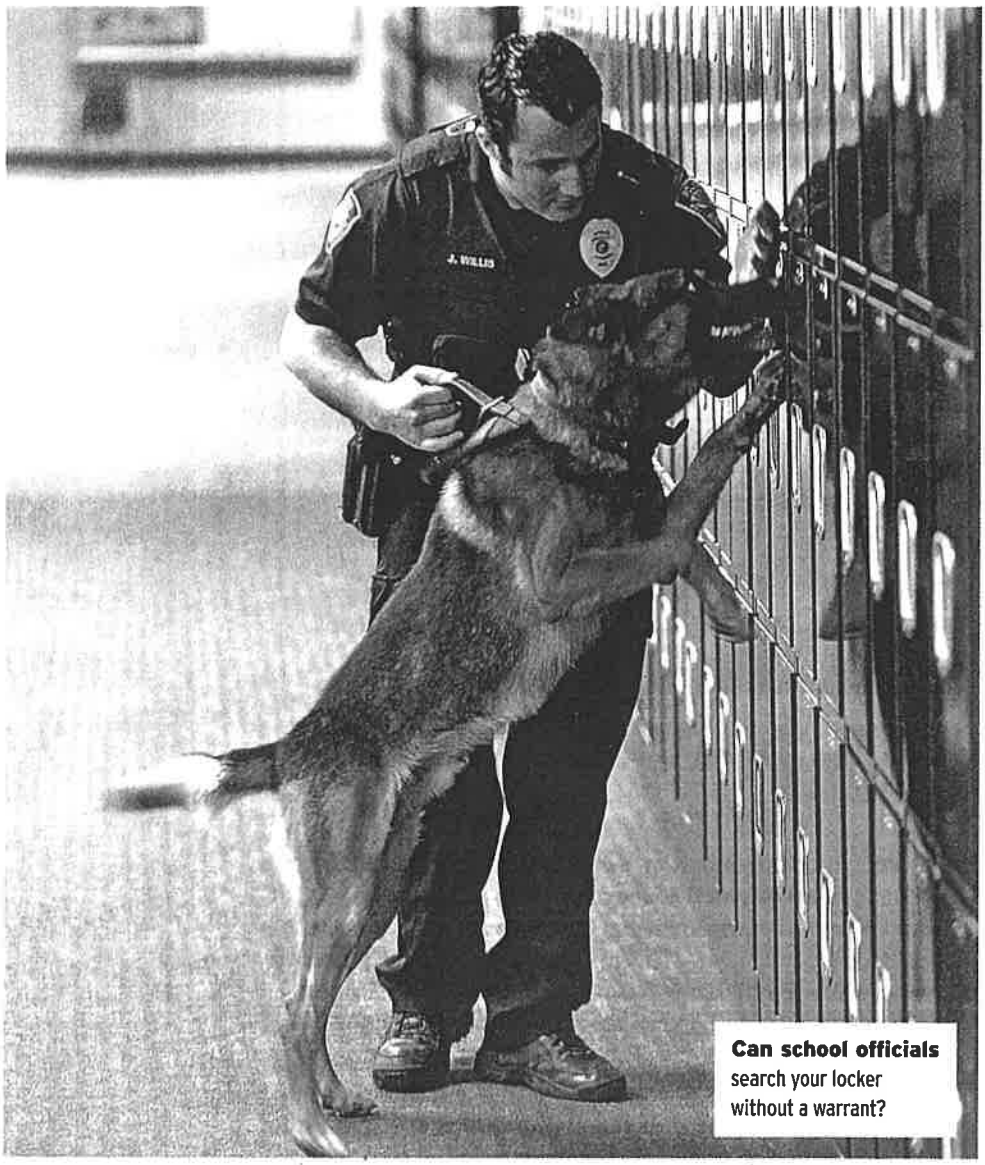
▶ Police need a search warrant to track a suspect using a GPS device.

Police suspected Antoine Jones, a nightclub owner in Washington, D.C., of being part of a cocaine-selling operation. They placed a GPS device on his Jeep without a search warrant and without his consent, and followed his movements for a month. Police gathered enough evidence to arrest Jones, and at his trial he was found guilty of conspiring to sell cocaine and sentenced to life in prison.

On appeal, Jones argued that the GPS device constituted a warrantless search and violated his Fourth Amendment protection against "unreasonable searches and seizures."

The Supreme Court decided unanimously in Jones's favor, ruling that tracking a person's movements with a GPS device requires a warrant. Justice Sonia Sotomayor added that the need for such warrants is especially vital in the digital age, with electronic surveillance now so cheap and easy to use.

ELIZABETH FLORES/THE STAR TRIBUNE/AP IMAGES



Can school officials search your locker without a warrant?

JINSHAW/THE DAILY COURIER

2011 *J.D.B. v. North Carolina*

▶ *Because they're easily intimidated by police, juveniles may have extra Miranda protections.*

J.D.B., a 13-year-old seventh-grader in Chapel Hill, North Carolina, was questioned by police after he was spotted near the sites of two home break-ins. Five days later, police pulled him out of class and took him to a school conference room to question him. They didn't read J.D.B. his Miranda warnings, and he confessed. Only after his confession was he told he could leave the room at any time without answering further questions. He was charged with breaking and entering and larceny.

J.D.B.'s lawyer argued that the confession was inadmissible because police didn't read the boy his Miranda warnings. North Carolina courts ruled that because J.D.B. was questioned in his own school rather than in "police custody," he didn't have to be Mirandized.

The Supreme Court disagreed. It said that age may be considered when determining whether a minor is "in custody." In other words, because kids may be more afraid of police than adults are, their Miranda rights may apply in less official encounters with police.

2006 *Georgia v. Randolph*

▶ *To search your home without a warrant, police need consent from all residents who are present.*

After a domestic dispute, Scott Randolph's estranged wife, Janet, gave police permission to search their home in Americus, Georgia, for drugs. Scott, however, refused. Police searched the house and found drug paraphernalia. They later returned with a search warrant and found further evidence of drug use. Scott was indicted for cocaine possession.

At his trial, Scott moved to suppress the evidence, since it was obtained without his consent. His motion was denied, but he appealed all the way to the Supreme Court.

The Court ruled that police can't conduct a warrantless search of a home if one resident who is present refuses—even if another resident agrees. However, if Scott had not been home, Janet's consent would have been sufficient.

1985 *New Jersey v. T.L.O.*

▶ *Unlike police, school officials may search your stuff without a warrant.*

A teacher caught T.L.O. (Terry), a 14-year-old freshman in Piscataway, New Jersey, smoking in a school bathroom. A school official searched Terry's purse and found a pack of cigarettes, rolling papers, and marijuana. When the police arrived, Terry admitted to selling drugs at school. She was convicted of possession of marijuana and placed on probation. Terry appealed, claiming her Fourth Amendment rights had been violated.

The Supreme Court later sided with the school, ruling that school officials may search a student's property, including backpacks and lockers, if they have a "reasonable suspicion" that a school rule has been broken, or a student has committed, or is in the process of committing, a crime. Students have "legitimate expectations of privacy," the Court said, but it must be balanced with the school's responsibility to maintain a safe learning environment. ●

With reporting by Quincey Trigillo