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Miranda v. Arizona and Duties to Police for Criminal Suspects in Criminal Justice under the Constitution of United States of America

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Abstract

The United States Criminal Justice System and court structure are two separate court systems, one at the federal level and another at the state level. In criminal proceedings, many courtrooms principally convict either by trial or by guilty plea, and many result in dismissing cases. It is necessary to examine the scope of the crime problems that criminal courts face and the organizational context as well as the policies in which they operate. The Fourth Amendment rights in particular, limits to searches and seizures are important procedures in the ongoing prosecution of crimes in America. The right of the people to remain secure in persons and properties against unreasonable searches and seizures shall not be violated. The police have the power to search and seize, but individuals are protected against unreasonable police intrusion. The Fifth Amendment Miranda rights protect any person from custodial interrogation by the police. It is required that all arrestees be given their Miranda warnings and if they are invoked they must be scrupulously honoured.

Keywords: Criminal Prosecution; Exigent Circumstances; Custodial Interrogation; Plain View Doctrine; Probable Cause; Reasonable Suspicion; Search; Seizure; Miranda Rights

Prelude

In America, courts act as units of the political system and courts are part of the general government structure and are drawn into the Nation's political life. Since *Marbury v. Madison* in 1803 [1], United States courts have asserted the right to be authoritative interpreters of the Constitution, and the other political bodies have conceded them that power. Now the Supreme Court is the arbiter of what the Constitution means with regard to the powers of the Executive and Legislative branch. There is no higher authority at any single point in time to overrule a Supreme Court decision. The Constitution is now what the courts say it is [2]. The President, congressmen, state officials, bureaucrats, and all other Americans are obligated to act in accordance with court interpretations of the Federal and State Constitutions. However, in *Nebraska Press Association v. Stuart* (1976) [3], the United States Supreme Court held that State courts were bound by the Supreme Court decisions on judicial matters [4]. If courts interpret the Constitution to say that judges may not exclude the press from open hearings, no judge may do so. The Fourth Amendment to the Constitution of the United States of America states the right of the people to be "secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated, and no warrant shall issue, but upon *probable cause*, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized." Moreover, the Fifth Amendment protects defendants from having to testify if they may lay the blame on

themselves through the testimony. In the landmark *Miranda v. Arizona (1966)* ruling [5], the United States Supreme Court extended the Fifth Amendment protections to include any circumstances outside the courtroom that involves the restriction of personal freedom. It is for this reason that, every time the law enforcement authority captures a suspect into custody, they must make the suspect aware of all his/her rights. These are popularly known as *Miranda* rights, and they include the right to remain silent, the right to have an attorney present during questioning, and the right to have a government- assigned lawyer if the suspect cannot meet the expense of that situation.

Criminal Prosecution

At a first stage, the prosecution begins with police apprehension of suspected offenders. Each year police throughout the United States carries out more than nine million arrests for assorted crimes. In 1975, more than two million of these arrests were for what the FBI terms "serious crimes [6]". While almost all murders and most car thefts are reported to the police, less than half of all assaults are reported to the police by their victims. Victimless crimes such as narcotics offences, prostitution, and gambling are almost never reported to the police. In the USA, cheating by retailers, sex offences, racial discrimination by employers, embezzlement by corporate officers, and bribe-taking by public officers are all activities that allegedly occur much more frequently than police records indicate. When the police know about a crime they usually cannot apprehend the criminal. Only when the victim confronts the offender and can identify him then arrest and trial are likely. It is the discretion of individual policeman to determine who will be arrested. Individual policemen observe many illegal acts that they choose to ignore [7]. These acts range from minor traffic violations- occurring when they are busy with more urgent business- family assaults- which they refer to welfare agencies- all matters more of keeping the peace than of enforcing the criminal law. Whether police arrests the offender depends not only on the seriousness of the crime but on how threatening the behavior of the offender is towards the police and police still enjoys considerable discretion in making the arrest. Then, the police may let the offender go free with a warning [8].

When the police arrest a suspect, the prosecutor must decide all charges to file against him or her. It is up to the court to decide whether to release the suspect from custody. For many suspects, the release decision is resolved at the police station without any appearance before a judicial officer [9]. Soon after arrest, suspects learn why they have been detained. In *Nathanson v. United States* (1933) [10], it was held that a police officer must provide more than his own confidence in support of the *probable* cause and "mere affirmance of belief or suspicion is not enough" [11].

Probable Cause and Duty of a Police Officer

An individual possesses a reasonable expectation of privacy in a place to be searched or a thing to be seized. The Fourth Amendment's protections apply, and the question then becomes what the nature of those protections is. *Probable cause* is required as the basis of arrest and search warrants; and regardless of whether an arrest warrant is required. An officer's subjective belief, no matter how sincere, does not in itself constitute *probable cause*. However, in determining what a "person of reasonable caution" would believe, a court will take into account the specific experiences and expertise of the officer whose actions are under scrutiny. Police officers need no justification to stop someone on a public street and ask questions, and individuals are completely entitled to refuse to answer any such questions [12]. Indeed, a police officer may only search people and places when the officer has *probable cause* or *reasonable suspicion* to suspect criminal activity.

A police officer has *probable cause* to arrest when "the facts and circumstances within [the officers'] knowledge and of which they had reasonably trustworthy information [are] sufficient in themselves to warrant a person of reasonable caution in the belief that an offence has been or is being committed" [13]. Probable *cause* may determine in a case concerning whether the restrictions placed on government officials by the Fourth Amendment applied to "factory sweeps" by the Immigration and Naturalization Service (INS). United States Supreme Court said *probable cause* is that there may be a number of aliens working on the premises. Workers were systematically questioned to determine their citizenship status and asked to produce their immigration papers if their answers were not satisfactory [14]. '*Probable cause'* exists when facts and circumstances within an officer's personal knowledge, and about which he/she has reasonably trustworthy information, are sufficient to warrant a "person of reasonable caution" to believe that:

- In the case of an arrest, an offense has been committed and the person to be arrested committed it;
- In the case of a search, an item described with particularity will be found in the place to be searched.

Again, all searches and seizures need to be founded on *probable* cause. The lesser standard of "*reasonable suspicion*" may apply where the intrusion is minor, such as a pat-down for weapons. Furthermore, where the intrusion on a person's privacy is especially slight and society's interest in conducting the search or seizure is significant, there may be no need for individualized suspicion, such as for society and border checkpoints and certain administrative searches [15]. Federal courts have clustered border searches into two ways;

routine and non-routine. Routine searches impose into an individual's privacy in very limited ways. It generally includes document checks, patdowns, or the emptying of pockets, and do not need to be justified by any suspicion of wrongdoing. Similarly, a government agent generally does not need suspicion of criminal activity before he may conduct limited inspections of cars and personal property at the border [16]. On the other hand, government officials may conduct "non-routine" searches at the border when they have a "*reasonable suspicion*" that the search may be smuggling contraband or conducting other illegal activities. *Reasonable suspicion* is required is a fact-intensive totality of the circumstances test determined on a case-by-case basis [17].

Direct Information

Probable cause may be founded on direct information. Unless a magistrate has reason to believe that an affiant has committed false swearing or recklessly misstated the truth, the magistrate may consider all direct information provided by the affiant. The affiant's information is considered reasonably trustworthy because it is provided under oath.

Hearsay Information

A magistrate may consider hearsay evidence for the purpose of determining *probable cause*, as long as the information is reasonably trustworthy. The informant's identity must not be disclosed to the magistrate unless the magistrate disbeliefs the affiant's trustworthiness regarding the hearsay.

Totality of the Circumstances Test

The *Aguilar-Spinelli* (1964) [19,20] test was a judicial guideline set down by the US Supreme Court. It was for determining the validity of a search warrant or a warrantless arrest based on information provided by a confidential informant. Then the Supreme Court replaced *Aguilar–Spinelli* test by the *Illinois v. Gates* (1983) [21], '*totality-of-the circumstances*' test. In the Gates Court abandoned Aguilar and substituted to it the *totality-of-the-circumstances* test for *probable cause* determinations, which requires the magistrate to balance "the relative weights of all the various indicia of reliability (and unreliability) attending an informant's tip" [22]. The '*totality-of-the circumstances*' test are that, when law enforcement seeks a search warrant and a magistrate signs a warrant he must be informed of the reasons to support the conclusion that such an informant is reliable and credible. And again the magistrate must be informed of some of the underlying circumstances relied on by the person providing the information. The factors expressed in Aguilar basis-of-knowledge and veracity remain "highly relevant" in determining the value of an informant's tip but are no longer treated as separate, independent requirements.

Reasonable Suspicion

In *Terry v. Ohio* (1968) [23] the Court, for the first time, permitted officers to seize individuals and conduct a limited search for weapons in the absence of *probable* cause to believe that the individual was armed and engaged in criminal activity. The facts of *Terry* are as follows. Officer McFadden was on the lookout for shoplifters and pickpockets in the middle of the afternoon in downtown Cleveland. At some point, he noticed Terry and Chilton standing on a street corner. McFadden could not articulate "precisely what first drew his eye to them" [24]. They just "didn't look right", he testified, even though they were dressed in topcoats, customary attire at the time [25]. "To be truthful", he admitted, "I just didn't like them" [26]. Although McFadden never mentioned it, both Terry and Chilton were Black. McFadden watched the two men for ten minutes as they took turns walking down the street, looking into a store window, and returning. Their behavior led McFadden to suspect that the two were casing a store in preparation for a daytime robbery. Without *probable cause*, McFadden grabbed Terry, spun him around, frisked him, and found a concealed weapon.

The issue was brought before the Court whether the Fourth Amendment permitted officers to seize and frisk individuals in the absence of *probable cause*. The Court answered the question affirmatively. It held that *reasonable suspicion*, and not the traditional *probable cause* standard, authorized officers to detain individuals for questioning and to conduct a limited search for weapons. In order to justify what is conversationally known as a "stop and frisk", the *reasonable suspicion* test requires an officer "to point to specific and particularly facts which … leads him reasonably to conclude in light of his experience that criminal activity may be a foot" or that the individual with whom he is interacting is armed and dangerous [27].

Execution of Warrant

The Fourth Amendment to the Constitution of the United States of America, states that "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall be issued, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized" [28]. There is a 48-hour staleness doctrine, under which the warrant need to be executed. Here, it is not told of how close in time police officer should perform the warrant after it is issued, therefore, they will proceed to the *knock and announce* rule.

Knock and Announce Requirement

The common law principle is that police officers enacting a warrant must *knock and announce* their presence, and that they are police officers to perform a search warrant. Police officers approaching should be clear that they are police officers at the defendant house, knock, and ask if they could enter to enact a warrant. At the same time, the Supreme Court has recognized that the "flexible requirement of reasonableness should not be read to mandate a rigid rule of announcement that ignores countervailing law enforcement interests" [29]. The Wisconsin Supreme Court concluded that police officers are never required to *knock and announce* their presence when executing a search warrant in a felony drug investigation. Again, the US Supreme Court overturned the State high court's decision in *Richards v. Wisconsin* (1997) [30]. In *Richards* the Court said that the Fourth Amendment does not permit a blanket exception to the knock-and-announce requirement for the execution of a search warrant in a felony drug investigation, regardless of the fact is that felony drug investigations need regularly in the present circumstances warranting a no-knock entry. The Court said it cannot remove from the neutral scrutiny of a reviewing court the reasonableness of the police decision not to *knock and announce* in a particular case [12]. Moreover, it is the duty of a court to decide whether the facts and circumstances of the particular entry justified dispensing with the *knock and announce* requirement [31]. To justify a no-knock entry, the Court stressed that police must have a *reasonable suspicion* that knocking and announcing their presence, under the particular circumstances, would be dangerous or futile, or that it would inhibit the effective investigation of the crime by, for example, allowing the destruction of evidence [32].

Exceptions

Plain View: When officers are in a place they have a legal right to be in, and they view something that is clearly contraband, they may confiscate the material under the *plain view* doctrine.

Exigent Circumstances: If any police officer is assaulted by any defendant, then police could move quickly to any apartment and confiscate gun or such deadly weapon. It would be that they are fearful for their own safety, and quickly move to ascertain the nature of the danger and in such event they may have a valid exception to exceeding the scope of the search under exigent circumstances. In *California v. Acevedo* (1991) [33], the court announced a new rule that the police may search an automobile and the containers within it where they have *probable cause* to believe contraband or that evidence is contained. The US Supreme Court held in *Florida v. White* (1999) [34], that the warrantees' seizure of automobile violates the Fourth Amendment rights in absence of exigent circumstances.

Procedural Consequences on Evidence

Exclusionary Rule: Defendant, who has been subject to an illegal search or coerced confession, has the right to have this evidence excluded from prosecution. A defendant must have standing to assert rights under the exclusionary rule, and must show that his/her rights were violated, that he/she had a possessor's interest in the premises, and that there was governmental conduct. The Fourth Amendment generally requires a warrant in order to justify the search and seizure of a person or their property [35].

Derivative Evidence: Any evidence illegally obtained must be excluded, along with any evidence obtained or derived from the exploitation of that illegally obtained evidence. In other words, where the original seizure is improper, anything else that is seized as a result of, or derivative to, the unlawful seizure, will be deemed *fruit of the poisonous tree*, and will be excluded from evidence.

The exclusionary rule is the fruit of the poisonous tree doctrine, established by the Supreme Court in *Nardone v. United States* (1939) [36]. Under this doctrine, a court may exclude from trial any evidence derived from the results of an illegal search. For examples, if any gun is seen as an improper search and seizure, the gun will be the fruit of the poisonous tree and will likewise be excluded. The prosecutor will argue that a warrant must be judged according to the totality of the circumstances in order to judge whether probable cause existed. The prosecutor will argue that probable cause did exist when all the information in the affidavit is judged [37]. Furthermore, in *Chimel v. California* (1969) [38] it was held that police may search without a warrant only at the immediate area around the suspect from which he/she could obtain a weapon or destroy evidence. But a person's entire dwelling cannot be searched merely because he/she is arrested. However, if the warrant is found to be faulty, the prosecutor will argue that the search was still legal since it was based on the officer's good faith that they had a valid warrant. The officer's good faith will be nullified only if the warrant was facially invalid, if the affidavit obviously lacked probable cause, or if the police misled the judge by falsifying the affidavit. While the police excluded information from the affidavit, this would not constitute misrepresentation. Therefore, the search would be legal under this exception. Finally, the prosecutor would also argue that the evidence should not be excluded, even if the warrant was illegal, because the police suspicions of defendant would have led to the inevitable discovery of the evidence. Therefore, defendant's motion to exclude the items seized under the warrant should be denied.

Search Procedure

In *Katz v. United States* (1967) [39] federal officers, acting without a warrant, attached an electronic listening device to the outside of a telephone booth where the defendant engaged in a number of telephone conversations. The controlling legal test at the time for determining whether police conduct violated the Fourth Amendment was known as the '*trespass*' doctrine [40]. Under the trespass doctrine, the Fourth Amendment did not apply in the absence of a physical intrusion. A trespass has actually done into a "constitutionally protected area" such as a house. With the arrival of modern technology that allowed the government to electronically capture conversations without physical intrusion into any enclosure, the Court abandoned the trespass doctrine and announced that the appropriate inquiry for the Fourth Amendment challenge was whether the defendant had a "reasonable expectation of privacy". Applying this new standard, the Court found that despite the fact the telephone booth was made of glass and the defendant's physical actions were knowingly exposed to the public, what he sought to protect from the public were his conversations, as evidenced in part by shutting the door to the phone booth. Thus, the government's electronic surveillance of the defendant's conversations without a warrant violated the Fourth Amendment.

In *New Jersey v. T.L.O* (1985) case a public school student's protection against unreasonable search and seizure is less strict in school than in the world at large [41]. Under ordinary circumstances, the Court said, a search of a student by a teacher or other school official will be "justified at its inception" when there are reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school.

False Friends Doctrine

The Fourth Amendment protects private conversations where no party consents to the close watch and recording but does not protect conversations where one party consents to such activity. Under the doctrine of '*false friends*', established by *United States v. White* (1971) [42], no search occurs if a police informant or undercover agent camouflaged as the defendant's friend, business associate, or colleague in crime, reports to the government the defendant's statements made in the informant's or agent's presence [43]. A person is not deemed to have a reasonable expectation of confidentiality from a person with whom he is conversing. The doctrine also applies where the '*false friend*' wears a '*wire*' to record the conversation with the defendant.

Seizure Proceeding

Fourth Amendment seizure of a person occurs when a police officer, by means of physical force or show of authority, in some way restrains the liberty of a citizen observed in *Florida v. Bostick* (1991) [44], or in another way, when *United States v. Mendenhall* (1980) says, "in view of all of the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave" [45]. A seizure of person includes:
arrests;

- Physically restraining or ordering a person to stop in order to frisk or question him on the street;
- Taking the person into custody and bringing him to a police station for questioning or fingerprinting;
- Ordering a person to pull his automobile off the highway for questioning or to receive a traffic citation;
- Stopping a car by means of a roadblock.

However, brief questioning by itself is unlikely to amount to a seizure. E.g. brief questioning during a "bus sweep" is not a seizure; brief questioning about citizenship during a "factory sweep" is not a seizure *(Immigration and Naturalization Service v. Delgado* [1984]) [46]. In contrast to a search, which affects a person's privacy interest, a seizure of property attacks a person's possessor's interest in that property. Tangible property is seized in Fourth Amendment terms "when there is some meaningful interference with an individual's possessor's interests in that property".

Mere Evidence Rule in Seizure

The "*mere evidence"* rule permitted only certain categories of evidence to be seized [47]:

- A '*fruit*' of a crime (e.g., money obtained in a robbery);
- An instrumentality of a crime (e.g., the gun used to commit a robbery, or the car used in the get-away); or
- Contraband (e.g., illegal narcotics).
- The "*mere evidence*" items that have only evidentiary value in the apprehension or conviction of a person for an offense could not be seized. The Supreme Court abolished the mere evidence rule in *Warden v. Hayden* (1967) [48], which permit police officers to seize any evidence that has a connection to the criminal activity under investigation.

Interrogation in Police Custody

The Fifth Amendment of US Constitution provides, 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 offense 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.

A person is deemed to be in custody if he/she is deprived of his/her freedom of action "in any significant way". "Custody" requires the existence of coercive conditions that would cause a reasonable person to believe, under all the circumstances surrounding the interrogation that he/she is not free to go [49]. For example, a police interrogation room may be deemed a coercive environment but the totality of the circumstances may indicate that a person is not in custody, since for example he/she came to the police station voluntarily. Prior to questioning he/she is informed that he/she is not under arrest, and he/she is free to leave the police station at any time [50,51]. Brief detention by the police likewise does not necessarily put one in custody, for example, brief questioning during a routine traffic stop or roadblock *(Berkemer v. McCarty* [1984]) [52]. The famous case *Miranda v. Arizona* (1966) [53], police are forbidden from interrogating a suspect once he has asserted his right to counsel under the Sixth Amendment. In *Innis*, the court held that interrogation is not just direct questioning but also its "functional equivalent." Again the court includes in *Rhode Island v. Innis* [1980] [54], "any words or actions on the part of the police (other than those normally attendant to arrest and custody) that the police should know are reasonably likely to elicit an incriminating response from the suspect". In *Rhode Island v. Innis*(1980) [55], case a murder suspect was being transported to the police station when the police commented that they hoped that the murder weapon, which had not yet been located, would not be found by any children from a nearby school for the handicapped. In response, the suspect, who had previously requested a lawyer, revealed the location of the gun. The Court held that the comments were not the functional equivalent of interrogation because it found *(Rhode Island v. Innis* [1980]) [56]:

- The comments were brief;
- The comments were not particularly evocative;
- The suspect was not disoriented or upset when the comments were made;
- There was no evidence that the police should have known that the suspect would be susceptible to an appeal to his conscience.

Miranda Warnings

The Court in *Miranda v. Arizona* (1966) [57], noted that Congress and the States are free to develop procedural safeguards for protecting a suspect's Fifth Amendment rights during custodial interrogation. However, to ensure they are "fully as effective" as those described in Miranda, the police must apprise the suspect issue prior to custodial interrogation, that:

- The suspect has a right to remain silent;
- Anything said can and will be used against the suspect in court;
- The suspect has the right to consult with a lawyer and to have his lawyer present during interrogation;
- If the suspect is indigent a lawyer will be appointed to represent him.

Miranda v. Arizona

The landmark case of *Miranda v. Arizona* (1966) [58], resulted from the consolidation of four cases on appeal. In each case, the suspect was taken into custody, questioned in a police interrogation room in which the suspect was alone with the interrogators, and never informed of his privilege against self-incrimination. Miranda held that any statement, whether exculpatory or inculcator, obtained as the result of custodial interrogation could not be used against the suspect in a criminal trial unless the police provided procedural safeguards effective to secure the suspect's privilege against compulsory self-incrimination. Custodial interrogation is defined in Miranda case as "questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way". The Miranda warnings apprise an arrestee of the right to obtain counsel and the right to remain silent. If these warnings are not read to an arrestee as soon as he or she is taken into custody, any statements the arrestee makes after the arrest may be excluded from trial.

Right to Remain Silent

Pennsylvania v. Muniz [1990] [59], the court states, Miranda warnings need not be issued prior to asking a suspect in custody routine booking questions, such as name, address, date of birth, and other biographical data necessary to complete the booking process. Miranda states that, once warnings are given, if the suspect indicates that he/she wishes to remain silent, the interrogation must cease. The police must honor a suspect's right to silence after he/she asserts the privilege but are not necessarily precluded from attempting to interrogate the suspect under different circumstances *(Michigan v. Mosley* [1975]) [60].

When a suspect in custody invokes his/her right under Miranda to consult with an attorney, the police must cease the interrogation until the suspect's attorney is present unless the suspect initiates further "communication, exchanges, or conversations" with the police (*Edwards v. Arizona* [1981]) [61]. This rule is intended "to prevent police from badgering a defendant into waiving his previously asserted Miranda

rights" and applies to all interrogation, including questioning about crimes other than the one for which the suspect is in custody. However, the *Edwards rule*[1] does not apply unless a suspect unambiguously asserts his right to counsel [62]. Furthermore, once a suspect in custody invokes his Miranda right to counsel, the police may not re-initiate interrogation at any time thereafter unless counsel is present (*Minnick v. Mississippi* [1990]) [63]. Where the suspect initiates communications with the police in the absence of counsel, the police may recommence interrogation upon obtaining a valid waiver of his/her Fifth Amendment rights. A suspect initiates communications, exchanges or conversations by any comment or inquiry that indicates his/her desire to engage in a discussion relating directly or indirectly to the investigation. Comments or inquiries "relating to routine incidents of the custodial relationship", such as a request for water or to use a telephone, do not qualify as "communications, exchanges, or conversations" and thus do not properly trigger further police interrogation (*Oregon v. Bradshaw* [1983]) [64].

Waiver of Miranda Rights

Miranda states that a valid waiver of Fifth Amendment rights during interrogation could be found after the reading of Miranda rights, when a suspect expressly states a willingness to make a statement, without the presence of an attorney, "followed closely" by such statement (*Edwards v. Arizona* [1981]) [65]. A voluntary waiver is "the product of a free and deliberate choice rather than intimidation, coercion, or deception". A knowing and intelligent waiver is made with "full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it" (*Moran v. Burbine* [1986]) [66]. A waiver cannot be deemed "knowing and intelligent" unless the police issued proper Miranda warnings.

Express and Implied Waiver

A valid waiver may not be presumed simply from the suspect's silence following reading of the Miranda warnings or from the fact that he confesses. Nevertheless, an express statement of waiver is not invariably necessary (*North Carolina v. Butler* [1979]) [67]. In some cases, waiver may be clearly inferred from the suspect's words and actions that follow Miranda warnings, although the Supreme Court has given little guidance on when such circumstances exist.

Exigent Circumstances: A public safety exception to Miranda allows the police to interrogate a suspect prior to Miranda warnings if an exigency exists that requires immediate police action to ensure public safety, e.g., to locate a loaded weapon in a public place. The questions asked prior to issuance of the warnings must be directed at the exigent circumstances only (*New York v. Quarles* [1984]) [68].

Conclusions

Supreme Court is the highest court in most States within the United States. The most important doctrinal sources used by the Supreme Court have been the commerce, due-process, and equal-protection clauses of the Constitution. It also has often ruled on controversies involving civil liberties movement, including freedom of speech and the right of privacy. Supreme Court's duty is to clarifying, refining, and testing the Constitution's philosophic ideals and translating them into working principles. The Criminal Justice System under the Constitution guarantee is freedom from unreasonable searches and seizures to citizens. The privacy of the individual is protected against arbitrary intrusion by agents of the government. In 1949 Justice *Felix Frankfurter* wrote (*Wolf v. Colorado, 1949*) [69]:

The security of one's privacy against arbitrary intrusion by the police is basic to a free society. The knock at the door, whether by day or by night, as a prelude to a search, without authority of law but solely on the authority of the police, did not need the commentary of recent history to be condemned as inconsistent with the conception of human rights enshrined in the history and the basic constitutional documents of English-speaking peoples.

A warrant is not required for a search incident to a lawful arrest, the seizure of items in plain view, a border search, a search affected in open fields, a vehicle search, an inventory search of an impounded vehicle, and any search demanded by exigent circumstances. It is also not required for a stop and frisk, a limited search for weapons based on a *reasonable suspicion* that the subject has committed or is committing a crime. The Constitutional Provisions on criminal suspects must get protection against unreasonable searches and seizures reinforced by the clause that requires a warrant, or court authorization, for such searches and seizures. A warrant should not be issued unless there is a finding of '*probable cause*' by a neutral magistrate or judge. The After the introduction of the Miranda Rights, there have been many concerns surrounding the issues of the validity of the law. This law is much needed when dealing with criminal investigations today. The principle was introduced by *Miranda v. Arizona* as the result of a coerced confession by

1 The Arizona Supreme Court affirmed a conviction of Petitioner Edwards which included the use of incriminating testimony given by him to police officers. During at an interrogation just before he was to be given appointive counsel at his first court appearance. The United States Supreme Court holding that once a defendant invokes his Fifth Amendment right to counsel police must cease custodial interrogation. Re-interrogation is only permissible once defendant's counsel has been made available to him, or he himself initiates further communication, exchanges, or conversations with the police. Statements obtained in violation of this rule are a violation of a defendant's Fifth Amendment rights.

the named petitioner.

Sometimes police can go beyond their boundaries by questioning defendants in ways that are too unsympathetic or too unfair and police officers tortures someone or locks a person in a room without food or water for days at a time, then it's pretty obvious that the confession has been coerced. Examples of coercive tactics include:

- Depriving the defendant of food, water, or use of the bathroom.
- Threats (although threats to carry out the law, such as threatening to arrest a codefendant, are usually fine).
- Promises of leniency.
- Kicking, striking, or otherwise getting physical with the suspect, and
- Interrogating the suspect at gunpoint.

References

1. Marbury v. Madison (1803) 5 U.S. 137. The case resulted from a petition to the Supreme Court by William Marbury, who had been appointed Justice of the Peace in the District of Columbia by President John Adams but his appointment papers was not delivered by the new Secretary of State James Madison. The Court, with John Marshall as Chief Justice, found firstly that Madison's refusal to deliver the commission was both illegal and remediable. Chief Justice Marshall wrote the opinion of the court. In deciding whether Marbury had a remedy, Marshall stated: "The Government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation if the laws furnish no remedy for the violation of a vested legal right." One of the key legal principles on which Marbury relies is the notion that for every violation of a vested legal right, there must be a legal remedy. Marshall next described two distinct types of Executive actions: political actions, where the official can exercise discretion, and purely ministerial functions, where the official is legally required to do something. Marshall found that delivering the appointment to Marbury was a purely ministerial function required by law, and therefore, the law provided him a remedy.

2. The Court discussed this exact issue in a famous 1803 case, Marbury v. Madison. In the words of Chief Justice John Marshall: "It is emphatically the duty of the Judicial Department to say what the law is. Those who apply the rule to particular cases must, of necessity, expound and interpret the rule". Article III of the Constitution states "The judicial Power of the United States shall be vested in one supreme Court", and that "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution."

3. Nebraska Press Association v. Stuart (1976) 427 U.S. 539.

4. The state courts were de jure subordinate to the Supreme Court in Federal matters; they retained a great measure of de facto independence.

5. Miranda v. Arizona (1966) 384 U.S. 436.

6. (1975) Federal Bureau of Investigation, Uniform Crime Reports (Washington DC: Government Printing Office), pp: 179.

7. (1973) Rubenstein, Jonathan, City Police (New York: Farrar, Straus, and Giroux), pp: 51-54.

8. Black DJ (1970) 'The Production of Crime Rates' in American Sociological Review 35 (Michigan: American Sociological Association), pp: 733-747.

9. Marc l Miller Miller (2010) Criminal Procedure (New York: Aspen Publisher), pp: 847.

10. Nathanson v. United States (1933) 290 U.S. 41.

11. Ibid.

12. https://legal-dictionary.thefreedictionary.com/Search+and+Seizure

13. Brinegar v. United States (1949) 338 U.S. 160.

14. Immigration and Naturalization Service v. Delgado (1984) 460 U.S. 730.

15. Henry Gottlieb (2002) "N.J. Joins Minority of States that Ban Freewheeling Consent Searches" in New Jersey Law Journal, pp: 167.

16. Yule Kim (2009) Protecting the U.S. Perimeter: Border Searches Under the Fourth Amendment (New York: Congressional Research Service), pp: 1.

17. Terry v. Ohio (1968) The reasonable suspicion standard requires less suspicion of wrongdoing than probable cause, the normal standard required for a Fourth Amendment search or seizure. 392 U.S. 1,21.

18. (1983) The information in an affidavit need not be in a form that would be admissible at trial. (For example, a judge or magistrate may consider hearsay evidence that seems reliable, even if a judge might exclude it at trial.) However, the circumstances set forth in an affidavit, viewed as a whole, should demonstrate the reliability of the information (Illinois v. Gates, U.S. Sup. Ct).

19. Aguilar v. Texas (1964) 378 U.S. 108.

20. Spinelli v. United States (1969) 393 U.S. 410.

21. Illinois v. Gates (1983) 462 U.S. 213.

22. Ibid.

23. Terry v. Ohio (1968) 392 U.S. 1.

24. Ibid (1998) Part of McFadden's testimony: Qus. Well, at what point did you consider their actions unusual? Ans. Well, to be truthful with you, I didn't like them. I was just attracted to them, and I surmised that there was something going on when one of them left the other one and did the walking up, walk up past the store and stopped and looked in and come back again. State of Ohio v. Richard D. Chilton and State of Ohio v. John W. Terry: The Suppression Hearing and Trial Transcripts, 72 ST. JOHN'S L. REV. 1387, 1456.

25. Lewis R. Katz (2004) Terry v. Ohio at Thirty-Five: A Revisionist View, 74 MISS. L.J. 423, 430 n. 36.

26. Ibid.

27. (1998) Chief Justice Warren's opinion was not crystal clear on the appropriate standard for conducting a stop and frisk. See, e.g., Tracey Maclin, Terry v. Ohio's Fourth Amendment Legacy: Black Men and Police Discretion, 72 ST. John's L. Rev. 1271, 1309. However, the Terry decision now stands for the proposition that reasonable suspicion is the guiding standard for stops and frisks.

28. The Fourth Amendment (Amendment IV) to the United States Constitution is the part of the Bill of Rights that prohibits unreasonable searches and seizures and requires any warrant to be judicially sanctioned and supported by probable cause.

29. Wilson v. Arkansas (1995) 514 U.S. 927, 115 S.Ct. 1914, 131 L.Ed.2d 976.

30. Richards v. Wisconsin (1997) 520 U.S. 385, 117 S.Ct. 1416, 137 L.Ed.2d 615.

31. Scott J, Harr H, Orthmann KM, Christine MH (2008) Constitutional Law and the Criminal Justice System, 5th (Edn.), (California: Wadsworth), pp: 207.

32. Richards v. Wisconsin (1997) 520 U.S. 385, 117 S.Ct. 1416, 137 L.Ed.2d 615.

33. California v. Acevedo (1991) 500 U.S. 565, 111 S. Ct. 1982, 114 L. Ed. 2d 619.

34. Florida v. White (1999) 526 U.S.559, 119 S. Ct. 1555, 143 L. Ed. 2d 748.

35. Ken Roach (1999) Due Process and Victims' Rights: The New Law and Politics of Criminal Justice (Totonto: University of Toronto Press), pp: 76.

36. Nardone v. United States (1939) 308 U.S. 338, 60 S. Ct. 266, 84 L. Ed. 307.

37. Ibid.

38. Chimel v. California (1969) 395 U.S. 752. Chimel is a Supreme Court of the United States case. In Chimel, the Court held that police officers arresting a person in his or her home could not search the entire home without a search warrant.

39. Katz v. United States (1967) 389 U.S. 347.

40. In Katz v. United States case searches conducted outside the judicial process without prior approval by judge or magistrate are per se unreasonable under the Fourth Amendment subject only to a few specifically established and well delineated exceptions.

41. New Jersey v. T.L.O. (1985) 469 U.S. 325, 105 S.Ct. 733, 83 L.Ed.2d 720. (T.L.O. was a high school student. School officials searched her purse suspecting she had cigarettes. The officials discovered cigarettes, a small amount of marijuana, and a list containing the names of students who owed T.L.O. money. T.L.O. was charged with possession of marijuana. Before trial, T.L.O. moved to suppress evidence discovered in the search. The Court of New Jersey found her guilty and sentenced her to probation for one year. She made an appeal and the Superior Court of New Jersey; Appellate Division affirmed the denial of the motion to suppress evidence. The New Jersey Supreme Court reversed, holding that the exclusionary rule of the Fourth Amendment applies to searches and seizures conducted by school officials in public schools. Does the exclusionary rule apply to searches conducted by school officials in public schools? The 6 judge's vote for New Jersey and 3 against and Justice Stevens said it is not the role of the Supreme Court to offer guidance on questions the parties did put at issue.

42. United States v. White (1971) 401 U.S. 745.

43. Ibid.

44. Terry v. Ohio (1968) 392 U.S. 1.

45. Rhode Island v. Innis (1980) 446 U.S. 544.

46. Immigration and Naturalization Service v. Delgado (1984) 460 U.S. 210.

47. Steven Emanue (2009) Criminal Procedure (New York: Aspen Publisher), pp: 53.

48. Warden v. Hayden (1967) 387 U.S. 294.

49. Richard LA (2009) Police Interrogation and American Justice (Cambridge: Harvard University Press), pp: 124.

50. Oregon v. Mathiason (1971) 429 U.S. 492;

51. California v. Beheler (1983) 463 U.S. 1121.

52. Berkemer v. McCarty (1984) 468 U.S. 420.

53. Miranda v. Arizona (1966) 384 U.S. 436.

54. Rhode Island v. Innis (1980) 446 U.S. 291.

55. Ibid.

56. Rhode Island v. Innis (1980) 446 U.S. 291.

57. Miranda v. Arizona (1966) 384 U.S. 436.

58. Ibid.

59. Pennsylvania v. Muniz (1990) 496 U.S. 582.

60. Michigan v. Mosley (1975) 423 U.S. 96. (final holding that the police did not violate the defendant's Fifth Amendment rights when the interrogation ceased immediately upon request; two hours elapsed; the subsequent questioning was by a different officer, in a different location, for a different crime; and Miranda warnings were restated).

61. Edwards v. Arizona [1981] 451 U.S. 477.

62. The Arizona Supreme Court affirmed a conviction of Petitioner Edwards which included the use of incriminating testimony given by him to police officers. During at an interrogation just before he was to be given appointive counsel at his first court appearance. The United States Supreme Court holding that once a defendant invokes his Fifth Amendment right to counsel police must cease custodial interrogation. Re-interrogation is only permissible once defendant's counsel has been made available to him, or he himself initiates further communication, exchanges, or conversations with the police. Statements obtained in violation of this rule are a violation of a defendant's Fifth Amendment rights.

63. Minnick v. Mississippi (1990) 498 U.S. 146.

64. Oregon v. Bradshaw (1983) 462 U.S. 1039.

65. Edwards v. Arizona (1981) 451 U.S. 482.

66. Moran v. Burbine (1986) 475 U.S. 412.

67. North Carolina v. Butler (1979) 441 U.S. 369.

68. New York v. Quarles (1984) 467 U.S. 649. It was observing in this case that the defendant, who had just attacked a woman and then fled into a grocery store, had an empty shoulder holster, an officer validly asked the defendant, without issuing Miranda warnings, where the gun was.

69. Brinegar v. United States (1949) 338 U.S. 25.