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## POLICE QUESTIONING OF CHILDREN

The following information was compiled by The Children and Family Justice Center of the Northwestern University Legal Clinic. Much attention has been focused on the procedures and policies of various police departments and state law enforcement offices when investigating crimes in which children or teenagers are suspects. In these situations, law enforcement very often defends their actions, claiming that they were following the law. However, many believe that the laws and policies should be changed to better protect our children.

### WHAT IS THE LAW?

#### **Do police officers have to contact parents when they take their children to the police station?**

Yes. When police take a juvenile (aged 16 and under) suspect into custody, federal law requires that they make a "reasonable attempt" to notify the juvenile's parents or legal guardian. Police must tell the parents where their child is being questioned and why he is being questioned.

#### **What if a parent or guardian cannot be located?**

Police officers can proceed to question children even if they have been unable to locate parents. Federal law only requires that a "reasonable attempt" be made to locate parents. In practice, this often translates into leaving a business card with other relatives at the home or leaving a message on a parent's answering machine at home or work.

#### **Do police officers have to wait for a parent to arrive at the stations before questioning a child?**

No. Even if a parent tells the police not to ask the child any questions, police could proceed to ask the child questions because the "right to silence" (explained in the Miranda Rights, p. 2) is the child's and not the parents. If the police did this, however, a court would take this fact into account in deciding whether the child's statement was coerced or was made voluntarily.

#### **Do police officers have to tell parents if their children are being viewed as witnesses or suspects?**

No. The law does not require that police tell parents whether their child is a witness or a suspect. Nor does the law require that police tell parents if the police

have changed the way they are viewing the child. Told that their children are witnesses, parents are often eager to help police and consent to let police take their kids to the station. It is only hours later, when they go to pick up their children, that they are told that their kids have been charged with serious crimes.

## **WHAT ARE THE "MIRANDA RIGHTS"?**

### **Origin of the Miranda Rights:**

On March 13, 1963, police arrested Ernesto Miranda for stealing money from a Phoenix, Arizona bank worker. During two hours of questioning, Miranda confessed to the crime, but was never offered an attorney during his interrogation and eventually received a prison sentence based primarily on his confession. On June 13, 1966, the U.S. Supreme Court reversed the Arizona Court's decision and granted Ernesto Miranda a new trial at which his confession could not be admitted as evidence. The ruling established the "Miranda" rights of persons accused of crimes.

### **Language of the Miranda Rights:**

There is no exact wording of the "Miranda Rights". The Supreme Court did not script a passage to be read, but instead made guidelines of what needed to be expressed to a person about to be interrogated. Based on these guidelines, law enforcement agencies have created a basic set of simple statements that can be read to accused persons prior to any questioning.

What follows are examples of the Miranda Rights and the Supreme Court's explanation behind each statement:

#### **1. You have the right to remain silent.**

**Court Explanation:** At the outset, if a person in custody is to be subjected to interrogation, he must first be informed in clear and unequivocal terms that he has the right to remain silent.

#### **2. Anything you say can be used against you in a court of law.**

**Court Explanation:** The warning of the right to remain silent must be accompanied by the explanation that anything said can and will be used against the individual in court.

#### **3. You have the right to have an attorney present now and during any future questioning.**

**Court Explanation:** The right to have counsel present at the interrogation is indispensable to the protection of the Fifth Amendment privilege under the system we delineate today. ... [Accordingly] we hold that an individual held for interrogation must be clearly informed that he has the right to consult with a lawyer and to have the lawyer with him during interrogation under the system for protecting the privilege we delineate today.

#### **4. If you cannot afford an attorney, one will be appointed to you free of charge if you wish.**

**Court Explanation:** In order fully to apprise a person interrogated of the extent of his rights under this system then, it is necessary to warn him not only that he has the right to consult with an attorney, but also that if he is indigent a lawyer will be appointed to represent him. Without this additional warning, the admonition of the right to consult with counsel would often be understood as meaning only that he can consult with a lawyer if he has one or has the funds to obtain one.

Sources: The Supreme Court Historical Society; LandmarkCases.org; 1999 Massachusetts Criminal Textbook - Police Interrogations Section.

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