

**EV05 - Property Crimes**  
**Session 14 - Miranda and Interrogations**  
**LD15 - Laws of Arrest**

**Date Revised:** 9/17/2019

**Course Goal:** To introduce the recruit officers to Miranda and interrogation law.

**Learning Objective:**

- Identify the purpose of Miranda warnings. [\[15.5.A\]](#)
- Recognize when Miranda must be given. [\[15.5.B\]](#)
- Identify the proper administration of Miranda warnings. [\[15.5.C\]](#)
- Recognize the impact of invoking: [\[15.5.D\]](#)
- The right to remain silent [\[15.5.D.1\]](#)
- The right to counsel [\[15.5.D.2\]](#)
- Recognize the types of Miranda waivers. [\[15.5.E\]](#)
- Recognize the exceptions to the Miranda rule. [\[15.5.F\]](#)
- Differentiate between an interview and interrogation. [\[15.6.A\]](#)
- Identify the purpose of interrogation. [\[15.6.B\]](#)
- Differentiate between an admission and confession. [\[15.6.C\]](#)
- Identify the conditions in which a confession or admission may be admissible in court. [\[15.6.D\]](#)

**Session Time: 2 Hours**

**Resources:**

- Classroom with tables
- Overhead projector
- Computer with multimedia software and Microsoft PowerPoint
- Handout: Miranda Case Studies

**Summary:** The instructor will lead a facilitated discussion accompanied with learning activities with the whole class.

Outline	Instructor's Notes
<p>I. Administration of the Miranda Warning</p> <p>A. Purpose of Miranda Warning: Peace officer must give to a person at the start of a custodial interrogation. <a href="#">[15.5.A]</a></p> <p>B. The Miranda warning and a valid waiver of those rights are required before any custodial interrogation. Custody and interrogation must both exist before the Miranda warning is necessary. <a href="#">[15.5.B]</a></p> <p>1. Custody: formal arrest or functional equivalent (handcuffed, guns drawn, lockups)</p>	<p><b>TTS 15.8.B.1 – 15.8.B.4</b></p> <p><b>Run</b> Learning Activity # 1 in conjunction with PowerPoint Slides # 2 – 18.</p> <p><b>Note:</b> See last page for learning activity # 1</p>

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<ul style="list-style-type: none"><li>2. Interrogation occurs when officer:<ul style="list-style-type: none"><li>a. Engages in direct / express questioning of a person about a crime</li><li>b. Uses words or conduct reasonably likely to elicit an incriminating response from a person</li></ul></li><li>C. POST Miranda Warning: <a href="#">[15.5.C]</a><ul style="list-style-type: none"><li>1. You have the right to remain silent.</li><li>2. Anything you say may be used against you in court.</li><li>3. You have the right to an attorney before and during questioning.</li><li>4. If you cannot afford an attorney, one will be appointed for you free of charge, before questioning, if you wish.</li></ul></li><li>D. LAPD Miranda Warning includes, “Do you understand?” at the end of each warning as well as, “Do you want to talk about what happened?” as the last question.</li><li>E. Waiving or Invoking Miranda <a href="#">[15.5.D]</a><ul style="list-style-type: none"><li>1. If subject waives rights, law enforcement can continue with interrogation</li><li>2. Three types of waivers <a href="#">[15.5.E]</a><ul style="list-style-type: none"><li>a. Expressed: Answers yes / no to question about going further with interrogation</li><li>b. Implied: Acknowledges understanding the advisements, and exhibits conduct indicating waiver of rights</li><li>c. Conditional: Acknowledges understanding the advisements and is willing to go forward, but places a limitation / qualification on answering questions</li></ul></li><li>3. If the person invokes either the right to silence or the right to counsel, Miranda requires that all interrogation must cease. <a href="#">[15.5.D.1]</a> <a href="#">[15.5.D.2]</a></li><li>4. Miranda rights can only be invoked by the person, not by a third party, like an attorney or parent.</li></ul></li><li>F. Exception to Miranda: Public Safety or Emergency Rescue exception <a href="#">[15.5.F]</a></li></ul>	
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1. No Miranda warning is necessary, even though a person is in custody, if the officer who is about to ask incriminating questions (interrogate) is motivated by a concern for someone's safety.
2. The concern for safety can be for the victim, the defendant, some third person, the public at large, or the officer's own safety. Courts view this exception rather narrowly.

**II. Crime Scene Interviews and Investigative Interrogations**

**A. Interviews vs Interrogations [\[15.6.A\]](#)**

1. Questioning
  - a. Interviews are questioning non-suspects such as victims and witnesses who typically cooperate.
  - b. Interrogations is questioning suspects who may be unwilling to provide information and the questions or conduct are likely to retrieve incriminating responses
2. Locations
  - a. Interviews should take place at crime scene
  - b. Interrogations more likely takes place as part of follow-up investigation.

**B. Purposes of an Interrogation [\[15.6.B\]](#)**

1. Obtaining an admission or confession
2. Identifying individuals involved in a crime
3. Establishing a person's guilt
4. Corroborating the facts of a crime
5. Obtaining information that could lead to the recovery of evidence or property

**C. Difference between admission and confession [\[15.6.C\]](#)**

1. Confession involves acknowledging the commission of all of the elements of a crime.
2. Admission involves acknowledging certain facts that tend to incriminate the individual, but fall short of a confession.

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- D. Statements can be inadmissible if below Amendments were violated [\[15.6.D\]](#)
1. Fourth
    - a. Freedom from unreasonable searches or seizures
    - b. Arrest and statement was the result of an illegal search and seizure, such as an improper entry, unreasonable detention, etc
  2. Fifth
    - a. Freedom from self-incrimination
    - b. Statements received during interrogation were result of Miranda violation
  3. Sixth
    - a. Right to counsel
    - b. Statements obtained in violation of defendant's right to counsel, such as getting statements after defendant / suspect requested counsel or already is represented
  4. Fourteenth
    - a. Right to due process and equal protection of the law
    - b. Statements involuntarily obtained / coerced by
      - 1) Physical force or threats (expressed or implied)
      - 2) Expressed or implied promises of leniency
      - 3) Overbearing psychological pressure

**[TTS 15.8.B.1 – 15.8.B.4](#)**

**Run** Learning Activity # 2 in conjunction with Miranda Case Study handouts

**Note:** See last page for learning activity # 2

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**Learning Activity # 1**

**Purpose:** To introduce the recruits to laws and concepts related to the Miranda Admonition and interrogations.

**Description:**

1. **Ask:** Is physical evidence and eyewitness testimony sufficient to prove cases? (PowerPoint Slide # 2)
  - a. Convictions have been obtained from just physical evidence & eyewitness testimony is also very valuable
  - b. Explain that a conviction drops by 30% without a confession (PPS 3)
  - c. Explain that the US Supreme Court noted superior evidentiary value of confessions in a criminal case (first class proof) (PPS 4)
2. **Ask:** All I need to know is Miranda? (PowerPoint Slide # 5)
  - a. **Ask:** In terms of obtaining statements, do all I need to know is Miranda?
  - b. **Explain** that admissibility of a confession is examined by four separate tests.
  - c. **Conduct** a facilitated discussion and have the class determine how each of these amendment affects the admissibility of a confession.
    - i. 4th Amendment: A confession is inadmissible if it is the “fruit” of an unreasonable search or seizure, such as an arrest without PC.
    - ii. 5th Amendment: The Miranda rule protects the trial privilege against compelled self-incrimination.
    - iii. 6th Amendment: A confession may be inadmissible if it was deliberately elicited by government agents after the defendant’s constitutional right to counsel had attached and been asserted.
    - iv. 14th Amendment: An “involuntary” confession that was coerced by official pressure is inadmissible under the due process clause.
3. Provide the class with a brief historical account of the Miranda case: (PPS 6 - 8)

*On March 3, 1963, an 18 year-old girl was kidnapped and forcibly raped in Phoenix, AZ. Ten days later, a suspect, later identified as Ernesto Miranda was arrested for the crime. Miranda was 23 years old, indigent, mentally ill and had the equivalent of a 9th grade education. Miranda was positively identified in a lineup by the victim. When Miranda was interrogated, he initially denied involvement, but after two hours gave both an oral and written confession regarding the crime. Miranda was not given any warnings prior to interrogation, even though there was case law regarding the admonition of individuals prior to custodial interrogation.*

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*Miranda was convicted and the case was appealed to the US Supreme Court. The US Supreme Court set aside Miranda's conviction and established the Miranda Warnings that mandated Government to advise individuals of certain rights prior to custodial interrogation. Miranda was tried again, without the confession, and was convicted and sentenced to 20-30 years in prison.*

*In 1975, Miranda was paroled where he sold autographed copies of Miranda Rights cards for \$1.50. On January 31, 1976, Miranda was involved in a fight where he sustained a fatal knife wound.*

4. Divide the class into their learning groups of 6-8 recruits
5. Utilizing the incident involving Ernesto Miranda, determine an investigative response if the officers want to question the suspect regarding the crime
6. Provide each learning team at least one of the below listed topics
7. Allow the learning teams to discuss their topic, develop examples and develop a presentation to the class
8. Have the learning teams present their topics and conduct an instructor led discussion and ensure to cover the following:
  - a. Purpose of Miranda warning [15.5.A]
  - b. When Miranda warning is required [15.5.B]
  - c. Proper administration of Miranda warning [15.5.C]
    - i. Elements of Miranda
    - ii. The Miranda Process
    - iii. Waivers
  - d. Types of Miranda waivers [15.5. E]
  - e. Invoking Miranda rights [15.5.D]
  - f. Miranda exceptions (Public safety / Emergency Rescue) [15.5.F]
  - g. Interview [15.6.A]
  - h. Interrogation and Purpose of an interrogation [15.6.B]
  - i. Admission vs. confession [15.6.C]
  - j. Admissibility of an admission or confession [15.6.D]
  - k. Subterfuge: deceit used in order to achieve one's goal
9. **Point Out** that patrol officers will generally Mirandize and attempt to obtain statements from their arrestees, with the exceptions of:
  - a. Murder
  - b. Some sexual assaults
  - c. Serious ADWs
  - d. Serial 211s & 459s
  - e. If officers are unsure whether to obtain a statement or not, consult a detective

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10. **Explain** the best methods of documenting statements:
- a. Video
  - b. Audio
  - c. Statement written & signed in arrestee's handwriting
  - d. Statement written in officer's handwriting & signed by arrestee

**Resources needed:**

- Classroom
- Projector
- Computer with multimedia software

**Handouts:**

- None

**Time required:** 1.0 Hour

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**Learning Activity # 2**

**Purpose:** To introduce the recruits to laws and concepts related to the Miranda Admonition and interrogations.

**Procedures:** Small Group Activity

1. Divide the class into their learning groups of 6-8 recruits
2. Pass out one **Miranda Case Study** to each learning group.
3. Allow the learning teams to discuss their case study and determine the following:
  - a. Admissibility of statements in court
  - b. Identify the amendment involved with the case study
  - c. Determine if there was a violation of that amendment
4. Have the learning teams present their case studies and findings

**Resources needed:**

- Classroom
- Projector
- Computer with multimedia software

**Handouts:**

- Miranda Case Study

**Time required:** 1.0 Hour