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FAQs: Police Interrogations

In what circumstances do the police need a warrant to make an arrest?

If the police have "probable cause," a reasonable belief that a person has committed a crime, it is unnecessary to obtain a warrant before making an arrest. However, the police must obtain a warrant when arresting a person in their home if it is for a non-serious offense and there is not a reasonable belief that the person will destroy evidence or harm the public. The arrest warrant must establish that a crime was committed, that the person named on the warrant committed the crime, and the warrant must comply with the rules of the court.

Do I have to answer questions if the police stop me while I am walking on the street?

The police can stop a person if they have a good faith belief that the person was involved in a crime. Under the Fifth Amendment right against self-incrimination, a person does not have to answer questions. The law, however, does require people to give their name if requested. This means that if questioned about a crime by the police, a person is not required to respond beyond giving their name.

Do the police have to give a Miranda warning when making an arrest?

No. The police do not need to give the Miranda warnings before making an arrest. To use self-incriminating evidence against a person at trial, however, the police must give Miranda warnings or an equivalent warning before questioning a person.

In 1966, the U.S. Supreme Court ruled in *Miranda v. Arizona* that the police must advise people of their rights before a law enforcement officer questions those in police custody. Custody refers to the deprivation of a person's freedom of action in a significant way.

To use the information the police gather in interrogations at trial, the police must give full warnings. A typical Miranda warning consists of the following:

"You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford an attorney, one will be appointed for you. If you decide to answer questions, you have the right to stop at any time."

If the police fail to give a Miranda warning before questioning a person in custody, the evidence gathered from the interview cannot be used against the person in a trial. If the interrogation leads to the collection of additional evidence, the "fruit of the poisonous tree" doctrine precludes the use of this evidence against the person in a trial.

The police questioned and arrested me without giving a Miranda warning. Will a court dismiss the case?

No. A prosecutor can still bring charges against suspects even if the police failed to give Miranda warnings before conducting police interrogations. While prosecutors cannot use evidence gathered during police interrogations at trial if the defendant was not Mirandized, the prosecutor can use other evidence to secure a conviction.

If I agree to police questioning, can I later decide not to answer questions?

Yes. Miranda warnings give a person the right to stop a police interrogation at any time even if they already waived the right to remain silent. A person can assert this right by refusing to answer any more questions, requesting to speak with an attorney, or by requesting to remain silent. Once a person asserts Miranda rights, the police must discontinue the interrogation.

What tactics can the police use when questioning a suspect?

The police are prohibited from using physical or psychological coercion when conducting police interrogations. A confession or evidence that results from coercive tactics is inadmissible at trial. The police, for example, may not use torture techniques, threats, drugging, or inhumane treatment during an interrogation. The police, however, can use lying, trickery, and other types of non-coercive methods to obtain a confession from a suspect.

Do the police have the right to take a bodily sample without permission?

According to the U.S. Supreme Court, the Fifth Amendment right against self-incrimination applies to communication and does not prohibit the police from collecting physical bodily evidence. The police can collect evidence like blood and hair samples without permission.

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