

Miranda Confessions

Spring 2011

Jared W. Olen

I. Voluntary?

A. If No → Due to police + misconduct?

i. If Yes → Suppress

ii. If No → Admit

B. If Yes → In custody (not *Terry* stops or traffic stops)?

i. If No → Admit

ii. If Yes → Interrogation (reasonably likely to elicit incriminating response)?

a) If No → Admit

b) If Yes → Adequately warned (totality of warnings)?

- If No → Public safety exception OR undercover agent?

- If Yes → Admit

- If No → Suppress

- If Yes → Waived (doesn't have to be express, needn't know all possible subjects, can be insane/high/in pain)?

- If Yes → Admit

- If No → Invoked (unambiguous & unequivocal)?

- If Yes → Which right?

- Right to remain silent → Scrupulously honored (stop, wait 2 hours, re-Mirandize, question about different crime)?

- > If Yes → Admit

- > If No → Suppress

- Right to assistance of counsel → Honored (stop until lawyer present in interrogation room)?

- > If Yes → Admit (invocation only lasts 2 weeks post-custody)

- > If No → Violation (if D didn't re-initiate himself)