



Welcome to Street Law!



Spring 2023

Your Rights in Criminal Law



Criminal vs. Civil Law



CRIMINAL LAW

- Plaintiff is the Government (State v. Kim)
 - Guilty or Not Guilty
 - Guilty Verdict = Prison
- *Beyond a Reasonable Doubt Standard**



- Plaintiff is private party
- Liability = Pay damages

- *Preponderance of the Evidence Standard**

The Fourth Amendment:

(a) protects “**against unreasonable searches and seizures. . .**”

The Fourth Amendment:

and (b) requires probable cause to obtain an arrest warrant or search warrant

Probable Cause Continuum



No
Information

Hunch

Suspicion

Reasonable
Suspicion

Probable
Cause

Beyond a
Reasonable Doubt

The Fifth Amendment:

“ . . . nor shall [any person] 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 . . . ”

FIRST: The Fifth Amendment means. . .

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

.....so STAY SILENT!

Second: the 5th Amendment promises “due process of law:”

- **(1) NOTICE of charges against us and**
- **(2) OPPORTUNITY to present our side of the story with evidence at a FAIR trial**


VIDEO: <http://www.youtube.com/watch?v=ti2-NjnalFU>



What Are Some Things **To Say** to Invoke Your Rights?

- “I would like a lawyer”
- “I want to invoke my right to remain silent”
- “Am I under arrest? Am I free to leave?”

What Are Some Things **To Say** to Invoke Your Rights?

- “I would like a lawyer”
 - “I want to invoke my right to remain silent”
 - “Am I under arrest? Am I free to leave?”
- 

Review Q.: Do non-citizens get a lawyer?

The Sixth Amendment:

“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public **trial**, by an impartial **jury**. . . to be confronted with the **witnesses** against him and have compulsory process for obtaining witnesses in his favor, and to have the Assistance of **Counsel** for his defense.”

The Sixth Amendment means. . .

- You have the right to a **quick, public criminal trial with a lawyer** representing you, in front of a **jury**, where you can question **witnesses**.

Left Side of the Room:

What are some
crimes a
person can be
charged with?



Right Side of the Room:

What are some
lawsuits a
person can sue
for?



Criminal vs. Civil Law



CRIMINAL LAW

- Plaintiff is the Government (State v. Kim)
 - Guilty or Not Guilty
 - Guilty Verdict = Prison
- *Beyond a Reasonable Doubt Standard**



- Plaintiff is private party
- Liability = Pay damages

- *Preponderance of the Evidence Standard**

Legal Resources for Non-Criminal Cases



Hire Lawyers
(Plaintiff's Lawyers = Cut of \$)



The State Bar
of California

OFFICE OF ACCESS & INCLUSION

2022 Recipients

Legal Services Projects

Eligible organizations provide free legal services to clients, provided by licensed attorneys or other supervised by licensed attorneys.

Advancing Justice Asian Law Caucus	San Francisco	www.advancingjustice-alc.org
Asian Americans Advancing Justice Los Angeles	Los Angeles	advancingjustice-la.org
Affordable Housing Advocates	San Diego	www.affordablehousingadvocates.org
AIDS Legal Referral Panel	San Francisco	www.alrp.org
Alameda County Homeless Action Center	Berkeley	www.homelessactioncenter.org
Alliance for Children's Rights	Los Angeles	www.kids-alliance.org
Asian Pacific Islander Legal Outreach	San Francisco	www.apilegaloutreach.org
Bay Area Legal Aid	Oakland	www.baylegal.org
Bet Tzedek Legal Services	Los Angeles	www.bettzedek.org
California Indian Legal Services	Escondido	www.calindian.org
California Rural Legal Assistance, Inc.	Oakland	www.crla.org

Pro Bono = Free
(including Ms. Hannah)

What are Miranda Rights?

- <https://www.youtube.com/watch?v=T45aF1NLMyM>

What are Miranda Rights?

MIRANDA WARNING

1. You have the right to remain silent.
2. Anything you say can be used against you in court. You have the right to talk to a lawyer for advice before we ask you any questions.
3. You have the right to have a lawyer with you during questioning.
4. If you cannot afford a lawyer, one will be appointed for you before any questioning if you wish.
5. If you decide to answer questions now without a lawyer present, you have the right to stop answering at any time.

WAIVER

Do you understand the rights I have just read to you? With these rights in mind, do you wish to speak to me?"

Is a Miranda Warning Needed?



CUSTODY

Where a reasonable person would not feel free to leave (like an arrest)

AND



POLICE INTERROGATION

Direct questions OR interaction that is expected to get a response

WHAT IS CUSTODY?

- Where a reasonable person would not feel free to leave
- Not just an arrest
- If you voluntarily go to the police station, it is *not* custody

WHAT IS INTERROGATION?

Direction questioning

OR

Interaction that is reasonably
expected to get a response

Group Hypotheticals



Is a Miranda Warning Needed?



CUSTODY

Where a reasonable person would not feel free to leave (like an arrest)

AND



POLICE INTERROGATION

Direct questions OR interaction that is expected to get a response



Charlie was arrested and charged with armed robbery of a convenience store. While Charlie was in jail waiting for his trial, an undercover officer was placed in Charlie's cell. Before the officer asked any questions, Charlie said that he had robbed the convenience store. Charlie's statement was used against him at trial, despite the fact that he was not read his *Miranda* rights. Should the court allow the statement?

RESULT

Allowed. The Supreme Court held that this was **not a violation** of the Fifth Amendment. They felt that unless the defendant could show that the police officer actually questioned the prisoner, instead of merely listening to him, then the discussion did not qualify as a custodial interrogation.





Jared was arrested on suspicion of shooting a local taxicab driver in the head and then burying the body nearby. Jared was read his *Miranda* rights, and indicated that he needed to speak to a lawyer. On the way to the station, the police began talking to each other about the murder, while Jared listened in the back seat. Then, without warning, Jared admitted to the murder. At his trial, Jared argued that the police had coerced him into admitting to the murder and violated his right to remain silent. Should the court allow the statement?

RESULT

Allowed. The Supreme Court said that this situation did not violate the defendant's *Miranda* rights **because he had not been expressly questioned**, nor had the police said anything that the knew would likely coerce the defendant into admitting guilt.

****The court did indicate in a later case that if, under the same circumstances, the officer's conversation was intended to produce a confession, then it would violate the defendant's Fifth Amendment, even absent express questioning.**





David was driving 40 mph in a 25 mph zone when he was suddenly pulled over. The officer approached him, and requested that he step outside of the vehicle. David stepped out of the car, and the officer asked him whether or not he was aware of how fast he was going. In response to the officer's questioning, David admitted that he had been speeding. At his hearing, David argued that because the officer did not read his *Miranda* warnings, his confession should not be admitted. Should the court allow David's confession?

RESULT

Allowed. The Supreme Court said that *Miranda* warnings need not be given before roadside questioning of a motorist detained pursuant to a routine traffic stop. They did not feel that such stops impair a person's free exercise of his privilege against self-incrimination to require that he be warned of his constitutional rights.



IF AN OFFICER READS YOUR *MIRANDA* RIGHTS, WHAT ARE YOUR OPTIONS?

- **INVOKE:** exercise your rights
 - Stay silent and/or get a lawyer
- **WAIVE:** agree not to use these rights
 - Talk to police with or without a lawyer

INVOKING YOUR RIGHTS

YOU MUST BE VERY CLEAR!!!

You must *clearly ask* for a lawyer

The following are not clear enough:

- “I think I would like to talk to a lawyer”
- “Can I call my lawyer?”
- “Maybe I should call a lawyer”
- “I don’t think I want to say anything more until I talk to a lawyer”

WINNING GROUP.... (3/13)



NEXT WEEK....

