

## May 9, 2016: Miranda Rights Critical for Justice

In the quest for criminal justice in America, there's supposed to be a stark line between "us" and "them." "Us" refers those who hold the rule of law as sacred, even as it applies to people suspected of criminal behavior. "Them" are those who are willing to relax the rules for the purpose of quickly solving an alleged crime. Most people consider themselves a part of "us." We smugly point accusing fingers at those countries where criminal suspects are routinely subjected to severe verbal intimidation and/or to horrific physical brutality for the purpose of obtaining a confession. These countries are clearly "them."

However, history has taught "us" that even in America the line between "us" and "them" sometimes gets blurred, or worse, obliterated, especially in the rough-and-tumble world of criminal investigation. The temptation to bend the rules can be especially intense for those serving on the frontline of criminal justice - police officers, investigators and prosecutors. After all, these individuals routinely encounter people who have no respect for the law. Some become callous to the situation and wonder why they have to abide by strict regulations while the accused do not. In the sheltered and secret world of an interrogation room, some of these individuals drift from "us" to "them."

This situation served as the backdrop for this year's observance of Law Day. Every year, the legal community throughout the United States celebrates Law Day. This tradition began in 1958 when President Dwight Eisenhower declared that Americans would celebrate the rule of law each May 1<sup>st</sup>. Congress codified this observance in 1961.

The American Bar Association sets a theme for each Law Day observance. This year the theme was "Miranda - More Than Words." "Miranda" refers to one of the U.S. Supreme Court's most significant decisions in the area of criminal law, *Miranda v. Arizona*. The decision turns 50 on June 13<sup>th</sup>.

Locally, the Judicial Center and the Guam Bar hosted a number of activities centered around the Miranda theme. Also, the executive director of the Public Defender Service Corporation, Stephen Hattori, and the Chief of Guam Police, Joseph Cruz, each wrote editorials for the PDN about the importance of this major decision.

The Miranda decision actually consolidates 4 different cases and centers around the 5<sup>th</sup> Amendment safeguard that "No person . . . shall be compelled in any criminal case to be a witness against himself ...."

All four cases involved interrogations of criminal suspects conducted by police officers, investigators, or prosecutors in secluded rooms, away from public scrutiny. None of the suspects were given a full and effective warning of their rights, and all were subjected to psychological tactics and/or physical deprivations. All

four make oral admissions, and three signed written confessions. Based largely on these confessions, all were found guilty at their respective trials.

In a 5 to 4 decision, the U.S. Supreme Court overturned all these convictions under the umbrella of *Miranda v. Arizona*. Chief Justice Earl Warren, who wrote the majority decision, noted the historical roots of the 5<sup>th</sup> Amendment. The framers of the U.S. Constitution were mindful of past criminal investigative abuses sanctioned and practiced by a number of European nations, including England. Warren wrote that “[s]o deeply did the iniquities of the ancient system impress themselves upon the minds of the American colonists that the States, with one accord, made a denial of the right to question an accused person a part of their fundamental law.” This protection “became clothed in this country with the impregnability of a constitutional enactment.”

Warren also wrote of contemporary situations in the U.S. where “the police resorted to physical brutality – beating, hanging, whipping – and to sustained and protracted questioning incommunicado in order to extort confessions.” He cautioned against employing the “end justifies the means” philosophy. Quoting an English Chancellor, Warren wrote: “It is not admissible to do a great right by doing a little wrong . . . . It is not sufficient to do justice by obtaining a proper result by irregular or improper means.”

In conclusion, the Supreme Court held that under the protections of the 5<sup>th</sup> Amendment, “[p]rior to any questioning, the person must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him and that he has a right to the presence of an attorney, either retained or appointed.”

Those employed in criminal justice are called upon to preserve and protect the Constitutional rights of those who stand accused. This isn’t always easy, but it is critical if we are to remain a nation of “us” and not “them.”