

Right to remain silent not understood by many suspects

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Movies and TV shows often depict crime with a police officer handcuffing a suspect and warning him that he has the right to remain silent. While those warnings may appear clear-cut, almost 1 million criminal cases may be compromised each year in the United States because suspects don't understand their constitutional rights, according to research presented at the 119th Annual Convention of the American Psychological Association.

"The public, police and sometimes courts wrongly believe that people in custody understand their rights," said Richard Rogers, PhD, a [psychology professor](#) at the University of North Texas. "Some offenders are street-wise and legally sophisticated, but far more have a limited and often erroneous understanding of Miranda warnings and the underlying constitutional safeguards."

The police statement advising a suspect of his or her rights is called a Miranda warning and stems from the 1966 [Supreme Court](#) decision in *Miranda v. Arizona*. The Supreme Court ruled that suspects in police custody must be informed of their right to remain silent because of the Fifth Amendment's protection against self-incrimination. Suspects also must be told they have a right to an attorney and that an attorney will be appointed if they can't afford to hire one.

Rogers analyzed research on Miranda warnings for an article to be published in APA's flagship journal, [American Psychologist](#), in November 2011. Based on his analysis of nationwide statistics of 9.2

million arrests in 2009, he estimates that 976,000 arrests, or 10 percent of the cases, were compromised by problems with Miranda warnings. That estimate includes 360,000 arrests of adults with mental health disorders; 305,000 arrests of adults without [mental health disorders](#); and 311,000 juvenile arrests.

More than 800 different versions of Miranda warnings are used by police agencies across the United States, and the warnings vary in reading level from second grade to a post-college level, Rogers said. Defendants often assume they know their rights so they don't listen, and the warnings aren't explained well by police, he said. As a result, defendants often wrongly believe their silence can be used against them in court.

Rogers devised a survey with true-or-false questions about Miranda warnings that was completed by 119 college undergraduate students and 149 pretrial defendants at jails in Texas and Oklahoma. It showed 31 percent of the defendants and 36 percent of the undergraduates wrongly believed that their silence could be used as incriminating evidence at trial.

Other misperceptions abound, with many people believing that police can keep interrogating a defendant even though he has requested an attorney but is still waiting for the attorney to arrive, Rogers said.

Some defendants also don't realize detectives can lie during questioning and claim eyewitnesses or other evidence implicates the defendant in an attempt to get him to start talking, according to his presentation. "These false beliefs strike at the heart of highly valued constitutional rights," Rogers said.

Rogers doesn't believe that a compromised case necessarily means charges should be dismissed. To comply with requirements from the

Supreme Court, those cases should be reviewed to ascertain whether defendants knowingly and intelligently waived their rights after a Miranda warning, Rogers said. The language of the warning also should be simplified, and suspects should be told to read it aloud and explain it in their own words to make sure they understand it, he said.

While repeat offenders may not pay attention to a public information campaign about Miranda warnings, it could help first-time offenders, Rogers said. Professionals in the criminal justice field also need to recognize common false beliefs about Miranda warnings that could jeopardize defendants' rights, he added.

"Constitutional safeguards are further imperiled when attorneys, judges and forensic evaluators are lulled into complacency by the commonly held misconception that everyone understands their Miranda rights," Rogers said.

Provided by American Psychological Association

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