

In *Miranda v. Arizona*,¹ the Supreme Court of the United States decided four cases which involved the procedure police use when questioning suspects. One of those cases was *California v. Stewart* (Lesson One, Case 2). So concerned was the Supreme Court about protecting suspects' rights against self-incrimination that it announced the Miranda warnings. The result of *Miranda* is that now when a suspect is in custody, before being interrogated, s/he must be given the following four warnings:

1. You have the right to remain silent.
2. Anything you say may be used against you in a court of law.
3. You have the right to an attorney.
4. If you cannot afford an attorney, one will be appointed for you

free of charge.

The Miranda warnings do not have to be given every time a police officer speaks to a person. However, they must always be given during custodial interrogation (questioning after arrest).

Suppose, though, that the person is not under arrest but is being questioned by the police. The Supreme Court said that Miranda warnings must be given when the individual is first subjected to police interrogation while in custody at the station or otherwise deprived of his freedom of action in any significant way.² In other words, if a person is a suspect and is not free to walk away, he or she must be given Miranda warnings.

E. What Is the Right to Due Process?

The Fifth Amendment contains a clause that no person shall be deprived of life, liberty, or property, without due process of law. The Fourteenth Amendment, which, in part, prohibits certain types of state action has an almost identical clause (see Chapter One, Lesson Five A and B). It reads that no state shall deprive any person of life, liberty, or property, without due process of law.

Generally speaking, due process means that a person has the right to be treated fairly. Thus a person who is being arrested or who has been arrested and charged with a crime must receive fair treatment from the beginning to the end of the criminal process.

The term *due process* is not easy to define. In one sense it can be very broad. When justices of the Supreme Court have ruled that the rights guaranteed by the Bill of Rights apply to the states, they have used the Due Process Clause of the Fourteenth Amendment. In other words, the right against double jeopardy and the right against self-incrimination apply to the states because of the Due Process Clause of the Fourteenth Amendment.

1. 384 U.S. 436 (1966)

2. 384 U.S. at p. 477