Supplementary Material

Chapter 10: The Reagan Era—Criminal Justice/Interrogations

New York v. Quarles, 467 U.S. 649 (1984)

Benjamin Quarles was arrested in an A&P supermarket by Officer Frank Kraft, who had reason to believe Quarles had just raped a woman and was armed. After apprehending Quarles, Kraft noted that he was wearing an empty shoulder holster. Kraft immediately handcuffed Quarles and then, before giving Miranda *warnings, asked about the gun. Quarles told the police where the gun was. Kraft found the gun, formally arrested Quarles and read him his* Miranda *rights. Quarles promptly made further incriminating statements. At the suppression hearing before his trial, the trial judge ruling that the prosecutor could not introduce as evidence Quarles's statement, "The gun is over there," because that statement was made by a criminal suspect in custody who had not been given* Miranda *warnings. The New York Court of Appeals sustained that ruling. New York appealed to the Supreme Court of the United States.*

The Supreme Court by a 5–4 vote ruled that the statement "The gun is over there" was admissible at trial. Justice Rehnquist's majority opinion declared that police need not give Miranda *warnings when the public safety is threatened. What reasons did he give for the "public safety" exception to* Miranda v. Arizona *(1966)? Do you believe this decision was consistent with* Miranda *or was implicitly motivated by a desire to overrule* Miranda*? Justice Rehnquist and Justice Brennan sharply disputed whether Quarles imperiled the public safety. Whose view do you believe correct?*

JUSTICE REHNQUIST delivered the opinion of the Court.

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The Fifth Amendment guarantees that "[n]o person . . . shall be compelled in any criminal case to be a witness against himself." The *Miranda v. Arizona* (1966) Court presumed that interrogation in certain custodial circumstances is inherently coercive and held that statements made under those circumstances are inadmissible unless the suspect is specifically informed of his Miranda rights and freely decides to forgo those rights. The prophylactic Miranda warnings therefore are "not themselves rights protected by the Constitution but [are] instead measures to insure that the right against compulsory self-incrimination [is] protected." . . .

In this case we have before us no claim that respondent's statements were actually compelled by police conduct which overcame his will to resist. Thus the only issue before us is whether Officer Kraft was justified in failing to make available to respondent the procedural safeguards associated with the privilege against compulsory self-incrimination since *Miranda*.

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We hold that on these facts there is a "public safety" exception to the requirement that *Miranda* warnings be given before a suspect's answers may be admitted into evidence, and that the availability of that exception does not depend upon the motivation of the individual officers involved. In a kaleidoscopic situation such as the one confronting these officers, where spontaneity rather than adherence to a police manual is necessarily the order of the day, the application of the exception which we recognize today should not be made to depend on post hoc findings at a suppression hearing concerning the subjective motivation of the arresting officer. Undoubtedly most police officers, if placed in Officer Kraft's position, would act out of a host of different, instinctive, and largely unverifiable

motives—their own safety, the safety of others, and perhaps as well the desire to obtain incriminating evidence from the suspect.

Whatever the motivation of individual officers in such a situation, we do not believe that the doctrinal underpinnings of *Miranda* require that it be applied in all its rigor to a situation in which police officers ask questions reasonably prompted by a concern for the public safety. . . .

The police in this case, in the very act of apprehending a suspect, were confronted with the immediate necessity of ascertaining the whereabouts of a gun which they had every reason to believe the suspect had just removed from his empty holster and discarded in the supermarket. So long as the gun was concealed somewhere in the supermarket, with its actual whereabouts unknown, it obviously posed more than one danger to the public safety: an accomplice might make use of it, a customer or employee might later come upon it.

In such a situation, if the police are required to recite the familiar *Miranda* warnings before asking the whereabouts of the gun, suspects in Quarles' position might well be deterred from responding. Procedural safeguards which deter a suspect from responding were deemed acceptable in *Miranda* in order to protect the Fifth Amendment privilege; when the primary social cost of those added protections is the possibility of fewer convictions, the *Miranda* majority was willing to bear that cost. Here, had *Miranda* warnings deterred Quarles from responding to Officer Kraft's question about the whereabouts of the gun, the cost would have been something more than merely the failure to obtain evidence useful in convicting Quarles. Officer Kraft needed an answer to his question not simply to make his case against Quarles but to insure that further danger to the public did not result from the concealment of the gun in a public area.

We conclude that the need for answers to questions in a situation posing a threat to the public safety outweighs the need for the prophylactic rule protecting the Fifth Amendment's privilege against self-incrimination. We decline to place officers such as Officer Kraft in the untenable position of having to consider, often in a matter of seconds, whether it best serves society for them to ask the necessary questions without the *Miranda* warnings and render whatever probative evidence they uncover inadmissible, or for them to give the warnings in order to preserve the admissibility of evidence they might uncover but possibly damage or destroy their ability to obtain that evidence and neutralize the volatile situation confronting them.

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JUSTICE O'CONNOR, concurring in the judgment in part and dissenting in part.

. . . Were the Court writing from a clean slate, I could agree with its holding. But *Miranda v. Arizona* (1966) is now the law and, in my view, the Court has not provided sufficient justification for departing from it or for blurring its now clear strictures. Accordingly, I would require suppression of the initial statement taken from respondent in this case. On the other hand, nothing in *Miranda* or the privilege itself requires exclusion of nontestimonial evidence derived from informal custodial interrogation, and I therefore agree with the Court that admission of the gun in evidence is proper.

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Since time *Miranda* was decided, the Court has repeatedly refused to bend the literal terms of that decision. To be sure, the Court has been sensitive to the substantial burden the *Miranda* rules place on local law enforcement efforts, and consequently has refused to extend the decision or to increase its strictures on law enforcement agencies in almost any way. . . . Similarly, where "statements taken in violation of the *Miranda* principles [have] not be[en] used to prove the prosecution's case at trial," the Court has allowed evidence derived from those statements to be admitted. But wherever an accused has been taken into "custody" and subjected to "interrogation" without warnings, the Court has consistently prohibited the use of his responses for prosecutorial purposes at trial. . . .

In my view, a "public safety" exception unnecessarily blurs the edges of the clear line heretofore established and makes *Miranda*'s requirements more difficult to understand. In some cases, police will benefit because a reviewing court will find that an exigency excused their failure to administer the required warnings. But in other cases, police will suffer because, though they thought an exigency

excused their noncompliance, a reviewing court will view the "objective" circumstances differently and require exclusion of admissions thereby obtained. The end result will be a finespun new doctrine on public safety exigencies incident to custodial interrogation, complete with the hair-splitting distinctions that currently plague our Fourth Amendment jurisprudence. . . .

The justification the Court provides for upsetting the equilibrium that has finally been achieved—that police cannot and should not balance considerations of public safety against the individual's interest in avoiding compulsory testimonial self-incrimination—really misses the critical question to be decided. *Miranda* has never been read to prohibit the police from asking questions to secure the public safety. Rather, the critical question *Miranda* addresses is who shall bear the cost of securing the public safety when such questions are asked and answered: the defendant or the State. *Miranda*, for better or worse, found the resolution of that question implicit in the prohibition against compulsory self-incrimination and placed the burden on the State.

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Citizens in our society have a deeply rooted social obligation "to give whatever information they may have to aid in law enforcement." The privilege against compulsory self-incrimination is one recognized exception, but it is an exception nonetheless. Only the introduction of a defendant's own testimony is proscribed by the Fifth Amendment's mandate that no person "shall be compelled in any criminal case to be a witness against himself." That mandate does not protect an accused from being compelled to surrender nontestimonial evidence against himself.

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To be sure, admission of nontestimonial evidence secured through informal custodial interrogation will reduce the incentives to enforce the *Miranda* code. But that fact simply begs the question of how much enforcement is appropriate. There are some situations, as the Court's struggle to accommodate a "public safety" exception demonstrates, in which the societal cost of administering the *Miranda* warnings is very high indeed. The *Miranda* decision quite practically does not express any societal interest in having those warning dministered for their own sake. Rather, the warnings and waiver are only required to ensure that "testimony" used against the accused at trial is voluntarily given. Therefore, if the testimonial aspects of the accused's custodial communications are suppressed, the failure to administer the *Miranda* warnings should cease to be of concern. The harm caused by failure to administer *Miranda* warnings relates only to admission of testimonial self-incriminations, and the suppression of such incriminations should by itself produce the optimal enforcement of the *Miranda* rule.

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. . . Certainly interrogation which provides leads to other evidence does not offend the values underlying the Fifth Amendment privilege any more than the compulsory taking of blood samples, fingerprints, or voice exemplars, all of which may be compelled in an "attempt to discover evidence that might be used to prosecute [a defendant] for a criminal offense." Use of a suspect's answers "merely to find other evidence establishing his connection with the crime [simply] differs only by a shade from the permitted use for that purpose of his body or his blood." The values underlying the privilege may justify exclusion of an unwarned person's out-of-court statements, as perhaps they may justify exclusion of statements and derivative evidence compelled under the threat of contempt. But when the only evidence to be admitted is derivative evidence such as a gun—derived not from actual compulsion but from a statement taken in the absence of *Miranda* warnings—those values simply cannot require suppression, at least no more so than they would for other such nontestimonial evidence.

On the other hand, if a suspect is subject to abusive police practices and actually or overtly compelled to speak, it is reasonable to infer both an unwillingness to speak and a perceptible assertion of the privilege. Thus, when the *Miranda* violation consists of a deliberate and flagrant abuse of the accused's constitutional rights, amounting to a denial of due process, application of a broader exclusionary rule is warranted. . . . By contrast, where the accused proves only that the police failed to administer the Miranda warnings, exclusion of the statement itself is all that will and should be required. Limitation of the Miranda prohibition to testimonial use of the statements themselves adequately serves the purposes of the privilege against self-incrimination.

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JUSTICE MARSHALL, with whom JUSTICE BRENNAN and JUSTICE STEVENS join, dissenting.

. . . The arresting officers had no legitimate reason to interrogate the suspect without advising him of his rights to remain silent and to obtain assistance of counsel. By finding on these facts justification for unconsented interrogation, the majority abandons the clear guidelines enunciated in *Miranda v. Arizona* (1966) and condemns the American judiciary to a new era of post hoc inquiry into the propriety of custodial interrogations. . . .

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The majority's entire analysis rests on the factual assumption that the public was at risk during Quarles' interrogation. This assumption is completely in conflict with the facts as found by New York's highest court. Before the interrogation began, Quarles had been "reduced to a condition of physical powerlessness." When the questioning began, the arresting officers were sufficiently confident of their safety to put away their guns. . . . The Court of Appeals also determined that there was no evidence that the interrogation was prompted by the arresting officers' concern for the public's safety.

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The New York court's conclusion that neither Quarles nor his missing gun posed a threat to the public's safety is amply supported by the evidence presented at the suppression hearing. Again contrary to the majority's intimations, no customers or employees were wandering about the store in danger of coming across Quarles' discarded weapon. Although the supermarket was open to the public, Quarles' arrest took place during the middle of the night when the store was apparently deserted except for the clerks at the checkout counter. The police could easily have cordoned off the store and searched for the missing gun. Had they done so, they would have found the gun forthwith. . . .

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This case is illustrative of the chaos the "public-safety" exception will unleash. The circumstances of Quarles' arrest have never been in dispute. After the benefit of briefing and oral argument, the New York Court of Appeals, concluded that there was "no evidence in the record before us that there were exigent circumstances posing a risk to the public safety." Upon reviewing the same facts and hearing the same arguments, a majority of this Court has come to precisely the opposite conclusion: "So long as the gun was concealed somewhere in the supermarket, with its actual whereabouts unknown, it obviously posed more than one danger to the public safety. . . ."

If after plenary review two appellate courts so fundamentally differ over the threat to public safety presented by the simple and uncontested facts of this case, one must seriously question how law enforcement officers will respond to the majority's new rule in the confusion and haste of the real world. . . .

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. . . The majority has lost sight of the fact that *Miranda v. Arizona* (1966) and our earlier custodial-interrogation cases all implemented a constitutional privilege against self-incrimination. . . .

. . . The majority implies that *Miranda* consisted of no more than a judicial balancing act in which the benefits of "enlarged protection for the Fifth Amendment privilege" were weighed against "the cost to society in terms of fewer convictions of guilty suspects." . . .

The majority misreads *Miranda*. . . . Whether society would be better off if the police warned suspects of their rights before beginning an interrogation or whether the advantages of giving such warnings would outweigh their costs did not inform the *Miranda* decision. . . .

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. . . After a detailed examination of police practices and a review of its previous decisions in the area, the Court in *Miranda* determined that custodial interrogations are inherently coercive. The Court therefore created a constitutional presumption that statements made during custodial interrogations are compelled in violation of the Fifth Amendment and are thus inadmissible in criminal prosecutions. As a result of the Court's decision in *Miranda*, a statement made during a custodial interrogation may be introduced as proof of a defendant's guilt only if the prosecution demonstrates that the defendant knowingly and intelligently waived his constitutional rights before making the statement. The now-

familiar *Miranda* warnings offer law enforcement authorities a clear, easily administered device for ensuring that criminal suspects understand their constitutional rights well enough to waive them and to engage in consensual custodial interrogation.

In fashioning its "public-safety" exception to *Miranda*, the majority makes no attempt to deal with the constitutional presumption established by that case. The majority does not argue that police questioning about issues of public safety is any less coercive than custodial interrogations into other matters. The majority's only contention is that police officers could more easily protect the public if *Miranda* did not apply to custodial interrogations concerning the public's safety. But *Miranda* was not a decision about public safety; it was a decision about coerced confessions. Without establishing that interrogations concerning the public's safety are less likely to be coercive than other interrogations, the majority cannot endorse the "public-safety" exception and remain faithful to the logic of *Miranda v. Arizona*.

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The irony of the majority's decision is that the public's safety can be perfectly well protected without abridging the Fifth Amendment. If a bomb is about to explode or the public is otherwise imminently imperiled, the police are free to interrogate suspects without advising them of their constitutional rights. Such unconsented questioning may take place not only when police officers act on instinct but also when higher faculties lead them to believe that advising a suspect of his constitutional rights might decrease the likelihood that the suspect would reveal life-saving information. If trickery is necessary to protect the public, then the police may trick a suspect into confessing. . . . All the Fifth Amendment forbids is the introduction of coerced statements at trial.

Having determined that the Fifth Amendment renders inadmissible Quarles' response to Officer Kraft's questioning, I have no doubt that our precedents require that the gun discovered as a direct result of Quarles' statement must be presumed inadmissible as well. The gun was the direct product of a coercive custodial interrogation. . . .

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