Miranda and the Search for Truth: How Confessions and Police Coercion Hinder the Road to Justice

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MIRANDA AND THE SEARCH FOR TRUTH: HOW CONFESSIONS AND POLICE COERCION HINDER THE ROAD TO JUSTICE

SUBMITTED BY YOANA YAKOVA
I. Introduction

In finding that police interrogation is inherently coercive the Supreme Court in *Miranda v. Arizona* (1966) established a longstanding doctrine that became embedded in American culture. Under what is known as the *Miranda* Doctrine a suspect must be informed of his or her Constitutional rights as follows: “You have the right to remain silent; anything you say can and will be used against you in a court of law; you have the right to an attorney; if you cannot afford one, one will be provided to you free of charge.” This created a desperately needed safeguard from police coercion during interrogations. The paragraphs that follow discuss the search for truth in light of *Miranda* and recent injustices pertaining to police coercion, inappropriate tactics, and growing abuse of power.

II. Relevant Pre-Miranda Rulings

The rights ensured to suspects under *Miranda v. Arizona* did not become a prominent aspect of American culture until the 1960s. Prior to this infamous case, protective procedures for suspects during police interrogation came from due process

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2 *Id.*
measures like the voluntariness doctrine. This doctrine adopted a totality of the circumstances view, which looked at whether defendant’s ability to resist was overcome by an excessively coercive police interrogation. Factors considered included the condition of the suspect, isolation of the suspect, conduct of police during interrogation, and length of the interrogation.

The deficiencies of the voluntariness doctrine soon became clear due to its inability to address improperly compelled testimonies. Thus, in Escobedo v. Illinois the Supreme Court ruled that sixth amendment right to counsel extends to suspects during the interrogation process. Unfortunately, this decision was narrowly focused on the issues in that case and did not have a significant impact on protective interrogation measures at the local level.

A. Due Process of Law and Confessions

At common law, coerced confessions were excluded as unreliable. In the 1936 case of Brown v. Mississippi, the defendants were whipped until they confessed. The court ruled this a violation of the Fourteenth Amendment Due Process clause and excluded the confession. Between 1936 and 1964, due process was the only constitutional ground for excluding confessions in non-federal prosecution. The due

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4 Id.
6 Id.
8 Id. at 490-491.
9 Brown v. Mississippi
10 Id.
process standard for excluding confessions is based on voluntariness. Involuntariness is defined as police coercion that "overbears the suspect's will."\textsuperscript{11} In \textit{Ashcraft v. Tennessee}, the court found that police interrogation was inherently coercive.\textsuperscript{12} In \textit{Leyra v. Denno}, a hypnosis-trained psychiatrist asked "subtle and suggestive" questions of the suspect.\textsuperscript{13} The court considered this an involuntary confession because the suspect was in a state of "trance-like submission."\textsuperscript{14} In 1959 the court decided \textit{Spano v. New York}, finding in favor of a totality of the circumstances approach to voluntariness and ruling "official pressure, fatigue and sympathy falsely aroused" as impermissible.\textsuperscript{15} After \textit{Spano}, the Court also disallowed coercive tactics that exploit a defendant’s mental illness, use of truth serum, and unconsented questioning of intensive care unit patient unable to speak.\textsuperscript{16}

\section*{III. Development of the Miranda Doctrine}

\textit{Miranda v. Arizona} was a landmark case in American history. In formulating the holding, the majority’s concerns focused on the "inherently compelling pressures" of custodial interrogation, police brutality, and police tactics.\textsuperscript{17} The police conduct most concerning to the Court involved isolation of a suspect, psychological ploys, emotional appeals, tricks, and the ability of investigators to talk suspects out of silence or request for an attorney.\textsuperscript{18} Invoking the right to remain silent is not as stringent as the right to

\begin{itemize}
\item[\textsuperscript{11}] (Notes)
\item[\textsuperscript{12}] \textit{Ashcraft v. Tennessee}
\item[\textsuperscript{13}] \textit{Leyra v. Denno}
\item[\textsuperscript{14}] \textit{Id.}
\item[\textsuperscript{15}] \textit{Spano v. New York}
\item[\textsuperscript{17}] \textit{Miranda v. Arizona}
\item[\textsuperscript{18}] \textit{Id.}
\end{itemize}
counsel. If a suspect chooses to remain silent, officers can later return and after a period of time, continue questioning the individual. Once a suspect invokes the right to counsel, however, officers must seize questioning and provide an attorney.

The Court also found that evidence obtained as a result of interrogation was not to be used against a defendant at trial “unless the prosecution demonstrated the warnings were given, and knowingly and intelligently waived.”19 Prosecution has the burden of proving by a preponderance of the evidence that a defendant knowingly and intelligently waived his Miranda rights.20 Evidentiary use of a suspect’s invocation of Miranda rights is inadmissible during trial. However, statements that violate Miranda are allowed for impeachment of the defendant at trial if he chooses to take the stand.21

A. Miranda Custody and Interrogation

The protection of Miranda only applies where a suspect is in custody or “otherwise deprived of his freedom in any substantial way.”22 If there is no “custodial” interrogation Miranda does not apply and officers are not required to provide the four core warnings of the doctrine.23 Miranda custody is an objective inquiry from the view of a “reasonable person in the suspect’s situation.”24 An officer’s subjective intent is irrelevant.25 In determining custody, courts look at the totality of the circumstances. Courts first consider if a reasonable person in the suspect’s position would feel at liberty

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20 *Id.*
21 *Id.*
22 (notes)
23 *Id.*
24 *Stansbury v. California* (1994)
25 *Id.*
to terminate the interrogation and leave. They then look at whether the physical environment presents the same inherently coercive pressures as the station house in *Miranda*. Both of these requirements have to be satisfied for *Miranda* custody. Ultimately, *Miranda* custody is considered to be either arrest or its “functional equivalent.”

Since the totality of the circumstances needs to be considered, location alone is not dispositive. In *Oregon v Mathiason*, there was no *Miranda* custody where suspect voluntarily went to the police station for questioning. In *Howes v. Fields*, the suspect’s imprisonment at the time of questioning was not considered the equivalent of custody under *Miranda*. Prior history with law enforcement was also found to be irrelevant to the custody determination. In *Illinois v. Perkins*, the court distinguished between *Miranda* custody and custody “in a technical sense.” *Miranda* custody requires “essential ingredients of a ‘police-dominated atmosphere’ and compulsion.” In *J.D.B. v. North Carolina*, a police officer took a thirteen-year-old out of class and escorted him to a closed-door conference room for questioning without reading his *Miranda* rights. The Court remanded the case because a child’s age is a relevant factor that may be considered in the *Miranda* custody context. The court found that a “reasonable child subjected to

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26 Id.
27 Berkemer v.
28 *Oregon v Mathiason*
29 *Howes v. Fields*
32 Id.
34 Id.
police questioning will sometimes feel pressured to submit when a reasonable adult
would feel free to go.\textsuperscript{35}

Interrogation for Miranda purposes is defined as any “words or actions on the part
of the police that the police should know are reasonably likely to elicit an incriminating
response.”\textsuperscript{36} While “subtle compulsion” is acceptable, express questioning or its
“functional equivalent” is considered interrogation under the Miranda Doctrine.\textsuperscript{37} For
interrogation purposes, the focus is on the suspect’s perception, not the officer’s intent.\textsuperscript{38}
Officers are also not allowed to prey on a suspect’s unusual susceptibility, indulge in a
“lengthy harangue” or make “particularly evocative” comments.\textsuperscript{39}

B. Miranda Rights and Waiver

Once Miranda custody has been established, an officer must provide a reasonable
conveyance of the four core Miranda warnings. In California v. Prysock, a warning
telling the suspect that he will have the right to a free attorney when he goes to court and
can have one during custodial interrogation if he wishes, was sufficient to satisfy the
Miranda requirement.\textsuperscript{40} In Duckworth v. Eagan, a Miranda warning was ruled acceptable
where officers told the suspect that they “have no way of giving [him] a lawyer, but one
will be appointed for [him], if [he] wish[es], if and when [he] go[es] to court.”\textsuperscript{41} Once a

\textsuperscript{35} Id.
\textsuperscript{36} Rhode Island v. Innis (1980)
\textsuperscript{37} Id.
\textsuperscript{38} Id.
\textsuperscript{39} Id.
\textsuperscript{40} California v. Prysock, 453 U.S. 355, 355 (U.S. 1981)
suspect is provided with the *Miranda* warning he may waive his rights, assert his right to remain silent, or invoke his right to an attorney.

Waiving Miranda rights can be inferred from a “course of conduct” via the “actions and words of the person interrogated.”\(^\text{42}\) In *Butler*, the suspect stated that he understood his rights and was presented with a waiver form.\(^\text{43}\) He then told police that he would talk to them but “not sign[] any form” following which he made an inculpatory statement.\(^\text{44}\) A “knowing and intelligent” waiver is one where a suspect understands his rights and the consequences of abandoning them.\(^\text{45}\) A voluntary waiver occurs where there is no government coercion.\(^\text{46}\) The burden of proof is on the government to show by a preponderance of the evidence that the waiver was, in fact, voluntary.\(^\text{47}\)

In *Berghuis v. Thompkins*, the Court found that an uncoerced, express, and unambiguous statement establishes a waiver of the right to remain silent. In *Michigan v. Mosley*, the court looked at whether or not the right to cut off questioning was “scrupulously honored.”\(^\text{48}\) In finding that the invocation of silence was respected the court looked at the amount of time since questioning seized, the difference in location, questioning pertaining to a different crime, a fresh set of warnings, and a different officer questioning the suspect.\(^\text{49}\)

\(^{42}\) *North Carolina v. Butler*

\(^{43}\) *Id.*

\(^{44}\) *Id.*

\(^{45}\) *Miranda*,

\(^{46}\) *Colorado v. Connelly*

\(^{47}\) *Id.*

\(^{48}\) *Michigan v. Mosley* (1975)

\(^{49}\) *Id.*
Once a suspect invokes his right to counsel, he is “not subject to further interrogation…until counsel has been made available to him, unless [he] initiates further communication, exchanges or conversations with the police.”\textsuperscript{50} Unlike an invocation of silence, once a suspect asks for an attorney, officers cannot later return after a period of time and continue questioning. Investigators are also not allowed to question a suspect about a separate offense after he requests an attorney.\textsuperscript{51}

C. Miranda Exceptions

Subsequent decisions limited \textit{Miranda} by carving out exceptions to the well-established doctrine. \textit{New York v. Quarles} created a public safety exception to \textit{Miranda} in cases of emergency.\textsuperscript{52} The Court emphasized that this was a narrow exception focused on danger to the public and discussed the negative consequences of providing \textit{Miranda} warnings in this context.\textsuperscript{53} However, even if a statement under these circumstances is ultimately suppressed at trial, any physical evidence resulting from the coerced confession is still admissible.\textsuperscript{54} While \textit{Quarles} was intended to have a narrow application, it became substantially broader in later years. The Public Safety Exception to \textit{Miranda} warnings now applies to threats of terrorism. According to a Federal Bureau of Investigation memorandum, a broader application of the exception applies for purposes of terrorism than would be “permissible in an ordinary criminal case.”\textsuperscript{55} As discussed previously, violation of \textit{Miranda} can be used for impeachment purposes against the

\begin{itemize}
\item \textsuperscript{50} \textit{Edwards v. Arizona} (1981)
\item \textsuperscript{51} \textit{Roberson}
\item \textsuperscript{53} \textit{Id.}
\item \textsuperscript{54} \textit{Patane}
\item \textsuperscript{55} FBI Memorandum Report (2010)
\end{itemize}
defendant. In *Dickerson v. United States*, the Supreme Court ruled in favor of the warning-and-waiver requirement of *Miranda* striking down a statutory requirement as unconstitutional.

*Miranda* had a profound effect on how police officers interact with suspects. As noted, since the *Miranda* decision in 1966, safeguards for defendants were implemented into regular police practice and penalties for officers who coerce suspects were expanded. In 1971, *Bivens v. Six Unknown Agents* recognized the right to sue federal agents in civil court for constitutional rights violations. In 1974, Congress passed legislation amending the Federal Tort Claims Act dispensing of sovereign immunity and allowing suit where law enforcement agents committed “assault, battery, false imprisonment, abuse of process” and other such crimes. Despite these advances, defendants and witnesses continue to face coercion from police officers leading to improper use of confessions and testimony for prosecutorial purposes. The paragraphs that follow explore the use, reliability, and moral implications of confessions in light of the *Miranda* doctrine.

III. Desire for Confessions and Wrongful Conviction

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The Supreme Court considers confessions a "fundamental goal" of criminal justice. The purpose of our criminal system is to assure that innocent people are not wrongfully punished while the guilty remain free. The aim of a criminal trial is that the "guilty be convicted and the innocent go free." Confessions play a central role in this process. A confession is one of the most powerful ways of proving a defendant's guilt. A defendant's own confession is "probably the most probative and damaging evidence that can be admitted against him." Confessions have such a strong impact on a jury that it is highly unlikely the damage of a confession, even if coerced, could fully be remedied once a jury learns of it. This is an obvious problem for the search of truth and justice. Confessions are sometimes indispensable in establishing guilt.

A. Significant Cases

The "Central Park Jogger" case is one of many examples showing injustice. In 1989 five juveniles were held and interrogated for about fourteen to thirty hours before ultimately confessing to the brutal rape of a jogger in Central Park. All juveniles were ultimately found guilty and sentenced to various terms of imprisonment despite their conflicting statements and inconsistent confessions of what occurred the night of the rape.

incident. In 2002 a serial rapist, by the name of Matias Reyes, confessed and DNA confirmed, that he was the rapist in the Central Park Jogger case. The convictions were vacated and the "Central Park Five" received a forty-one million settlement from the City of New York for the many shortfalls of the investigation and wrongful convictions. This case highlights the unreliability of confessions and a jury's tendency to place substantial weight on confessions even when there is little other evidence available. This poses an important question for the administration of justice in our current criminal justice system and a valuable inquiry into the desire for confessions at the cost of truth.

While confessions are certainly preferable, their purpose is demolished when coercive tactics overshadow the process. According to the Innocence Project, thirty percent of wrongful convictions result from false confessions. Among the causes leading to false confessions are intimidation, devious interrogation techniques regarding availability of implicating evidence, and suspect's fear that failure to confess will yield a harsher punishment. Furthermore, research shows that juveniles do not fully understand

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67 Id.
69 Id.
71 Id.
their rights or know how to exercise them.\textsuperscript{72} This also applies to adult suspects who are mentally ill or lack experience with the criminal justice system.\textsuperscript{73}

Of concern is the “compromised reasoning ability of the suspect, due to exhaustion, stress, hunger, substance use, and, in some cases, mental limitations, or limited education.”\textsuperscript{74} The Innocence Project tells the story of Eddie Joe Lloyd, a mentally ill man who wrote to police with suggestions for solving recent crimes.\textsuperscript{75} Lloyd was taken to police headquarters where he was fed details of a 1984 murder of a sixteen-year-old girl and told that he was helping police catch the “real killer.”\textsuperscript{76} After an hour of deliberation, the jury convicted Lloyd.\textsuperscript{77} In 2002, almost twenty years later, DNA evidence exonerated him.

B. Recent Developments

A recent example of exoneration shows more innocent individuals being released after spending a lifetime behind bars for a crime they did not commit. In Cleveland, Ohio three men were convicted and sentenced to death in the killing a businessman in 1975.\textsuperscript{78} The defendants, Ronnie Bridgeman, Ricky Jackson, and Wiley Bridgeman were

\begin{itemize}
  \item Everington, C., & Fulero, S. M., \textit{Competence to confess: Measuring understanding and suggestibility of defendants with mental retardation}. \textit{Mental Retardation}, 37, 212–220 (1999)
  \item The Innocence Project: False Confessions & Mandatory Recording of Interrogations, (http://www.innocenceproject.org/fix/False-Confessions.php).
  \item The Innocence Project: False Confessions, (http://www.innocenceproject.org/understand/False-Confessions.php).
  \item \textit{Id.}
  \item \textit{Id.}
\end{itemize}
seventeen, nineteen, and twenty years old at the time of their sentencings. They initially received the death penalty but the sentence was later amended to life in prison and after forty years, they were finally released on November 21st. The main witness against the three individuals was Eddie Vernon, who was only twelve-years-old at the time of the homicide. In his recent affidavit Vernon asserts that Cleveland police coerced him into implicating the three men in the murder. This shows the great power of police coercion, not simply towards defendants and possible suspects, but potential witnesses as well. Of great concern is the effect of such tactics on the entirety of our current justice system.

The recent deaths of Michael Brown and Eric Garner further exemplify the substantial abuse of power and disregard for human life by police officers. On August 9th, Michael Brown, a black teenager, was shot and killed by Darren Wilson, a white police officer. Witnesses reported seeing Michael Brown partly inside the police vehicle. Wilson claimed that Brown reach into the vehicle and fought for his gun. Brown’s blood and other DNA was found “outside the driver’s door, outside the left rear passenger door, inside the driver’s door, on the upper left thigh of Officer Wilson’s pants and on Officer Wilson’s shirt and weapon.” Brown had a close-range graze wound on

79 Id.
80 Id.
81 Id.
82 Id.
84 Id.
85 Id.
86 Id.
his right thumb, consistent with a close range shot. Some witnesses stated that Brown never moved towards Wilson when he was shot to death but the county prosecutor said the most ‘credible’ witnesses “reported that Mr. Brown charged toward the officer.” Wilson fired a total of twelve shots during the altercation.

In the case of Michael Brown, the grand jury consisted of nine white and three black jurors. The grand jury was to decide whether or not there was probable cause to charge Wilson with a crime and if so, which one. To indict Wilson, nine of the twelve jurors had to agree. However, due to the media’s focus on this case, among other factors, this was not a typical grand jury proceeding. Usually a grand jury reviews a case for a single day, the prosecutor provides a single charge or range of charges, and testimony is heard from a few witnesses. Here, the grand jury met for twenty-five days over the course of three months, heard testimony from sixty witnesses, and the prosecutor did not recommend a charge or range of charges. Despite the failure of the grand jury to indict Wilson, the FBI and Justice Department began a civil rights investigation of the Ferguson police to examine a potential “history of discrimination or misuse of force.” The events in Ferguson created an uproar that brought substantial attention to discrimination by white police officers towards blacks. Protests around the country are continuing to raise awareness of the issue in the hope that changes in police tactics and procedures will stop the continuing injustice.

87 Id.
88 Id.
89 Id.
90 Id.
91 Id.
92 Id.
93 Id.
The death of Eric Garner is an even more debilitating example of police brutality. While attempting to break up a fight, Eric Garner was stopped and questioned for allegedly selling individual cigarettes without tax stamps.\(^4\) During the exchange between two officers and Garner where Garner continued to assert his innocence, one officer attempted to put handcuffs on him as Garner asked to not be touched.\(^5\) At this time, another officer grabbed a hold of him from behind and took him down to the ground.\(^6\) Gardner kept repeating, “I can’t breathe, I can’t breathe” as officers held him down.\(^7\)

The New York City medical examiner ruled Eric Garner’s death a homicide finding that “compression of the neck and chest, along with Garner’s positioning on the ground while being restrained by police...caused his death.”\(^8\) The officer clearly used a chokehold to restrain Gardner, in violation of New York City Police Department policy.\(^9\)

On December 3\(^{rd}\), 2014, a grand jury found “no reasonable cause” to indict the white officer who caused Garner’s death.\(^10\) After the grand jury’s decision, U.S. Attorney General Eric Holder stated that the Justice Department would begin an “independent, thorough, and fair” civil rights inquiry.\(^11\) A video of Eric Garner’s encounter with police officers, his assertion that he was unable to breathe, and the resulting death caused a


\(^5\) http://www.huffingtonpost.com/2014/12/04/pat-lynch-eric-garner_n_6272738.html

\(^6\) Id.

\(^7\) Id.


\(^9\) http://www.cnn.com/2014/12/04/us/eric-garner-chokehold-debate/

\(^10\) http://www.usatoday.com/story/news/nation/2014/12/03/chokehold-grand-jury/19804577/

\(^11\) Id.
unified response from liberals and conservatives regarding the grand jury’s shocking decision not to indict.

If the aim of the criminal justice system is to discover the truth, all relevant aspects of an investigation or police encounter must be taken into consideration during the indictment process and prior to trial to avoid punishment of the innocent and ensure the guilty are held accountable. Many states, and even the federal government, lag behind in implementing protections that are necessary for prevention of false confessions. The root of the problem in the continuing injustice is the mentality of those capable of abusing their power and unavailability of proper restrictions and policies to prevent such abuses.

III. Safeguards Against False Confessions

There are two ways to avoid false confessions. The first is by suppressing more confessions under the Due Process Clause and Fifth Amendment right against self-incrimination. However, the Due Process clause is only meant to protect from “actual coercion” during interrogation as interpreted in Brown v. Mississippi.\textsuperscript{102} The Due Process clause does not protect suspects from subtle coercive tactics during interrogation. Under the Fifth Amendment, Miranda, and current police procedures where innocent people are sent to prison, or even death row, indicate that more is needed to protect suspects.

The second way, and that proposed by the Innocence Project and various other scholars, is through modifications to the rules of evidence and a requirement for recorded

\textsuperscript{102} Brown v. Mississippi, 297 U.S. 278, 286 (U.S. 1936).
interrogations, for confessions to be admitted during trial.\textsuperscript{103} Implementation of a requirement for the recording of all interrogations would allow juries to view the interrogation process and decide for themselves if, and to what extent, coercion played a role in a confession. Recording of interrogations could also allow for greater percentage of cases being resolved prior to trial if the video indicates clear signs of coercion. Generating a standard rule for recording of interrogations is the most efficient means for ensuring justice is served.

IV. Why Suspects Waive \textit{Miranda} Rights

Despite many efforts to ensure suspects are informed of their rights and protected from police coercion, a majority continues to waive their \textit{Miranda} rights. A study that observed live and videotaped police interrogations found that four out of five suspects waive their \textit{Miranda} rights and proceed with questioning.\textsuperscript{104} Subtle police coercion leads suspects to believe that invoking \textit{Miranda} rights is a risky option. A famous police interrogation practice known as the Reid Technique teaches officers how to use body language, tone fluctuation, and other indirect methods of making suspects uncomfortable


enough to ultimately confess.\textsuperscript{105} The psychological impacts of these techniques are so powerful that it is no surprise so many suspects waive their \textit{Miranda} rights.

Police often establish rapport with the suspect becoming sympathetic allies and “minimizing the process as a mere formality, thus increasing perceived benefits” over the relative costs of waiving \textit{Miranda}.\textsuperscript{106} Police have a further incentive in obtaining information from a suspect even when it violates \textit{Miranda}. In some states officers are specifically trained to obtain information “outside \textit{Miranda}” even after invoking their rights.\textsuperscript{107} While this information cannot generally be used during trial, it can be used to impeach the defendant if he takes the stand\textsuperscript{108} or discover the whereabouts of physical evidence that can be introduced at trial.\textsuperscript{109} Innocent people are at a particular risk for waiving their \textit{Miranda} rights, as exemplified by the “Central Park Five” and “Lloyd” cases mention above. However, because the innocent are generally apt to waive their \textit{Miranda} rights, they are especially at risk for being coerced into false confessions. Innocent people are particularly at “risk” of waiving their \textit{Miranda} rights.\textsuperscript{110}

The interrogation process is a “pivotal point in the life of the accused and in the criminal justice system.”\textsuperscript{111} It can have a substantial impact on the disposition of a case and if a confession is obtained the outcome of trial is likely predetermined. In a study

\begin{footnotesize}
\begin{enumerate}
\item Starr, Douglas, \textit{The Interview: Do police interrogation techniques produce false confessions?} The New Yorker, Dept. of Criminal Justice (Dec. 9, 2013).
\item Id.
\item Harris, 401 U.S. at 225
\item \textit{United States v. Patane}, 542 U.S. 630 (U.S. 2004).
\item Id.
\end{enumerate}
\end{footnotesize}
where a hostile detective interrogated seventy-two participants (some guilty some innocent of a mock theft), the innocent participants were much more likely to waive their *Miranda* rights “naively believing in the power of their innocence to set them free.”¹¹² This finding raises questions regarding the gathering process of confessions and their general reliability during the prosecutorial process and trial. If a guilty suspect is less likely to waive their rights and the confession of an innocent person is used against them the possibility of innocent people going to jail for crimes they did not commit is substantially higher.

**VI. Confessions Through a Moral Lens**

Looking at confessions in light of moral implications reveals a contradiction between the desirable goals of confessions and reality of achieving them. Morality encourages a confession in hope that truth will be the ultimate result. According to Plato, a person should not “keep his wrongdoing hidden but bring it out into the open, so that he may pay his due and get well.”¹¹³ The innocent are far more likely to waive their *Miranda* rights hoping that truth will protect them. Yet, various cases show that this is not always the case and the words of innocent individuals are sometimes mis construed to achieve a perceived favorable outcome in a prosecution rather than to discover the truth.¹¹⁴

**A. The Common Good**

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¹¹² Id. at 211.
¹¹³ PLATO, GORGIAS 480c-d, in PLATO COMPLETE WORKS 825 (John M. Cooper ed., Donald J. Zeyl trans., 1997).
¹¹⁴ Supra footnote 42.
The "common good" refers to the "sum total of social conditions which allow people, either as groups or individuals to reach their fulfillment more fully and more easily."\textsuperscript{115} It is the combined set of conditions "necessary for every member of the community to flourish as a member of the community."\textsuperscript{116} John Finnis describes the "common good" as a factor or set of factors "which, as considerations in someone’s practical reasoning, would make sense of or give reason for his collaboration with others and would likewise, from their point of view, give reason for their collaboration with each other with him."\textsuperscript{117} It is necessary for the individual to strive to achieve the common good and for a community as a whole to work towards this goal to be able to actually accomplish it.

Justice and truth are directly related to the common good because these two qualities are necessary for a society to fulfill its basic human needs and communal responsibilities.\textsuperscript{118} Thus, the common good encompasses the necessary set of values for a community to prosper. However, the individual person cannot be "treated unjustly to achieve communal justice" and basic human dignity cannot be violated to advance a

\textsuperscript{115} CATECHISM OF THE CATHOLIC CHURCH 365 (United States Catholic Conference, Inc. 1997).
\textsuperscript{117} JOHN FINNIS, NATURAL LAW AND NATURAL RIGHTS 154 (1980).
Truth and justice are characteristics directly related to achieving the common good.

B. The Seven Basic Goods

Finnis' exploration of natural law and theory focuses primarily on what constitutes a worthwhile and valuable life. His response to this inquiry is the proposal of seven basic goods that contribute to an overall fulfilling life. Finnis believes that these seven basic goods apply to people at all times and argues that all seven are necessary for an overall fulfilling life.

The seven basic goods are: life, knowledge, play, aesthetic experience, sociability (friendship), practical reasonableness, and religion. Life is the propelling force behind self-preservation and encompasses bodily health, freedom from pain, transmission of life through procreation, and marriage. Knowledge, in and of itself, is desirable because it is always good to be informed rather than remain ignorant. Play includes general entertainment, recreation, enjoyment, and fun. Aesthetic experience involves the appreciation of beauty in art and nature. Sociability and friendship create peace and harmony among people and in its strongest form, people act in furthering a friend's interests without expecting a benefit outside of mere friendship. Practical reasonableness is the second to last practical good and the primary focus of Finnis's analysis. It discusses

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119 Id. at 68-69.
120 JOHN FINNIS, NATURAL LAW AND NATURAL RIGHTS (1980).
121 Id.
122 Id.
123 Id.
124 JOHN FINNIS, NATURAL LAW AND NATURAL RIGHTS (1980).
125 Id.
126 Id.
the use of one’s intelligence to solve problems. The last basic good is religion, which focuses on individual interests and a transcending order rather than what the word “religion” has become known to include.

There are nine subcategories of practical reasonableness that form a method for making decisions. The importance of practical reasonableness is especially emphasized because it helps people make decisions on how to structure their time and what matters to focus on. The nine subcategories of practical reasonableness are:

1. The good of practical reasonableness creates the desire to pursue other goods and molds participation in other goods.
2. A coherent plan of life.
3. No arbitrary preference amongst values.
4. No arbitrary preference amongst persons.
5. One should be both open-minded and committed to one’s projects.
6. Actions should be reasonably efficient and weighed against consequences
7. Respect for every basic value in every act.
8. The common good requires individuals to advance the interests of the community.
9. Individuals should follow their inner conscience and not go against it.\textsuperscript{127}

The seven basic goods combined with the nine requirements of practical reasonableness form Finnis’ theory form the principles of natural law. The paragraphs that follow explore and apply these principles to police officers in light of recent case developments and the role of officers in the community.

\textsuperscript{127} JOHN FINNIS, NATURAL LAW AND NATURAL RIGHTS (1980).
C. Natural Law and Injustice

Practical reasonableness is the core of Finnis’ theory and a good in itself that promotes the desire for other goods. Application of this principle to the conduct of police officers is difficult due to the inability to find reasonableness in their conduct. The case of Eric Garner is a prime example of this. Multiple videos of the encounter show Garner on the ground repeating “I can’t breathe” multiple times as officer continued to stand on top of him. Garner remained on the ground, face down, while they waited for the ambulance to arrive with officers doing nothing to help him. Finnis would not regard this as practically reasonable behavior.

Police officers choose a career in law enforcement for various reasons. However, the community they serve can only hope that these officers chose a coherent life plan in law enforcement because they want to protect people, not hurt them. Michael Brown was robbed of his life plan when Officer Wilson shot him. Brown was only eighteen-years-old. The wrongfully convicted were also robbed of their life plan. One of the exonerated individuals, Ronnie Bridgeman, from the 1975 Ohio case made a statement after his release:

"They killed Ronnie Bridgeman. They killed his spirit. They killed everything he believed in, everything he ever wanted. I wanted to be something, too. I could have been a lawyer possibly. I could have been Barack Obama. Who knows?"

The prime years of his life were stolen from him. He is now fifty-seven years old.

The third principle of practical reasonableness indicates that there shall be no arbitrary preference among values. It is unfortunate that one of the most important values
is the one to suffer the most under police coercion, brutality, and abuse of power. The regard for human life is so diminished by so many officers with a gun in hand that they shoot to kill, rather than simply injure an individual. A higher regard for human life and the consequences of killing someone are not as apparent to an officer who has all the power defined in the pull of a trigger. The only cure for the abuse of such power is to monitor police actions through portable cameras on officer uniforms. The ultimate search for truth is far easier when the community can see the truth for itself and determine the proper consequences, cures, and solutions of those actions. Until then, a jury can continue to excuse the indictment of a police officer on the basis of insufficient evidence. Further action can be taken through the legislature as it was done in past years to remove protections for officers who commit crimes against innocent members of the community.

The fourth subcategory of practical reasonableness is particularly relevant to the recent developments in Ferguson and New York City. Finnis emphasized that there shall be no arbitrary preference among persons. Yet, injustices based on skin color continue to plague our society. Both Michael Brown and Eric Garner were black men killed by white police officers. A police officer is in a position of trust as a supposed guardian of the community. Yet, many police officers lack the open-minded requirement of the fifth factor for practical reasonableness. Most significant, however, is the inability of these officers to weigh their actions against the consequences. When looking at the fourth and sixth factors, it is apparent that perhaps police officers do not view the killing of a black person as a substantial consequence due to their arbitrary bias towards blacks.
Human life is a basic value that police officers do not respect and therefore fail to meet the seventh subcategory of practical reasonableness. The common good requires individuals to advance the interests of the community as a whole. Police officers should be held to an even higher standard with regard to the community. They are in a position of substantial power over the people and play a role that should serve and protect the community rather than abuse it.

The last principle appears contradictory to the remaining factors of practical reasonableness. Individuals are told to follow their inner conscience and not go against it. A person's inner conscience may be completely in opposites with the good of the community. If he is to never go against his inner conscience, he must then go against the interests of the community. Without this last principle, practical reasonableness appears fairly direct in its execution. Yet, police officer, the protectors of our communities, would fail in meeting Finnis' requirements.

According to Finnis, Eric Garner and Michael Brown deserved bodily health, freedom from pain, transmission of life through procreation, and marriage. Both were robbed of this basic good by the bias and inappropriate conduct of police officers. The only cure for such injustice is knowledge: a desirable good in and of itself. Sociability and friendship create peace and harmony among people and in its strongest form, people act in furthering a friend's

VI. Conclusion
In light of the moral overview and desire to search for truth through the *Miranda* Doctrine, recent cases and a large number of exonerations point to the need for new policies for police officers and changes to evidentiary rules to discourage coercion and impropriety. *Miranda* is no longer enough to protect the community from the hand of its supposed guardians.