

Ask a Cop Submission
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Q: I have a friend that was arrested and he said the cops never read him his Miranda Rights. Aren't officers supposed to read everyone their rights after they're arrested?

A: The answer takes some explanation, but the short answer is "no." There is no constitutional requirement that a police officer read anyone the rights provided by the Miranda decision just because they are under arrest.

Interestingly enough, these constitutional rights came from an arrest of Ernesto Miranda, made by the Phoenix Police Department in March of 1963, for a misdemeanor theft. However, officers believed that Miranda was also responsible for the Kidnapping, Rape and Robbery of an 18 yr old girl about two weeks prior to the theft. During a two-hour interrogation Miranda confessed to the theft as well as the felony crimes committed against the young girl. After years of legal battles over the voluntariness of Miranda's confession, which went all the way to the US Supreme Court, in 1966 it became a constitutional requirement that Miranda Rights would apply in certain situations.

Two conditions must be met in order for the police to read Miranda Rights. First, there must be "custody." The basic definition of custody is that the person is not, or does not feel, free to leave. The second condition is "interrogation," meaning that the police are asking the person specific questions about the crime they are investigating.

Only when both conditions, custody and interrogation, exist are the police required to read Miranda. So, if you are interviewed by a police officer, but are not in police custody, they are not necessarily going to read you your rights. Similarly, if you get arrested, but the officer does not want to ask you specific questions about the crime, the officer has no obligation to advise you of your rights.

Ironically, after being released from prison, in 1976 Ernesto Miranda was stabbed to death in a Phoenix bar fight. His killer exercised his right to remain silent under Miranda, and was never convicted.