

Ensuring Rights of Non- and Limited-English Speakers

The Constitutional rights embodied in the *Miranda* warnings are quite familiar to most living in the United States. To non-English speaking suspects, however, the *Miranda* warnings mean nothing, absent a plainly worded and accurate translation in the suspect's native language. Even to suspects that have some English proficiency or are given a translation in the suspect's native language, *Miranda* warnings could still lack meaning, if they hail from countries in which the *Miranda* rights are completely foreign or that have cultures of unquestioned deference to authorities. Indeed, there are many cultures, like the one in which I was raised, where education and English proficiency are highly valued and shame is associated with admitting to not having understood seemingly basic English words. But the words in a *Miranda* warning are far from basic; they have significant and



Susan Shin

President
Asian American Bar
Association Of New York

SUSAN L. SHIN is a partner
at Arnold & Porter in New
York.

complicated meanings that are rooted in American culture. Even I, a native English speaker, found the terms difficult to understand before becoming a lawyer. How much more difficult is it for a non-native English speaker who does not understand legal concepts and implications of, for example, the "right to remain silent," "waiver," and "consent"? Still, many respond in the affirmative when asked if they understand and consent to questioning and waive their rights, even if they failed to comprehend the words being communicated to them.

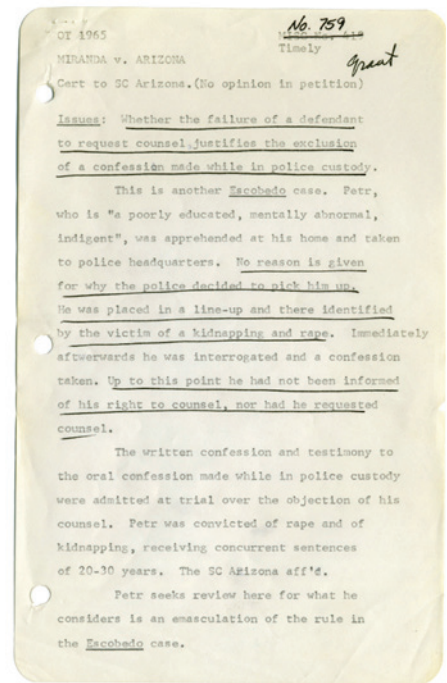
The Constitutional rights set forth in *Miranda* warnings necessarily must be conveyed in "clear

and unequivocal language." *Miranda v. Arizona*, 384 U.S. 436, 466 (1966). Federal law requires that law enforcement departments address language barriers and provide services to suspects with limited English proficiency.¹ But policies and practices of police departments regarding non- or limited-English speaking suspects and translation services vary depending on a variety of factors, including the communities they serve, frequency of contacts with individuals with limited English proficiency, and resources available them.²

There are obvious costs and practical challenges associated with making translation services available in every language possible. But given the importance of *Miranda* rights, law enforcement should endeavor to make accurate *Miranda* translations available in every language, including dialects, represented in



Ernesto Miranda joins a lineup in March 1963 on the day of his infamous confession.



ARIZONA STATE ARCHIVE, LIBRARY AND PUBLIC RECORDS (2)

A Bench Memorandum lists the issues in 'Miranda v. Arizona'.

the communities they serve. One way to ensure *Miranda* rights are understood by more non- or limited-English speaking suspects is to have each state or district create and maintain a database of certified translations of *Miranda* rights in all relevant languages that is accessible to every police precinct. Most if not all precincts have the ability to download, print, and display the translations to a foreign language-speaking suspect. This is a simple and cost-effective solution, and while it would not address illiteracy or

the language barrier in any ensuing interrogation once rights are voluntarily waived, more non- or limited-English speaking suspects would receive meaningful communication of these fundamental Constitutional rights.

The criminal justice system must constantly strive to protect and preserve the Constitutional rights of non- or limited-English speaking individuals, as much as the native English-speaking majority. We all must bear the burden—law enforcement, prosecutors, the defense bar

and courts alike—of ensuring that the important protections of *Miranda* are not merely futile and empty procedural formalities to this country's growing non- or limited-English speaking population.

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1. Department of Justice, "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibitions Against National Origin Discrimination Affecting Limited English Proficient Persons," 67 Fed. Reg. 117 (2002).

2. See http://www.lep.gov/Law_Enforcement_Planning_Tool.htm.

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