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## You Have the Right to...What? A Study of Knowledge of Americans' Rights in Criminal Proceedings

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**You Have the Right to...What?**  
**A Study of Knowledge of Americans'**  
**Rights in Criminal Proceedings**



Honors Thesis

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Department: Psychology

Advisor: Melissa Berry, Ph.D.

April 2017

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### Abstract

An exploratory questionnaire was developed to assess participants' knowledge of American rights during criminal proceedings, their confidence in that knowledge, and whether their experiences, professional or recreational, are associated with that knowledge. Questionnaire items covered topics such as Bill of Rights, Miranda Rights, Interviews and Interrogations, Rights During Trial, and Post-Conviction Rights. Demographic variables assessed field of study/employment, encounters with the Criminal Justice System, and viewership of crime-based television shows. Responses were analyzed in an attempt to find patterns in knowledge. Results showed that participants were most knowledgeable regarding the Bill of Rights, rights during a criminal trial, and post-conviction rights; participants were least knowledgeable regarding *Miranda* rights and general rights during police interviews and interrogations. Confidence in participants' responses varied, but they were least confident in correct answers when responding to questions on post-conviction rights and most confident in incorrect answers when responding to questions on rights during police interviews and interrogations. A significant gender difference was found for confidence, but no associations were found among correctness, confidence, and other demographic variables. More education is necessary for both citizens and law enforcement in order to increase awareness of people's rights. Increased knowledge of rights will likely increase people's confidence and encourage them to exercise those rights, helping to more fully protect themselves when engaged in the Criminal Justice System.



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## **You Have the Right to... What? A Study of Knowledge of Americans' Rights During Criminal Proceedings**

According to the FBI's Uniform Crime Report, a collection of crime statistics voluntarily reported by participating law enforcement agencies, "nationwide, law enforcement made an estimated 10,797,008 arrests in 2015," not including citations for traffic violations (<https://ucr.fbi.gov>). Brame, Bushway, Paternoster, and Turner (2014) found that 49% of African American, 44% of Hispanic, and 38% of white men have been arrested by age 23. Furthermore, the United States incarcerates a higher percentage of its citizens than any other country in the world (Walmsley, 2016, p. 2). These numbers are jarring and suggest that a significant number of Americans have had run-ins with the law. Yet, the education system does little to prepare citizens for these encounters, failing to teach mandatory courses about the general rights and protections Americans have when they interact with the Criminal Justice System. Many people claim to know their rights and are able to recall a few amendments from the Bill of Rights and perhaps recite the *Miranda* warnings. However, relatively few people are aware of the intricacies of these rights, and even fewer know what protections they truly have in the event of an arrest. The consequences of not knowing one's rights are serious, and could result in incarceration and permanent criminal records, which can have devastating consequences on people's futures. So, what do people really know about American rights? How confident are they in that knowledge? Are they prepared for situations in which this knowledge is of utmost importance? The current study was designed to seek answers to these questions by looking for gaps in people's understanding of the law, investigating

the relationship between participants' accuracy and confidence in their responses, and associations between their responses and various experiences.

Despite the importance of the questions at hand, the researchers could find no other studies that addressed these issues. Therefore, the survey used in this instance (see Appendix) was developed after thorough research into Americans' rights during criminal proceedings. Though many individuals can recite the words of the *Miranda* Warning, the real-life application and complexity of these rights are more difficult to understand. It is well known that people have the right to remain silent, and that anything they say can and will be used against them in a court of law. Additionally, people have the right to an attorney; if they cannot afford one, one will be provided at no cost. However, Ainsworth (2008) noted that linguistics and norms of conversation play a large role in whether or not a person of interest is actually protected by the *Miranda* rights. She asserts that, since invocations of *Miranda* rights must be clear, unequivocal, and unambiguous, and because the average person has no legal training and little understanding of the required legal speech, many attempts to obtain legal protections go unacknowledged. Arrestees are not routinely provided with a clear way to assert their rights, and the police often do not take into consideration the norms of conversation or power dynamics involved in interrogations. Therefore, "...when there is power asymmetry between the parties, the relatively powerless speaker [is] unlikely to make direct and unhedged demands upon the more powerful party" (Ainsworth, 2008, p. 7), resulting in the protections being unattainable. Thus, due to the restrictions in phrasing for assertion and the relative ease of waiving, rights that most individuals believe to be important protections have become more of a formality. All of this makes what is assumed to be a simple, effective

protection quite confusing (Taylor, 2015). He states that while people know what the *Miranda* rights are, few understand how or when they are required to be used and the complex changes the warnings have undergone since their creation. The *Miranda* rights are rooted in the Constitutional protection against self-incrimination (5<sup>th</sup> Amendment) and right to a lawyer (6<sup>th</sup> Amendment), both of which were intended to prevent police from coercing confessions out of criminal suspects. Taylor investigated this by looking at the history and background of *Miranda*, starting with *Brown v. Mississippi* (1936), which dealt with physically-coerced confessions, to cases involving lengthy interrogations, deprivation of food and sleep, the failure to provide an attorney and to inform suspects of their right to remain silent, all the way up to *Miranda v. Arizona* 30 years later. Examining the application of the *Miranda* warnings for suspects being held in police custody, he noted a “two-pronged” approach, determining (1) if the warnings need to be given, and (2) whether the suspect waived or asserted the rights (p. 15). Taylor also indicated the consequences for the police if the *Miranda* warnings are not followed, which include confessions being inadmissible.

If the specifics of the *Miranda* warning seem perplexing, then understanding the intricacies of rights during police interviews and interrogations may also be daunting. One of the biggest concerns for the current study is gauging people’s knowledge of how suspects are protected from deceitful tactics used by the police in an effort to get a confession. Miller Shealy Jr. (2014) notes that “...in the hunt for criminal suspects, it is appropriate to use deception to get some suspects to confess. However, not all deception is appropriate” (p. 25). While some forms of coercion, such as physical violence, are constitutionally prohibited, forms of psychological coercion are not unlawful. The

Supreme Court has routinely upheld the use of various forms of deception in investigations, believing that law enforcement should be permitted to use fraud in order to gain confessions from suspects. Therefore, it is imperative that suspects in interrogations be familiar with what is and is not permissible. Yet, as shown by Leo and Liu (2009), not only are Americans unfamiliar with their rights during police interrogations, but they also do not understand the impact that police coercion has on incidents of false confession. Leo and Liu surveyed potential jurors regarding their perception of interrogation techniques and how likely each technique is to result in a true confession from the guilty and a false confession from the innocent. Despite numerous social science studies showing that "...when misapplied to the innocent, the methods can, and sometimes do, lead to false confessions" (p. 382), the jurors did not believe that psychological coercion would result in false confessions from the innocent. Jurors also tend to place a premium on forensic evidence and scientific analysis, expecting that criminal cases will routinely produce DNA and physical evidence, and do not understand that in many instances a confession from a suspect is actually the strongest piece of evidence in a case (Leo & Lui, 2009; Shealy, 2014). Although some well-known safeguards include the presumption of innocence, assigning the prosecutor the burden of proof, allowing the suspect to petition to have unlawfully obtained evidence suppressed, and the use of expert witnesses, there are many other procedures designed to shield suspects from coercion in interrogations that people involved in criminal proceedings ought to be aware of in order to best protect themselves (Leo & Lui, p. 383).

Although the 6<sup>th</sup> Amendment and the *Miranda* rights provide a criminal suspect with the right to obtain an attorney, it is estimated that up to 80% of arrestees waive this



right and do not request or receive a lawyer to assist them (Finnerty, 2016). Therefore, approximately only 20% of suspects make use of this safeguard during interrogations and criminal trials. Although these defendants may have professional counsel assisting them, they are not always aware of certain stipulations regarding what rights the defendant has and what aspects of proceedings legal counsel has discretion to control. Even though it is the defendant's future at stake in a trial, a good deal of control over the case is in the hands of the defense attorney. This control is over the strategic decisions of the case, such as how to craft the argument, to cross-examine witnesses, and all other decisions that would benefit from professional training and judgment (Blakemore, 2013). Thus, while the defendant retains the control over fundamental decisions (i.e. plea deals, whether to plead in court, whether to testify on the stand), the lawyer has the power to determine the direction of much of the proceedings.

If convicted in the American Criminal Justice System, punishment for the crime often extends beyond the period of incarceration, and certain rights may be lost post-conviction. The United States' Department of Justice (1996) released findings from a survey of all 50 states, indicating the civil disabilities (i.e., lost rights) of convicted felons in those states. Knowledge of these disabilities is very important, as people involved in criminal proceedings should be fully aware of what they stand to lose should they be convicted. Although many people believe they know what is prohibited for convicted felons, the rights that will be forfeited post-conviction vary depending on the location of the crime and the subsequent legal proceedings, and also whether the felony was at the federal or state level. Rights that are lost, whether temporarily or permanently, can

include voting, serving on a jury, holding public office, and obtaining a firearm, among others.

Although the main purpose of the present study was to determine knowledge of Americans' rights during criminal proceedings and determine participants' confidence in that knowledge, the researchers were also interested in the association between participants' knowledge and confidence with their experiences. While no prior studies were found assessing the association between profession/field of study, knowledge, and confidence, Maeder and Corbett (2015) did address the impact of the "CSI effect" and jurors' guilty verdicts. The CSI effect is commonly described as the belief that watching crime television shows can cause jurors to have an unrealistic expectation of having forensic evidence at trial. Maeder and Corbett did not find any direct effects of crime television viewing on jurors' verdicts; however, they did find that amount of time watching crime shows and the individual's perception of whether the show was realistic had an impact on verdicts. A conceptually similar idea was incorporated into the current study by including demographic items that asked participants how much time they typically spend watching crime-based shows and how realistic they perceive them to be compared to real-life criminal proceedings.

The purpose of the present study was to assess the knowledge of legal rights of American citizens in criminal proceedings and to determine what factors are associated with that knowledge. The researchers' general expectation regarding the results was that participants would have a basic knowledge of these rights; however, the survey was designed to better understand whether experience interacting with the criminal justice system and/or viewership of crime-based television shows is associated with that

knowledge and confidence in participants' answers. Descriptive analyses of the data were conducted to reveal patterns. The results of this study have the potential to provide insight as to where additional education is necessary regarding knowledge of rights in criminal proceedings.

## **Method**

### **Participants**

The sample consisted of 37 participants from a moderately-sized city in the Midwest. The convenience sample was recruited on the campus of a private, medium-sized university and from the surrounding community. Participants were nearly evenly divided regarding sex (19 females, 17 males), and one participant preferred not to respond to this item. A majority (56.8%) of participants were between the ages of 18-20 years old, 32.4% were between the ages of 21-23, and the remaining 10.8% were 24 years old or older. A substantial majority of participants were Caucasian (89.2%), and the rest were relatively evenly distributed across Black (2.7%), Hispanic/Latino (2.7%), and Asian/Asian American (5.4%). A slight majority of participants had at least some college education (51.4%), whereas 27% had obtained a bachelor's degree, 18.9% had a high school diploma or equivalent, and 2.7% had a master's degree. The most frequently occurring category for field of study/work was "other," and the least common category was Criminal Justice/Law and Teaching. Table 1 displays the frequencies and percentages for Encounters with the Criminal Justice System; the majority of participants (78.4%) indicated that they had not had any such experiences. Table 2 displays frequencies and percentages for participants' viewership of crime-based television shows, with 64.9% indicating that they watch crime-based TV shows. Although somewhat

contradictory to the item regarding whether they watch such TV shows, participants' responses indicating the amount of time per week they spend watching crime-based TV is displayed in Table 3, with 64.9% of participants indicating that they spend less than one hour per week watching such shows, and 35.1% endorsing one of the other options (ranging from 1-4 hours/week). Table 4 indicates the frequencies and percentages for participants' perceptions of realism in regards to crime-based TV shows.

### **Materials and Procedure**

The survey, which was designed by the researchers for the purpose of the current study, consisted of 87 items concerning knowledge of basic criminal rights in America (see Appendix). For each item, participants were asked to either mark "T" or "F" regarding whether they believed the item was or was not an American right during criminal proceedings. Following this determination, participants then noted their confidence in their response using a scale of 1 "not confident at all" to 5 "completely confident." Participants' responses were scored regarding correctness and analyses were computed on their reported confidence.

The researcher administered the survey to small groups of participants in designated, reserved rooms. After granting written informed consent, participants were given the survey. The participants were asked to read the directions and respond to the items. When finished responding, participants were asked to hand the completed surveys to the researcher, at which point the participants were given written debriefing sheets, thanked, and dismissed.

## Results

Participants' responses were scored for correctness and confidence. On average, participants correctly responded to 67% (SD = 6.713) of the survey's true/false items. Individual scores for correctness ranged from 54-80%. When answering items correctly, participants were not confident (a rating of 1 or 2) in the accuracy of their responses an average of 20% (SD = 17.86) of the time, with a range of 0-74%. On average, participants incorrectly responded to 33% (SD = 6.677) of the survey's true/false items. Individual scores for incorrectness ranged from 20-46%. When answering incorrectly, participants were confident (a rating of 4 or 5) in accuracy of their responses an average of 36% (SD = 23.88) of the time, with a range of 0-94%.

The researchers were also interested in examining participants' correctness and confidence with respect to the different sections and specific items within them. All 37 participants answered the following four items correctly, all of which are true statements: (1) "People being criminally prosecuted have the right to an attorney to defend them during trial;" (2) "According to the *Miranda* rights, a suspect in a crime has the right to be warned that anything he says can be used against him in a court of law;" (3) "According to the *Miranda* rights, a suspect in a crime has the right to an attorney, private or publically provided;" and (4) "Sex offenders must register and must submit to DNA collection." The most participants (N=14) responded correctly but not confidently to the following three items, all of which are true statements: (1) "The amount of bail may not exceed what is likely to ensure the defendant will appear on his court date;" (2) "If a suspect asserts his right to remain silent but does not request an attorney, the police must stop questioning and can only begin once the suspect breaks silence;" and (3) "A

person convicted of a state felony may petition the court to restore the right to a firearm.” Participants indicated the most knowledge in the “Bill of Rights, “Rights During Trial,” and “Post-Conviction Rights” sections, responding correctly to an average of 75% of the items in each section. However, the most participants responded *correctly* but not confidently in the “Post-Conviction Rights” section, indicating low confidence (score of 1 or 2) on 21% of the section’s correctly answered items. Thirty-one out of 37 participants responded incorrectly to the item stating that “Simply remaining silent during questioning is considered an assertion of one’s *Miranda* right to remain silent;” this question was also most often responded to *incorrectly* but confidently (N=19). Participants indicated the least knowledge in the “Miranda Rights” and “Interviews and Interrogation” sections, responding correctly to an average of only 61% of the items in each section. Participants were most likely to indicate high confidence (a response of 4 or 5) on their incorrect response in the “Interviews and Interrogations” section, with 18% of the items in this section being responded to both incorrectly and confidently. There was not a single item to which all 37 participants responded to both correctly and confidently.

An independent samples *t*-test revealed a significant gender difference in confidence for correct responses,  $t(34) = -2.105, p < .05$ . On average, women (M=26.13, SD=18.2) were more likely than men (M=14.19, SD=15.49) to answer items correctly but with low confidence. No significant associations were found among correctness, confidence, and demographic variables (age, ethnicity, level of education, encounters with the Criminal Justice System, and viewership or perception of crime-based television shows).

## Discussion

The results of the current study indicate that people are generally not very knowledgeable about Americans' rights during criminal proceedings. On average, participants correctly responded to only 67% of true/false items designed to assess knowledge about Americans' rights. Further, the results revealed that participants' knowledge is not necessarily associated with confidence in that knowledge, which may be an indication that participants were merely guessing correctly or were being overly cautious in their expressed confidence. Of the 67% of the correctly answered items, 20% were rated with a low confidence score of 1 or 2, denoting that although participants were right, they were not certain of their knowledge. Additionally, more than a third (36%) of the incorrectly answered items (33% of items overall) were rated with a high confidence score of 4 or 5, indicating that although participants were wrong, they were quite certain that they were actually right. Results did not show any association between knowledge, confidence, and encounters with the criminal justice system or field of study/employment; however, this finding could be due to the present study's small sample size and may not indicate that an association does not exist. Likewise, no association was found between knowledge, confidence, and viewership of crime-based television, which in some ways is consistent with the existing literature on this topic. That is, in the current study, participants on average did not spend much time watching these shows (see Table 3) or perceive crime-based television to be very realistic (see Table 4), so the influence of these shows on participants' knowledge of criminal proceedings was perhaps minimal. However, a lack of findings in the present study does not necessarily mean that other

studies of the same nature, with larger and more diverse samples, would not reveal associations.

The findings of this study are important because they reveal a lack of knowledge and confidence in people regarding some of their most basic rights. The rights afforded by *Miranda v. Arizona* were put in place to protect citizens and prevent situations in which the powerless are taken advantage of and denied their constitutional rights to an attorney and coerced into self-incrimination. In an effort to protect citizens from situations in which they may give a false confession, police have been barred from using physical coercion and some forms of psychological coercion. Defendants are presumed innocent until the prosecution can prove otherwise; once released, convicted felons often regain some rights in an effort to rehabilitate them back into the community. All of these rights and protections are in place, but they will do little good if people in these situations are not aware of them. The present study clearly illustrates that more education is needed to ensure that Americans are properly informed and capable of asserting these rights should the circumstances necessitating it arise. Police should also be educated on the results of this study, as it clearly shows that they cannot assume that those in their custody understand even their most basic rights.

Not only are people not knowledgeable about many of their rights, but they are also not confident in them. This “mismatch” in knowledge and confidence (being correct but not confident, or incorrect and confident) is a serious issue. If participants answered an item correctly but stated that they were not confident in their knowledge, the chances of them being able to assert their rights in a power asymmetric scenario are minimal. If they cannot even be certain of their rights while taking a non-threatening, low-stress



survey, then the consequences may be severe when dealing with powerful authority figures in the Criminal Justice System. On the other hand, if participants answered an item incorrectly but were confident that they were in fact correct, then they indicated a false perception of their knowledge. Their ignorance could be detrimental if they incorrectly attempt to assert a right that does not exist. Formal education starting at a young age could prevent both of these scenarios and minimize incidents of this “mismatch” between knowledge and confidence, leading to increases in both.

### **Limitations of the Current Project/Suggestions for Future Research**

Though this study provided the researchers with preliminary findings, it was limited in a few ways. A primary limitation was that the sample size used was relatively small and quite homogeneous. Since the majority of participants were young and white, their chances of having had formal education on and real-life encounters with the Criminal Justice System were less than would perhaps be the case for others of differing backgrounds. Additionally, since there are no other studies that have addressed the same questions as the present study, it was difficult to determine precisely what items should be included. Future extensions of this study should attempt to expand not only the sample size, but also the diversity of the demographics included in the sample. This should include replicating the study in low socioeconomic populations and with participants who have had involvement with the Criminal Justice System, either due to victimization or perpetration of crime, or employment within the system. Although limited in several ways, this study represents an important first step in gauging the average person’s understanding of the rights available to individuals in the U.S., and what steps may be useful in educating the citizenry regarding these essential protections.

## References

- Ainsworth, J. (2008). 'You have the right to remain silent...' but only if you ask for it just so: The role of linguistic ideology in American police interrogation law. *The International Journal of Speech, Language and the Law*, 15:1, 1-21. doi: 10.1558/ijssl.v15i1.1
- Blakemore, J. M. (2013). Counsel's control over the presentation of mitigating evidence during capital sentencing. *Michigan Law Review*, 111 (7), 1337-1360.
- Brame, R., Bushway, S. D., Paternoster, R., & Turner, M. G. (2014). Demographic patterns of cumulative arrest prevalence by ages 18 and 23. *Crime & Delinquency*, 60 (30), 471-486. doi: 10.1177/0011128713514801
- Finnerty, M. (2016). Fight to remain silent: People often waive Miranda rights, experts say. *Cronkite News: PBS Arizona*. Retrieved from <https://cronkitenews.azpbs.org/2016/08/09/fight-remain-silent-people-often-waive-miranda-rights-experts-say/>
- Leo, R. A., & Liu, B. (2009). What do potential jurors know about police interrogation techniques and false confessions? *Behavioral Sciences and the Law*, 27, 381-399. doi: 10.1002/bsl.872
- Maeder, E. M., & Corbett, R. (2015). Beyond frequency: Perceived realism and the CSI effect. *Canadian Journal of Criminology and Criminal Justice*, 83-114. doi: 10.3138/cjccj.2013.E44
- Shealey, M. W. (2014). The hunting of man: Lies, damn lies, and police interrogations. *University of Miami Race & Social Justice Law Review*, 4, 21-71.

Taylor, B. (2015). You have the right to be confused! Understanding Miranda after 50 years. *Pace Law Review*, 36:1, 158-214.

United States. Department of Justice. Federal Bureau of Investigation. (2015). *Persons arrested*. Retrieved from <https://ucr.fbi.gov/crime-in-the-u.s/2015/crime-in-the-u.s.-2015/persons-arrested/persons-arrested>

United States Department of Justice, Office of the Pardon Attorney. (1996). *Civil Disabilities of Convicted Felons: A State-by-State Survey*. Washington D.C., Government Printing Office. Retrieved from National Criminal Justice Reference Service: <https://www.ncjrs.gov/pdffiles1/pr/195110.pdf>

Walmsley, R. (2016). World prison population list (11<sup>th</sup> ed.). *World Prison Brief*.

Retrieved from

[http://prisonstudies.org/sites/default/files/resources/downloads/world\\_prison\\_population\\_list\\_11th\\_edition\\_0.pdf](http://prisonstudies.org/sites/default/files/resources/downloads/world_prison_population_list_11th_edition_0.pdf)

Table 1

*Frequencies for Encounters with Criminal Justice System*

	Frequency	Percent	Valid Percent	Cumulative Percent
Convicted of a Crime	3	8.1	8.1	8.1
No Encounters	29	78.4	78.4	86.5
Other	4	10.8	10.8	97.3
Prefer Not to Respond	1	2.7	2.7	100.0
Total	37	100.0	100.0	

Table 2

*Frequencies for Viewership of Crime-Based Television*

	Frequency	Percent	Valid Percent	Cumulative Percent
Watches	24	64.9	64.9	64.9
Does not Watch	13	35.1	35.1	100.0
Total	37	100.0	100.0	

Table 3

*Frequencies for Amount of Time/Week Spent Watching Crime-Based TV*

	Frequency	Percent	Valid Percent	Cumulative Percent
Less than 1 Hour	24	64.9	64.9	64.9
1-2 Hours	11	29.7	29.7	94.6
3-4 Hours	2	5.4	5.4	100.0
Total	37	100.0	100.0	

Table 4

*Frequencies for How Realistic Participants' Perceive Crime-Based TV to Be*

	Frequency	Percent	Valid Percent	Cumulative Percent
Very Realistic	2	5.4	5.4	5.4
Somewhat Realistic	12	32.4	32.4	37.8
Neutral	10	27.0	27.0	64.9
Somewhat Unrealistic	9	24.3	24.3	89.2
Very Unrealistic	4	10.8	10.8	100.0
Total	37	100.0	100.0	

## Appendix

Please read each statement carefully and indicate whether you think it is *true* or *false* by printing a **T** or **F** in the first space. Please indicate how confident you are in your answer by writing a number from **1 (not confident at all)** to **5 (completely confident)**. Please keep in mind that the statements are based on the law as it's written, not necessarily on how it is practiced. Unless otherwise indicated, the following survey applies to legal rights in all 50 states. Your information will be kept strictly confidential.

### Bill of Rights:

1.   \_\_\_       \_\_\_   Citizens are protected from unreasonable searches and seizures of their property.
2.   \_\_\_       \_\_\_   A warrant to search and seize property may be issued without probable cause.
3.   \_\_\_       \_\_\_   A person can be tried twice for the same offense.
4.   \_\_\_       \_\_\_   A person cannot be forced to be a witness against himself.
5.   \_\_\_       \_\_\_   The government cannot lawfully deny a person life, freedom, or property without due process.
6.   \_\_\_       \_\_\_   The amount of bail may not exceed what is likely to ensure the defendant will appear on his court date.
7.   \_\_\_       \_\_\_   The government may use excessive force or punishments against those accused of a crime.
8. People being criminally prosecuted have the right to:
  - a.   \_\_\_       \_\_\_   A speedy and public trial
  - b.   \_\_\_       \_\_\_   A trial in front of an impartial jury of their peers, if the case involves anything valued at \$20 or more
  - c.   \_\_\_       \_\_\_   Know what they are being accused of
  - d.   \_\_\_       \_\_\_   Confront any witnesses who testify against them
  - e.   \_\_\_       \_\_\_   Find their own witnesses to testify in this defense
  - f.   \_\_\_       \_\_\_   An attorney to defend them during trial

Please read each statement carefully and indicate whether you think it is *true* or *false* by printing a **T** or **F** in the first space. Please indicate how confident you are in your answer by writing a number from **1 (not confident at all)** to **5 (completely confident)**. Please keep in mind that the statements are based on the law as it's written, not necessarily on how it is practiced. Unless otherwise indicated, the following survey applies to legal rights in all 50 states. Your information will be kept strictly confidential.

### **Miranda Rights**

1. \_\_\_\_ \_\_\_\_ Before questioning, the police must inform the suspect of his Miranda rights.
2. \_\_\_\_ \_\_\_\_ A person suspected of a crime cannot choose to give up his Miranda rights.
3. \_\_\_\_ \_\_\_\_ If a suspect gives up his Miranda rights, he cannot later assert them to stop police questioning.
4. \_\_\_\_ \_\_\_\_ In order to give up one's Miranda rights, it must be done knowingly, intelligently, and voluntarily.
5. \_\_\_\_ \_\_\_\_ If a suspect asserts his Miranda rights, the interrogation is supposed to stop.
6. \_\_\_\_ \_\_\_\_ If a suspect answers police questions before asserting his Miranda rights, any incriminating information gathered before that assertion must be discarded and cannot used to build a case against the suspect.
7. \_\_\_\_ \_\_\_\_ The police may ask a person questions about a crime before making a formal arrest, and any information gathered during this time may be used against the person in interrogation.
8. \_\_\_\_ \_\_\_\_ Giving up Miranda rights does not have to involve signing a waiver form or plainly stating that one is giving up rights. Giving up rights may be implied, such as when a suspect begins to talk.
9. \_\_\_\_ \_\_\_\_ A suspect's guardian or family member can assert his Miranda Rights for him.
10. \_\_\_\_ \_\_\_\_ Mental illness protects a suspect from giving up Miranda Rights.
11. \_\_\_\_ \_\_\_\_ While being interrogated, suspects have the right to know when new information is discovered about the crime.
12. \_\_\_\_ \_\_\_\_ An assertion of one's Miranda rights must be clear, unequivocal, and unambiguous in order to be put into effect.
13. \_\_\_\_ \_\_\_\_ If the interrogating officer is unclear if a suspect's assertion meets the criteria, the officer needs to check if the suspect meant to assert before continuing the interrogation.
14. \_\_\_\_ \_\_\_\_ Asking questions such as "Could I get a lawyer" or making statements like "I think I would like a lawyer" are not a clear assertion of Miranda rights and may not necessarily be enough to receive a lawyer.

15. \_\_\_\_ \_\_\_\_ Simply remaining silent during questioning is considered an assertion of one's Miranda right to remain silent.
16. \_\_\_\_ \_\_\_\_ Miranda Rights apply to questioning by all government officials.
17. \_\_\_\_ \_\_\_\_ Miranda Rights only protect a suspect once he has been taken into custody or is in a situation that presents a danger of coercion.
18. \_\_\_\_ \_\_\_\_ If the suspect has been out of police custody for at least 14 days, Miranda Rights read before release no longer apply and police may continue questioning, unless the suspect re-asserts his rights.
19. \_\_\_\_ \_\_\_\_ If a suspect asserts his right to remain silent but does not request an attorney, the police must stop questioning and can only begin once the suspect breaks the silence.
20. \_\_\_\_ \_\_\_\_ If a suspect asserts his right to a lawyer, interrogation may not continue until an attorney is provided, even if time has passed.
21. According to the Miranda rights, a suspect in a crime has the right to:
- \_\_\_\_ \_\_\_\_ Remain silent and refuse to answer any questions asked by the police
  - \_\_\_\_ \_\_\_\_ Be warned that anything he says can be used against him in a court of law
  - \_\_\_\_ \_\_\_\_ An attorney, private or publicly provided
22. Miranda Rights do not need to be given and do not protect suspects during:
- \_\_\_\_ \_\_\_\_ Routine traffic stops
  - \_\_\_\_ \_\_\_\_ Public safety concerns
  - \_\_\_\_ \_\_\_\_ Situations that threaten officer safety
  - \_\_\_\_ \_\_\_\_ Routine booking procedures (e.g. questions of identification)

### **Interviews and Interrogations**

- \_\_\_\_ \_\_\_\_ A confession must be given voluntarily for it to be allowed to be used as evidence in a trial.
- \_\_\_\_ \_\_\_\_ In an interrogation, the suspect decides what information and topics will be addressed.
- \_\_\_\_ \_\_\_\_ Law enforcement does not need a warrant if they believe that immediate action is necessary to protect lives, to prevent a suspect from escaping, or to preserve evidence.
- \_\_\_\_ \_\_\_\_ Additional rights and protections are in place for suspects with mental disabilities when they are being interrogated.
- A suspect in an interrogation has the right to:
  - \_\_\_\_ \_\_\_\_ Have his confession thrown out if it was given while being held without probable cause
  - \_\_\_\_ \_\_\_\_ Exclude from the prosecutor's case a confession obtained through coercion
  - \_\_\_\_ \_\_\_\_ Sleep, food, water, and periodic break
- In an interrogation, a suspect of crime is protected against:



- a. \_\_\_\_\_ Extensive and lengthy interrogations
- b. \_\_\_\_\_ Physically and mentally coercive interrogation methods
- c. \_\_\_\_\_ Deceitful tactics, including outright lies, used by the police to gather incriminating evidence or a confession
- d. \_\_\_\_\_ Actual or threatened physical harm in an effort to gain a confession
- e. \_\_\_\_\_ Misrepresentation of the facts of the case, such as law enforcement saying that the victim is still alive or that an accomplice “ratted” on the suspect
- f. \_\_\_\_\_ Law enforcement saying there are witnesses, when there are none
- g. \_\_\_\_\_ Being told that the present is the only time in which the suspect may offer a confession, i.e., that it’s his only chance for the jury to hear “his side” of things
- h. \_\_\_\_\_ Being assured that a confession will not be used against the suspect in the trial
- i. \_\_\_\_\_ Being told that confessing will protect him from going to trial
- j. \_\_\_\_\_ Promises that confessing will result a less severe sentence
- k. \_\_\_\_\_ Officers exaggerating the seriousness of the crime
- l. \_\_\_\_\_ Being told that a failed polygraph test would be used against him in court
- m. \_\_\_\_\_ Being given false results stating that the suspect failed a polygraph test
- n. \_\_\_\_\_ Officers falsely claiming that physical evidence has been found that links the suspect to the crime
- o. \_\_\_\_\_ Failure to tell the suspect that evidence has been found in favor of the suspect, i.e., that points to his innocence
- p. \_\_\_\_\_ Officers faking sympathy for the suspect and offering justification for the crime in question
- q. \_\_\_\_\_ Officers falsely befriending the suspect to gain incriminating evidence

Please read each statement carefully and indicate whether you think it is *true* or *false* by printing a **T** or **F** in the first space. Please indicate how confident you are in your answer by writing a number from **1 (not confident at all)** to **5 (completely confident)**. Please keep in mind that the statements are based on the law as it's written, not necessarily on how it is practiced. Unless otherwise indicated, the following survey applies to legal rights in all 50 states. Your information will be kept strictly confidential.

### Rights During Trial

1. A defendant in a criminal trial has the right to:
  - a.   A lawyer
  - b.   Control his own defense
  - c.   Act as his own lawyer in a criminal trial
  - d.   Control all “fundamental” trial decisions, such as those pertaining to the objective of the trial, pleading guilty, waiving a jury trial, and appeals
  - e.   Control “strategic” decisions during trial, such as the order in which to present evidence, how to frame the narrative of the case to the jury, etc.
  - f.   Include an expert witness if evidence presented is beyond common knowledge
  - g.   The presumption of innocence until/unless proven guilty
  - h.   Request that evidence obtained in violation of his rights be excluded from the trial
2.   In criminal trials, the defendant has the burden of proof

### Post-Conviction Rights

The following rights are based on the state of Ohio, the location of the present study:

1.   If a citizen is convicted of a state felony, that person will lose certain rights.
2.   Rights that are lost after having been convicted of a state felony are always reinstated after a jail or prison sentence is served.
3.   If a felon’s rights have been restored under state law, this includes the right to a firearm.
4.   A person convicted of a state felony may petition the court to restore the right to a firearm.
5.   During the period of incarceration, a felon loses the right to vote.
6.   A person convicted of a state felony does not regain the right to vote after being released from prison.
7.   A person convicted of a felony involving bribery or theft may hold an elected office.
8.   A person convicted of a state felony cannot serve on a jury.
9.   Places of employment are permitted to consider criminal conduct as a reason for denying employment.

10. \_\_\_\_ \_\_\_\_ A state felony conviction may prevent a person from getting a professional or occupational license.
11. \_\_\_\_ \_\_\_\_ If convicted of a drug offense, a person with a professional license must report the offense to the licensing agency.
12. \_\_\_\_ \_\_\_\_ Being convicted of a drug trafficking offense results in having a driver's license taken away for life.
13. \_\_\_\_ \_\_\_\_ Sex offenders must register and must submit to DNA collection.
14. \_\_\_\_ \_\_\_\_ Under state law, the only way to have one's rights reinstated is by completion of a sentence.

## Demographics

This survey is designed to examine the understanding Americans' have of their rights during criminal proceedings. The research is intended to determine the amount of knowledge participants have of their rights, their confidence in that knowledge, and how their professional and personal lives may influence that knowledge. Please help us understand our participants better by responding to the following items. Circle the option that best fits you:

1. Please select your gender
  - a. Male
  - b. Female
  - c. Prefer not to respond
2. Please mark your age group:
  - a. 18-20
  - b. 21-23
  - c. 24+
  - d. Prefer not to respond
3. Please select the ethnic group that most accurately describes you:
  - a. White/Caucasian
  - b. Hispanic/Latino
  - c. Black/African American
  - d. Asian/Asian American
  - e. Other (Please write in, if desired: \_\_\_\_\_)
  - f. Prefer not to respond
4. Please indicate your highest level of education:
  - a. Some high school
  - b. High school diploma or equivalent
  - c. Some college
  - d. Associate's degree
  - e. Bachelor's degree
  - f. Master's degree or higher
  - g. Prefer not to respond
5. Please indicate the field in which you work or study:
  - a. Criminal Justice/Law
  - b. Psychology
  - c. Business/Marketing
  - d. Sales/Retail
  - e. Engineering
  - f. Teaching
  - g. Other (\_\_\_\_\_)
  - h. Prefer not to respond

6. Please indicate any encounters you may have had with the Criminal Justice System. Select all that apply. If you have not have any encounters with the Criminal Justice System, please leave blank:
  - a. Served on a jury
  - b. Victim of a crime
  - c. Accused of and/or prosecuted for a crime
  - d. Convicted of a crime
  - e. No Encounters
  - f. Other
  - g. Prefer not to respond
7. Please respond to the following questions regarding your television habits:
  - a. Do you watch crime-based shows? If so, which show do you watch most frequently?
    - i. Yes, I watch crime-based TV shows and I most frequently watch \_\_\_\_\_
    - ii. No, I do not watch crime-based TV shows
  - b. Please indicate how much time you spend watching crime-based shows each week:
    - i. Less than 1 hour
    - ii. 1-2 hours
    - iii. 3-4 hours
    - iv. 5+ hours
  - c. How realistic do you perceive these television shows to be with regards to real-life criminal justice?
    - i. Very realistic
    - ii. Somewhat realistic
    - iii. Neutral
    - iv. Somewhat unrealistic
    - v. Very unrealistic