

# High court to debate Miranda rights, again

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**P**olice in Rolla, Mo., wanted a confession from suspected killer Patrice Seibert. And they didn't want any lawyers mucking things up by advising her not to talk.

So veteran Detective Richard Hanrahan woke Seibert at 3 a.m. at the hospital where her son was recovering from injuries he had suffered in a trailer fire. Hanrahan believed that Seibert had set the fire, which killed a friend of her son's, and the detective questioned her sharply that morning in 1997. Using an interrogation technique he'd learned in a police training course, Hanrahan got a detailed confession before he advised Seibert of her right to re-



**Miranda:** Controversy began with his case.

main silent and to have a lawyer present during questioning — the famous Miranda warning mandated by the U.S. Supreme Court in 1966.

After Seibert waived her Miranda rights and continued to talk, Hanrahan used details from her initial confession to coax her into making a second statement. Because it followed the Miranda warning, it was admitted at her trial. She was found guilty of murder and sentenced

to life in prison. So can police work around or even ignore a suspect's Miranda rights to gain an edge during an interrogation? The U.S. Supreme Court will consider the question Tuesday, when it reviews the Missouri Supreme Court's decision to overturn Seibert's conviction and life sentence. Thirty-seven years after it was decided, the Miranda decision remains the Supreme Court's most contentious criminal procedure ruling. The court has revisited the ruling nearly 50 times, expanding and clarifying the right and establishing exceptions that allow police and prosecutors to use some confessions even if a proper warning wasn't given. Some departments contend that the Miranda warning is optional, required by law only if a statement is intended to be used in court. Defense lawyers and defendants' rights advocates hotly dispute that.

## Creative police tactics

Meanwhile, papers filed in the Seibert case indicate that police in 38 states have used techniques similar to Hanrahan's.

Some detectives seek "beach head" confessions to

**MIRANDA WARNING**

1. "Before we ask you any questions, you must understand your rights:
2. "You have the right to remain silent.
3. "Anything you say can be used against you in court.
4. "You have the right to talk to a lawyer for advice before we ask you any questions and to have him with you during questioning.
5. "If you cannot afford a lawyer, one will be appointed for you before questioning if you wish.
6. "If you decide to answer questions now without a lawyer present, you will still have the right to stop answering at any time.

**37 years later, ruling still proves contentious**

make it more likely that a suspect will confess again, after a Miranda warning is given. Others continue to question suspects who have invoked their right to silence, or who have requested a lawyer.

In tactics that seem straight from the playbook of in-your-face Detective Andy Sipowicz on TV's *NYPD*

*Blue*, some cops use tough talk to try to get statements out of such suspects. Other officers take a softer approach.

"Everything you tell us right now, I'm not going to be able to use anyway, James, because you've already said you're gonna want an attorney," a San Diego de-



**In-your-face tactics:** Dennis Franz, right, plays Detective Andy Sipowicz on *NYPD Blue*. Like the character, some police officers use tough talk to try to get statements out of suspects.

fective recently told a murder suspect, according to research by Richard Leo and Welsh White that was cited by Seibert's lawyers in the Supreme Court case. "I already know that you are the person responsible," the detective told the suspect. "... All I'm interested (in) is finding out the facts." The suspect then gave a detailed statement.

Defense lawyers say the increasingly creative police tactics for working around Miranda — many of which are taught to cops during training sessions — violate the spirit of the Supreme Court's efforts to ensure suspects' rights. The lawyers say that instead of the threats and beatings used in the pre-Miranda days, today's cops specialize in tricky interrogations. Defense lawyers want the Supreme Court to crack down on those, too.

Prosecutors who defend the questioning of suspects "outside Miranda" counter that police merely are taking advantage of the leeway they are allowed under the law. Miranda, they say, requires police to give warnings to suspects only if a confession is going to be used by the prosecution at trial. Court decisions that have followed Miranda, they argue, have permitted "outside Miranda" interrogations.

"Is only one side allowed to know what the law says?" asks Devallis Rutledge, a former prosecutor in Orange County, Calif., who teaches police courses on Miranda exceptions.

The Miranda warning, a staple of TV police dramas, may have become "embedded in the popular culture," as Chief Justice William Rehnquist wrote in a 2000 ruling upholding Miranda. But a suspect's precise rights under Miranda — how, whether and when they apply, and what happens when they are violated — are among the U.S. court system's most intensely debated topics.

Since its Miranda decision in 1966, the Supreme Court has issued a range of opinions that tried to apply the Miranda guidelines to situations the ruling did

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