

U.S. PLANS TO TEST MIRANDA RULING

Mitchell Holds Confessions
Valid Without Warning

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WASHINGTON, July 31 — Attorney General John N. Mitchell confirmed today his intention to seek a new test of the Supreme Court's ruling governing police interrogation of criminal suspects.

Mr. Mitchell told a special House committee on crime that the Justice Department no longer considered itself absolutely bound by the Court's 1966 decision in *Miranda v. Arizona*. The Court's opinion, written for a 5-to-4 majority by former Chief Justice Earl Warren, declared that police questioning had an inherent tendency to be coercive, and it required the police to inform suspects of their right to counsel and their privilege of silence.

Until last month, the Justice Department had been automatically conceding error in cases where confessions had been obtained without the proper warnings.

Under the Government's new policy, Mr. Mitchell explained today, Federal law enforcement officers would still be instructed to give the full "Miranda" warning. But he added:

"If a Federal official inadvertently fails to give a full warning, the Department of Justice now believes that the confession may still be a voluntary confession and should be presented to the court as evidence."

A Nixon Goal

Mr. Mitchell's declaration confirmed President Nixon's hope—stated often during the campaign last year and reiterated last May when Mr. Nixon named Warren E. Burger as Chief Justice to succeed Mr. Warren—for reversal of the Court's controversial decisions on police procedure.

In the matter of the *Miranda* doctrine, the Justice Department's new policy is buttressed by Congress's declaration last year that a confession should be admissible in Court inless the trial judge ruled that it was involuntary.

In Title II of the 1968 Omnibus Crime Control Act, Con-

gress stated that the failure by the police to warn a suspect of his rights would not necessarily make a confession involuntary.

Mr. Mitchell's statement of the department's new policy provoked little comment and no criticism from Representative Claude D. Pepper, the Florida Democrat who is chairman of the select crime committee, or from the half dozen committee members who heard Mr. Mitchell's testimony.

But the new doctrine was roundly denounced as a "dangerous hoax" by James Vorenberg, the Harvard law professor who was director of President Johnson's crime commission. Mr. Vorenberg followed Mr. Mitchell to the committee's witness stand.

Doctrine Not Defended

Mr. Vorenberg chose not to defend the *Miranda* doctrine itself. But he insisted that the Attorney General's pledge to make law enforcement more effective by reversing the *Miranda* decision created entirely false illusions about the real causes of the rising crime rate.

Mr. Vorenberg reasoned that the *Miranda* rule affects only a fraction of 1 per cent of all criminal activity. Only about 20 per cent of all crimes are reported, he said and only a quarter of reported crimes lead to arrests.

In more than two-thirds of the arrest cases Mr. Vorenberg said, prosecutive evidence is based on the testimony of witnesses, not on confessions and in many instances where the police seek confessions, they

can still get them after issuing the *Miranda* warning.

"It is a dangerous hoax," he said, "for the Attorney General to suggest that if you fiddle with the Bill of Rights, you can cut down crime."

Mr. Vorenberg was equally harsh on Mr. Mitchell's pledge to use wiretaps against organized crime, and his requests for legislation to stiffen penalties for drug abuse and authorize the "preventive detention" of "dangerous" defendants as they await trial.

'Easy, Cheap Solutions'

Mr. Vorenberg described each of these efforts as "easy, cheap solutions," parts of a "diversionary sideshow that is undermining the drive for real change in our system of justice."

"At the local level," he said, "everything this administration has aid is being interpreted to mean: 'Don't bother about prevention, or about research into the real causes of crime. Don't bother about improving the bail system when you can have preventive detention. Don't bother with any of the real—and difficult—solutions.'"

Mr. Vorenberg was also bitterly critical of Congress for cutting off funds the juvenile delinquency program that was inaugurated in the last year of the Johnson administration.

"The failure of Congress to make good on expectations it aroused last year has had an enormously damaging effect," he said. "Far outweighing any boost in police morale from the Administration's pledge to change the *Miranda* rules."

⑧ 9 Jun 69 - Warren Burger's nomination to be Chief Justice confirmed by Senate.

⑨ 23 Jun - Burger sworn in.

See also "U.S. claims right of wiretapping in security cases," filed Hoover - wiretapping, 14 Jun 69.