

**NLWJC - Kagan**

**DPC - Box 011 - Folder 024**

**Crime - Miranda**

office that he presently has legally.

QUESTION: Is there anything that would allow him to do that he can't do now?

MR. HOLDER: I'm sorry?

QUESTION: Is there anything that that would allow him to do that he can't do now, as a practical matter?

MR. HOLDER: I'm not sure. But I do not think there is anything that, in his acting status, he is prevented from doing. But I am not sure about that. I would have to really look. Maybe Myron can get you a more detailed answer on that.

QUESTION: Let me ask you about the Fourth Circuit decision regarding Miranda. We understand that you have told Federal prosecutors and investigators to continue the procedure of reading Miranda rights and all of that. A couple of things: Can you just tell me what the implications would be if Miranda went away? What is your opinion?

MR. HOLDER: Well, first, we don't think that any court, other than the Supreme Court, can overrule the Supreme Court. And that is why we have taken the view of the decision that we have.

It seems to me that Miranda has become a part of the way in which those of us in law enforcement do

business. It's a decision now that's, I guess, almost 35 years old, or so, but perhaps even more than, but at least 35 years old, or so. And it is a useful decision, I think, in a lot of ways. It helps to order the way in which law enforcement interacts with citizens, some of whom are clearly guilty, some of whom perhaps are not.

And it will ultimately be for the Supreme Court to decide whether or not the decision will have continued vitality.

QUESTION: I do not really understand the procedure. Will they invite you to give an opinion on the constitutionality or on their decision? What will happen in this matter?

MR. HOLDER: It is an interesting procedural posture. I would suppose that we would take the position there that we have taken with the Court of Appeals, which is that, regardless of what you think about the decision, only the Supreme Court can overrule that decision. And therefore, the district court, a court of appeals, even a court of appeals sitting en banc, does not have that power.

QUESTION: What would be your recommendation for what position the Supreme Court should adopt?

MR. HOLDER: That will be an interesting question, and not one that we have decided yet. We will have to sit down with the law enforcement agencies who are

part of the Justice Department. I guess it would even go beyond that and talk to law enforcement agencies outside the Department, talk to the Solicitor General, obviously people in the Criminal Division, to see what position we would take before the Supreme Court. Because at that point, the issue I think would be joined.

QUESTION: So, it's possible that you would recommend that 3501 can supercede Miranda?

MR. HOLDER: Well, I'm not sure about that. No, the issue would be joined as to whether or not the Supreme Court -- let's assume it got to the Supreme Court -- whether or not the Supreme Court could overrule Miranda.

QUESTION: Mr. Holder, your reaction, your opinion of the summit in Mexico, especially with regard to -- can you enumerate what measures, counterdrug measures you think will improve the relations between Mexico and the U.S.?

MR. HOLDER: As I understand it, I think the meeting actually went pretty well. I've not had a chance to speak to the Attorney General. She jetted back from Mexico and then jetted promptly off to South Africa. And I only had a chance to talk to her, I guess, for a couple of minutes while she was making a refueling stop -- her plane was making a refueling stop.

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1 of a review of police shootings in New York, such  
2 as is underway right now by your office, or the  
3 Attorney's Office, here on the shootings in the  
4 District?

5 ATTORNEY GENERAL RENO: I know of no  
6 plans at this point. But we will always continue  
7 to review that, to see whether that would be  
8 appropriate.

9 QUESTION: Ms. Reno, I wanted to ask  
10 you about the Miranda decision. As you know, there  
11 is this 1968 law that Congress passed, and recently  
12 the Fourth Circuit interpreted it as overruling,  
13 essentially, Miranda. Why has the Department never  
14 enforced the 1968 law? And what's your position on  
15 its constitutionality?

16 ATTORNEY GENERAL RENO: We have  
17 reviewed it carefully and have determined that the  
18 Supreme Court has concluded that it is  
19 constitutionally, based since it has applied it to  
20 the States, as well. In this administration and in  
21 other administrations preceding it, both parties  
22 have reached the same conclusion. And thus, it  
23 would be up to the Supreme Court to make the  
24 determination that it was not constitutionally  
25 based.

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