Arguments to Suppress Statements

Arguments to suppress statements can be made on fourth, fifth or sixth amendment grounds.

Fourth Amendment Illegal Detention-

If the defendant gave a statement while illegally detained, e.g. arrested on less than probable cause,[1] any statement taken during such detention should be suppressed as fruit of the poison tree[2], unless the taint of the illegal detention is attenuated by intervening factors[3].

Fourth Amendment Payton Violation-

If the police arrest the defendant in his home without exigency and without an arrest warrant, in violation of Payton,[4] in Federal Court any statement taken from the defendant **in the home** will be suppressed[5]. In New York, any statement taken in the home or outside of the home will be suppressed[6], unless the taint is attenuated by Intervening factors[7].

Fifth Amendment – Involuntariness –

The traditional test for the admissibility of a statement prior to 1964 was the voluntariness test. Courts would determine whether, given the totality of circumstances, a defendant had made a statement freely, or whether his will had been overborne by the actions of the police. If the letter, such conduct was deemed to be in violation of the Fifth Amendment Due Process Clause[8] (applied to the states via the Fourteenth Amendment). Courts looked to factors such as the following in determining whether a statement was voluntary:

- age of defendant
- education of defendant
- whether defendant was literate or illiterate
- denial of food
  - drink
  - medication
  - cigarettes
  - bathroom facilities
  - movement (manacled to furniture)
  - rest
  - sleep
- length of time of questioning
- defendant's position during questioning (sitting, standing, kneeling)
- the number of interviewers
- the experience of the interviewers
- display of authority (show of guns, badges) by the police
- whether defendant was aware of his right to remain silent

When the right to counsel cases[9] and the Miranda[10] case were written, they did not replace the traditional voluntariness test. It still exists; and no statement taken involuntarily from a defendant is admissible in court for any purpose.

Fifth Amendment – Miranda –

In 1966, in Miranda v. Arizona, the Supreme Court made it mandatory for the police to advise the defendant of various rights before they subjected him to custodial interrogation. If they fail to do so, any statement taken thereafter should be suppressed. See the heading in "Miranda et. seq." for more information.

Sixth Amendment – Right to Counsel –

In 1964, in Massiah v. U.S.[11] the Supreme Court held that once the Sixth Amendment Right to Counsel had attached, either by the commencement of formal proceedings or by the presence of an attorney in the case, any statement thereafter deliberately elicited from the defendant, by the police or by their agents (e.g. cooperating co-defendants) was inadmissible.

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[1] Dunaway v. N.Y. 442 US 200 (1979)
[2] Wong Sun v. U.S. 371 US 471 (1963)
[3] People v. Rogers 52 NY 2d 527 (1981)
[4] Payton v. N.Y. 445 US 573 (1980)
[5] N.Y. v. Harris 495 US 14 (1990)
[6] People v. Harris 77 NY 2d 434 (1991)
[7] See Rogers, fn 3, supra.
[8] See, e.g. Brown v. Mississippi 297 U.S. 278 (1936), Fikes v. Ala 352 US 191 (1957) Spano v. U.S. 360 US 315 (1959)
[9] Massiah v. U.S. 377 US 201 (1964)
[10] Miranda v. Arizona 384 US 436 (1966)
[11] Massiah v. U.S. 377 US 201 (1964)
See also U.S. v. Henry 447 US 264 (1980)
Maine v. Moulton 474 US 159 (1985)
Kuhlman v. Wilson 477 US 436 (1986)
Fellers v. U.S._____ US _____(1/20/04)