No. 21-499

In the Supreme Court of the United States

CARLOS VEGA, PETITIONER

v.

TERENCE B. TEKOH

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

BRIEF FOR THE UNITED STATES AS AMICUS CURIAE SUPPORTING PETITIONER

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QUESTION PRESENTED

Whether the erroneous admission of statements that a defendant made without the warnings prescribed by *Miranda* v. *Arizona*, 384 U.S. 436 (1966), in the government's case-in-chief at a criminal trial where the defendant is ultimately acquitted, subjects the interviewing officer to individual liability in a damages suit under 42 U.S.C. 1983.

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INTEREST OF THE UNITED STATES

This case presents the question whether the erroneous admission of statements that a defendant made without the warnings prescribed by *Miranda* v. *Arizona*, 384 U.S. 436 (1966), in the government's case-in-chief at a criminal trial where the defendant is ultimately acquitted, subjects the interviewing officer to liability in a damages suit under 42 U.S.C. 1983. The United States' investigation and prosecution of federal crimes gives it a substantial interest in the proper interpretation and application of *Miranda*. The United States also has a substantial interest in the interpretation of the nation's civil-rights laws, including Section 1983 and its criminal-law counterpart, 18 U.S.C. 242. In addition, the Court's decision in this case could potentially affect constitutional tort claims against federal of-

ficers under *Bivens* v. *Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

STATEMENT

1. Petitioner is a deputy in the Los Angeles Sheriff's Department. Pet. App. 2a. He interviewed respondent, a hospital attendant, after a patient accused respondent of sexually assaulting her. *Ibid.* Petitioner accompanied respondent to a private room at the hospital, questioned him without providing the warnings prescribed in *Miranda* v. *Arizona*, 384 U.S. 436 (1966), and obtained a written confession. Pet. App. 3a-5a. Petitioner maintains that respondent volunteered his confession, but respondent alleges that petitioner used threats to bully him into confessing. *Ibid.*

The State of California charged respondent with unlawful sexual penetration, in violation of California Penal Code § 289(d) (West 2014). Pet. App. 5a. The state trial court admitted the confession as evidence of respondent's guilt, finding that *Miranda* warnings had been unnecessary because petitioner had not taken respondent into custody before questioning him. J.A. 157. At the end of the trial, the jury acquitted respondent. Pet. App. 5a.

2. Respondent subsequently sued petitioner in federal district court under 42 U.S.C. 1983, asserting that a *Miranda* violation had occurred, that respondent's confession had been coerced, and that petitioner was individually liable for damages. Pet. App. 5a-7a. The court declined to instruct the jury on the theory that petitioner violated *Miranda*, reasoning that *Miranda* establishes a prophylactic rule rather than a constitutional right enforceable under Section 1983. *Id.* at 6a. The court instead instructed the jury that it could find petitioner liable only if it determined that he had co-

erced respondent into making an involuntary confession. *Id.* at 6a-7a. The jury found petitioner not liable. *Id.* at 7a.

The court held a new trial because of an error in the instructions. Pet. App. 7a-8a. A second jury likewise found petitioner not liable. *Id.* at 8a.

3. The court of appeals vacated in part, reversed in part, and remanded. Pet. App. 1a-26a.

The court of appeals observed that, in *Dickerson* v. *United States*, 530 U.S. 428 (2000), this Court held that *Miranda* establishes a constitutional rule that Congress may not override through legislation. Pet. App. 12a-13a. The court of appeals construed that rule to encompass a constitutional right that can lead to personal damages liability under Section 1983 for a police officer who elicits an unwarned statement. *Id.* at 10a-20a.

The court of appeals acknowledged that a failure to provide *Miranda* warnings can give rise to a Section 1983 claim only if the prosecutor later uses the resulting statement at trial. Pet. App. 23a. But the court concluded that a jury could infer that petitioner proximately caused the introduction of the statement. *Id.* at 22a. Noting that petitioner had questioned respondent and prepared a report and a declaration describing the interrogation, the court reasoned that a civil jury could infer that the prosecution's use of respondent's statement at trial was a "reasonably foreseeable consequence" of those actions. *Ibid.*

4. The court of appeals denied petitioner's request for rehearing en banc. Pet. App. 71a-72a. Judge Miller, joined by two other judges, concurred in the denial of rehearing. *Id.* at 72a-77a. In his view, this Court's precedents establish that *Miranda* is a constitutional right enforceable under Section 1983. *Ibid.*

Judge Bumatay, joined by six other judges, dissented from the denial of rehearing. Pet. App. 77a-96a. He would have held that *Miranda* establishes only a prophylactic rule, not a constitutional right enforceable under Section 1983. *Id.* at 89a-95a.

SUMMARY OF ARGUMENT

In *Miranda* v. *Arizona*, 384 U.S. 436 (1966), this Court held that, if the police elicit a statement in a custodial interrogation without warning the suspect of his rights, that statement may not be used in the prosecution's case-in-chief at a criminal trial. *Miranda* sets forth a constitutional rule of evidence for courts and prosecutors, not a rule of primary conduct for law enforcement. The rule grants a criminal defendant the right to exclude an unwarned statement from the prosecution's case-in-chief at trial, but a law-enforcement officer does not violate the Constitution merely by eliciting such a statement.

Miranda safeguards the Fifth Amendment's prohibition on the use of involuntary confessions, which operates in the courtroom, not the interrogation room. *Miranda* is grounded in the Self-Incrimination Clause, which textually creates only an in-court right. And decades of precedent leading up to, including, and following *Miranda* illustrate that *Miranda* does not apply to out-of-court conduct. Perhaps most pertinently, this Court has made clear that if a police officer elicits an un-*Mirandized* statement but the prosecution never uses that statement at a trial, the suspect cannot sue the officer for a violation of *Miranda*. See *Chavez* v. *Martinez*, 538 U.S. 760 (2003).

The Court should reach a similar result here. Because the *Miranda* rule concerns the introduction of evidence at trial, a suspect may not sue the police under

Section 1983 for violating that rule. Section 1983 imposes liability only on a state actor who "subjects" the plaintiff or "causes" him to be subjected to the denial of a federal right. A police officer does neither when he simply questions an un-*Mirandized* suspect. Imposing civil liability on police officers for *Miranda* violations would also conflict with the nature of the *Miranda* right, transforming *Miranda* into the very thing that the Court has said it is not: a code of police conduct. The appropriate mechanism for enforcing *Miranda*'s constitutional rule is to object to the introduction of evidence at trial and, if the trial court denies that objection, to appeal. No sound basis exists to allow criminal defendants to bring collateral actions under Section 1983 based on errors in their criminal trials.

ARGUMENT

The court of appeals erred in holding that, if a police officer elicits a statement without providing the warnings prescribed in *Miranda* v. *Arizona*, 384 U.S. 436 (1966), and the statement is later used in the case-in-chief of a trial that results in an acquittal, the criminal defendant may sue the officer under 42 U.S.C. 1983. To be clear: The federal government takes seriously the importance of advising suspects of their rights before questioning them.* The Federal Bureau of Investiga-

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* Long before this Court decided *Miranda*, the Federal Bureau of Investigation voluntarily adopted a practice of administering warnings before questioning suspects. See John Edgar Hoover, *Civil Liberties and Law Enforcement: The Role of the FBI*, 37 Iowa L. Rev. 175, 182 (1952). Today, FBI policy provides that, as a general matter, "[a]n FBI employee must advise a person who is in custody of his/her *Miranda* rights * * * before beginning an interview." FBI, Domestic Investigations and Operations Guide § 18.5.6.4.1 (updated Sept. 28, 2016).

tion trains its agents to ensure that they provide *Miranda* warnings before commencing a custodial interview, and failure to adhere to that policy can result in administrative sanctions, potentially including suspension or termination from the FBI. But *Miranda* itself establishes a constitutional rule concerning the evidence that may be introduced at a criminal trial, which a defendant has a right to enforce through a suppression motion; it does not establish a rule of primary conduct for police officers. Section 1983 therefore does not allow an acquitted criminal defendant to sue the police on the ground that unwarned statements were improperly introduced against him at trial.

A. *Miranda* Sets Forth A Constitutional Rule Of Evidence

Miranda announced a constitutional rule that generally bars the introduction of a defendant's in-custody statements in the government's case-in-chief at a criminal trial when those statements were not preceded by certain warnings. A defendant has a right to enforce that rule by filing a motion to suppress such statements if the prosecutor seeks to introduce them. But a police officer does not violate *Miranda* simply by eliciting unwarned statements.

1. Miranda *is a constitutional rule encapsulating a trial right, not a rule of police procedure*

Miranda's constitutional rule is grounded in the Fifth Amendment's Self-Incrimination Clause. See *Miranda*, 384 U.S. at 441. Like that clause, *Miranda* prescribes an evidentiary rule for a criminal trial, not a rule that applies directly to law-enforcement officers.

a. The Self-Incrimination Clause provides that no person "shall be compelled in any criminal case to be a *witness* against himself." U.S. Const. Amend. V (empha-

sis added). A "case" is a judicial proceeding. See *Blyew* v. *United States*, 80 U.S. (13 Wall.) 581, 595 (1872). And a "witness" is one who testifies, or whose testimony is used, in that proceeding. See *Crawford* v. *Washington*, 541 U.S. 36, 43 (2004). Accordingly, the police do not make a suspect a "witness" in a "criminal case" by questioning him; instead, he becomes one only when his compelled testimony is admitted against him at trial.

The Self-Incrimination Clause's focus on court proceedings, rather than the out-of-court conduct of police officers, stands in stark contrast to the Fourth Amendment, which directly precedes it. The Fourth Amendment restricts police practices; a violation occurs in the field, at the moment of the unreasonable search or seizure. See *United States* v. *Verdugo-Urquidez*, 494 U.S. 259, 264 (1990). The Self-Incrimination Clause, however, guarantees a "fundamental trial right of criminal defendants." *Ibid.* Thus, even though "conduct by law enforcement officials prior to trial may ultimately impair that right, a constitutional violation occurs only at trial." *Ibid.*

In keeping with the text, this Court has described the Self-Incrimination Clause as the "legal principle by which the admissibility of the confession of an accused person is to be determined." *Bram* v. *United States*, 168 U.S. 532, 542 (1897). In particular, the Court has read the Clause to secure a trial right against the admission of "involuntary" confessions. See *ibid.*; see also *Malloy* v. *Hogan*, 378 U.S. 1, 6-7 (1964) (discussing Clause's incorporation against States). A court determines a statement's involuntariness by asking whether, in the totality of the circumstances, "the defendant's will was overborne at the time he confessed." *Lynumn* v. *Illinois*, 372 U.S. 528, 534 (1963).

This Court's pre-*Miranda* precedents on the use of coerced confessions in state court, which were decided under the Fourteenth Amendment's Due Process Clause, reflect a similar trial-focused understanding. For example, the Court stated that the Constitution prohibits "the use of the confessions thus obtained as the basis for conviction," *Brown* v. *Mississippi*, 297 U.S. 278, 286 (1936); that a constitutional violation occurs upon "the introduction of an involuntary confession," *Malinski* v. *New York*, 324 U.S. 401, 404 (1945); and that the Constitution protects a "right to be free of a conviction based upon a coerced confession," *Jackson* v. *Denno*, 378 U.S. 368, 377 (1964).

b. In *Miranda*, the Court observed that the open-ended voluntariness test had proved difficult to apply and had created a risk of overlooking involuntary confessions by suspects in police custody. 384 U.S. at 457. The Court explained that the intimidating atmosphere of a custodial interrogation creates pressure to confess that may not be adequately captured through a circumstance-specific voluntariness inquiry. *Ibid.*; see *id.* at 442. The Court accordingly held that, as a general rule, a statement elicited in a custodial interrogation may be "used against" a defendant "at trial" only if he knowingly and voluntarily agreed to speak after having been warned "that he has the right to remain silent, that anything he says can be used against him in a court of law, that he has the right to the presence of an attorney, and that if he cannot afford an attorney one will be appointed for him." *Id.* at 479.

Like the clause from which it was derived, and the voluntariness test that it supplemented, *Miranda* focused on the admission of statements into evidence in a courtroom. This Court framed the question presented

in terms of "the admissibility of statements obtained from an individual who is subjected to custodial police interrogation." *Miranda*, 384 U.S. at 439. The Court then summarized its holding by instructing that "the prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards." *Id.* at 444. Elsewhere in its opinion, the Court described warnings as "prerequisites to the admissibility of any statement," not as requirements in their own right. *Id.* at 476. And in a companion case, the Court concluded that *Miranda* would apply to all trials occurring after the date of the decision, even if the interrogation occurred before the decision, because *Miranda* provided "important new safeguards against the use of unreliable statements at trial." *Johnson* v. *New Jersey*, 384 U.S. 719, 730 (1966); see *id.* at 721.

This Court likewise understood *Miranda* as addressing the use of evidence against a criminal defendant at trial when it reaffirmed *Miranda*'s "constitutional rule" in *Dickerson* v. *United States*, 530 U.S. 428, 444 (2000). The Court in *Dickerson* described *Miranda* as governing "the admissibility of statements made during custodial interrogation," explaining that courts had previously "evaluated the admissibility of a suspect's confession under a voluntariness test" and that *Miranda* "changed the focus of much of the inquiry in determining the admissibility of suspects' incriminating statements." *Id.* at 432-434. And *Dickerson* described the "core ruling" of *Miranda*, which it reaffirmed, as a rule "that unwarned statements may not be used as evidence in the prosecution's case in chief." *Id.* at 443-444.

c. The Court's subsequent applications of *Miranda* likewise make clear that it is a constitutional rule about

what prosecutors and judges may do in court, rather than a rule about what law-enforcement officers may do out of court. For example, although the prosecution may not use an un-*Mirandized* statement in its case-in-chief, the statement is valid for use in cross-examining the defendant and impeaching his testimony. See *Harris* v. *New York*, 401 U.S. 222, 224-226 (1971). Similarly, while the "fruit of the poisonous tree" rule requires courts to suppress the fruits of unconstitutional police conduct, see *Wong Sun* v. *United States*, 371 U.S. 471, 488 (1963), that rule does not apply to a police officer's failure to provide *Miranda* warnings. Instead, although the prosecution may not use the un-*Mirandized* statement itself, it may still use physical and other evidence that the statement led law enforcement to discover—an approach that cannot be squared with a view that a law-enforcement interrogation alone violates *Miranda*.

In *Michigan* v. *Tucker*, 417 U.S. 433 (1974), for example, this Court admitted the fruits of a statement elicited without *Miranda* warnings, observing that the warnings are "not themselves rights protected by the Constitution." *Id.* at 444. In *Oregon* v. *Elstad*, 470 U.S. 298 (1985), the Court again admitted evidence that was potentially the fruit of a statement elicited without warnings, remarking that "a simple failure to administer *Miranda* warnings is not in itself a violation of the Fifth Amendment." *Id.* at 306 n.1. And in *United States* v. *Patane*, 542 U.S. 630 (2004), the Court once more admitted the fruits of a statement elicited without warnings; the lead opinion emphasized that "[t]he *Miranda* rule is not a code of police conduct" and that "police do not violate * * * the *Miranda* rule * * * by mere failures to warn." *Id.* at 637 (opinion of Thomas, J.).

The Court's habeas corpus jurisprudence reinforces that trial-focused understanding of *Miranda*'s constitutional rule. The Court has held that a prisoner may seek a writ of habeas corpus for violations of *Miranda* but usually not for violations of the Fourth Amendment, explaining the difference by reference to the trial. See *Withrow* v. *Williams*, 507 U.S. 680, 683 (1993). The Court observed that the violation of the Fourth Amendment occurs outside court; suppression may deter future wrongs, but it does not improve the reliability of the trial itself and thus does not provide a proper basis for post-conviction review. *Id.* at 690-691. The Court emphasized that *Miranda*, in contrast, protects "'the fairness of the trial itself,'" promotes "the correct ascertainment of guilt," and reduces "'the use of unreliable statements at trial.'" *Id.* at 691-692 (citations omitted).

The Court has also applied the same trial focus in the civil context. The Court's decision in *Chavez* v. *Martinez*, 538 U.S. 760 (2003), makes clear that if the police elicit an involuntary and un-*Mirandized* statement, but the government never uses it in a criminal case, the suspect may not sue the police under Section 1983 for violating either the Self-Incrimination Clause or *Miranda*. A four-Justice plurality explained that a violation of the Self-Incrimination Clause or *Miranda* occurs only when the prosecution uses the statement at trial. *Id.* at 766-773. Justices Souter and Breyer agreed that the Self-Incrimination Clause and *Miranda* focus on the use of statements in court. *Id.* at 777 (Souter, J., concurring in the judgment). And although Justices Kennedy and Stevens would have held that a violation of the Self-Incrimination Clause occurs even if the prosecution never uses the statement, even they agreed that a violation of *Miranda* occurs only upon the use of un-

warned statements at trial. *Id.* at 789-790 (Kennedy, J., concurring in part and dissenting in part).

Although language in some of this Court's opinions could be read to suggest that *Miranda* requires the warnings themselves, see *Patane*, 542 U.S. at 642 n.3 (opinion of Thomas, J.) (making that observation), those statements are just shorthand; they simply tell police officers what they must do in order to secure admissible confessions. In the end, "the police are free to interrogate suspects without advising them of their constitutional rights"; all that *Miranda* forbids "is the introduction of [the] statements at trial." *New York* v. *Quarles*, 467 U.S. 649, 686 (1984) (Marshall, J., dissenting).

2. **Miranda*'s status as a constitutional rule of evidence rather than a rule of police conduct tracks practical realities***

The *Miranda* rule, which was crafted to account for practical realities, makes sense in light of those realities only if it is treated as a constitutional rule of evidence, rather than a rule of law-enforcement procedure. Law-enforcement officers often have powerful reasons to question people without providing warnings. For instance, officers may find it necessary to ask questions without giving warnings when gathering intelligence and protecting national security. See *United States* v. *Tsarnaev*, 968 F.3d 24, 39 (1st Cir. 2020) (questioning in immediate aftermath of 2013 Boston Marathon bombing), rev'd, No. 20-443 (Mar. 4, 2022), slip op.; *United States* v. *Khweis*, 971 F.3d 453, 458 (4th Cir. 2020) (intelligence-gathering interview with a fighter for the Islamic State of Iraq and the Levant), cert. denied, 141 S. Ct. 1712 (2021); *United States* v. *Abdulmutallab*, 739 F.3d 891, 898 (6th Cir.) (interrogation of a terrorist who had attempted to detonate a bomb aboard an airplane),

cert. denied, 574 U.S. 840 (2014). The same is true when officers attempt to end an ongoing crime, such as a kidnapping. See Henry J. Friendly, *The Bill of Rights as a Code of Criminal Procedure*, 53 Calif. L. Rev. 929, 949 (1965). This Court has recognized a public-safety exception to *Miranda* in order to address some of those concerns, see *Quarles*, 467 U.S. at 659, but the police will not have advance certainty that a court will find that an interrogation fits within that exception. Recasting *Miranda* as a rule of police conduct—and a basis for personal liability—would unduly hamper law enforcement's response to threats to public safety.

In that context and more generally, courts and prosecutors can determine *Miranda*'s applicability better than police officers can. *Miranda* applies only if the suspect is in custody, see *Beckwith* v. *United States*, 425 U.S. 341, 345-346 (1976), and only to interrogations, not spontaneous statements, see *Rhode Island* v. *Innis*, 446 U.S. 291, 297-298 (1980). It includes a public-safety exception, see *Quarles*, 467 U.S. at 657-658, and a routine-booking exception, see *Pennsylvania* v. *Muniz*, 496 U.S. 582, 601 (1990). It draws lines between children and adults, see *J. D. B.* v. *North Carolina*, 564 U.S. 261, 264 (2011); between waiving and asserting a right, see *Berghuis* v. *Thompkins*, 560 U.S. 370, 385 (2010); and between adequate and inadequate warnings, see *Duckworth* v. *Eagan*, 492 U.S. 195, 203 (1989). As a result, *Miranda*'s applicability "can only be assessed and determined in the course of trial." *Chavez*, 538 U.S. at 790 (Kennedy, J., concurring in part and dissenting in part). "Police officers are ill-equipped to pinch-hit for counsel, construing the murky and difficult questions of when 'custody' begins or whether a given unwarned state-

ment will ultimately be held admissible." *Elstad*, 470 U.S. at 316.

Recognizing that the Self-Incrimination Clause and *Miranda* set forth evidentiary rules would not free the police from constitutional constraints in interrogations. The Fourth Amendment forbids unreasonable seizures, including seizures involving the use of excessive force. See *Graham* v. *Connor*, 490 U.S. 386, 394 (1989). In addition, the Due Process Clause prohibits police conduct that "shocks the conscience." *County of Sacramento* v. *Lewis*, 523 U.S. 833, 846 (1998). Victims may sue the police for violating those standards, regardless of whether the abuse results in a confession later used in court. See *Chavez*, 538 U.S. at 779-780. The federal government also may prosecute officers who willfully violate those rights. See 18 U.S.C. 242.

B. Section 1983 Does Not Authorize Claims Against Police Officers Based On Violations Of *Miranda*

Section 1983 provides a federal civil remedy against a state actor who "subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws." 42 U.S.C. 1983. Contrary to petitioner's contention (Br. 19-26), *Miranda* does secure a federal right: namely, a criminal defendant's right to the exclusion of unwarned statements from the prosecution's case-in-chief. But *Miranda* does not confer a right to receive the warnings themselves. Because *Miranda* sets forth a constitutional rule of evidence for prosecutors and judges at trial rather than a code of conduct for the police in the field, a suspect may not sue police officers under Section 1983 for eliciting an unwarned statement.

1. Section 1983 does not make the police liable for the later violation of Miranda *in a courtroom*

Section 1983 provides a civil remedy only against a state actor who "*subjects, or causes to be subjected,* any citizen of the United States or other person within the jurisdiction thereof to the deprivation of" that right. 42 U.S.C. 1983 (emphasis added). A plaintiff must therefore show that the defendant state actor either "subjected" the plaintiff to the denial of the right or "caused" him to be so subjected. A police officer who asks questions without giving warnings does neither.

Such an officer does not himself "subject" the suspect to the violation of *Miranda*. As explained above, *Miranda* neither requires the police to give warnings nor entitles suspects to receive them. The constitutional rule *Miranda* recognized simply means that, if the police fail to give warnings, the prosecution may not use the suspect's statement in its case-in-chief—although even then, the prosecution may still use the statement for other purposes. The violation of *Miranda* occurs only if an unwarned statement is, in fact, admitted for an impermissible purpose at trial.

A police officer who elicits an unwarned statement also does not "cause" that violation to occur. This Court has interpreted Section 1983's causation requirement against the backdrop of the common law of torts. See *County of Los Angeles* v. *Mendez*, 137 S. Ct. 1539, 1548 (2017). And at common law, a tort plaintiff must show that the defendant's tortious act was both an actual cause (or cause-in-fact) and a legal cause (or proximate cause) of the harm. See *Paroline* v. *United States*, 572 U.S. 434, 444-445 (2014). Actual causation presents a question of fact—namely, whether the wrong in fact led to the harm. See *ibid.* Legal causation presents a

"problem of law"—namely, "whether the policy of the law will extend the responsibility for the conduct to the consequences which have in fact occurred." W. Page Keeton et al., *Prosser and Keeton on The Law of Torts* 273 (5th ed. 1984). Although a police officer's failure to give warnings may qualify as an actual cause of a *Miranda* violation at trial, sound legal principles counsel against treating it as a legal cause.

Tort liability ordinarily requires a showing of fault; a tort defendant owes damages for harm caused by his tortious conduct, but does not owe damages for harm caused by his lawful conduct. See *The Nitro-glycerine Case*, 82 U.S. (15 Wall.) 524, 538-539 (1873). Section 1983 works the same way; a state actor is liable for "causing" a denial of a federal right only if his culpable conduct has led to the deprivation of that right. See *Board of the County Commissioners* v. *Brown*, 520 U.S. 397, 405 (1997). For example, the Court has held that although a police chief who orders a police officer to use excessive force in an arrest has "caused" the denial of federal rights, because his own order violated the law, a police chief who simply hires a police officer who later uses excessive force has not "caused" the denial of federal rights, because the hiring decision itself was lawful. *Id.* at 404-405. The principle that a state actor who has complied with the law does not owe damages even if his lawful acts "launch a series of events that ultimately cause a violation of federal rights," *ibid.*, controls this case. A police officer who simply questions a suspect without warnings, and who otherwise acts in accordance with the law, has not "caused" the later admission of unwarned statements in court for purposes of damages under Section 1983.

This Court has correspondingly recognized that Section 1983 does not allow for vicarious liability. See *Monell* v. *Department of Social Services*, 436 U.S. 658, 692 (1978). The Court has long deemed public officials liable only for their own wrongs, not for the wrongs of other officials. See *Robertson* v. *Sichel*, 127 U.S. 507, 516 (1888); *Dunlop* v. *Munroe*, 11 U.S. (7 Cranch) 242, 269 (1812). And the Court has accordingly required a Section 1983 plaintiff to show that "each Government-official defendant, through the official's own individual actions, has violated the Constitution" as a prerequisite for an individual defendant's liability. *Ashcroft* v. *Iqbal*, 556 U.S. 662, 676 (2009). Treating the interrogation as the legal cause of a *Miranda* violation at trial would undermine that principle, because it would, in effect, make the police officer vicariously liable for a violation by court officers. The constable would owe damages because the prosecutor or court has blundered.

In addition, a police officer should be allowed to trust that courts and prosecutors will avoid the introduction of a constitutionally inadmissible statement at trial. This Court accords prosecutors and courts a presumption of regularity, under which it presumes that prosecutors properly discharge their duties, see *United States* v. *Armstrong*, 517 U.S. 456, 464 (1996), and that courts properly apply the law, see *Parke* v. *Raley*, 506 U.S. 20, 29-30 (1992). A police officer who elicits an unwarned statement, inadvertently or otherwise, is entitled to make the same presumption. He may reasonably rely on the prosecutor to assess whether *Miranda* applies, and if it does, to refrain from using the statement in the government's case-in-chief. The police officer also may reasonably rely on the court to correct any error or overreach by the prosecutor.

This Court has recognized the value of a "reasonable division of functions" in the criminal-justice system. *Baker* v. *McCollan*, 443 U.S. 137, 145 (1979). The police gather evidence; the prosecutor decides whether to use the evidence at trial; the judge resolves disputes about admissibility. Treating the actions of the police as proximately causing the prosecutor's decisions—let alone the court's decisions—would upset that well-settled division of labor. It would require police officers in the field—without the benefit of extensive legal training, briefs, or time for detached reflection—to make difficult judgments about the admissibility of the evidence that they secure.

Particularly in light of his significantly disadvantaged position, a police officer should not serve as a stand-in for a prosecutor or judge, who would enjoy absolute immunity for producing a *Miranda* violation. See *Imbler* v. *Pachtman*, 424 U.S. 409, 424 (1976) (prosecutor); *Pierson* v. *Ray*, 386 U.S. 547, 553 (1967) (judge). This Court has recognized, for example, that it would be "anomalous to permit a police officer who testifies before a grand jury to be sued for maliciously procuring an unjust prosecution when it is the prosecutor, who is shielded by absolute immunity, who is actually responsible for the decision to prosecute." *Rehberg* v. *Paulk*, 566 U.S. 356, 372 (2012). Similarly here, it would make little sense to grant immunity to the prosecutor or judge for directly causing a *Miranda* violation, but to penalize the officer for his much more attenuated role in the ultimate in-court result. Under such a regime, "the star player is exonerated, but the supporting actor is not." *Albright* v. *Oliver*, 510 U.S. 266, 279 n.5 (1994) (Ginsburg, J., concurring).

In deeming such a regime nevertheless to be appropriate, the court of appeals relied on the theory that a police officer who fails to give warnings can foresee that a prosecutor will use the resulting statement. See Pet. App. 21a. But foreseeability does not provide an exclusive test of legal causation; its importance varies depending on context. See *Hemi Group, LLC* v. *City of New York*, 559 U.S. 1, 12 (2010). Foreseeability matters in negligence cases because the law of negligence imposes a duty to take precautions to avoid foreseeable harms. See *Palsgraf* v. *Long Island R. Co.*, 162 N.E. 99, 99-100 (N.Y. 1928). It matters less in a case like this because a police officer has no legal duty under *Miranda* to take precautions in the field in order to avert foreseeable errors at trial. In any event, a police officer who asks a question without providing a warning would not necessarily foresee that the suspect will decide to answer, that the prosecutor will decide to charge the suspect with a crime, that the suspect will go to trial rather than plead guilty, that the prosecutor will introduce the statement despite the lack of warnings, that the prosecutor will do so in his case-in-chief, and that the defendant will either fail to raise a *Miranda* objection or have that objection overruled by the trial court.

2. Imposing civil liability for Miranda *violations would conflict with the principles underlying* Miranda

Treating a police officer as a proper defendant in a Section 1983 suit alleging a *Miranda* violation would also conflict with the nature of the *Miranda* right. Common-law doctrines such as legal causation "are meant to guide rather than control the definition of § 1983 claims." *Manuel* v. *City of Joliet*, 137 S. Ct. 911, 921 (2017). "In applying, selecting among, or adjusting common-law approaches, courts must closely attend to the values and

purposes of the constitutional right at issue." *Ibid.* And the values and purposes of the *Miranda* right do not support liability for a police officer like petitioner.

Most fundamentally, imposing individual civil damages liability on the police would transform *Miranda* into the very thing this Court's cases make clear that it is not: "a code of behavior" that seeks to "mold police conduct for its own sake." *Moran* v. *Burbine*, 475 U.S. 412, 425 (1986). *Miranda* currently operates at the courthouse, but imposing civil liability against law enforcement for conducting unwarned interviews would in effect extend it to the stationhouse, by applying it to the police rather than to courts or prosecutors.

Enforcing *Miranda* through Section 1983 would, additionally, upset the "subtle balance" that *Miranda* struck between "society's legitimate law enforcement interests and the protection of the defendant's Fifth Amendment rights." *Moran*, 475 U.S. at 424, 426. This Court has recognized that *Miranda*'s bright-line rule imposes costs on the criminal-justice system, but has found it necessary to pay that price in order to prevent the use of compelled statements in the prosecution's case-in-chief. See *Dickerson*, 530 U.S. at 444. The Court, however, has repeatedly declined to extend *Miranda* in ways that would exact too great a toll from the legal system. The Court has, for example, refused to prohibit the use of unwarned statements for impeachment, finding it "sufficient" to make the statement "unavailable to the prosecution in its case in chief." *Harris*, 401 U.S. at 225. The Court has also refused to prohibit the use of the fruits of the statement, explaining that suppression of fruits would come "at a high cost to legitimate law enforcement activity." *Elstad*, 470 U.S. at 312. Likewise here, imposing civil liability for *Miranda*

violations would create excessive "costs and risks" not contemplated by *Miranda*. *Chavez*, 538 U.S. at 778 (Souter, J., concurring in the judgment).

3. The proper forum for raising* Miranda *claims is in the criminal trial, not in a collateral civil action for damages

Because a *Miranda* violation occurs only when an unwarned statement is introduced at trial, the proper forum to enforce that right is in the criminal trial itself—not in a collateral civil suit. This Court has previously recognized that Section 1983 does not supersede other enforcement schemes. For example, in one line of cases, the Court has determined that, if a statute lays down an exclusive avenue for enforcing a right, a plaintiff must follow that path; he may not deviate from it and sue under Section 1983 instead. See *City of Rancho Palos Verdes* v. *Abrams*, 544 U.S. 113, 121 (2005); *Middlesex County Sewerage Authority* v. *National Sea Clammers Ass'n*, 453 U.S. 1, 19-20 (1981). In another line of cases, the Court has determined that plaintiffs must bring certain claims through habeas corpus rather than through Section 1983. See *Heck* v. *Humphrey*, 512 U.S. 477, 489 (1994); *Preiser* v. *Rodriguez*, 411 U.S. 475, 487 (1973). This case presents a variation on the same theme.

The most logical forum for enforcing *Miranda* is in the criminal trial itself. *Miranda* sets forth a constitutional rule that governs the admissibility of evidence at trial, and a defendant's assertion of his right to have unwarned statements excluded from the prosecution's case-in-chief at his criminal trial is best addressed during (or before) that trial. The admissibility of an unwarned statement can most readily be assessed in the trial context; indeed, *Miranda* includes exceptions, such as for using statements to impeach the defendant's

testimony, "that can only be assessed and determined in the course of trial." *Chavez*, 538 U.S. at 790 (Kennedy, J., concurring in part and dissenting in part). And exclusion of an unwarned statement at trial is "complete and sufficient" to vindicate the criminal defendant's rights. *Ibid.* Thus, the "identification of a *Miranda* violation and its consequences * * * ought to be determined at trial." *Ibid.*

Trial courts, of course, are not perfect; they might erroneously admit statements that *Miranda* required them to exclude. But if that happens, a convicted defendant can seek appellate review. If that fails, he can seek post-conviction review in state court. And if that fails, he can seek a writ of habeas corpus in federal court. See *Williams*, 507 U.S. at 683. A Section 1983 action seeking damages against a police officer for a *Miranda* violation has no place in that scheme. *Miranda* itself sets out the proper avenue for enforcing its requirements (objecting at trial), and Congress has set out the proper avenue for enforcing *Miranda* if the state courts fail to do so (seeking certiorari in this Court and habeas corpus in federal district court).

Addressing *Miranda* errors in collateral Section 1983 actions against the police would undercut important legal policies. It would require localities and officers to renew contests already fought in state court, exposing them to the "expense and vexation" of duplicative litigation. *Montana* v. *United States*, 440 U.S. 147, 153-154 (1979). It also would require federal courts to re-decide matters already decided in state court, frustrating the interest in "judicial economy." *Parklane Hosiery Co.* v. *Shore*, 439 U.S. 322, 326 (1979). It would invite federal and state courts to reach different conclusions about the same interrogation, threatening

the "strong judicial policy against the creation of two conflicting resolutions arising out of the same or identical transaction." *Heck*, 512 U.S. at 484 (citation omitted). And it would produce "unnecessary friction between the federal and state court systems" by encouraging the "'unseemly spectacle of federal district courts trying the regularity of proceedings had in courts of coordinate jurisdiction.'" *Preiser*, 411 U.S. at 490-491 (citation and emphasis omitted).

Collateral Section 1983 actions raising *Miranda* claims would also create procedural problems. Where Congress intends to allow collateral review of trial errors, it has provided guidance as to how that review should be conducted. See, *e.g.*, 28 U.S.C. 2254 and 2255. But courts would lack any such guidance in their resolution of numerous procedural questions in this context. One is whether a Section 1983 court would owe deference to the trial court's factual findings, or would instead decide the *Miranda* issue from scratch. Another is whether rules of forfeiture and plain error carry over to the Section 1983 case, or whether a person can sue the police for a violation of *Miranda* even if he did not object to that violation at his trial. A third issue is whether harmless-error rules would carry over, or whether a criminal defendant can collect damages even when the use of the statement had no effect on the outcome of his case.

Enforcing *Miranda* in collateral actions would, in addition, lead to anomalous results. As respondent acknowledges (Br. in Opp. 8), this Court's decision in *Heck* v. *Humphrey*, *supra*—which prohibits damages claims that imply the invalidity of convictions—would generally preclude convicted defendants from filing *Miranda* claims under Section 1983. See 512 U.S. at 483. Only

acquitted defendants (and other defendants who have had their criminal cases terminated in their favor) could sue for violations of *Miranda*. Acquitted defendants, however, have by definition escaped the harm that the *Miranda* rule ultimately seeks to prevent: "conviction resting on a compelled confession." *Miranda*, 384 U.S. at 462. It makes little sense that such defendants would be the only ones who can bring a suit for damages.

C. Respondent's Arguments Lack Merit

Respondent's brief in opposition does not provide any significant support for the decision below. Like the court of appeals, respondent identifies no sound basis for imposing individual damages liability on a police officer for a *Miranda* violation that occurred at trial.

1. Respondent suggests (Br. in Opp. 12 n.6) that Section 1983 liability for a police officer following the introduction of an unwarned statement (a violation of *Miranda*) is a logical corollary of Section 1983 liability for a police officer following the introduction of an involuntary statement (a violation of the Self-Incrimination Clause). As an initial matter, that suggestion rests on a questionable premise. This Court has never held that a suspect may sue the police for a violation of the Self-Incrimination Clause at trial. A suspect may sue the police under the Fourth Amendment and the Due Process Clause for any abuses committed by the police themselves. See *Chavez*, 538 U.S. at 779-780; p. 14, *supra*. But the Court has indicated that the use of a compelled statement at trial results in the denial of a "fair trial," not "a legal grievance against the police." *Lyons* v. *Oklahoma*, 322 U.S. 596, 605 (1944).

In any event, even if the premise were established, respondent's conclusion would not follow. *Miranda* provides broader coverage than the Self-Incrimination

Clause with respect to statements made in police custody, but is narrower in other respects. The Clause forbids the use of the fruits of compelled testimony, see *Kastigar* v. *United States*, 406 U.S. 441, 458 (1972), but *Miranda* permits the use of the fruits of un-*Mirandized* statements, see *Elstad*, 470 U.S. at 304. The Clause forbids the use of compelled testimony for impeachment, see *New Jersey* v. *Portash*, 440 U.S. 450, 459 (1979), but *Miranda* permits impeachment of a defendant's testimony with unwarned statements, see *Harris*, 401 U.S. at 226. And this Court has recognized a public-safety exception to *Miranda*, even though it has never recognized such an exception to compelled self-incrimination. See *Quarles*, 467 U.S. at 657.

Because the constitutional evidentiary rule recognized in *Miranda* differs in significant ways from direct violations of the Self-Incrimination Clause, damages liability for police officers following violations of the Clause would not imply damages liability for police officers following violations of *Miranda*. Among other things, the police conduct that leads to an involuntary statement could generally be considered more culpable than the police conduct that merely gives rise to an unwarned statement. And damages could be more justifiable for a suspect whose "will was overborne," *Lynumn*, 372 U.S. at 534, than a suspect who simply made unwarned statements. Imposing damages liability for *Miranda* violations would also sweep in cases—like this one—in which the statement was, in fact, voluntary. See Pet. App. 8a. Neither respondent nor the court below has meaningfully explained how that would be appropriate.

2. Respondent separately argues (Br. in Opp. 19-20) that petitioner should be liable for damages because petitioner did more than question respondent without

providing warnings. Specifically, respondent claims (*id.* at 20) that petitioner "filed a probable cause declaration based solely on the alleged confession" and "testified about the confession at the preliminary hearing, two suppression hearings, and to the jury at the criminal trial." But that argument goes beyond the scope of the question presented, which asks (Pet. i) only whether a plaintiff may state a claim against a police officer "based simply on an officer's failure to provide the warnings prescribed in *Miranda*."

In any event, even if it were at issue here, the additional conduct that respondent describes should not provide a basis for damages liability for a *Miranda* violation. With respect to petitioner's probable-cause declaration, *Miranda* does not restrict the use of unwarned statements in settings outside the case-in-chief at a criminal trial, such as in probable-cause declarations or preliminary hearings. See U.S. Amicus Br. at 27 n.6, *City of Hays* v. *Vogt*, 138 S. Ct. 1683 (2018) (No. 16-1495). And with respect to petitioner's testimony, witnesses in a criminal trial, including police officers, enjoy absolute immunity for their testimony. See *Briscoe* v. *LaHue*, 460 U.S. 325, 326 (1983).

This case differs from *Hartman* v. *Moore*, 547 U.S. 250 (2006), which allowed for individual liability against a law-enforcement officer who instigated a retaliatory prosecution against a speaker based on the speaker's exercise of First Amendment rights. See *id.* at 256. Unlike the species of malicious prosecution at issue in *Moore*, see *id.* at 258, a violation of *Miranda* in the course of courtroom proceedings is not fairly traceable to an unconstitutionally motivated out-of-court action by the officer himself, and finds no foothold in standard causation principles. See pp. 15-19, *supra*.

3. Finally, respondent objects (Br. in Opp. 16) that, if he cannot sue petitioner, he would have no remedy for the alleged violation of *Miranda* in this case. But that is always the consequence when the violation of a constitutional right is the result of actions taken by state officers who are absolutely immune from liability. And *Miranda* violations occur at trial, a context where the participants—judge, prosecutor, and witness—have such absolute immunity. See *Butz* v. *Economou*, 438 U.S. 478, 512 (1978). Immunity precludes redress for some wrongs, but the law pays that price so that "judges, advocates, and witnesses can perform their respective functions without harassment or intimidation." *Ibid.* The fact that immunity precludes redress in this case neither justifies rewriting *Miranda* as a code of police conduct, nor justifies rewriting Section 1983 to make a police officer pay for decisions made by the judge and prosecutor.

CONCLUSION

The judgment of the court of appeals should be reversed.

Respectfully submitted.

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APPENDIX

1. U.S. Const. Amend. V provides:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

2. 42 U.S.C. 1983 provides:

Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.