**You no longer have the right to remain silent — at least, not unless you speak up first.**

**PolicyMic**

That's the essence of the confusing ruling that the Supreme Court handed down on June 17, 2013 in [*Salinas v. Texas*](http://www.scotusblog.com/case-files/cases/salinas-v-texas/). The Salinas case, which represents a dramatic curtailment of Miranda rights, is arguably the most consequential Supreme Court ruling of the term, but was largely overshadowed by the high-profile DOMA and Prop 8 decisions.

Between the Voting Rights Act ruling and the same-sex marriage decisions, last week felt like a marathon in terms of Supreme Court news. At this point, what little interest the public has in constitutional law (if there was ever any to speak of in the first place) has been stretched thin.

With that in mind, I'll try to go easy on the legalese while explaining how the Supreme Court has quietly upended the dynamic of interactions between civilians and cops across the nation.

The [case concerns](http://www.slate.com/articles/news_and_politics/jurisprudence/2013/06/salinas_v_texas_right_to_remain_silent_supreme_court_right_to_remain_silent.html) Genovevo Salinas of Houston, Texas, who was invited down to the police station in order to provide information to the cops about the recent dual-homicide of two brothers whom Salinas knew. Salinas, who had been at a party at the brothers' home the previous night, agreed to an interview with police, hoping to clear himself of suspicion.

Because Salinas came to the station of his own free will and was not under arrest, the police did not read him his Miranda warnings. Salinas answered questions for about an hour and agreed to give the police his shotgun for testing.

Then, the cops asked Salinas whether they could expect that his shotgun would match the shells they had found at the scene of the murder. According to the police, Salinas fell silent, shuffled his feet, bit his bottom lip, and tensed up.

Of course, the suspicious fidgeting didn't give police probable cause to arrest Salinas for murder. By pure "coincidence," however, Salinas was later arrested on an entirely unrelated traffic warrant, at which time the police decided to charge him with the murders.

At trial, Salinas, invoking his Fifth Amendment rights, did not testify. Nevertheless, prosecutors used his reportedly uncomfortable reaction to the question about his shotgun — the feet-shuffling, lip biting, etc. — as evidence. The Texas court [found Salinas guilty of murder](http://www.ibtimes.com/supreme-court-self-incrimination-ruling-no-right-remain-silent-unless-you-speak-1324515) and gave him a 20-year sentence.

The Fifth Amendment of the Bill of Rights [states](http://www.law.cornell.edu/constitution/billofrights#amendmentv) that no U.S. citizen "shall be compelled in any criminal case to be a witness against himself." It has since been interpreted to mean that a defendant's act of remaining silent — of refusing to testify — cannot be used as evidence against him or her in court.

Salinas decided to appeal on the grounds that his silence was used against him in violation of the Fifth Amendment. His case made it to the Supreme Court, where a 5-4 majority spearheaded by Justices Alito, Kennedy, and Roberts ruled against him.

The majority opinion states that Salinas' Fifth Amendment protection claim failed because Salinas "did not expressly invoke" the Fifth Amendment in response to the officer's question about the shotgun.

This isn't the first time that the Supreme Court has asserted the "use it or lose it" doctrine in Miranda cases; in [Berghuis v. Thompkins](http://scholar.google.com/scholar_case?case=13313726752834372708&hl=en&as_sdt=2&as_vis=1&oi=scholarr) (2010), the Court ruled that a murder suspect who remained silent through 3 hours of police interrogation before breaking down and responding "Yes" to the question, "Do you believe in God?" waived his right to remain silent.

The difference in Salinas v. Texas, however, is that Genovevo Salinas was never under arrest. He was under the impression that the police wanted him “to take photographs and to clear him as [a] suspect.” He volunteered to help the police in their investigation and exercised his right to remain silent in the most natural way possible — by remaining silent.

Erwin Chemerinsky, a professor at the University of California, Irvine Law School, [wrote in response to the Salinas ruling](http://www.ibtimes.com/supreme-court-self-incrimination-ruling-no-right-remain-silent-unless-you-speak-1324515), "Constitutional protections should not be just for those who have legal training and know what they need to say to the police to invoke their rights." As a consequence of the Court's counter-intuitive ruling, the majority of Americans are no longer under the full protection of the Fifth Amendment.

The moral of the story — and if you're still with me, I applaud you — is that if you ever find yourself wanting to not respond to a police officer's question, for whatever reason, just mumble the magic words, "I wish to remain silent." Apparently, it's the only way to get the Supreme Court to hear you.

The Salinas decision does much more than provide overworked law school students with additional fodder for term papers. In fact, the ruling is absolutely crucial for the average American to understand because it applies to pre-arrest exchanges with law enforcement. In other words, the next time that you have a casual conversation with a police officer, proceed with caution, because anything you don't say may be used against you in court.

Gabe Grand is an editorialist at PolicyMic who rarely remains silent.