The Court, in opinions that bespeak a sense of necessity to narrowly construe *Miranda*, has broadened the permissible impeachment purposes for which unlawful confessions and admissions may be used.[392] Thus, in *Harris v. New York*,[393] the Court held that the prosecution could use statements, obtained in violation of *Miranda*, to impeach the defendant's testimony if he voluntarily took the stand and denied commission of the offense. Subsequently, in *Oregon v. Hass*,[394] the Court permitted impeachment use of a statement made by the defendant after police had ignored his request for counsel following his *Miranda* warning. Such impeachment material, however, must still meet the standard of voluntariness associated with the pre-*Miranda* tests for the admission of confessions and statements.[395]

The Court has created a "public safety" exception to the *Miranda* warning requirement, but has refused to create another exception for misdemeanors and lesser offenses. In *New York v. Quarles*,[396] the Court held admissible a recently apprehended suspect's response in a public supermarket to the arresting officer's demand to know the location of a gun that the officer had reason to believe the suspect had just discarded or hidden in the supermarket. The Court, in an opinion by Justice Rehnquist,[397] declined to place officers in the "untenable position" of having to make instant decisions as to whether to proceed with *Miranda* warnings and thereby increase the risk to themselves or to the public or whether to dis-

---

may be the poisonous fruit of other constitutional violations, such as illegal searches or arrests. *E.g.*, Brown v. Illinois, 422 U.S. 590 (1975); Dunaway v. New York, 442 U.S. 200 (1979); Taylor v. Alabama, 457 U.S. 687 (1982).

[392] Under Walter v. United States, 347 U.S. 62 (1954), the defendant not only denied the offense of which he was accused (sale of drugs), but also asserted he had never dealt in drugs. The prosecution was permitted to impeach him concerning heroin seized illegally from his home two years before. The Court observed that the defendant could have denied the offense without making the "sweeping" assertions, as to which the government could impeach him.

[393] 401 U.S. 222 (1971). The defendant had denied only the commission of the offense. The Court observed that it was only "speculative" to think that impermissible police conduct would be encouraged by permitting such impeachment, a resort to deterrence analysis being contemporaneously used to ground the Fourth Amendment exclusionary rule, whereas the defendant's right to testify was the obligation to testify truthfully and the prosecution could impeach him for committing perjury. *See also* United States v. Havens, 446 U.S. 620 (1980) (Fourth Amendment).

[394] 420 U.S. 714 (1975). By contrast, a defendant may not be impeached by evidence of his silence after police have warned him of his right to remain silent. Doyle v. Ohio, 426 U.S. 610 (1976).

[395] *E.g.*, Mincey v. Arizona, 437 U.S. 385 (1978); New Jersey v. Portash, 440 U.S. 450 (1979).

[396] 467 U.S. 649 (1984).

[397] The Court's opinion was joined by Chief Justice Burger and by Justices White, Blackmun, and Powell. Justice O'Connor would have ruled inadmissible the suspect's response, but not the gun retrieved as a result of the response, and Justices Marshall, Brennan, and Stevens dissented.