ment under a contingent fee arrangement if he would "pay attention" to incriminating remarks initiated by the defendant and others. The Court concluded that, even if the government agents did not intend the informant to take affirmative steps to elicit incriminating statements from the defendant in the absence of counsel, the agents must have known that that result would follow.

The Court extended the *Edwards v. Arizona* [374] rule protecting in-custody requests for counsel to post-arraignment situations where the right derives from the Sixth Amendment rather than the Fifth. In the subsequently overruled *Michigan v. Jackson*, the Court held that, "if police initiate interrogation after a defendant's assertion, at an arraignment or similar proceeding, of his right to counsel, any waiver of the defendant's right to counsel for that police-initiated interrogation is invalid." [375] The Court concluded that "the reasons for prohibiting the interrogation of an uncounseled prisoner who has asked for the help of a lawyer are even stronger after he has been formally charged with an offense than before." [376] The protection, however, is not as broad under the Sixth Amendment as it is under the Fifth. Although *Edwards* has been extended to bar custodial questioning stemming from a separate investigation as well as questioning relating to the crime for which the suspect was arrested,[377] this extension does not apply for purposes of the Sixth Amendment right to counsel. The Sixth Amendment right is "offense-specific," and so also is "its *Michigan v. Jackson* effect of invalidating subsequent waivers in police-initiated interviews." [378] Therefore, although a defendant who has invoked his Sixth Amendment right to counsel with respect to the offense for which he is being prosecuted may not waive that right, he may waive his *Miranda*-based right not to be interrogated about unrelated and uncharged offenses.[379]

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[374] 451 U.S. 477 (1981). See Fifth Amendment, "*Miranda v. Arizona*," *supra*.

[375] 475 U.S. 625, 636 (1986).

[376] 475 U.S. at 631. If a prisoner does not ask for the assistance of counsel, however, and voluntarily waives his rights following a *Miranda* warning, these reasons disappear. Moreover, although the right to counsel is more difficult to waive at trial than before trial, "whatever standards suffice for *Miranda*'s purposes will also be sufficient [for waiver of Sixth Amendment rights] in the context of postindictment questioning." Patterson v. Illinois, 487 U.S. 285, 298 (1988).

[377] Arizona v. Roberson, 486 U.S. 675 (1988).

[378] McNeil v. Wisconsin, 501 U.S. 171, 175 (1991). The reason that the right is "offense-specific" is that "it does not attach until a prosecution is commenced." Id.

[379] Rejecting an exception to the offense-specific limitation for crimes that are closely related factually to a charged offense, the Court instead borrowed the *Blockburger* test from double-jeopardy law: if the same transaction constitutes a violation of two separate statutory provisions, the test is "whether each provision requires proof of a fact which the other does not." Texas v. Cobb, 532 U.S. 162, 173 (2001). This meant that the defendant, who had been charged with burglary, had a right to counsel on that charge, but not with respect to murders committed during the burglary.