



RISK MANAGEMENT INFORMATION

CONSTITUTIONAL ISSUES IN JUVENILE INTERROGATION

**This information was originally developed in conjunction with the League of Minnesota Cities Insurance Trust's PATROL program (Police Accredited TRaining OnLine). For information on PATROL, contact Laura Honeck at patrol@lmc.org or 651-281-1280. For questions about the material in this memo, contact Ann Gergen at agergen@lmc.org or 651-281-1291.*

Miranda waivers and presence of parents:

In determining whether an adult's waiver of *Miranda* is valid, oftentimes courts will only look at the warning given and the suspect's responses. "If the police fully advise an accused of his or her *Miranda* rights and the accused indicates that he or she understands the rights but nevertheless gives an incriminating statement, the state is deemed to have met its burden of providing that the accused *knowingly* and *intelligently* waived his or her rights."¹ But with juveniles, courts will go further and closely examine the totality of the circumstances to determine whether the juvenile *voluntarily* waived his rights.²

Access to, or presence of, a parent is one of the factors courts look at in evaluating whether a juvenile voluntarily waived his or her *Miranda* rights. When a juvenile asks for a parent, it is not the same as when a suspect asks for an attorney or clearly expresses a desire to remain silent.³ The request does not automatically result in suppression of everything that comes after.

Courts are of the view that the mere fact of being in police custody puts some degree of pressure on people.⁴ The legal assumption is that juveniles, because of their immaturity and lack of experience, may be more susceptible to these kinds of pressures. Accordingly, courts will examine all of the circumstances of the interrogation and the individual child's background to decide whether the pressure was so strong that it rendered his or her *Miranda* waiver involuntary.

There are several factors considered under the totality-of-the-circumstances test. These include the juvenile's age, maturity, intelligence, education and prior experience with law enforcement. Also included are whether there were any physical deprivations during the interrogation (e.g., hunger, thirst, lack of access to bathrooms, extended sleep deprivation), the length and legality of the detention, the lack or adequacy of warnings, the nature of the interrogation, and the presence or absence of parents.⁵

¹ *State v. Williams*, 535 N.W.2d 277, 286 (Minn. 1995).

² *State v. Jones*, 566 N.W.2d 317, 322 (Minn. 1997). *See also, State v. Burrell* 697 N.W.2d 579 (Minn. 2005) (reaffirming use of totality-of-the-circumstances test).

³ *Jones*, 566 N.W.2d at 324.

⁴ *In re T.J.C.*, 662 N.W.2d 175, 180 (Minn. Ct. App. 2003), *reversed on other grounds*, 667 N.W.2d 108 (Minn. 2003).

⁵ *Jones*, 566 N.W.2d at 322-23.

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Consult your attorney for advice concerning specific situations.

In *State v. Burrell*, the Minnesota Supreme Court held that a juvenile's *Miranda* waiver was involuntary.⁶ The 16-year-old youth had little previous experience with the police and a close, trusting relationship with his mother. The court held his waiver was involuntary because (1) the officers used deception prior to administering *Miranda*; (2) the juvenile asked to speak to his mother three times before *Miranda* was given; and (3) he asked to speak to his mother another 10 times during the interview. The court said that the "police officers should have realized that by making repeated requests for a trusted and respected parent, Burrell desired his mother's counsel before waiving his *Miranda* rights, as well as afterward."⁷

Burrell should be contrasted with the facts and holding in *State v. Jones*.⁸ Jones was 17 ½ years of age at the time of the interrogation. The officers properly administered *Miranda* to Jones each time he was interviewed. As the first custodial interrogation drew to a close, Jones asked if he could speak with his mother. Jones was interrogated the following day at a time when his mother was in the building, but not with him. The court held that Jones' *Miranda* waiver was valid even though he wasn't given access to his mother. Looking at the totality of the circumstances, the court held he had sufficient maturity and intelligence to understand his rights and voluntarily waive them. Jones was 17 ½ years of age, had completed the 11th grade, and had extensive experience dealing with the police (he'd been adjudicated delinquent of 10 felony-type offenses).

In *State v. Williams*, the Minnesota Supreme Court held that a sixteen-year-old validly waived his *Miranda* rights before confessing to a triple murder, even though his parents were not present during the interview.⁹ Williams had previously been adjudicated delinquent on a number of felony-level petitions. In response to preliminary questioning, he told the police his mother had kicked him out of the house, he did not know her phone number, and he had not seen his father in a long time.¹⁰ Williams never asked for a parent, and at one point during the interview he became upset and angrily addressed the officers. The court observed that his behavior in standing up to the detectives demonstrated "his ability to withstand pressure,"¹¹ and the court decided his *Miranda* waiver was valid.

Courts look at the totality of the circumstances. The case law suggests that there are some key points officers should focus on in deciding whether or not an individual juvenile can validly waive *Miranda* under the circumstances, or whether parents need to be involved or present:

- How much experience the individual has in dealing with the police. The more experience the individual has in dealing with the "pressure" of arrest and custody, the more likely he or she will be able to give a valid waiver without parents being present.
- How far the student has gone in school. Consider whether the juvenile is in a special education program.

⁶ *State v. Burrell*, 697 N.W.2d 579 (Minn. 2005)

⁷ *Burrell*, 697 N.W.2d at 595.

⁸ *Jones*, 566 N.W.2d 317 (Minn. 1997).

⁹ *State v. Williams*, 535 N.W.2d 277 (Minn. 1995)

¹⁰ *Id.* at 280.

¹¹ *Id.* at 288.

- Relationship with parents and independence. Officers should try to develop an articulable sense of whether this suspect faces the world on his own, or is instead still heavily reliant on his or her parents in making major decisions and dealing with important issues.
- The use of deception, particularly *before* the administration of *Miranda*, may push the court toward a finding that the waiver was not valid.¹²

The lower threshold for being in custody

The Minnesota Court of Appeals has issued a number of decisions in the past few years examining when a juvenile is in custody for purposes of *Miranda*.¹³ The court will find that a juvenile is in custody even when an adult under the same circumstances might not be.¹⁴

Courts look at whether a reasonable person in the same circumstances would have felt free to terminate the interrogation and leave.¹⁵ Because juveniles are held to be more susceptible to pressure, the courts use a multi-factor test to decide if a custodial situation exists. Courts look at the age, intelligence, and education of the child, the child's prior experience dealing with law enforcement, the surroundings during questioning, the presence of one or more uniformed officers, whether or not the child had a parent present or the opportunity to have one, and whether the interview was tape-recorded.¹⁶

In *In re T.J.C.*, the court held that the juvenile was in custody even though an adult in the same circumstances might not be. The child was 15 years old and a special education student. He had no prior experience with law enforcement. He was pulled from class and escorted to the principal's office. The interview was conducted by two officers in a small, closed room. Much of the interview was tape-recorded. Courts commonly find custody to exist when officers pull students from class and interview them in an office at the school.¹⁷ Telling a juvenile that he or she is free to leave and not answer any questions can be helpful, but this alone may not be sufficient to overcome other factors suggesting custody.

Administering Miranda to juveniles

The courts have recognized that there is a "routine" way for police officers to issue the *Miranda* warning to juveniles.¹⁸ This involves reading the warning in segments and then asking the juvenile if he or she understands their rights after each segment has been read.¹⁹ The key is to take steps to ensure that the rights are explained to the juvenile in a way that he or she can understand them, even when this requires first giving a formal explanation, and then an informal one in a way that makes sense to the child given their age and understanding.²⁰

¹² *Burrell*, 697 N.W.2d at 597.

¹³ See, e.g., *In re M.A.K.*, 667 N.W.2d 467 (Minn. Ct. App. 2003); *In re T.J.C.*, 662 N.W.2d 175 (Minn. Ct. App. 2003); *In re R.J.E.*, 630 N.W.2d 457 (Minn. Ct. App. 2001); and *In re G.S.P.*, 610 N.W.2d 651 (Minn. Ct. App. 2000).

¹⁴ *In re T.J.C.*, 662 N.W.2d at 180.

¹⁵ *In re G.S.P.*, 610 N.W.2d at 557.

¹⁶ *In re T.J.C.*, 662 N.W.2d at 180.

¹⁷ *Id.*; see note 13.

¹⁸ *State v. Scott*, 584 N.W.2d 413, 415 (Minn. 1998).

¹⁹ *Id.*

²⁰ *In re L.R.B.*, 373 N.W.2d 334 (Minn. Ct. App. 1985); *In re J.E.R.*, 2004 WL 236168 (unpublished) (Minn. Ct. App. Feb. 10, 2004).

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