



RISK MANAGEMENT INFORMATION INTERROGATION OF SUSPECTS

**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.*

Introduction

Interrogations are an effective and important tool for law enforcement. However, if an interrogation is done improperly, a court may suppress a suspect's statement. The goal of this lesson is to provide officers with information on the legal issues surrounding interrogations.

Miranda Review:

The seminal case on interrogations is *Miranda v. Arizona*, decided by the U.S. Supreme Court in 1966.¹ *Miranda* requires officers to advise suspects of their civil rights and make sure those rights are understood and validly waived before an interrogation takes place.² *Miranda* only applies to custodial interrogations, so a suspect needs to be both in custody and interrogated before *Miranda* applies.³

For *Miranda* purposes, "in custody" means either a formal arrest or its functional equivalent.⁴ A person is considered to be in custody when a reasonable person in the same circumstances would have felt they were in custody.⁵ For example, the Minnesota Supreme Court held that a person was in custody when she was detained at gunpoint after a felony traffic stop involving six officers.⁶

An interrogation occurs when a peace officer engages in direct questioning of a suspect, but can also occur when an officer uses words or conduct that is reasonably likely to elicit an incriminating response from the suspect.⁷ For example, in a famous United States Supreme Court case, the Court found that a murder suspect was being interrogated when an officer, appealing to the suspect's Christian beliefs, suggested that it would be nice for the parents of the victim to be able

¹ *Miranda v. Arizona*, 384 U.S. 436 (1966)

² *Id.* at 474.

³ *Id.* at 471-72.

⁴ *Id.* at 444.

⁵ *State v. Miller*, 573 N.W.2d 661, 670 (Minn. 1998); *State v. Staats*, 658 N.W.2d 207, 211 (Minn. Ct. App. 2003).

⁶ *State v. Rosse*, 478 N.W.2d 482, 486 (Minn. 1991)

⁷ *Rhode Island v. Innis*, 446 U.S. 291, 301 (1980).

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Consult your attorney for advice concerning specific situations.

to give her a “Christian burial.”⁸ The suspect then led police to the victim’s body, but the Court suppressed the suspect’s statement, finding the officer should have known his “Christina burial” statement was likely to elicit an incriminating response.⁹

Interrogating juveniles:

Courts look more closely at *Miranda* issues involving juveniles to see if they were in custody and voluntarily waived their rights.¹⁰ Courts employ the multi-factor “totality of the circumstances” test to resolve these cases, and view the situation from the perspective of the juvenile.¹¹ The court considers all relevant factors surrounding the interrogation and determines if the juvenile acted of his or her own free will when waving their rights.¹²

Scales and the recording requirement:

Based on *State v. Scales*, a 1994 Minnesota Supreme Court case, all custodial interrogations in Minnesota have to be recorded.¹³ An interrogation must be “custodial” for the *Scales* requirement to apply.¹⁴ Courts use the same standard as they do in *Miranda* cases to determine custody - whether a reasonable person would believe they were in custody.¹⁵ For example, the Minnesota Court of Appeals held that a person was not subject to the *Scales* requirement when he initiated contact with the police and was advised by the officer to speak to a lawyer.¹⁶

The *Scales* requirement covers all custodial interrogations, including any information about rights, waiver, and questioning.¹⁷ Courts will only suppress evidence if there is a “substantial violation” of *Scales*.¹⁸ However, if a recording device is not in working order, officers should make all reasonable efforts to obtain one that is working.¹⁹ Evidence that officers were making deliberate, reasonable, and good faith efforts to ensure an interrogation was recorded will help to prevent suppression of a statement.²⁰

Interpreter requirements:

Under Minnesota law, officers are required to provide a qualified interpreter to an arrestee if he or she is unable to communicate or is “disabled in communications.”²¹ A person is considered to be “disabled in communications” if because of hearing, speech, or other communication disorder, or because of difficulty in speaking or comprehending the English language, they cannot fully

⁸ *Brewer v. Williams*, 430 U.S. 387, 392-93 (1977)

⁹ *Id.* at 412.

¹⁰ *See, e.g., In re Welfare of T.J.C.*, 670 N.W.2d 629 (Minn. Ct. App. 2003)

¹¹ *Id.* at 180

¹² *Id.*

¹³ *State v. Scales*, 518 N.W.2d 587 (Minn. 1994)

¹⁴ *State v. Jarvis*, 665 N.W.2d 518, 521 (Minn. 2003).

¹⁵ *Id.*

¹⁶ *Id.* at 523.

¹⁷ *Scales*, 518 N.W.2d. at 592.

¹⁸ *State v. Inman*, 692 N.W.2d 76, 79 (Minn. 2005).

¹⁹ *State v. Schroeder*, 560 N.W.2d 739, 741 (Minn. Ct. App. 1997).

²⁰ *Id.*

²¹ Minn. Stat. § 611.32, subd. 2 (2008).

understand the proceedings, their charges, or are not capable of presenting or assisting in the presentation of a defense.²²

Failure to provide an interpreter when one is required can result in evidence being suppressed.²³ For example, the Minnesota Court of Appeals suppressed a suspect's statement when the officers knew the suspect had difficulty speaking and understanding English, but proceeded with an interrogation anyways.²⁴

Only a qualified interpreter can serve as an interpreter between the officer and the suspect.²⁵ An officer who speaks the same language as a suspect can interrogate the suspect in the suspect's native language, but that officer cannot act as an interpreter for another officer.²⁶

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²² *Id.*

²³ *State v. Marin*, 541 N.W.2d 370, 375 (Minn. Ct. App. 1996).

²⁴ *Id.* at 374-75.

²⁵ Minn. Stat. § 611.33, subd. 1 (2008).

²⁶ *State v. Mitjans*, 408 N.W.2d 824, 829-30 (Minn. 1987).