Appendix 3D

Training Memo—Miranda Rights and Domestic Violence Cases

Both the United States and the Minnesota Constitutions protect a person against compelled self-incrimination. In order to safeguard this right, both the Unites States Supreme Court and the Minnesota Supreme Court have held that if a person is both **in custody** and subject to **interrogation,** the offender must be read his or her Miranda rights.[1] Additionally, Minnesota law requires that a custodial interrogation should be recorded where feasible and **must** be recorded when questioning takes place at a place of detention.[2] Minnesota cases have interpreted what a custodial interrogation means and support the following conclusions:

- ❒ To decide if a custodial interrogation has taken place, the court will look to the surrounding circumstances to determine if a reasonable person would believe that he or she is under formal arrest or is being detained to a degree associated with formal arrest.
- ❒ Miranda safeguards apply when an interrogation is express questioning or its functional equivalent. Preliminary inquiries at the scene to determine what happened and who if anyone should be arrested and spontaneous statements from persons at the scene do not require a Miranda warning.
- ❒ Police officers should make preliminary inquiries of all parties at the scene and do not need to give a Miranda warning when doing so.
- ❒ Police officers should precisely document all spontaneous statements by the offender both before and after arrest at the scene and while being transported. A spontaneous statement does not trigger the need for a Miranda warning.

What is "in custody" pursuant to Minnesota case law?

A Miranda analysis uses an objective test to determine if the person is "in custody." Miranda warnings are required only when there has been a restriction on a person's freedom such as to render the person in custody. "It is *that* sort of coercive environment to which Miranda by its terms is applicable, and to which it

[1] State v. Heden, 719 N.W. 2d 689 (Minn. 2006) citing Miranda v. Arizona, 384 U.S. 436 (1966).

[2] State v. Scales, 518 N.W.2d 587 (Minn. 1994).

is limited."[3] The location of the questioning is not determinative. Simply because a suspect was not questioned at the police station, but rather at a residence or even a public space, does not necessarily mean the questioning is not custodial. The question to be asked is would all the surrounding circumstances lead a reasonable person to believe either that he or she is under formal arrest or detained to a degree associated with formal arrest. The determination is fact specific. In State v. Harem, 384 N.W. 2d 880 (Minn. 1986), for example, the Minnesota Supreme Court held that a defendant who was pulled over for speeding and questioned by an officer about why he smelled of alcohol, while seated in the back seat of a patrol car, was not in custody for Miranda purposes.

On the other hand, the greater the number of "arrest-like" factors present, the more likely a court will find the offender to be in custody. In State v. Rosse, 478 N.W.2d 482 (Minn. 1991), the defendant found herself in the middle of a drug bust; two police cars moved in quickly and blocked the movement of her car, there were six other officers at the scene, and the defendant's initial contact with the police was at gun point. Although the defendant was not handcuffed, her companions were and she was pat searched. She was placed in an officer's car and her purse, pockets, and vehicle were searched; during her questioning she was alone with an officer in his car and was told she would be free to go, but only after everything had been sorted out. The Minnesota Supreme Court found that this was a custodial interrogation. The court held that while none of the circumstances alone required a Miranda warning, when considering all of the circumstances together a "reasonable person would believe that she was in custody."[4]

Any interview of a suspect by a police officer "will have coercive aspects to it, simply by virtue of the fact that the police officer is part of a law enforcement system which may ultimately cause the suspect to be charged with a crime."[5] However, a Miranda warning is not required simply because the questioned person is a suspect. Even a clear statement from an officer that the person being questioned is a prime suspect does not in itself settle whether the questions were a custodial interrogation triggering the Miranda requirement. The officer's suspicions are one of many factors that determine whether the individual was in

---

[3] State v. Wiernasz, 584 N.W.2d 1, 4 (Minn. 1998).

[4] State v. Rosse, at 486).

[5] State v. Wiernasz, 584 N.W.2d 1, 4 (1998).

custody.[6] Ultimately, the question is whether all the circumstances give rise to a reasonable belief that the person is under arrest or restrained to the degree associated with formal arrest.

What is an interrogation pursuant to Minnesota case law?

The U.S. Supreme Court has said that Miranda rights are triggered when a person is in custody and the person is subject to "either express questioning or its functional equivalent."[7] The "functional equivalent" of interrogation for Miranda purposes means "any words or actions on the part of the police (other than those normally attendant to arrest and custody) that the police should know are reasonably likely to elicit an incriminating response from the suspect.[8] The police conduct must "reflect a measure of compulsion above and beyond that inherent in custody itself."[9] For example, in State v. Edrozo, 578 N.W.2d 719 (Minn. 1998), two defendants were placed in the back of a police car but not formally arrested. The officer left the two alone and their conversation was secretly taped. The defendant moved to suppress the taped statements. The court found that a Miranda warning was not needed. The court indicated that the defendant spoke voluntarily about his activity, there was no active or coercive police conduct, and therefore the statements would not be suppressed.[10]

Confessions or self-incriminating statements are admissible unless compelled by coercive police tactics or the result of a custodial interrogation. Volunteered or spontaneous statements are not barred by the Fifth Amendment, even absent a Miranda warning.

A comment from a jailer to an incarcerated suspect that "you are the only one who knows who did it" was held not to be interrogation since it was part of a conversation initiated by the suspect and therefore lacked the required coercion.[11] Similarly, an incriminating response to a routine booking question about a cut on the suspect's hand was not made in response to interrogation and therefore did not trigger Miranda requirements.[12] In a case involving a juvenile

---

[6] Stansbury v. California, 511 U.S. 318, 325 (1994).

[7] Rhode Island v. Innis, 446 U.S. 291, 300-01 (1980); *cert denied* 456 U.S. 942 (1982).

[8] *Id.* at 301.

[9] *Id.* at 300.

[10] State v. Edrozo, at 725-26.

[11] State v. Jackson, 351 N.W. 2d 352, 355 (Minn. 1984).

[12] State v. Hale, 453 N.W. 2d 704,707 (Minn. 1990).

who confessed to participating in an armed robbery to his case manager and was later charged as an adult, the Minnesota Supreme Court held that the case manager's question in asking the juvenile if he had anything he wanted to tell her was "open-ended and non-suggestive and bore none of the elements of coercion or compulsion underpinning the Supreme Court's protections in Miranda. It was nothing more than a general inquiry. It was not intended to illicit [sic] an incriminating response. . . . "[13]

Likewise, on-the-scene questioning where officers are trying to get a preliminary explanation of an unclear situation does not require a Miranda warning.[14]

Implications for practice

The following protocol is suggested for patrol officers when arriving at the scene and dealing with a domestic related police call:

1. On-the-scene questioning of all parties is preferred in order to obtain the widest and most complete range of preliminary information that will enable the officer to determine who, if anyone, should be arrested.
2. Patrol officers need not and are not expected to give a Miranda warning to the arrestee at the scene. Any spontaneous or voluntary statements by the offender before and after arrest do not trigger a Miranda warning and should be documented in quotes in the police report.
3. Patrol officers need not and are not expected to give a Miranda warning while transporting the arrestee, absent intentional, formal questioning.
4. Statements made spontaneously by the arrestee while in the police car do not trigger a Miranda warning and should be documented in quotes in the police report. If the police car is equipped with an audio or video system, officers should consider activating the system for documentation of any spontaneous statements.

---

[13] State v. Tibiatowski, 590 N.W.2d 305, 311 (Minn. 1995).

[14] State v. Walsh, 495 N. W. 2d 602 (Minn. 1993), allowing police arriving at a murder scene to question the defendant, who was handcuffed to a railing, and to conduct a general preliminary investigation without giving the defendant a Miranda warning.. *See also* State v. Rosse, 478 N.W. 2d 482, 605 (Minn. 1991), recognizing that there are occasions where officers need to ask questions to sort out the situation and determine who, if anyone, should be arrested.