



More Change With Miranda Warnings

By CAPTAIN ANTHONY SALERNO



In an October ruling, in *State v. AGD*, the Supreme Court held that a suspect must be advised that a criminal complaint or arrest warrant has need filed or issued **prior** to seeking a waiver of Miranda rights. The officers must advise the target of the exact charges against him. The Supreme Court's rationale was that the State has the obligation to prove beyond a reasonable doubt that a target's Miranda waiver was knowing, intelligent and voluntary in light of the totality of the circumstances. For a waiver to be knowing, intelligent and voluntary, a target must understand the true status, i.e. is he under arrest? If the target is not appropriately advised, his waiver will be invalid.

The Supreme Court did not however preclude the police from attempting to interview a target without counsel subsequent to the issuance of an arrest warrant. Most importantly in the ruling is the issue of when a target was advised as to

the existence of an arrest warrant or complaint and precisely what he was told. This information is critical in a Miranda Hearing and therefore must be addressed comprehensively in any police report dealing with a Miranda Waiver and subsequent interviews and interrogations.

Fact pattern:

The defendant (A.G.D.) was babysitting his child and another minor child. This minor child reported to her mother that Defendant had committed an act of aggravated sexual assault upon her. Police then conducted the traditional forensic interview of the child and therefore obtained an arrest warrant for the Defendant.

Several days after the issuance of the arrest warrant police went to the Defendant's home. Defendant was not advised that an arrest warrant had been issued and police did not immediately execute the arrest warrant. Instead, Defendant agreed to be transported to the Prosecutor's Office where he was interviewed at length after waiving his Miranda rights. Defendant subsequently provided a formal written statement. Defendant was arrested after he gave his written statement. The defendant sought a Miranda Hearing on this matter. The trial court denied the motion to suppress the

statements and the Appellate Division affirmed (agreed). The Supreme Court reversed and in so doing established a new rule in which all police officers, must know when dealing with Miranda, interviews and interrogations, which is that a suspect / target must be advised that a criminal complaint or arrest warrant has need filed or issued **prior** to seeking a waiver of Miranda rights. More and more the liberal New Jersey Supreme Court has been utilizing their right to provide citizens of New Jersey greater protection from government (police). The public question that needs to be asked is does this added protection really protect the citizens? When police need to jump through bureaucratic hoops in order to sustain an arrest, search or conviction it is the criminal who is most protected and the silent majority of law abiding citizens that are not. The liberal pendulum has swung so far left that soon police will not be able to do the job of protecting and serving the good people.

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