



OFFICE OF
POLICE OMBUDSMAN
808 W. SPOKANE FALLS BLVD.
SPOKANE, WASHINGTON 99201
509.625.6742
FAX 509.625.6748

October 15, 2019

Chief Craig Meidl
Spokane Police Department
1100 W. Mallon Avenue
Spokane, Washington 99260

RE: R19-1 – Juvenile Miranda Advisements

Dear Chief Meidl,

We received a complaint, OPO 19-18/C19-017, from a concerned community member after her juvenile son was mistakenly identified by the Spokane Police Department as the person of interest in a call of a person with a gun as he resembled the description of the person the police were looking for. The community member complained the officers used excessive force on her son and were rude to her when she was on scene. While the concerns in her complaint have been mediated, review of the case captured her son being read his *Miranda* rights in the back of a police car while being detained. It was clear that the detained juvenile, who was eleven at the time, did not understand he was being subjected to a *Terry* stop and what that could entail. As the officers were cuffing him, he asks, “Am I arrested?...Am I seriously getting arrested?!” The detained juvenile is later read his *Miranda* rights after he was placed in the back seat of a police vehicle. He requests a second reading of his rights and asks the officer a clarifying question. The officer responds by asking him if he understands the rights read to him, to which he responds in the affirmative. Some discussion ensues and the officer asks if the detained juvenile wants an attorney. The juvenile then responds by asking the officer, “What is an attorney?” This clearly demonstrated that the detained juvenile did not fully understand his rights when he had previously responded that he did.

The Washington Courts and the United States Supreme Court recognize children are different from adults and must be treated differently in the criminal justice system.¹ The International Association of Chiefs of Police recognizes juveniles’ limited ability to understand their *Miranda* rights, which can require a tenth-grade level of comprehension.² In 2014, researchers examined 371 juvenile *Miranda* warnings from around the country and found that

¹ *State v. Houston-Sconiers*, 188 Wn.2d 1, 8 391 P. 3d 409 (2017) (quoting *Miller v. Alabama*, 567 U.S. 460, 480, 132 S. Ct. 2455, 183 L. Ed. 2d 407 (2012)).

² Int’l Ass’n of Chiefs of Police, *Reducing Risks: An Executive’s Guide to Effective Juvenile Interview and Interrogation* (2009).

www.SPDOmbudsman.org

Email: SPDOmbudsman@spokanecity.org

www.facebook.com/SPDOmbudsman • www.twitter.com/SPDOmbudsman

52% required at least an eighth-grade reading level.³ Reading comprehension and specific knowledge of vocabulary words used in these warnings is critical to a general understanding of the *Miranda* warnings.⁴

While the Supreme Court has favored the totality of the circumstances, similar to adult advisements, to per se rules on juvenile advisements, several states have adopted per se rules. A review of the Spokane Police Department Manual⁵ policies on *Miranda* advisements does not show a specific policy for juvenile advisements. Washington State also does not appear to have adopted per se juvenile *Miranda* advisements. However in the state of Washington, the Seattle Police Department requires a parent or guardian to waive the rights of a juvenile under the age of 12, and has a right to be present during the interview.⁶ King County Sheriff's Office simplified the warnings it provided juveniles as of September 2017.⁷ It expanded into two parts the portion of the advisement relevant to this case.⁸ Instead of just saying, "You have the right to an attorney. If you cannot afford an attorney, one will be provided to you." The first part uses the term 'lawyer' instead of 'attorney' and explains what services the lawyer will provide. The second part expounds on the juvenile's ability to stop answering questions and law enforcement will cease from asking further questions.

The OPO recommends Spokane Police Department create a policy that accounts for juvenile *Miranda* advisements or at a minimum, ensure officers take extra steps to ensure that minors are able to comprehend the advisement. This will help ensure any information a juvenile provides is preserved.

Sincerely,



Bart Logue
Police Ombudsman
Office of the Police Ombudsman, City of Spokane

cc: Director MacConnell

³ Lorelai Laird, *Police Routinely Read Juveniles their Miranda Rights, But Do Kids Really Understand Them?*, 2016 American Bar Association, https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-35/august-2016/police-routinely-read-juveniles-their-miranda-rights-but-do-kid/ (last visited Aug. 5, 2019).

⁴ Richard Rogers et al., *The Language of Miranda Warnings in American Jurisdictions: A Replication and Vocabulary Analysis*, 32 *Law & Hum. Behav.* (2007).

⁵ <https://static.spokane.org/documents/police/accountability/police-policy-manual-2017-05-04.pdf> (last visited Aug. 5, 2019).

⁶ <https://www.seattle.gov/police-manual/title-6---arrests-search-and-seizure/6150---advising-persons-of-right-to-counsel-and-miranda> (last accessed Aug. 5, 2019).

⁷ <https://www.kingcounty.gov/depts/sheriff/news-media/news/2017/September/Miranda-warnings-simplified-for-juveniles.aspx?print=1> (last accessed Aug. 5, 2019).

⁸ <https://www.kingcounty.gov/~media/depts/executive/performance-strategy-budget/documents/pdf/RLSJC/2018/July26/Miranda-Warning-for-Youth.ashx?la=en> (last accessed August 5, 2019).