

DEFINING INTERROGATION UNDER MIRANDA: *Arizona v. Mauro**

I. INTRODUCTION

The United States Supreme Court has continuously attempted to define the scope of allowable police interrogation practices. One question that frequently arises is whether particular police conduct amounts to interrogation within the meaning of *Miranda v. Arizona*.¹ The Court recently confronted this issue in *Arizona v. Mauro*.² In *Mauro*, the Court held that a defendant was not interrogated within the meaning of *Miranda* when police allowed his wife to speak with him in the presence of an officer who tape-recorded their conversation. This Note will assess *Mauro* in light of the Court's prior decisions.

II. BACKGROUND

A. *Miranda v. Arizona*

In *Miranda v. Arizona*,³ the Court formulated the now familiar procedural safeguards to secure the privilege against self-incrimination. The prosecution may not use statements stemming from custodial interrogations of a suspect, unless it demonstrates that the defendant waived his *Miranda* rights.⁴ Thus, when a suspect in custody requests counsel, all interrogation must cease until an attorney is present.⁵ Whether particular police conduct amounts to interrogation for *Miranda* purposes, however, can be answered only on a case-by-case basis.

B. *Rhode Island v. Innis*

In *Rhode Island v. Innis*,⁶ the Court held that interrogation refers to more than express questioning by the police.⁷ In *Innis*, the police arrested the defendant for the shotgun slaying of a taxicab driver. After arresting him, the police advised the defendant of his

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¹ 384 U.S. 436 (1966).

² 107 S. Ct. 1931 (1987).

³ 384 U.S. 436 (1966).

⁴ *Id.* at 479.

⁵ *Id.*

⁶ 446 U.S. 291 (1980).

⁷ *Id.* at 298.

Miranda rights. The defendant responded that he understood, and that he wished to speak with his lawyer. While transporting the defendant to the police station, two of the arresting officers engaged in a conversation indicating that there were many handicapped children in the area where the police thought the murder weapon was hidden. Upon hearing the conversation, the defendant directed the officers to the weapon.⁸

The Supreme Court ruled that the defendant had not been interrogated within the meaning of *Miranda*.⁹ The Court ruled that *Miranda* applies only when there is direct questioning or its functional equivalent.¹⁰ The functional equivalent is words or actions on the part of the police that they know are reasonably likely to elicit an incriminating response.¹¹ In determining whether police conduct constitutes interrogation, the Court stated that it is necessary to look at both the police intent and the suspect's perceptions of police actions.¹²

The Court then applied its test to the facts of *Innis*. The Court found that the defendant's response was not the product of words or conduct that the police "should have known were reasonably likely to elicit an incriminating response."¹³ The troubling aspect of the *Innis* decision is that "[i]t is wholly unclear whether the Court's interrogation standard was actually based on the perceptions of the suspect or of a reasonable person in the suspect's position or upon the perceptions of a reasonable police officer or of the particular officer involved."¹⁴ In *Mauro*, the Court attempted to resolve this uncertainty.¹⁵

III. *Arizona v. Mauro*

A. *Facts and Case History*

In *Mauro*, the defendant was arrested for beating his infant son to death. After the police advised him of his *Miranda* rights, he indicated that he did not want to answer any questions, and that he wanted to see a lawyer. Because no detention area was available, the police placed the defendant in the police captain's office. The

⁸ *Id.* at 294-95.

⁹ *Id.* at 301.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at 302.

¹⁴ Sonershein, *Miranda and the Burger Court: Trends and Countertrends*, 13 *Loy. U. Chi. L. J.* 404, 438 (1982). The *Innis* Court, however, noted that "this definition focuses primarily upon the perceptions of the suspect, rather than the intent of the police." *Innis*, 446 U.S. at 301.

¹⁵ The Court in *Mauro* specifically stated that the Arizona Supreme Court's decision "appeared to misconstrue our decision in *Rhode Island v. Innis*." *Arizona v. Mauro*, 107 S. Ct. 1931, 1934 (1987).

defendant's wife, also at the station, then indicated that she wished to speak with her husband. The police were reluctant to let the meeting take place, but they finally allowed it on the condition that an officer be present. Using a recorder placed in plain sight, an officer taped the conversation. At trial, the government used the tape to rebut the defendant's insanity defense.¹⁶

The Arizona Supreme Court held that the police had violated the defendant's fifth amendment rights. The court concluded that the police had indirectly interrogated the defendant within the meaning of *Miranda*, because they intended to elicit incriminating information. Having found that the officers acted with intent, the court deemed it unnecessary to address the defendant's perceptions. The United States Supreme Court, in an opinion written by Justice Powell, reversed the Arizona Supreme Court.¹⁷

B. *United States Supreme Court*

The Court held that the police conduct did not amount to the functional equivalent of interrogation.¹⁸ The Court based its decision on the two factors discussed in *Innis*. First, the officers never intended to elicit incriminating statements from the defendant.¹⁹ The mere possibility that the defendant might incriminate himself was not equivalent to an attempt by the officers to elicit incriminating statements.²⁰ Second, the Court looked to the defendant's perceptions to see whether "he would feel that he was being coerced into incriminating himself,"²¹ and found that the defendant was not subjected to compelling influences, psychological ploys, or the type of direct questioning that *Miranda* was designed to protect against.²² The Court doubted that a suspect, when told that his wife wanted to speak to him, would feel in any way that he was being coerced into incriminating himself.²³

The fundamental purpose of *Miranda*, which is to prevent government officials from using the coercive nature of confinement to extract confessions, guided the Court's holding in *Mauro*.²⁴ The Court concluded that the officers' treatment of the defendant simply did not offend *Miranda's* purpose.²⁵

¹⁶ *Mauro*, 107 S. Ct. at 1932-33.

¹⁷ *Id.* at 1934.

¹⁸ *Id.*

¹⁹ *Id.* at 1936.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.* at 1936-37.

²⁵ *Id.* at 1937.

IV. ANALYSIS

In *Mauro*, the Court attempted to clarify the *Innis* test. In determining whether police conduct constituted interrogation, the Court focused on two essential factors.²⁶ First, the Court looked to whether or not the government's purpose was to elicit an incriminating response; and second, whether the suspect actually felt that he was being coerced into making an incriminating response.²⁷

A. Police Intent

In *Mauro*, the Court noted that the mere possibility that a suspect may incriminate himself is not equivalent to an affirmative police intent to elicit an incriminating response.²⁸ Thus, a police officer may hope that a suspect will incriminate himself without actually intending to elicit an incriminating response. The problem with this reasoning, however, is that the focus is subjective, based solely on the intent of the particular officer involved.²⁹ Under the Court's subjective view, an officer may merely explain that he was hoping to elicit an incriminating statement without actually intending for the suspect to incriminate himself. Thus, relying solely on a subjective standard will open police interrogation practices to abuse.

Police abuse will be significantly alleviated by supplementing the subjective analysis with an objective standard for evaluating police intent. Under an objective test, if a reasonable person would infer that the officer's actions were designed to elicit an incriminating response, then the police activity would constitute "interrogation."³⁰ Adding an objective element to the analysis would not change the result in *Mauro*, but would substantially reduce the potential for police abuse.

B. Suspect's Perspective

The other consideration is the suspect's perspective. An interrogation should not be deemed coercive unless a suspect in fact feels coerced. It is clear from the *Mauro* opinion that the Court used a subjective standard in determining that Mauro did not perceive that

²⁶ *Id.* at 1936.

²⁷ *Id.*

²⁸ *Id.*

²⁹ Detective Manson, the officer present at the conversation, testified that there were other legitimate reasons — not related to securing incriminating information — for having a police officer present. *Id.* at 1936. These included a concern for the protection of Mrs. Mauro. They were also concerned that Mauro and his wife might "cook up a lie or swap statements with each other that shouldn't have been allowed, and whether some escape attempt might have been made, or whether there might have been an attempt to smuggle in a weapon." *Id.* at 1933.

³⁰ LAFAYE & ISRAEL, CRIMINAL PROCEDURE § 6.7 (1985).

he was being coerced.³¹ A subjective analysis alone, however, presents the same problems as when determining police intent.

A more reasonable approach would be to supplement the subjective analysis with an objective standard for evaluating a suspect's perspective. Under an objective test, if a reasonable person would feel interrogated, then the police action would constitute "interrogation." Adding an objective element would not change the result in *Mauro*, but would alleviate the need to rely solely on a suspect's self-serving testimony.

V. CONCLUSION

Although a subjective-objective analysis of both police intent and a suspect's perspective in determining whether interrogation occurs would undoubtedly enhance a suspect's fifth amendment protection, it probably exceeds the fundamental principles of *Miranda*. A better test that is consistent with *Miranda* would be for the Court to focus solely on a suspect's perspective and apply an objective standard. An objective evaluation of a suspect's perspective would be fully responsive to *Miranda* because it would identify the situations in which a suspect experiences the functional equivalent of direct questioning.³² Police intent is relevant only to the broader policy of deterring bad faith police conduct, not to *Miranda's* more limited purpose of prohibiting coercive custodial interrogations. Thus, an objective evaluation of a suspect's perceptions alone would adequately protect a suspect's fifth amendment rights.

³¹ *Arizona v. Mauro*, 107 S. Ct. 1931, 1936 (1987).

³² LAFAYE & ISRAEL, *supra* note 30.