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TRAINING BULLETIN

Training Subject: **Miranda**

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Miranda of a Suspect Who has Already Waived His Miranda Rights

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The California Supreme Court recently upheld a death penalty case where one of the suspects was in custody for a series of robberies and was given his Miranda warnings which he waived. Around 5 hours later officers from a different department interrogated the suspect about a murder but did not Mirandize the suspect. One of the questions presented was whether the subsequent officers were required to Mirandize the suspect? The California Supreme Court held that they did not and set out a checklist officers should be aware of in this factual scenario.

Facts of the Case

Santa Clara Police detectives responded to a scene of a homicide at approximately 8:15 a.m. on January 29, 1991. Officers observed the victim and spoke to an assistant manager of the store. Based on his responses, they noted that this homicide had to have been committed by someone with knowledge of the store and its security.

Detectives looked through personnel files and noted two people had recently been fired from the store. They also learned that those two individuals, including defendant Spencer, were in custody in San Jose on unrelated robberies. The detectives made their way to the San Jose Police Department and arrived shortly after midnight.

The Interrogation

On January 29 at around 11:30 p.m., San Jose robbery detectives questioned the defendant about the San Jose robberies. The defendant was validly advised and waived Miranda and spoke about some robberies. San Jose detectives were

unaware of the murder when the interview was conducted. That interview ended and Spencer remained in custody at the San Jose Police Department.

Five hours passed between the time when he waived his Miranda rights in the San Jose robbery case and when the Santa Clara detectives investigating the homicide began their interrogation. The following exchange took place:

"Detective: We're from Santa Clara Police Department. Okay, uh, I understand you already talked to one of the San Jose detectives. Is that correct?"

"Spencer: Yes, I have.

"Detective: Okay. And I understand you . . .

"Spencer: I've admitted to being involved in a robbery.

"Detective: Okay. And he read you, uh, your rights?"

"Spencer: Yes.

"Detective: Did you understand your rights?"

"Spencer: Yes.

"Detective: Okay. And you waived your rights.

"Spencer: Yes."

A bit later the Santa Clara detective asked, "Where did you spend the night last night? First of all, you understand your rights. You're willing to talk to us. Is that correct?" to which Spencer answered, "Yes." The interrogation continued apace from there, with Spencer eventually confessing to participating in the robbery-murder and stabbing the victim multiple times on the way out the door. After getting the details to the crime, the detective once more brought up the Miranda rights. Spencer again confirmed he was read "[his] Miranda rights," that "I know my Miranda rights," and that he understood those rights. The Santa Clara interrogation terminated shortly thereafter. The Santa Clara murder interrogation ended at approximately 5:30 a.m. on January 30, about an hour and a half after it began.

Motion to Suppress

The defendant moved to suppress his confession. He first conceded he was properly advised of his Miranda rights by the San Jose detective and knowingly and voluntarily waived those rights as to the robbery investigation. Nonetheless, the defendant argued the officers from Santa Clara were under an obligation to readvise him of his Miranda rights when he interrogated him about the murder.

Holding

The California Supreme Court held where a subsequent interrogation is "reasonably contemporaneous" with the prior waiver, and the prior waiver was "knowing and intelligent," police need not undertake a Miranda advisement. In determining whether a subsequent interrogation is reasonably contemporaneous, courts look at the totality of the circumstances. Relevant considerations include: 1) the amount of time that has passed since the initial waiver; 2) any change in the identity of the interrogator or location of the interrogation; 3) an official reminder of the prior advisement; 4) the suspect's sophistication or past experience with law enforcement; and 5) further indicia that the defendant subjectively understands and waives his rights.

The court here found that the Santa Clara murder interrogation was reasonably contemporaneous to the waiver of rights, there was no change in the scene of interrogation, Spencer remained in custody, and the detectives reminded Spencer of his prior advisement and waiver. Also, Spencer acknowledged that he understood the advisement and waiver of rights. Both the motion to suppress and appeal were denied.